



COMMISSION OF THE EUROPEAN COMMUNITIES

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1999/0274 (CNS)

Amended proposal for a

**COUNCIL DECISION**

**creating a European Refugee Fund**

**(presented by the Commission  
pursuant to Article 250 (2) of the EC Treaty)**

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## **EXPLANATORY MEMORANDUM**

### **1. BACKGROUND**

On 14 December 1999 the Commission adopted a proposal for a Council Decision creating a European Refugee Fund,<sup>1</sup> an instrument based on Article 63(2)(b) of the EC Treaty and intended to help achieve a balance in the efforts made by Member States in receiving refugees and displaced persons and in bearing the consequences this entails by providing for the next five years a legal basis for the use of the appropriations voted by the European Parliament for supporting the Member States' action in the field of the reception, integration and voluntary repatriation of refugees and displaced persons.

The proposal was transmitted to the Council, Parliament, the Committee of the Regions and the Economic and Social Committee. The Committee of the Regions has not yet adopted its opinion. By letter of 6 March 2000 the Council consulted Parliament pursuant to Article 67 of the EC Treaty. Parliament entrusted examination of the Commission proposal to its Committee on Citizens' Freedoms and Rights, Justice and Home Affairs (responsible for drafting the report) and its Committees on Employment and Social Affairs and on Budgets (consulted for opinion). After receiving and examining the opinions of the Committee on Employment and Social Affairs (adopted on 21 March) and the Committee on Budgets (adopted on 20 March), the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs adopted its report on 22 March. At its plenary sitting of 11 April Parliament adopted its opinion<sup>2</sup> approving the Commission proposal subject to the amendments it had made and calling on the Commission to amend its proposal accordingly, pursuant to Article 250(2) of the EC Treaty.

### **2. THE AMENDED PROPOSAL**

In general, Parliament endorses the approach and the broad lines of the Commission proposal, with special reference to the three aspects in which it innovates with respect to the joint actions and pilot projects of previous years, namely the fact that it brings together the measures relating to reception, integration and voluntary repatriation in a single instrument with a view to promoting a consistent overall policy, that the instrument is to last for a period of five years in order to facilitate planning and continuity, and that management is to be decentralised to Member State level in order to bring decision-making closer to the realities on the ground.

Parliament's interest in the Commission proposal is reflected in the large number of amendments it adopted. The Commission has accepted, either in full or in part, only a small number of them and has rejected all those amendments that would have the effect of undermining the desired flexibility, increasing the burden shifted to the national administrations or scattering the Fund's limited resources.

#### **2.1. Amendments accepted in full**

The following amendments proposed by Parliament have been accepted by the Commission and incorporated unchanged in its amended proposal:

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<sup>1</sup> COM(1999)686 final.

<sup>2</sup> OJ C , , p. .

### **Recital 3**

Amendment 2 states that the European Refugee Fund should help the Member States to improve the implementation of their refugee policies.

### **Recital 10**

Amendment 5 supplements the original recital with the indication that temporary protection also concerns a mass influx of displaced persons.

### **Recital 11**

Amendment 6 improves the original wording by stating that the allocation of resources should take account of the relative efforts made by each Member State to receive and support refugees and by avoiding describing such reception as a burden.

### **Article 8**

In accordance with amendments 26 and 27, the selection and management of projects are to be the primary, but not exclusive, responsibility of the Member States, something which preserves the Commission's prerogatives in the selection and implementation of the Community actions referred to in Article 4 and the emergency measures provided for in Article 5, and calls for proposals are to be public, something which strengthens the requirement in Article 7(1)(d)(i) that the selection process be transparent.

## **2.2. Amendments partly accepted**

### **Recital 4a (new)**

Amendment 3 advocates mentioning the action of refugee organisations; the Commission considers it preferable to mention the action of NGOs in general.

### **Recital 6**

Amendment 4 advocates involving refugee communities in the framing of integration programmes; the Commission considers it preferable to mention the role of NGOs in general.

### **Article 2**

The Commission can agree to the "refugees" target group not being confined to third-country nationals, as advocated by amendment 14. It takes the view, on the other hand, that referring to Article 1 of the Geneva Convention would narrow down the scope of the proposal and exclude persons who have been afforded the status of refugee on another basis, for example a Member State's constitution. It likewise takes the view that persons granted complementary protection cannot be treated in the same way as refugees without running counter to the distinction made between the two categories in Article 63 of the EC Treaty.

As far as displaced persons are concerned, it is necessary to maintain the wording "third-country nationals or stateless persons" since, under the terms of the Treaty itself, temporary protection can concern only such persons.

### **Article 4**

Amendment 23 adds public information measures, concerning Member States' international obligations in particular, to the list of actions eligible for financing as Community actions.

On the other hand, the Commission considers that it is useful to retain the mention of technical assistance since, in the context of the decentralised management introduced by the proposal, such assistance is intended, where necessary, for the Member State administrations.

## **Article 8**

The Commission accepts the change made by amendment 29 with a view to ensuring the continuity of programmes and actions, this being the aim pursued in proposing a legal basis valid for several years. On the other hand, introducing partnership between the authority responsible in the Member State and other interested parties would only complicate implementation of this first decentralised management initiative in the field of asylum.

## **Article 9**

The Commission can accept the principle that each Member State should be guaranteed a minimum share of the funds, as advocated by amendment 30, but the detailed arrangements have to be spelled out; the wording proposed in the amendment has therefore not been incorporated in this amended proposal.

### **2.3. Amendments that cannot be accepted**

The Commission cannot accept some of the amendments put forward by Parliament:

#### **Amendments 7 and 25**

It is desirable that action taken by the Member States should form part of a coherent programme, but the Member States cannot be expected to frame an asylum strategy.

#### **Amendments 8 and 29 (second part)**

The introduction of partnership along the lines of other Funds would only increase the burden on the national administrations and delay implementation of the measures provided for by the proposal.

