

II

(Acts whose publication is not obligatory)

COUNCIL

**COUNCIL DECISION
of 28 September 2000
establishing a European Refugee Fund**

(2000/596/EC)

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 ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Having regard to the opinion of the Committee of the Regions ⁽⁴⁾,

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 promote a balance in the efforts made by Member States in receiving and bearing the consequences of receiving refugees and displaced persons. To that end, a European Refugee Fund should be established.
- (3) It is necessary to support 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 action by the Member States intended to promote their social and economic integration, in so far as it contributes to economic and social cohesion, the 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) 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.
- (6) 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.
- (7) 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.
- (8) Practical ways are to be found of testing innovatory action in this field and exchanges between Member States should be encouraged with a view to identifying and promoting the most effective practices.
- (9) Account should be taken of the experience acquired during implementation of the Council's joint action 1999/290/JHA ⁽⁵⁾ on the reception and voluntary repatriation of refugees, displaced persons and asylum-seekers.

⁽¹⁾ OJ C 116 E, 26.4.2000, p. 72.

⁽²⁾ Opinion delivered on 11 April 2000 (not yet published in the Official Journal).

⁽³⁾ OJ C 168, 16.6.2000, p. 20.

⁽⁴⁾ Opinion delivered on 15 June 2000 (not yet published in the Official Journal).

⁽⁵⁾ OJ L 114, 1.5.1999, p. 2.

- (10) 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.
- (11) It is fair to allocate resources proportionately to the burden on each Member State by reason of its efforts in receiving refugees and displaced persons.
- (12) The support provided by the European Refugee Fund will be more efficient and better targeted if the co-financing of eligible action is based on a request from each Member State taking into account its situation and needs.
- (13) 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 action.
- (14) Such decentralised implementation of action by the Member States should provide sufficient guarantees as to the details and quality of implementation, the results of their action and the evaluation thereof and sound financial management and its supervision.
- (15) 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.
- (16) Without prejudice to the Commission's responsibilities for financial control, cooperation between the Member States and the Commission in this regard should be established.
- (17) 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.
- (18) The effectiveness and impact of the action 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.
- (19) Action should be evaluated with a view to a mid-term review and assessment of its impact, and the evaluation process should be incorporated into the monitoring of the action.
- (20) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down

the procedures for the exercise of implementing powers conferred on the Commissions ⁽¹⁾.

- (21) 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 does not go beyond what is necessary to achieve those objectives.
- (22) This Decision applies to the United Kingdom and to Ireland by virtue of the notifications which they have communicated, in accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty establishing the European Community.
- (23) Denmark in accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and the Treaty establishing the European Community is not participating in the adoption of this Decision and is therefore not bound by it nor subject to its application,

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 referred to as the Fund) shall be established to support and encourage the efforts made by the Member States in receiving and bearing the consequences of receiving refugees and displaced persons.

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

Article 2

Financial provisions

1. The financial reference amount for implementing this Decision shall be EUR 216 million.

2. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective. The budget authority shall allocate the annual appropriations between the measures referred to respectively in Articles 4 and 6 of this Decision.

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

*Article 3***Groups targeted by the action**

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

1. any third-country nationals or stateless persons 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;
2. any third-country nationals or stateless persons enjoying a form of international protection granted by a Member State in accordance with its national legislation or practice;
3. any third-country nationals or stateless persons who have applied for one of the forms of protection described in points 1 and 2;
4. third-country nationals or stateless persons benefiting from temporary protection arrangements in a Member State;
5. persons whose right to temporary protection is being examined in a Member State.

*Article 4***Measures**

1. To achieve the objective described in Article 1 and with regard to the relevant categories of persons as listed in Article 3, the Fund shall support Member States' action relating to:

- (a) conditions for reception;
- (b) integration of persons whose stay in the Member State is of a lasting and/or stable nature;
- (c) repatriation, provided that the persons concerned have not acquired a new nationality and have not left the territory of the Member State.

