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REPORT

on the proposal for a decision of the European Parliament and of the Council amending Decision No 573/2007/EC establishing the European Refugee Fund for the period 2008 to 2013 as part of the General programme "Solidarity and Management of Migration Flows" and repealing Council Decision 2004/904/EC (COM(2009)0456 – C7-0123/2009 – 2009/0127(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Rui Tavares

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United in diversity

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Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to the draft act are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a decision of the European Parliament and of the Council amending Decision No 573/2007/EC establishing the European Refugee Fund for the period 2008 to 2013 as part of the General programme "Solidarity and Management of Migration Flows" and repealing Council Decision 2004/904/EC (COM(2009)0456 – C7-0123/2009 – 2009/0127(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2009)0456),
 - having regard to Article 251(2) and Article 63(2)(b) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C7-0123/2009),
 - having regard to the Commission Communication to Parliament and the Council entitled 'Consequences of the entry into force of the Treaty of Lisbon for ongoing interinstitutional decision-making procedures' (COM(2009)0665),
 - having regard to Article 294(3) and Articles 78(2) and 80 of the Treaty on the Functioning of the European Union,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A7-0125/2010),
1. Adopts the position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a decision – amending act

Recital 2

Text proposed by the Commission

(2) *Therefore it is appropriate, that* the Commission *decides on* common EU annual priorities with respect to *specific*

Amendment

(2) *In order to achieve the objectives of Decision No 573/2007/EC of the European Parliament and of the*

geographic regions *and nationalities* as well as to the specific categories of refugees to be resettled.

Council¹, the Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union establishing common EU annual priorities with respect to geographic regions as well as to the specific categories of refugees to be resettled. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.

In order urgently to update those common EU annual priorities in the event of unforeseen emergencies, the Commission should be empowered to adopt delegated acts under the urgency procedure.

¹ OJ L 144, 6.6.2007, p. 1.

Amendment 2

Proposal for a decision – amending act Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) In order to encourage more Member States to take part in resettlement actions, additional financial support should be given to those Member States taking part in the resettlement programme for the first time.

Amendment 3

Proposal for a decision – amending act Article 1 – point 1 Decision No 573/2007/EC Article 13 – paragraph 3

Text proposed by the Commission

Amendment

Member States shall receive a fixed amount of EUR 4000 for each *resettled* person *falling into one of the categories defined by* the common EU annual

4. Member States shall receive a fixed amount of EUR 4 000 for each person *resettled in accordance with* the common EU annual priorities *to be* established in

priorities established in accordance with Article 13(6) with respect to geographic regions and nationalities *as well as to specific categories of refugees to be resettled.*

accordance with Article 13(6) *and (6a)* with respect to geographic regions and nationalities.

The following categories of vulnerable groups of refugees shall, in any event, be considered as common EU annual priorities, independently of annual priorities with respect to geographic regions and nationalities:

- children and women at risk, particularly from psychological, physical or sexual violence or exploitation,*
- unaccompanied minors where resettlement is in their best interest, in compliance with the Charter of Fundamental Rights of the European Union and the UN Convention on the Rights of the Child,*
- persons having serious medical needs that require special treatment, in particular conditions that can be treated only following resettlement,*
- survivors of violence and torture,*
- persons in need of emergency or urgent resettlement for legal and protection needs.*

Justification

This amendment takes into account the experiences with the resettlement provisions in the ERF until now and combines the specific criteria (which were in the former text) and which respond to a real need with flexibility to adequately respond to emergency cases.

Amendment 4

Proposal for a decision – amending act

Article 1 – point 1 a (new)

Decision No 573/2007/EC

Article 13 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

(1a) In Article 13, the following paragraph is inserted:

"4a. For those Member States that apply for funding for the first time under this Article, the fixed amount for each resettled person shall be EUR 6 000 in the first calendar year and EUR 5 000 in the second. In subsequent years the fixed amount shall be EUR 4 000 for each resettled person. The additional amount that new participating Member States receive in the first two years of their participation shall be invested in the development of a sustainable resettlement programme."