#### **Amendments 9 to 12**

These amendments, which relate to budgetary procedures, have ceased to be relevant since the budget guidelines for the Fund in the years ahead were adopted in PDB 2001.

#### **Amendment 13**

The principles of non-discrimination apply in any event. Incidentally, this is a horizontal issue that does not specifically concern refugees and on which the Commission has presented Parliament and the Council with proposals of a general nature as part of the "anti-discrimination package".

#### **Amendments 15, 16 and 21**

There is no reason to exclude displaced persons from integration measures and to introduce special arrangements for preparing them for their return. It can be in the interests both of the

Member States and of the individuals concerned for persons benefiting from temporary protection arrangements to enter the labour market. The provision relating to voluntary return is furthermore drafted in general terms enabling the specific preparation envisaged to be covered if a Member State so wished. Incidentally, these amendments appear to be in contradiction with amendment 19, which seeks to ensure that displaced persons are expressly mentioned among the potential beneficiaries of integration measures.

### **Amendments 17 and 28**

Involvement of the candidate countries in some of the activities supported by the Fund would have the effect of diluting the resources available and would duplicate other existing programmes.

### **Amendments 18 and 19**

The lists of eligible actions given in the Commission proposal are illustrative; it is pointless to overload them at the risk of making them appear exhaustive.

### **Amendment 22**

The amendment designed expressly to exclude detention centres from the scope of the measure is a purely negative provision that is unnecessary since such centres are not covered by the proposal.

### **Amendment 24**

It is for the Council to determine whether the conditions for activating emergency measures are met.

### **Amendment 31**

The Commission cannot freely dispose of the Member States' reports or validly present reports covering an excessively short implementation period or drawn up before the final evaluations. Furthermore, the Commission can, at any time, table proposals for modifying aspects of the Decision that implementation has shown to be inappropriate.

### **Amendments 32 and 33**

The provisions of Article 19 relate to standard committee procedures that cannot be tailored to specific circumstances.

### **Amendment 34**

In the context of emergency measures it is for the Commission to select individual projects; it should have the means of encouraging the Member States to submit the best possible projects, something that would not be the case if each Member State was sure of receiving a share proportional to the influx, irrespective of the quality of the projects it submitted. This formula was tried and tested in connection with the grant of financial support during the mass influx of displaced persons fleeing from Kosovo in 1999; the quality criteria laid down in Article 8 admittedly apply, but the mechanism provided for in Article 20(5) is the only means available to the Commission for assessing the extent to which they have been met.

Amended proposal for a

## **COUNCIL DECISION**

### **creating a European Refugee Fund**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 63(2)(b) thereof,

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

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

Having regard to the opinion of the Economic and Social Committee,<sup>3</sup>

Having regard to the opinion of the Committee of the Regions,<sup>4</sup>

Whereas:

- (1) The preparation of a common policy on asylum, including common European arrangements for asylum, is a constituent part of the European Union's objective of gradually creating an area of freedom, security and justice open to those who, forced by circumstances, legitimately seek protection in the European Union.
- (2) Implementation of such a policy should be based on solidarity between Member States and requires the existence of mechanisms intended to help to achieve a balance in the efforts made by Member States in receiving refugees and displaced persons and bearing the consequences of so doing. To that end, a European Refugee Fund should be established.
- (3) It is necessary to support **and improve** the efforts made by the Member States to grant appropriate reception conditions to refugees and displaced persons, including fair and effective asylum procedures, so as to protect the rights of persons requiring international protection.
- (4) The integration of refugees into the society of the country in which they are established is one of the objectives of the Geneva Convention and, to this end, there should be support for actions by the Member States to promote their social and economic integration, in so far as it contributes to economic and social cohesion, the

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<sup>1</sup> OJ C E 116, 26.4.2000, p. 72.

<sup>2</sup> OJ C , , p. .

<sup>3</sup> OJ C 168, 16.6.2000, p. 20.

<sup>4</sup> OJ C , , p. .

maintenance and strengthening of which is one of the Community's fundamental objectives referred to in Articles 2 and 3(1)(k) of the Treaty.

**(5) The integration of refugees into the society of the host country could also be helped by supporting the actions taken by non-governmental organisations working to achieve social integration.**

- (6) It is in the interests of both the Member States and the persons concerned that refugees and displaced persons who are allowed to stay in the territory of the Member States are given the opportunity to provide for themselves by working.
- (7) Since measures supported by the Structural Funds and other Community measures in the field of education and vocational training are not in themselves sufficient to promote such integration, support should be given for special measures to enable refugees and displaced persons to benefit fully from the programmes which are organised. **For these to be fully effective, the competent non-governmental organisations should be involved in such programmes.**
- (8) Practical support is needed to create or improve conditions enabling refugees and displaced persons to take an informed decision to leave the territory of the Member States and return home, should they so wish.
- (9) Practical ways must be found of testing innovatory actions in this field and exchanges between Member States should be encouraged with a view to identifying and promoting the most effective practices.
- (10) Account should be taken of the experience acquired during implementation of the Council's joint actions on the reception and voluntary repatriation of refugees, displaced persons and asylum-seekers.
- (11) As called for by the European Council at its meeting in Tampere on 15 and 16 October 1999, a financial reserve should be established for the implementation of emergency measures to provide temporary protection in the event of a mass influx of refugees **or displaced persons.**
- (12) It is fair to ~~allocate~~ **take into account, when allocating** resources ~~proportionately to the burden on,~~ **the relative efforts made by** each Member State to receive **and support** refugees and displaced persons.
- (13) The support provided by the European Refugee Fund will be more efficient and better targeted if the co-financing of eligible actions is based on a request from each Member State taking into account its situation and needs.
- (14) In order to speed up and simplify co-financing procedures, the responsibilities of the Commission should be distinguished from those of the Member States. Provision should, therefore, be made for the Commission, after examining the Member States' requests for co-financing, to adopt co-financing decisions, while the Member States are to assure the management of the actions.
- (15) Such decentralised implementation of the actions by the Member States should provide sufficient guarantees as to the details and quality of implementation, the results of actions and their evaluation and sound financial management and its supervision.