2. With regard to the conditions for reception and access to asylum procedures, the action may concern in particular infrastructure or services for accommodation, supply of material aid, health care, social assistance or help with administrative and judicial formalities, including legal assistance. Here, account may also be taken of the special needs of the most vulnerable persons.

3. As regards integration into the society of the Member State of residence of persons referred to in paragraph 1(b) and members of their family, the action may in particular be to provide social assistance in areas such as housing, means of subsistence and health care or to enable beneficiaries to adjust to the society of the Member State or to provide for themselves.

4. As regards repatriation, the action may concern in particular 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 5***Community action**

1. At the Commission's initiative, up to 5 % of the Fund's available resources may be used to finance innovatory action or action of interest to the Community as a whole, separate from the action implemented by the Member States, including studies, exchanges of experience and steps to promote cooperation at Community level, as well as assessment of the implementation of measures and technical assistance.

2. The Commission shall examine the applications submitted by two or more Member States with a view to the joint implementation of transnational action.

3. The Fund may provide up to 100 % of the funding for such action.

*Article 6***Emergency measures**

1. By decision of the Council, acting unanimously on a proposal from the Commission, the Fund may also be used to finance emergency measures, separate from and in addition to the action referred to in Article 4, to help one or more or all Member States in the event of a sudden mass influx of refugees or displaced persons, or if it was necessary to evacuate them from a third country, in particular in response to an appeal by international organisations.

After the entry into force of the Directive on temporary protection, the decision of the Council provided for in the first subparagraph will be taken under the conditions set out in the said Directive.

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;
- (e) costs of logistics and transport.

CHAPTER II

DETAILED PROVISIONS*Article 7***Implementation**

The Member States shall be responsible for implementation of action 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 a non-governmental organisation.

*Article 8***Requests for co-financing**

1. Member States shall send the Commission each year, in accordance with the time table set out in Article 11, a request for co-financing for their implementation programme for the year in question, which describes, for each of the domains referred to in Article 4:

- (a) the situation in the Member State and the requirements justifying the implementation of measures eligible for support from the Fund;
- (b) the actions the Member State intends to implement, including:
 - (i) their nature and their purpose;
 - (ii) the expected quantified results;
 - (iii) their cost as well as the funding from the Member State and, where applicable, from the organisation(s) involved.

2. In addition, the first request for co-financing shall include a description of the system put in place by the Member State to:

- (a) ensure coordination and consistency of actions;
- (b) select projects and ensure the procedure is transparent;
- (c) manage, monitor, check and evaluate projects.

3. The request shall contain, for each of the aspects referred to in paragraphs 1 and 2, sufficiently detailed information to enable the Commission to verify that it complies with the provisions of this Decision and the financial rules in force.

*Article 9***Selection criteria**

1. Member States shall have sole responsibility for the selection of individual projects and for the financial management and administration of projects supported by the Fund, with due respect for Community policies and the criteria for eligibility.

2. Following a public call for proposals, projects, which must be of a non-profit making nature, 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.

3. The responsible authority shall select projects on the basis of the following criteria:

- (a) the situation and requirements in the Member State;
- (b) the cost-effectiveness of the expenditure, in view of the number of persons concerned by the project;

- (c) the experience, expertise, reliability and financial contribution of the organisation applying for funding and any partner organisation;
- (d) the extent to which the projects complement other action funded by the budget of the European Communities or as part of national programmes.

*Article 10***Distribution of resources**

1. For the years 2000 to 2004 each Member State shall receive the following fixed amount of the European Refugee Fund's annual allocation:

For the year 2000: EUR 500 000

For the year 2001: EUR 400 000

For the year 2002: EUR 300 000

For the year 2003: EUR 200 000

For the year 2004: EUR 100 000

2. The remainder of the available resources shall be distributed proportionally between the Member States as follows:

- (a) 65 % in proportion to the number of persons referred to in Article 3, points 3, 4 and 5 that have entered over the previous three years;
- (b) 35 % in proportion to the number of persons admitted in one of the categories in Article 3, points 1 and 2 over the previous three years.

