

Annex

EUROPEAN RETURN FUND 2008-2013 COMMUNITY ACTIONS ANNUAL WORK PROGRAMME 2010

1. GENERAL BACKGROUND

The European Council called in 'The Hague Programme' for the establishment of an effective removal and repatriation policy, based on common standards, for persons to be returned in a humane manner and with full respect for their fundamental rights and dignity.

A comprehensive return policy addresses in particular three target groups: third-country nationals who do not or no longer fulfil the conditions for entry and/or stay in a Member State (1) and third-country nationals who choose to make use of voluntary return and either have not yet received a final negative decision in relation to their request for international protection (2) or are enjoying a form of international protection (3).

The Return Fund provides for voluntary return options for all three target groups, but also includes for the first target group the prospect, where appropriate, of enforced return. The primacy of voluntary return, which should be in the interest of the returnee, the country of return and also in the interest of the Member States, has been expressly stressed in the *Council Conclusions on Voluntary Return* in December 2005 and was recently repeated in the Stockholm Programme.

The *Directive 2008/115/EC of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals*, which has to be transposed to national law by the end of 2010, underlines the primacy of voluntary return of third-country nationals who do not or no longer fulfil the conditions for entry and/or stay in a Member State. Article 7 (1) of the Directive clearly states that as a rule return decisions shall provide for an appropriate period for voluntary departure.

In accordance with the Council conclusions adopted on 3 June 2010, the Commission was encouraged to prioritise financial assistance in relation to unaccompanied minors to provide '*support for the authorities of the countries of origin or return in managing return, by creating reception centres that can provide care for minors returned when the family cannot be found to facilitate the reintegration of the minors in their social and cultural environment while guaranteeing the respect of their best interest*'.

The above-mentioned directive includes a number of provisions on safeguarding the best interests of the child in the context of return procedures. Article 10 refers specifically to the return of unaccompanied minors, stating that prior to returning an unaccompanied minor the Member State must ensure that that s/he is returned to a family member, nominated guardian or adequate reception facilities. The obligation to assess which solution would be in the best interest of the child is reiterated in the Communication on the Action Plan on Unaccompanied Minors, adopted by the Commission on 6 May 2010.

The Commission is in the process of launching a study on the return of minors entitled 'a comparative study on best practices in the field of return of minors' which will shed a light on the situation in the EU Member States and provide information on best practices. The results of the study are due by mid-2011.

The Return Fund "Community Actions 2009" focused very much on forced return (joint return operations¹ and study on forced return monitoring) and horizontal return issues like the cooperation with third countries, the treatment of minors in the return process and the link between pre-departure and post-arrival reintegration measures.

On the other hand, at national level, in the Return Fund Multiannual Programmes around 20 Member States have drawn up integrated plans with a strong focus on the area of voluntary return. Following the obligation laid down in Article 7 of the Return Directive some Member States, having limited until now their policy on voluntary return to the target group of (rejected) asylum seekers, have to extend this policy on third-country nationals who for example entered their territory illegally or overstayed. In order to learn from each other in the field of voluntary return, the national programmes of many Member States foresee study visits to or common projects with other more experienced Member States.

Furthermore, some Member States developed special types of incentives and assistance to support the reintegration in the country of return and to try to achieve a more sustainable return.

It seems therefore appropriate to coordinate the various national activities and to create positive synergies between them and to focus on actions in the field of voluntary return and reintegration in the Return Fund "Community Actions 2010".

2. GENERAL OBJECTIVES AND FINANCIAL BREAKDOWN

The Decision of the European Parliament and of the Council No 575/2007/EC of 23 May 2007 establishes the European Return Fund for the period 2008 to 2013 as part of the General programme "Solidarity and Management of Migration Flows" (see OJ L 144, 6.6.2007, p.45) (hereafter 'the Decision').

The objective of the Fund is to support the efforts made by the Member States to improve the management of return in all its dimensions through the use of the concept of integrated management and by providing for joint actions to be implemented by Member States or national actions that pursue EU objectives under the principle of solidarity, taking account of EU legislation in this field and in full compliance with fundamental rights of returnees.

The Fund is part of a policy mix of instruments and measures available to the EU for integrated management of returns as outlined in Section 1 above.

The bulk of resources available for the Fund will be allocated to the Member States² each year (shared management), in order to support actions relating to the general objectives defined in Article 2 of the Decision.

In accordance with Article 6(1) of the Decision, the Commission may use up to 7% of the Fund's available resources to finance transnational actions or actions of interest to the

¹ In addition, the FRONTEX budget for 2010 foresees 9.341.000 euro mainly for the purpose of joint return operations.

