

(Acts adopted pursuant to Title VI of the Treaty on European Union)

## JOINT ACTION

of 26 April 1999

adopted by the Council on the basis of Article K.3 of the Treaty on European Union, establishing projects and measures to provide practical support in relation to the reception and voluntary repatriation of refugees, displaced persons and asylum seekers, including emergency assistance to persons who have fled as a result of recent events in Kosovo

(1999/290/JHA)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union and, in particular, Articles K.3(2)(b) and K.8(2) thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

(1) Whereas, pursuant to Article K.1 of the Treaty, asylum policy, *inter alia*, is regarded as a matter of common interest by the Member States;

(2) Whereas it is important to grant refugees appropriate protection, in keeping with Member States' common humanitarian tradition and in accordance with the Convention relating to the Status of Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967;

(3) Whereas account must be taken of the Member States' obligations under the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950;

(4) Whereas it is necessary to ensure appropriate conditions for the reception of asylum seekers, and to facilitate access to asylum procedures which are fair and efficient, in order to protect the rights of refugees;

(5) Whereas it is necessary to provide practical support in order to create or improve the conditions in which refugees, displaced persons and asylum seekers who wish to return from the Member States to their countries of origin are able to do so;

(6) Whereas it may be necessary to provide emergency assistance for the reception in the Member States of refugees, displaced persons and asylum seekers who have fled from Kosovo and from neighbouring regions as a result of recent events there;

(7) Whereas it is useful to promote the exchange of good practice and comparable experience, in order to develop new synergies which cannot be achieved at national levels;

(8) Whereas it is appropriate to provide for financing from the budget of the European Communities measures adopted under this Joint Action;

(9) Whereas taking joint action in relation to the reception of displaced persons and asylum seekers and the voluntary repatriation of refugees, displaced persons and asylum seekers may promote the sharing of responsibility and the reinforcement of cooperation between the Member States,

HAS ADOPTED THIS JOINT ACTION:

### CHAPTER I

#### OBJECT AND SCOPE

##### *Article 1*

#### Principles and objectives of the projects and measures

1. The European Union shall support projects and measures in relation to the reception and voluntary repatriation of refugees, displaced persons and asylum seekers, which shall qualify for Community financial support.

<sup>(1)</sup> OJ C 37, 11.2.1999, p. 4.

<sup>(2)</sup> Opinion delivered on 13 April 1999 (not yet published in the Official Journal).

2. The general objectives of the projects and measures shall be:

- (a) to improve the conditions in which refugees, displaced persons and asylum seekers are received in the Member States, and to support asylum procedures which are fair, efficient and accessible to persons in need of international protection;
- (b) to assist the voluntary repatriation of refugees, displaced persons and asylum seekers from the Member States to their countries of origin, and their reintegration there.

3. Measures taken under this Joint Action may also include emergency assistance in Member States which receive, in particular following an initiative of the United Nations High Commissioner for Refugees, a significant number of refugees, displaced persons and asylum seekers who have fled from Kosovo and from neighbouring regions as a result of recent events there.

#### *Article 2*

#### **Financial reference for the programme**

The financial reference amount for the implementation of this programme for the year 1999 shall be EUR 15 million, subject to further revision by the budgetary authority.

#### *Article 3*

#### **Definitions**

1. For the purpose of Article 1 (2)(a), Article 4 and Article 6:

- (a) 'refugees' shall mean persons who have obtained refugee status within the meaning of Article 1 of the Convention relating to the Status of Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967;
- (b) 'displaced persons' shall mean persons granted permission to stay in a Member State under temporary protection, or under subsidiary forms of protection, or persons benefiting from other forms of protection in accordance with Member States' international obligations and national law and persons seeking permission to remain on such grounds who are awaiting a decision on their status;
- (c) 'asylum seekers' shall mean persons who have requested protection from a Member State by claiming refugee status within the meaning of Article 1 of the Convention referred to in (a), and in respect of whose requests a final decision has not yet been taken.

2. For the purpose of Article 1(2)(b) and Article 5:

- (a) 'refugees' shall have the same meaning as in paragraph 1(a);
- (b) 'displaced persons' shall mean persons granted permission to stay in a Member State under temporary protection, or under subsidiary forms of protection, or persons benefiting from other forms of protection in accordance with Member States' international obligations and national law, including persons in respect of whose requests a final negative decision has been taken, but who have not yet departed from the territory of the Member States;
- (c) 'asylum seekers' shall mean persons who have requested protection from a Member State by claiming refugee status within the meaning of Article 1 of the Convention referred to in paragraph 1(a), including persons in respect of whose requests a final negative decision has been taken, but who have not yet departed from the territory of the Member States.