- (16) One way of ensuring that the action of the European Refugee Fund is effective is efficient monitoring; the conditions of such monitoring should be set out.
- (17) Without prejudice to the Commission's responsibilities for financial control, cooperation between the Member States and the Commission in this regard should be established.
- (18) The responsibility of the Member States for the pursuit and correction of irregularities and infringements, and that of the Commission where the Member States do not comply with their obligations, should be specified.
- (19) The effectiveness and impact of the actions supported by the European Refugee Fund also depend on the evaluation thereof and the responsibilities of the Member States and the Commission in this regard, and arrangements to ensure the reliability of evaluation, should be laid down.
- (20) Actions should be evaluated with a view to their mid-term review and assessment of their impact, and the evaluation process should be incorporated into the monitoring of the actions.
- (21) In accordance with Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission,<sup>5</sup> the measures required for the implementation of the present Decision should be adopted by the advisory procedure provided for in Article 3 of that Decision.
- (22) In accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the Treaty, the objectives of the proposed action, namely to demonstrate solidarity between Member States by achieving a balance in the efforts made by those Member States in receiving refugees and displaced persons and bearing the consequences of so doing, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or impact of the action, be better achieved by the Community. This Decision confines itself to the minimum required in order to achieve those objectives and does not go beyond what is necessary for that purpose,

HAS ADOPTED THIS DECISION:

## *CHAPTER I*

### OBJECTIVES AND TASKS

#### *Article 1*

#### **Establishment and objective of the European Refugee Fund**

1. A European Refugee Fund (hereinafter "the Fund") shall be established to support and encourage the efforts made by the Member States in receiving refugees and displaced persons and bearing the consequences of so doing.

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<sup>5</sup> OJ L 184, 17.7.1999, p. 23.

2. The Fund shall operate from 1 January 2000 to 31 December 2004.

## *Article 2*

### **Target groups**

For the purposes of this Decision the target groups shall comprise the following categories:

1. “refugees”, meaning any ~~third-country nationals or stateless persons~~ **person** having the status defined by the Geneva Convention of 28 July 1951 relating to the Status of Refugees and permitted to reside as refugees in one of the Member States and, where appropriate, persons applying to be granted that status;
2. “displaced persons”, meaning any third-country nationals or stateless persons benefiting from temporary protection arrangements in a Member State and, where appropriate, persons applying for such protection.

## *Article 3*

### **Tasks**

1. To achieve the objective described in Article 1, the Fund shall support Member States’ actions relating to:
  - (a) conditions for reception of refugees and displaced persons;
  - (b) integration of refugees and displaced persons;
  - (c) where appropriate, voluntary repatriation of those persons; “voluntary repatriation” means the return of a person to the country of origin, without compulsion, including where the person concerned is the subject of a decision withdrawing the permission to stay granted when they belonged to one of the target groups referred to in Article 2.
2. With regard to the conditions for reception of refugees and displaced persons and procedures, the actions may concern infrastructure or services for accommodation, supply of material aid, social assistance or help with administrative formalities.
3. As regards integration into the society of the Member State of residence of persons having the status of refugees or benefiting from temporary protection arrangements and members of their family, actions may be to provide social assistance in areas such as housing, means of subsistence and healthcare or to enable beneficiaries to adjust to the society of the Member State or to provide for themselves.
4. As regards voluntary repatriation of refugees and displaced persons, including persons from whom this status has been withdrawn or to whom it has been refused or who have withdrawn their application, provided they have not acquired a new nationality and have not left the territory of the Member State, the actions may concern information and advice about voluntary return programmes and the situation in the country of origin and/or general or vocational training and help in resettlement.

## *Article 4*

### **Community actions**

At the Commission's initiative, up to 10% of the Fund's annual allocation may be used to finance innovative actions or actions of interest to the Community as a whole, separate from the actions implemented by the Member States, including studies, **public information**, pilot projects, exchanges of experience, measures to promote cooperation at Community level and assessment of the implementation of those measures, and technical assistance.

**The Fund may also be used to finance public information concerning the obligation of Member States to persons seeking international protection, and their obligations in the context of the European Union's asylum policy, including public awareness campaigns to supplement other actions.**

The Fund may provide 100% of the funding for those actions.

## *Article 5*

### **Emergency measures**

1. The Fund may also be used to finance emergency measures, separate from and in addition to the actions referred to in Article 3, to help one or more Member States in the event of a sudden mass influx of refugees or displaced persons.
2. In the situation referred to in paragraph 1, eligible emergency measures cover the following types of action:
  - (a) reception and accommodation;
  - (b) provision of means of subsistence, including food and clothing;
  - (c) medical, psychological or other assistance;
  - (d) staff and administration costs incurred as a result of the reception of persons and implementation of the measures.

## *CHAPTER II*

### DETAILED PROVISIONS

## *Article 6*

### **Implementation**

The Member States shall be responsible for implementation of actions supported by the Fund.

To this end, each Member State shall appoint a responsible authority which shall handle all communication with the Commission. That authority shall be a public administration but may delegate its responsibility for implementation to another public administration or non-governmental organisation.

## *Article 7*

### **Requests for co-financing**

1. Member States shall send the Commission, in accordance with the timetable set out in Article 10, a request for the co-financing of the actions referred to in Article 3 which describes:
  - (a) the requirements justifying the implementation of actions eligible for support from the Fund;
  - (b) actions planned for and during the period covered by this Decision;
  - (c) funding from the Member State and, where applicable, from the organisation(s) involved;
  - (d) the system put in place by the Member State to:
    - (i) select actions and ensure the procedure is transparent;
    - (ii) manage, monitor, check and evaluate actions;
    - (iii) encourage coordination between actions and communication between the people responsible for implementing them on the ground;
    - (iv) ensure proper publicity for the Community's contribution to funding.