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

*Article 11***Timetable**

1. The Commission shall provide the Member States by 1 June 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.

2. The Member States shall submit the request for co-financing referred to in Article 7 to the Commission by 1 October each year at the latest.

3. The Commission shall approve the request for co-financing within three months of submission of the request, having carried out the checks provided for in Article 8(2).

*Article 12***Technical and administrative assistance**

A sum not exceeding 5 % of a Member State's total allocation may be set aside for technical and administrative assistance in the preparation, monitoring and evaluation of the actions under its responsibility within the meaning of Article 7.

CHAPTER III

CHAPTER IV

FINANCIAL PROVISIONS**CHECKS AND EVALUATION***Article 13**Article 18***Financing structure****Checks**

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 14***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 21(2).

*Article 15***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 21(2), adopt the decision on co-financing by the Fund. The decision shall state the amount allocated to the Member State.

*Article 16***Budget commitments**

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

*Article 17***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.

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 action. To that end, the measures they 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 action is managed in accordance with the applicable Community rules and that the funds placed at its disposal is 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 action 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 17(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 19

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 action in the same field as referred to in Article 4, in compliance with the arrangements to be defined in accordance with the procedure referred to in Article 21(2).

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 18(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 20

Monitoring and evaluation

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

To that end, the agreements and contracts it enters into with organisations charged with implementing the action 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.

In addition, the responsible authority shall have an independent assessment made of the execution and of the effect of the actions implemented.

2. Each year the responsible authority shall draw up a summary report on implementation of the action in progress, which shall be attached to the request for co-financing referred to in Article 8.

3. Within six months of the deadline fixed in the co-financing decision for the execution of expenditure, the responsible authority shall send the Commission a final report consisting of:

- (a) financial accounts and a report on implementation of the action in accordance with the rules adopted by the Commission by the procedure referred to in Article 21(2);
- (b) the report on assessment referred to in paragraph 1.

4. 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 September 2005 at the latest.

CHAPTER V

THE COMMITTEE

Article 21

The Committee

1. The Commission shall be assisted by a committee.
2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply.
3. The Committee shall adopt its rules of procedure.
4. 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 22

Special provisions concerning emergency measures

1. The provisions of paragraphs 2 to 5 of this Article shall apply to the implementation of the emergency measures provided for in Article 6.

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 6(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. Available resources shall be distributed among the Member States on the basis of the number of persons having entered each Member State as part of the mass influx referred to in Article 6(1).

5. Article 9 and Articles 18 to 21 shall apply.

CHAPTER VII

TRANSITIONAL PROVISIONS

Article 23

Transitional provisions

By way of derogation from Article 11, the following timetable shall apply for the implementation of the financial years 2000 and 2001:

- the Commission shall inform the Member States of the estimated amounts allocated to them the day after this Decision enters into force. If the Statistical Office of the European Community does not yet have all the statistics required by Article 10 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 21(2), the rules for interpreting the statistics supplied by the Member States,
- the Member States shall submit the requests for co-financing referred to in Article 8 to the Commission no later than 20 November 2000,
- the Commission shall approve requests for co-financing within three months of this submission, following verification of the particulars provided for in Article 8(2) and, with

respect to the financial year 2000, subject to the carrying forward of appropriations to the financial year 2001,

- by way of derogation from Article 14, expenditure actually paid between 1 January 2000 and the deadline fixed in the decision granting the co-financing may be eligible for support from the Fund.

CHAPTER VIII

FINAL PROVISIONS

Article 24

Implementation

1. The Commission shall be responsible for 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 21(2).

Article 25

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 26

Addressees

This Decision is addressed to the Member States.

Done at Brussels, 28 September 2000.

For the Council

The President

D. VAILLANT