#### *Article 4*

#### **Reception**

Measures to improve the conditions in which refugees, displaced persons and asylum seekers are received in the Member States and to support asylum procedures which are fair, efficient and accessible to persons in need of international protection shall primarily cover the following areas:

- (a) measures to support the creation or improvement of infrastructures in the Member States for the reception of refugees, displaced persons and asylum seekers;
- (b) the enhancement of the fairness and efficiency of administrative and judicial asylum procedures and the facilitation of access to them, including the provision of: legal assistance and other counselling services; interpretation services; information on the procedure to be followed, and the rights and obligations of the asylum applicant during the procedure; access to precise and up-to-date information concerning the country;
- (c) the ensuring of a basic standard of living conditions for refugees, displaced persons and asylum seekers, including accommodation, medical care, education and training;
- (d) special assistance to vulnerable groups, such as unaccompanied minors, victims of torture or rape, and people requiring special medical treatment;
- (e) the provision of information to the public on Member States' obligations to persons seeking international protection and the European Union's asylum policy, including public awareness measures complementing other measures financed under this Joint Action.

*Article 5***Voluntary repatriation**

1. Measures to assist the voluntary repatriation of refugees, displaced persons and asylum seekers from the Member States to their countries of origin, and their reintegration there, shall primarily cover the following areas:

- (a) the collection and dissemination of information on all aspects relevant to return, including the economic and administrative situation in the country of origin, employment opportunity, property rights and other legal matters;
- (b) counselling to assist both persons who are considering whether to return voluntarily to their country of origin and those who have decided in principle to return;
- (c) training and education, with the aim of providing refugees, displaced persons and asylum seekers with skills which will be of benefit on return to the country of origin.

2. As a component of an integrated project facilitating voluntary repatriation, and in particular one covering one or more of the areas mentioned in paragraph 1, the following may also be eligible for financing:

- (a) transport costs associated with repatriation;
- (b) measures to support the reintegration in their country of origin of persons returning from the Member States, including post-repatriation monitoring.

*Article 6***Emergency assistance to persons displaced following recent events in Kosovo**

Emergency assistance in Member States which receive, in particular following an initiative of the United Nations High Commissioner for Refugees, a significant number of refugees, displaced persons and asylum seekers who have fled from Kosovo and from neighbouring regions as a result of recent events there shall consist of financial assistance contributing for a duration of six months to:

- (a) accommodation needs;
- (b) means of subsistence, including food and clothing;
- (c) medical, psychological or other personal assistance;
- (d) the costs of personnel administering and implementing the assistance.

Such measures may integrate actions to facilitate the voluntary return of displaced persons when conditions permit.

*Article 7***Financing criteria**

The projects or measures to be financed from the budget of the European Communities shall be subject to a selection procedure taking into account in particular the following criteria:

- (a) the range of varying situations and needs in the Member States;
- (b) cost-effectiveness and value for money, taking account of the number of persons targeted by the project or measure;
- (c) the innovative nature of projects or measures and the potential for making use of the results to reinforce cooperation between Member States or for other Member States to apply the lessons learned;
- (d) experience, expertise and reliability of the applicant organisation and any partner organisations;
- (e) complementarity of the projects or measures with other projects or measures funded under the budget of the European Communities or from national programmes.

## CHAPTER II

**FINANCIAL PROVISIONS***Article 8***Financial control**

Financing decisions and the contracts derived therefrom in conformity with the financial regulations applicable to the budget of the European Communities shall provide in particular for monitoring and financial control by the Commission and audits by the Court of Auditors.

*Article 9***Level of Community finance**

1. Financial support from the budget of the European Communities shall not exceed 80 % of the total cost of the project or measure.

2. All types of expenditure which are directly attributable to the implementation of a project or measure and incurred during a specific, contractually defined period shall be eligible, subject to conditions to be specified in guidelines which shall be established by the Commission, up to the ceiling of appropriations authorised under the annual budgetary procedure.

3. In relation to projects or measures falling under Article 6, any expenditure incurred after the adoption of this Joint Action will be taken into consideration.

#### *Article 10*

##### **Financial management**

1. Projects or measures adopted under this Joint Action and financed by the budget of the European Communities shall be managed by the Commission in conformity with the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities<sup>(1)</sup>.

2. When presenting the financing proposals, the Commission shall take account of the principles of sound financial management and in particular of economy and cost-effectiveness as required by Article 2 of the Financial Regulation referred to in paragraph 1.

#### CHAPTER III

##### **MANAGEMENT PROVISIONS**

#### *Article 11*

##### **General management provisions**

The Commission shall be responsible for managing projects and measures under this Joint Action and shall take such steps as are necessary to that end.