The request shall contain, for each of the aspects referred to in the first subparagraph, sufficiently detailed information to enable the Commission to take a fully informed decision.

2. The request referred to in paragraph 1 shall be the subject of concertation with the Commission.

## *Article 8*

### **Selection criteria**

Member States shall have ~~sole~~ **primary** responsibility for the selection of individual actions and for the financial management and administration of actions supported by the Fund with due respect for Community policies and the criteria for eligibility.

Following a **public** call for proposals, actions shall be presented by public authorities (national, regional or local, central or devolved), education or research institutions, training establishments, the social partners, government agencies, international organisations or non-governmental organisations, operating individually or in partnerships with a view to obtaining funding from the Fund.

The responsible authority shall select actions on the basis of the following criteria:

- (a) the situation and requirements in the Member State;

- (b) the cost-effectiveness and benefit of the expenditure, in view of the number of persons concerned by the action;
- (c) the innovatory nature of the measures and the scope for using the results to strengthen cooperation between the Member States or enable other Member States to benefit from experience;
- (d) the experience, expertise, reliability and financial contribution from the organisation applying for funding and any partner organisation;
- (e) the extent to which the actions complement other actions funded by the budget of the European Communities or as part of national programmes.

Furthermore, the responsible authority shall ensure:

- that the actions are based on the principles of partnership between all those involved and participation, in particular by the beneficiaries, in their conception and implementation;

- that they encourage a multi-dimensional approach incorporating coordinated action in all relevant areas and taking account of the complexity of the beneficiaries' position in the host society;

**- that the continuity of the programmes and actions can be ensured, where necessary, over several years.**

#### *Article 9*

##### **Distribution of resources**

Available resources shall be distributed proportionally between the Member States as follows:

- (a) 65% in proportion to the average number of persons having applied for a form of international protection registered over the previous three years; and
- (b) 35% in proportion to the number of persons granted refugee status or temporary protection over the previous three years.

The reference figures shall be the most recent figures established by the Statistical Office of the European Communities.

#### *Article 10*

##### **Timetable**

The actions shall be implemented between 1 January 2000 and 31 December 2004.

The Commission shall provide the Member States by 1 July each year at the latest with an estimate of the amounts to be allocated to them for the following year from the total amounts allocated within the framework of the annual budgetary procedure.

The Member States shall present the request for co-financing referred to in Article 7 to the Commission within two months of the date on which this Decision takes effect.

The Commission and the Member State shall adopt the final list of actions accepted by common accord within three months of submission of the request for co-financing.

Each year, the Commission and the Member State may, on the basis of the annual report provided for in Article 18, make proposals for amendments to the list or the nature of the actions.

The Commission and the Member State shall, in any event, by 1 June 2002 at the latest, revise the list or nature of the actions on the basis of the mid-term evaluation provided for by Article 18 and shall make the necessary changes by common accord.

### *CHAPTER III*

#### FINANCIAL PROVISIONS

##### *Article 11*

##### **Financing structure**

For any given measure, the contribution from the Fund shall not exceed 50% of the total cost of the measure.

That proportion may be increased to 75% in Member States covered by the Cohesion Fund.

##### *Article 12*

##### **Eligibility**

1. Expenditure may not be considered eligible for support from the Fund if it has actually been paid before the date on which the Member State's request for co-financing is approved by the Commission. That date shall constitute the starting point for the eligibility of expenditure.
2. The Commission shall adopt the rules governing eligibility of expenditure in accordance with the procedure referred to in Article 19(2).

##### *Article 13*

##### **Decision on co-financing from the Fund**

After examining the request for co-financing, the Commission shall, in accordance with the procedure referred to in Article 19(2), adopt the decision on co-financing by the Fund. The decision shall state the amount allocated to the Member State.

#### *Article 14*

#### **Budget commitments**

Community budget commitments shall be made on the basis of the Commission decision on co-financing.

#### *Article 15*

#### **Payments**

1. Payment by the Commission of the contribution from the Fund shall be made to the responsible authority in accordance with the corresponding budget commitments.
2. As soon as the Commission decision on the contribution from the Fund is adopted, an initial payment, representing 50% of the amount, shall be made to the Member State for the year in question.

An interim payment of up to 30% shall be made when the Member State states that it has actually spent half of the initial payment.

The balance shall be paid within three months of approval of the accounts submitted by the Member State and the annual report on implementation of the programme.

### *CHAPTER IV*

#### CHECKS AND EVALUATION

#### *Article 16*

#### **Checks**

1. Without prejudice to the Commission's responsibility for implementing the general budget of the European Communities, Member States shall take responsibility in the first instance for the financial control of the actions. To that end, the measures they shall take shall include:
  - (a) verifying that management and control arrangements have been set up and are being implemented in such a way as to ensure that Community funds are being used efficiently and correctly;
  - (b) providing the Commission with a description of these arrangements;
  - (c) ensuring that the actions are managed in accordance with the applicable Community rules and that the funds placed at their disposal are used in accordance with the principles of sound financial management;
  - (d) certifying that the declarations of expenditure presented to the Commission are accurate and ensuring that they result from accounting systems based on verifiable supporting documents;

- (e) preventing, detecting and correcting irregularities, notifying these to the Commission in accordance with the rules and keeping the Commission informed of the progress of administrative and legal proceedings;
  - (f) cooperating with the Commission to ensure that Community funds are used in accordance with the principle of sound financial management;
  - (g) recovering any amounts lost as a result of an irregularity detected and, where appropriate, charging interest on late payments.
2. The Commission, in its responsibility for the implementation of the general budget of the European Communities, shall ensure that Member States have smoothly functioning management and control systems so that Community funds are efficiently and correctly used.

To that end, without prejudice to the powers of the Court of Auditors or the checks carried out by the Member States in accordance with national laws, regulations and administrative provisions, Commission officials or servants may, in accordance with arrangements agreed with the Member States in the framework of the cooperation described in paragraph (1)(f), carry out on-the-spot checks, including sample checks, on the operations financed by the Fund and on management and control systems with a minimum of one working day's notice. The Commission shall give notice to the Member State concerned with a view to obtaining all the assistance necessary. Officials or servants of the Member State concerned may take part in such checks.