Amendment 5

Proposal for a decision – amending act

Article 1 – point 4

Decision No 573/2007/EC

Article 13 – paragraph 6

Text proposed by the Commission

Amendment

The Commission shall establish the common EU annual priorities for resettlement ***in accordance with the procedure referred to in Article 52(2).***

6. In order to achieve the objective of this Decision to make resettlement an effective protection instrument, the Commission shall establish the common EU annual priorities for resettlement ***by way of delegated acts*** in accordance with ***Articles 52a, 52b and 52c.***

Amendment 6

Proposal for a decision – amending act

Article 1 – point 4 a (new)

Decision 573/2007/EC

Article 13 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. In the event of an unforeseen emergency requiring an urgent update of the common EU annual priorities for resettlement, Article 52d shall apply to delegated acts adopted pursuant to this Article.

Amendment 7

Proposal for a decision – amending act

Article 1 – point 5

Decision No 573/2007/EC

Article 13 – paragraph 7 (new)

Text proposed by the Commission

Amendment

Within twenty calendar days following the notification of Commission Decision establishing the common EU annual priorities for resettlement in accordance with Article 13(6), Member States shall provide the Commission with an estimate of the number of persons whom they will resettle according to these common EU annual priorities in the course of the following calendar year. The Commission shall communicate this information to the **Committee referred to in Article 52**.

7. Within twenty calendar days following the notification of Commission Decision establishing the common EU annual priorities for resettlement in accordance with Article 13 (6) **and (6a)**, Member States shall provide the Commission with an estimate of the number of persons whom they will resettle according to these common EU annual priorities in the course of the following calendar year. The Commission shall communicate this information to **the European Parliament and the Council**.

Amendment 8

Proposal for a decision – amending act

Article 1 – point 10 a (new)

Decision No 573/2007/EC

Article 52 a (new)

Text proposed by the Commission

Amendment

(10a) The following article is inserted:

"Article 52a

Exercise of the delegation

1. The power to adopt the delegated acts referred to in Article 13(6) and (6a) shall be conferred on the Commission for the period referred to in the first paragraph of Article 1.

2. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

3. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in Articles 52b and 52c. Where imperative grounds of urgency so require, Article 52d shall apply."

Amendment 9

Proposal for a decision – amending act

Article 1 – point 10 b (new)

Decision No 573/2007/EC

Article 52 b (new)

Text proposed by the Commission

Amendment

(10b) The following article is inserted:

"Article 52b

Revocation of the delegation

1. The delegation of power referred to in Article 13(6) and (6a) may be revoked at any time by the European Parliament or by the Council.

2. The institution which has commenced an internal procedure for deciding whether to revoke the delegation of power shall endeavour to inform the other institution and the Commission indicating the delegated powers which could be subject to revocation and the possible reasons for a revocation.

3. The decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the

validity of the delegated acts already in force. It shall be published in the Official Journal of the European Union."

Amendment 10

Proposal for a decision – amending act

Article 1 – point 10 c (new)

Decision No 573/2007/EC

Article 52 c (new)

Text proposed by the Commission

Amendment

(10c) The following article is inserted:

"Article 52c

Objections to delegated acts

1. The European Parliament or the Council may object to a delegated act within a period of one month from the date of notification. At the initiative of the European Parliament or the Council this period shall be extended by one month.

2. If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act, it shall be published in the Official Journal of the European Union and enter into force on the date stated therein.

3. If the European Parliament or the Council objects to a delegated act, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act."

Amendment 11

Proposal for a decision – amending act

Article 1 – point 10 d (new)

Decision 573/2007/EC

Article 52 d (new)

Text proposed by the Commission

Amendment

(10d) The following article is inserted:

***"Article 52d
Urgency procedure***

1. A delegated act adopted under the urgency procedure shall enter into force without delay and apply as long as no objection is expressed, in accordance with paragraph 2.

The notification of the act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. The European Parliament and the Council may, within a period of three months from the date of notification, object to the delegated act. In such a case, the act shall cease to be applicable.

The institution which objects shall state the reasons for objecting to the delegated act."

EXPLANATORY STATEMENT

One of the "eligible actions" of the European Refugee Fund (ERF) is resettlement. Resettlement means the process whereby, on a request from UNHCR based on a person's need for international protection, third country nationals or stateless persons are transferred from a third country to a Member State whereby they are permitted to a) reside as a refugee or b) be given a status which offers them the same rights and benefits under national and community law as a refugee status.¹ Resettlement is often called one of the durable solutions for refugees whose protection cannot be assured in countries of first asylum.²

Paragraph 6.2.3 of the Stockholm Programme on the external dimension of asylum clearly states that the EU should act in partnership and cooperate with third countries hosting large refugee populations. It also recognises that promoting solidarity within the EU is crucial but not sufficient to achieve a credible and sustainable common asylum policy; The European Council invites the European Parliament together with the Council and the Commission to encourage voluntary participation of Member States in the joint EU resettlement scheme and to increase the total number of resettled refugees. Also, the Commission should evaluate the joint EU Resettlement Programme in 2014 with a view to identifying necessary improvements. On this joint EU Resettlement Programme the rapporteur will express his ideas in his report on the Communication.