In particular, in order to ensure that this Joint Action is implemented efficiently and effectively, the Commission may have recourse to technical assistance which may be financed from the appropriations available for projects and measures under this Joint Action and authorised to that end by the budget authority. The Commission shall regularly inform the Committee referred to in Article 13, as well as the European Parliament and the Council, of the measures taken to that end.

#### *Article 12*

##### **Submission of projects and measures**

Projects and measures for which financing is requested shall be submitted to the Commission for scrutiny within a time limit to be determined by the Commission.

#### *Article 13*

##### **Procedure**

1. For the implementation of this Joint Action, the Commission shall be assisted, according to the provisions set out in this Joint Action, by a Committee consisting of

one representative from each Member State and chaired by the Commission.

2. The procedure to be followed for the selection of projects or measures falling under Articles 4 and 5 shall be the following.

(a) Where the financing requested is less than EUR 50 000, the Commission shall submit a draft to the Committee referred to in paragraph 1. The Committee, acting by the majority provided for in the second subparagraph of Article K.4(3) of the Treaty, shall deliver its opinion on this draft within a time limit which the Chairman may lay down according to the urgency of the matter. The Chairman shall not vote. The opinion shall be recorded in the minutes; furthermore, each Member State shall have the right to ask that its position be recorded in the minutes. The Commission shall take full account of the opinion delivered by the Committee. It shall inform the Committee of how it has done so.

(b) Where the financing requested exceeds EUR 50 000, the Commission shall submit to the Committee referred to in paragraph 1 a list of the projects and measures submitted to it. The Commission shall indicate the projects and measures it selects and shall give reasons for its selection. The Committee, acting by the majority provided for in the second subparagraph of Article K.4(3) of the Treaty, shall deliver its opinion on the various projects and measures within a period of two months. The Chairman shall not vote. If a favourable opinion is not delivered within the time limit, the Commission shall either withdraw the project and the measure concerned or submit it, with any opinion from the Committee, to the Council which, acting by the majority provided for in the second subparagraph of Article K.4(3) of the Treaty, shall take a decision within two months.

3. The procedure to be followed for the selection of projects or measures falling under Article 6 shall be the following.

(a) Where the financing is less than EUR 200 000, the Commission shall keep the Council informed of the number of requests received for the financing of specific projects and measures, the principles applied in granting support thereto and the results of such projects and measures.

(b) Where the financing is EUR 200 000 or more and is less than EUR 1 million, the Commission shall submit to the Committee referred to in paragraph 1 a list of the projects and measures which have been submitted to it. It shall indicate the projects and measures it selects and shall give reasons for its selection. The Committee, acting by the majority provided

<sup>(1)</sup> OJ L 356, 31.12.1977, p. 1. Regulation as last amended by Regulation (EC) No 2548/98 (OJ L 320, 28.11.1998, p. 1).

for in the second subparagraph of Article K.4(3) of the Treaty, shall deliver its opinion on the various projects and measures within a period of two weeks. The Chairman shall not vote.

The opinion shall be recorded in the minutes; moreover, each Member State shall have the right to ask that its position be recorded in the minutes. The Commission shall take full account of the opinion delivered by the Committee. It shall inform the Committee of how it has done so.

- (c) Where the financing is EUR 1 million or more, the Commission shall submit to the Committee referred to in paragraph 1 a list of the projects and measures which have been submitted to it. It shall indicate the projects and measures it selects and shall give reasons for its selection. The Committee, acting by the majority provided for in the second subparagraph of Article K.4(3) of the Treaty, shall deliver its opinion on the various projects and measures within a period of two weeks. The Chairman shall not vote. If a favourable opinion is not delivered within the time limit, the Commission shall either withdraw the project and the measure concerned or submit it, with any opinion from the Committee, to the Council, which, acting by the majority provided for in the second subparagraph of Article K.4(3) of the Treaty, shall take a decision within one month.

## FINAL PROVISIONS

### *Article 14*

#### **Monitoring and evaluation**

1. The Commission shall be responsible for the monitoring and evaluation of projects and measures financed under this Joint Action. Monitoring and evaluation may be financed from the appropriations available for measures under this Joint Action.
2. The Commission shall prepare a summary report of the measures undertaken and the evaluation carried out, to be sent to the European Parliament and the Council.

### *Article 15*

#### **Entry into force**

This Joint Action shall enter into force on the day of its adoption.

It shall apply until 31 December 1999.

### *Article 16*

#### **Publication**

This Joint Action shall be published in the Official Journal.

Done at Luxembourg, 26 April 1999.

*For the Council*

*The President*

J. FISCHER

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