The Commission may require the Member State concerned to carry out an on-the-spot check to verify the correctness of one or more transactions. Commission officials or servants may take part in such checks.

3. After completing the necessary verifications, the Commission shall suspend the interim payments in the following situations:
- a) a Member State is not implementing the actions as agreed in the co-financing decision;
  - or
  - b) all or part of an action justifies neither part nor the whole of the co-financing from the Fund.

In those cases, the Commission shall, stating its reasons, request that the Member State submit its comments and, where appropriate, carry out any corrections within a specified period of time.

4. At the end of the period set by the Commission, the Commission may, if no agreement has been reached and the Member State has not made the corrections and taking account of any comments made by the Member State, decide within three months to:
- a) reduce the interim payment referred to in Article 15(2);
  - or



- b) make the financial corrections required by cancelling all or part of the contribution of the Fund to the action in question.

In the absence of a decision to do either (a) or (b) the interim payments shall immediately cease to be suspended.

### *Article 17*

#### **Financial corrections**

1. The Member States shall, in the first instance, bear the responsibility for investigating irregularities, acting upon evidence of any major change affecting the nature or conditions for the implementation or supervision of an action and making the financial corrections required.

The Member State shall make the financial corrections required in connection with the individual or systemic irregularity. The corrections made by the Member State shall consist in cancelling all or part of the Community contribution. The Community funds released in this way may be re-used by the Member State for actions in the same field of action referred to in Article 3, in compliance with the arrangements to be defined in accordance with the procedure referred to in Article 19.

2. If, after completing the necessary verifications, the Commission concludes that a Member State has not complied with its obligations under paragraph 1 of this Article, Article 16(3) and (4) shall apply.
3. Any sum received unduly and to be recovered shall be repaid to the Commission, together with interest on account of late payment.

### *Article 19*

#### **Monitoring and evaluation**

1. In each Member State the responsible authority shall take whatever measures are necessary to monitor and evaluate actions.

To that end, the agreements and contracts it enters into with organisations charged with implementing the actions shall contain clauses requiring them to present at least one report a year detailing progress made with regard to implementation of the action and achievement of the objectives attributed to it.

2. The responsible authority shall send the Commission each year financial accounts and a detailed report on implementation of the actions in accordance with the rules adopted by the Commission by the procedure referred to in Article 19(2).

Furthermore, the responsible authority shall arrange for:

- (a) an independent mid-term evaluation to be carried out of the implementation of the actions, with a view to the revision provided for in Article 10,

- (b) an independent evaluation of the implementation and impact of the actions, after completion of the programme.

A sum not exceeding 1% of the Member State's total allocation may be set aside for this purpose.

The evaluation report shall be attached to the final report.

- 3. The Commission shall submit a mid-term report to the European Parliament and the Council by 31 December 2002 at the latest and a final report by 1 June 2005 at the latest.

## *CHAPTER V*

### THE COMMITTEE

#### *Article 19*

#### **The Committee**

- 1. The Commission shall be assisted by a committee composed of representatives of the Member States and chaired by the representative of the Commission.
- 2. Wherever reference is made to this paragraph, the advisory procedure set out in Article 3 of Decision 1999/468/EC shall apply, in compliance with Article 7(3) of that Decision.
- 3. The Committee may consider any question relating to this Decision, raised by the chairman or by a representative of a Member State.

## *CHAPTER VI*

### SPECIAL PROVISIONS CONCERNING EMERGENCY MEASURES

#### *Article 20*

#### **Special provisions concerning emergency measures**

- 1. Without prejudice to Articles 6 to 19, the provisions of paragraphs 2 to 5 of this Article shall apply to the implementation of the emergency measures provided for in Article 5.
- 2. Financial assistance from the Fund shall be limited to a period of six months and shall not exceed 80% of the cost of each measure.
- 3. The Member State or Member States affected by a mass influx as referred to in Article 5(1) shall provide the Commission with a statement of requirements and a plan for the implementation of the emergency measures, including a description of the planned measures and the bodies responsible for their implementation.

4. The Commission shall examine and select the projects submitted by the Member State or Member States, taking account of the criteria laid down in Article 8.
5. Where appropriate, available resources shall be distributed between the Member States as follows:
  - (a) 80% shall be distributed on the basis of the number of persons having entered each Member State as part of the mass influx referred to in Article 5(1); and
  - (b) 20% shall be distributed on the basis of the quality of the projects put forward.

## CHAPTER VII

### TRANSITIONAL PROVISIONS

#### *Article 22*

#### **Transitional provisions**

For implementation of this Decision in the first year, the Commission shall inform the Member States of the estimated amounts allocated to them within two weeks of the date on which this Decision takes effect. If the Statistical Office of the European Communities does not yet have the statistics required by Article 9, the figures used shall be those supplied by the Member States; in that case the Commission shall adopt, in accordance with the procedure referred to in Article 19(2), the rules for interpreting the statistics supplied by the Member States.

By way of derogation from Article 12, for the year 2000, expenditure actually paid between 1 January 2000 and approval of the request for co-financing may be eligible for support from the Fund.

## CHAPTER VIII

### FINAL PROVISIONS

#### *Article 22*

#### **Implementation**

1. The Commission shall be in charge of the implementation of this Decision.
2. Where necessary, the Commission shall adopt any other provisions required for the implementation of this Decision in accordance with the procedure referred to in Article 19(2).

*Article 23*

**Review clause**

The Council shall review this Decision on the basis of a proposal from the Commission by 31 December 2004 at the latest.

*Article 24*

**Addressees**

This Decision is addressed to the Member States.

Done at Brussels,

*For the Council  
The President*

## **FINANCIAL STATEMENT**

### **1. TITLE OF OPERATION**

Council Decision creating a European Refugee Fund.