The European Refugee Fund modifying proposal

Article 6 (e) of the Decision 2007/573/EC mentions any third-country national or stateless person who is being or has been resettled in a Member State as a target group. The specific provisions on resettlement are mainly found in Article 13.

The proposal empowers the Commission to define annually the common EU priorities of persons to be resettled. These annual priorities may, according to the Commission, relate to geographic regions, nationalities or specific categories of refugees to be resettled. The European Parliament supports the idea of the Commission and is of the opinion that resettlement should play a central role in the external asylum policies of the EU. It should be further developed and expanded into an effective protection instrument by the EU. With respect to the definition of the common EU priorities, the European Parliament would be in favour of defining certain categories but leaving at the same time the flexibility to respond to emergency cases. Amendment 2 responds to this concern, listing permanent categories which are meant to be general and inclusive also of cases not explicitly indicated, since it would be legally impossible to list all specific needs. For example, there is no doubt that women risking forced marriage or victims of female genital mutilations (FGM) would enter into the general category of "women at risk" or that disabled people would be considered as "persons having serious medical needs". People discriminated for their sexual orientation in countries where sexual orientation is criminalised could also be eligible, as could people from religious or nonreligious minorities when freedom of religion or belief is criminalised. Other cases could fall into the formulation of "legal and protection reasons".

¹ Article 3 of the Decision 2007/573/EC , OJ L 144 of 6.6. 2007, p. 5.

² See also comments by UNHCR on the Joint EU Resettlement Programme and the EC Proposal for the amendment of the ERF.

During the last years, more and more Member States take part in the EU resettlement schemes. To the European Parliament it is of utmost importance that as many Member States as possible get the chance to participate in the EU resettlement scheme. For that reason, the European Parliament would like to introduce a modulation system. This would provide the possibility to attribute to Member States which have until now not significantly participated in the EU resettlement schemes, incentives to start participating (amendment 3).

In order to guarantee the European Parliament's prerogatives when the priorities are defined amendments 1 and 4 propose the procedure of Article 290 TFEU (delegated acts).

PROCEDURE

Title	European Refugee Fund for the period 2008 to 2013 (amendment of Decision No 573/2007/EC).			
References	COM(2009)0456 – C7-0123/2009 – 2009/0127(COD)			
Date submitted to Parliament	2.9.2009			
Committee responsible Date announced in plenary	LIBE 17.9.2009			
Committee(s) asked for opinion(s) Date announced in plenary	AFET 17.9.2009	DEVE 17.9.2009	EMPL 17.9.2009	
Not delivering opinions Date of decision	AFET 16.9.2009	DEVE 6.10.2009	EMPL 17.9.2009	
Rapporteur(s) Date appointed	Rui Tavares 6.10.2009			
Discussed in committee	6.10.2009	22.2.2010	16.3.2010	27.4.2010
Date adopted	27.4.2010			
Result of final vote	+ : 40 - : 2 0 : 0			
Members present for the final vote	Roberta Angelilli, Rita Borsellino, Emine Bozkurt, Simon Busuttill, Philip Claeys, Carlos Coelho, Cornelis de Jong, Agustín Díaz de Mera García Consuegra, Cornelia Ernst, Hélène Flautre, Kinga Gál, Kinga Göncz, Sylvie Guillaume, Ágnes Hankiss, Anna Hedh, Sophia in 't Veld, Teresa Jiménez-Becerril Barrio, Clemente Mastella, Louis Michel, Claude Moraes, Antigoni Papadopoulou, Georgios Papanikolaou, Carmen Romero López, Judith Sargentini, Birgit Sippel, Csaba Sógor, Renate Sommer, Rui Tavares, Wim van de Camp, Axel Voss, Tatjana Ždanoka			
Substitute(s) present for the final vote	Alexander Alvaro, Edit Bauer, Anna Maria Corazza Bildt, Ioan Enciu, Ana Gomes, Nadja Hirsch, Franziska Keller, Petru Constantin Luhan, Mariya Nedelcheva, Norica Nicolai, Cecilia Wikström			