### **2. BUDGET HEADING(S) INVOLVED**

B5-803 (nomenclature PDB 2000) or B5-801N and B5-811N (EP nomenclature).

### **3. LEGAL BASIS**

Article 63 of the Treaty establishing the European Communities.

### **4. DESCRIPTION OF OPERATION**

#### **4.1 General objective**

The objective of the Decision is to provide the European Union with an instrument for providing support under a multiannual programme for action by the Member States in the following fields:

- (a) reception conditions for refugees and displaced persons, and fair, accessible and efficient asylum procedures;
- (b) integration of refugees and displaced persons;
- (c) voluntary repatriation and resettlement in the country of origin,

in order to help achieve a balance in the efforts made by Member States in receiving refugees and displaced persons and in bearing the consequences this entails.

More specifically, the aim is to:

- ensure proper reception conditions for persons applying for the status of refugee or for temporary protection, for example as regards accommodation, legal advice and other forms of assistance, and to make asylum procedures fairer, more accessible and more efficient in order to promote the effective exercise of the right to apply for asylum under the Geneva Convention of 28 July 1951 relating to the Status of Refugees, as amended by the New York Protocol of 31 January 1967;
- contribute to the integration of refugees and displaced persons in the society of the Member State of residence, for example by measures to facilitate access to employment, taking into account the specific factors distinguishing these categories of foreigners from other categories of migrants and the particular difficulties they might encounter;
- create the conditions for refugees and displaced persons and also for persons requesting one of these forms of international protection, including those from

whom one of these classifications has been withdrawn, to return to their country of origin, by providing both the information they need to take a well-informed decision and material assistance, for example in the form of preparation for resettlement in their country of origin;

- promote exchanges between the Member States to contribute to the exchange of best practice;
- enable emergency measures to be taken in the event of a sudden mass influx of refugees or displaced persons into the territory of one or more Member States, to provide for the immediate needs of the people concerned.

#### **4.2 Period covered and arrangements for renewal**

From 1 January 2000 to 31 December 2004; the Council will review the Decision by 31 December 2004, acting on a proposal from the Commission.

### **5. CLASSIFICATION OF EXPENDITURE OR REVENUE**

#### **5.1 Compulsory/Non-compulsory expenditure**

Non-compulsory expenditure.

#### **5.2 Differentiated/Non-differentiated appropriations**

Differentiated.

#### **5.3 Type of revenue involved**

Not applicable.

### **6. TYPE OF EXPENDITURE OR REVENUE**

- Grant for co-financing with other sources in the public and/or private sector. However, the funding of operations administered directly by the Commission, on the basis of that part of the Fund's annual allocation for this purpose, may be up to 100%.

### **7. FINANCIAL IMPACT**

#### **7.1 Method of calculating total cost of operation (relation between individual and total costs)**

The cost of the actions provided for in the Decision will be calculated on the basis of the implementation of the pilot programmes administered by the Commission since 1997 to provide practical support for the reception and voluntary repatriation of refugees, displaced persons and asylum-seekers (budget headings B3-4113, B5-803 and B7-6008) and the integration of refugees (budget heading B3-4113).

The total allocation for the three budget headings referred to above was as follows:

1997: EUR 23.75 million

1998: EUR 26.75 million

1999 first phase: EUR 20 million

1999 second phase: budgetary authority currently deciding on a sum expected to be EUR 15 million.

The average annual allocation may therefore be estimated at around EUR 28.5 million (assuming an additional allocation of EUR 15 million for the second phase of 1999). This amount fell far short of what was needed on the ground.

As regards aid measures for reception and voluntary repatriation in particular, the financial assistance requested in 1997 exceeded the allocation available by 30%. This rose to 45% in 1998 and 850% in 1999 (as a result of the Kosovo crisis). The Commission estimates that more than half of the requests which could not be satisfied qualified for Community joint financing.

Experience in 1999 has also shown that the aim of financing “structural” measures in the area covered by Article 63 of the EC Treaty can be completely undermined by the sort of mass influx of refugees that occurs in the event of a crisis. In the absence of a specific budget heading to cater for emergencies, the entire financial allocation originally earmarked for heading B5-803 was spent on emergency measures for people who had fled from Kosovo. It is thus essential to have a reserve so that both emergency needs and structural requirements can be accommodated, as advocated by the European Council in Tampere on 15 and 16 October 1999.

~~In the light of the foregoing, and taking into account the current state of the procedure for approving the 2000 budget, the annual allocation for the European Refugee Fund has been calculated as follows:~~

**Following the Commission’s budgetary orientation debate, the proposed overall allocation for the period 2000-2004 is EUR 216 million, broken down annually as follows:**

- (a) budget heading B5-810 (Structural measures): EUR 26 million for 2000;
- (b) reserve (B5-811 in the nomenclature proposed by the European Parliament) (Emergency measures to cope with mass influx of refugees): EUR 10 million for 2000;
- (c) budget heading B5-810 (Structural measures): EUR 35 million per year from 2001 to 2004;**
- (d) reserve (B5-811 - Emergency measures to cope with mass influx of refugees): EUR 10 million per year from 2001 to 2004.**

~~The overall budget for the action and the breakdown of the appropriations over the period 2001-04 will be determined after the Commission's budgetary orientation debate for 2001.~~

## 7.2 Itemised breakdown of cost

The following breakdown might be envisaged, based on the preparatory actions carried out in 1997-99 and taking into account the need to retain sufficient funds for promoting the dissemination of best practice at Community level. In any case, given the instability of these situations and the differences in the scale of the projects that might be subsidised, the following table is a provisional estimate of the breakdown of expenditure mirroring the distribution made in 1997-99.

### **B5 – 810**

<b>BREAKDOWN</b>	
	<b>Estimated % of budget</b>
Reception	36
Integration	36
Voluntary repatriation	18
Dissemination of best practice	10
<b>TOTAL</b>	<b>100</b>

Commitment appropriations EUR million (at current prices)						
<b>Breakdown</b>	<b>Year n</b>	<b>n+1</b>	<b>n+2</b>	<b>n+3</b>	<b>n+4</b>	<b>Total</b>
Reception	9.36	<del>12.6 p.m.</del>	<del>12.6 p.m.</del>	<del>12.6 p.m.</del>	<del>12.6 p.m.</del>	<del>59.76 p.m.</del>
Integration	9.36	<del>12.6 p.m.</del>	<del>12.6 p.m.</del>	<del>12.6 p.m.</del>	<del>12.6 p.m.</del>	<del>59.76 p.m.</del>
Voluntary repatriation	4.68	<del>6.3 p.m.</del>	<del>6.3 p.m.</del>	<del>6.3 p.m.</del>	<del>6.3 p.m.</del>	<del>29.88 p.m.</del>
Dissemination of best practice	2.6	<del>3.5 p.m.</del>	<del>3.5 p.m.</del>	<del>3.5 p.m.</del>	<del>3.5 p.m.</del>	<del>3.5 p.m.</del>
<b>Total</b>	<b>26</b>	<del><b>35 p.m.</b></del>	<del><b>35 p.m.</b></del>	<del><b>35 p.m.</b></del>	<del><b>35 p.m.</b></del>	<del><b>166 p.m.</b></del>

### **Reserve (or B5 – 811 in nomenclature proposed by the EP)**

It is not possible at this stage to give a breakdown of the cost of actions by type of measure. The typology of actions is limited to emergency measures only, all of which are usually part



of a comprehensive project. In addition, the measures of this type funded in 1999 are still ongoing and a classification can be made only after their completion.

Commitment appropriations EUR million (at current prices)

Breakdown	Year n	n+1	n+2	n+3	n+4	Total
Total emergency measures	10	<del>10 p.m.</del>	<del>10 p.m.</del>	<del>10 p.m.</del>	<del>10 p.m.</del>	<del>50 p.m.</del>

### 7.3 Operational expenditure for studies, experts etc. included in Part B of the budget

A maximum of EUR 800 000 per year will be used for technical and administrative assistance. The purpose will be to ensure effective and practical implementation of the action. This assistance will be provided to the Commission and to the beneficiaries of the operation and will not involve ordinary public service tasks but the preparation, management, monitoring and evaluation of the programme. Such assistance will be restricted to the duration of the programme.

### 7.4 Schedule of commitment and payment appropriations

#### **B5 – 810**

Commitment appropriations EUR million

	Year n	n+1	n+2	n+3	n+4	n+5 and subs. years	Total
Commitment appropriations	26	<del>35 p.m.</del>	<del>35 p.m.</del>	<del>35 p.m.</del>	<del>35 p.m.</del>	0	<del>166 p.m.</del>
Payment appropriations	<del>20.813</del>	<del>33.2 p.m.</del>	<del>35 p.m.</del>	<del>35 p.m.</del>	<del>35 p.m.</del>	<del>7 p.m.</del>	<del>166 p.m.</del>

#### **Reserve (B5 – 811 in the nomenclature proposed by the EP)**

Commitment appropriations EUR million

	Year n	n+1	n+2	n+3	n+4	n+5 and subs. years	Total
Commitment appropriations	10	<del>10 p.m.</del>	<del>10 p.m.</del>	<del>10 p.m.</del>	<del>10 p.m.</del>	<del>p.m.</del>	<del>50 p.m.</del>
Payment appropriations	10	<del>10 p.m.</del>	<del>10 p.m.</del>	<del>10 p.m.</del>	<del>10 p.m.</del>	<del>p.m.</del>	<del>50 p.m.</del>

## **8. FRAUD PREVENTION MEASURES**

- Specific control measures envisaged

The Member States are responsible for selecting actions and for their financial management and administration; they have prime responsibility for the financial control of actions. To this end they must comply with the eligibility criteria laid down in this Decision. The Decision also specifies that they must check the existence and operation of appropriate management and control systems, a description of which will be sent to the Commission, must ensure that management complies with the relevant Community rules and the principles of sound financial management, must certify the expenditure declarations and ensure that the accounting system relies on verifiable documentary evidence, must prevent, detect and correct irregularities, must initiate the necessary legal proceedings and inform the Commission accordingly, must cooperate with the Commission and recover amounts lost as a result of irregularities. In addition, the Commission must satisfy itself as to the existence and proper functioning of the management and control systems in the Member States and may carry out on-site inspections or ask the Member State concerned to carry out inspections in which Commission officials or other staff may take part.

Provision is also made for financial corrections in the event of individual or systemic shortcomings.

## **9. ELEMENTS OF COST-EFFECTIVENESS ANALYSIS**

### **9.1 Specific and quantified objectives; target population**

- Specific objectives: links with general objective
  - creation or improvement of infrastructure or services,
  - provision of material assistance to beneficiaries.
- Target population
  - refugees, displaced persons as described in Article 2, and people who previously belonged to one of these categories.

### **9.2 Grounds for the operation**

- Need for Community financial aid, with particular regard for the principle of subsidiarity

The establishment of the European Refugee Fund is intended to support and encourage the efforts made by Member States to receive refugees and displaced persons and to bear the consequences this entails and, in the first place, to complement national policies for assisting those seeking international protection; secondly, to promote the development of programmes for the integration of refugees and other categories of people enjoying such protection; and finally to encourage the voluntary return of those applying for the status of refugee, particularly when their application has been rejected, but also, in the case of displaced persons, refugees and

people requiring international protection, when the need for such protection has ceased. In each of these areas it is necessary to promote the idea of joint responsibility and burden-sharing between Member States in the general effort to assist these people, given that situations can vary considerably.

The need to balance the efforts of the Member States calls for a financial commitment aimed both at easing the burden on the Member States most severely affected and at developing the capacity of those Member States whose infrastructure is inadequate. This implies a redistribution at European Union level that cannot be achieved by the Member States individually.

– Choice of ways and means

\* advantages over possible alternatives (comparative advantages)

The only alternative to the arrangements proposed is for the Commission to administer individual measures and projects directly. Experience of the joint actions and pilot projects that preceded this Decision suggests that this imposes a disproportionate administrative burden without maximising efficiency.

Devolving administration to the Member States allows the Commission to concentrate on general objectives and overall consistency and ensures that the choice and implementation of individual actions occurs at grassroots level, taking account of the specific situation in the Member State and the needs to be met. It will also obviate the need to enlist the services of a technical assistance office in future to select and monitor the actions.

\* explanatory reference to similar Community or national operations

\* spin-off and multiplier effects expected

The contribution of the European Refugee Fund is confined to 50% of the total cost of the measures (75% in Member States benefiting from the Cohesion Fund), with the result that there should be an increase in overall spending to achieve the Fund's objectives. Experience has also shown that national public funding often takes over from Community joint financing in the case of actions which have proved their worth.

The success of eligible projects has a number of spin-off benefits for both the Member States and the beneficiaries, such as:

- a reduction in the number of hardship cases requiring emergency welfare assistance and in social exclusion and its consequences for the welfare budgets of the Member States in the case of refugees, displaced persons and people requiring international protection,

- a reduction in the number of non-nationals without a legal right of residence who disappear underground because there is no prospect of legalising their situation or returning to their country of origin, in the case of people eligible for voluntary repatriation measures, such as those applying for the status of refugee whose application has been definitively refused.

– Main factors of uncertainty which could affect the specific results of the operation

- Variation in flows of refugees.

### 9.3 Monitoring and evaluation of the operation

- Performance indicators selected

\* output indicators (measurement of resources employed)

- Reception and integration: accommodation available (number of beds, standard of premises), creation of new services or increase in capacity of existing services, level of occupancy, number of beneficiaries.
- Voluntary repatriation: creation of new services or increase in capacity of existing services, number of people using services (information, training), number of returnees.

\* impact indicators (measurement of performance against objectives)

- Reception: reduction in number of secondary movements by refugees (movement from one Member State to another in search of better conditions).
- Integration: reduction in rate of social exclusion among the categories concerned.
- Voluntary repatriation: increase in the number of returnees, interest of countries of origin in “co-development” policies.

- Details and frequency of planned evaluations

Bodies responsible for carrying out the measures will report at least annually to the relevant authority in the Member State.

Annual report by Member States to the Commission.

Independent evaluation of each action in each Member State.

- Assessment of the results obtained (where the operation is to be continued or renewed)

An interim report on the implementation in 1997 of budget headings B7-6008 and B5-803 was presented to the European Parliament and the Council on 16 July 1998 (Commission staff working paper SEC(1998)1263).

A second evaluation of results achieved by projects funded in 1997 under the same budget headings was presented to the European Parliament on 13 July 1999 (Commission staff working paper SEC(1999)1105).

The conclusions of this evaluation may be summarised as follows:

- (a) Community joint financing acted as a catalyst, promoting concerted action at national level, particularly in Member States that until recently had had little experience of accommodating refugees and where the general reception structures urgently need to be improved.

- (b) Better coordination in implementing measures is needed at two levels: firstly between national governments and the Commission, to harmonise existing European and national programmes, and secondly between national administrations and NGOs to ensure that their projects form part of a concerted strategy approved by all parties.
- (c) Community funding should focus more particularly on creating infrastructures providing counselling for returnees, on specific training projects, on improving reception conditions and on making asylum procedures more accessible. On-the-spot monitoring of people voluntarily repatriated would be particularly valuable.
- (d) Demand for funding far exceeds the available budget, and a new evaluation of the impact of funding relative to the scale of the problems to be solved must be carried out.

The evaluation of projects funded in 1997 under budget heading B3-4113 has been entrusted to outside consultants. The report is currently being finalised and should be presented to the European Parliament and the Council before the end of 1999.

The projects funded in 1998 and 1999 are currently being implemented. The Commission will evaluate the results when it has received the final reports (first quarter of 2000 for projects funded in 1998 and for emergency aid measures funded in 1999). It also intends to commission an independent evaluation (procedure for awarding the contract currently under way).

In any event, one of the lessons that can be learned from the implementation of the pilot projects is that a duration of one year is unsuited to the medium or long term nature of the majority of the projects and that both Member States and the implementing organisations need longer term visibility to ensure coherent planning of their actions.

## **10. ADMINISTRATIVE EXPENDITURE (SECTION III, PART A OF THE BUDGET)**

Actual mobilisation of the necessary administrative resources will depend on the Commission's annual decision on the allocation of resources, taking into account the number of staff and additional amounts authorised by the budgetary authority.

### 10.1 Effect on the number of posts

Type of post		Staff to be assigned to managing the operation		Source		Duration
		Permanent posts	Temporary posts	Existing resources in the DG or department concerned	Additional resources	
Officials or temporary staff	A	3		2	1	2000-04
	B	2	—	1	1	
	C	2		1	1	
Other resources		—	—	—	—	—
Total		7		4	3	2000-04

Additional resources should be available from the year 2000.

### 10.2 Overall financial impact of additional human resources

EUR

	Amounts	Method of calculation
Officials	3 780 000 €	7 man/years x 108 000 € per man/year = 3 780 000 €. Titles A1, A2, A4, A5 and A7.
Temporary staff	—	
Other resources (indicate budget heading)	—	
Total	3 780 000 €	

The amounts are the total cost of additional posts for the entire duration of the operation, if this duration is predetermined, or for 12 months if it is indefinite.

### 10.3 Increase in other administrative expenditure as a result of the operation

€

Budget heading	Amounts	Method of calculation
Meetings - A7031	146 250 €	3 meetings of advisory committee per year =
Committees (compulsory)		3 meetings x 15 representatives x 650 € per representative x 5 years = 146 250 €
Total	146 250 €	—

Expenditure for Title A-7 shown at 10.3 will be covered by the DG's share of the overall allocation.