² For the purpose of the European Return Fund and in line with Decision No 575/2007/EC, the term "Member States" covers all Member States with the exception of Denmark.

European Union as a whole (hereinafter referred to as 'Community actions'). The budget for Community actions for 2010 amounts to 5.775.000, 00 €

The amount available reserved by the Commission services in accordance with Article 6 shall be used for the following objectives defined in Article 6(2) (a), (b) and (e) of the Decision:

(a) further Community cooperation in implementing Community law and good practices;

(b) support the setting-up of transnational cooperation networks and pilot projects based on transnational partnership between bodies located in two or more Member States designed to stimulate innovation, facilitate the exchange of experience and good practice and improve the quality of return policy;

(e) support pilot projects and studies exploring the possibility of new forms on Community cooperation and Community law in this area

Indicatively, this amount shall be distributed between grants and tenders as follows:

- Grants (2 categories of actions – see point 3): **4.825.000 €**
- Tenders (at least 2 studies - see point 4): **950.000 €**

3. ANNUAL WORK PROGRAMME FOR 2010 "COMMUNITY ACTIONS" (GRANTS)

3.1. Priorities and Objectives

The objectives laid down in Article 6(2) (b) and (e) of the Decision will be pursued in 2010 by taking into account the policy context and by further building on priorities identified for the "Preparatory Actions: Migration Management - Solidarity in Action" and the Annual Work Programme for 2009 "Community Actions". The eligible actions for each of the two categories are described below.

Category 1 Creation of an EU network on voluntary return

Policy context

According to the recently adopted "Stockholm Programme" voluntary return should be a preferred option and focus should be placed on encouraging voluntary return by using the possibilities offered by existing financial instruments.

As already mentioned in the "General Background", at national level, in the Return Fund Multiannual Programmes around 20 Member States have drawn up integrated plans with a strong focus on the area of voluntary return. The remarkable number of different national activities in the 2008 and 2009 Annual Programmes under the Return Fund, but also under earlier programmes such as the Return Preparatory Actions and Solidarity in action serves as proof of the commitment of Member States in the area of voluntary return. On the other hand it has become obvious that there is a lack of co-ordination *between* Member States, and also *within* certain Member States in the area of voluntary return and voluntary return assistance.

One reason might be that, unlike in the area of forced return, in the field of (assisted) voluntary return a lot of stakeholders, including national, regional and local governmental

bodies, non-governmental and international organisations are involved. Moreover, voluntary return has a strong external component, involving often the same range of stakeholders in the country of return. Finally, the returnee and his needs and expectations are more central to the whole process of voluntary return than this might be the case in the context of forced return.

Eligible actions

- Creation of a EU-wide network on voluntary return aiming to improve cooperation among stakeholders in the field. This network would set up a website as its main tool for gathering and sharing of information on all activities in the field of voluntary return, in order to achieve more coherence and create positive synergies. It would strengthen coordination and help Member States and other stakeholders engaged in the process of voluntary return to adjust their activities and to pool and share their competences and resources.

Category 2 Cooperation of two or more Member States in the field of pre-departure and post-arrival reintegration activities
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Policy context

Targeted reintegration measures are key conditions for a sustainable return. They can cover preparatory pre-departure activities in the Member States, the reception and accompanying activities in the first days after the return, but also socioeconomic short-term measures in the country of return. Pre-departure measures can also include the necessary measures addressing the specific needs of vulnerable returnees, such as family tracing in the case of unaccompanied minors, etc.

The Commission has launched in the framework of the Return Fund 2009 "Community Actions" a call for tender for a comparative study analysing practices to interlink pre-departure reintegration measures carried out in Member States with short and long-term reintegration measures in the countries of return. The study will be available in the first half of 2011 and will indicate best practices and provide concrete recommendations.

Taking into account the main findings of this study Member States shall develop coherent reintegration strategies which will aim at common reintegration activities in selected third-countries willing to cooperate in this respect.

Member States are encouraged to define common reintegration strategies targeted to specific countries of return. This includes common missions to these countries of return, the common assessment of the socioeconomic needs of the countries of return, the development of coherent pre-departure and post arrival reintegration tools and the common implementation and establishment of these tools as far as the countries of return are concerned. A particular emphasis should be given to the reintegration needs of vulnerable groups, in particular unaccompanied minors. With reference to the return directive, the actions should take into account the best interests of the child, and prior to returning an unaccompanied minor the Member State must ensure that s/he is returned to a family member, nominated guardian or adequate reception facilities. The obligation to try to trace the family, explore other possibilities for reintegration in their home society and assess which solution is in the best interests of the child is also clearly stated in the Communication on the Action Plan on Unaccompanied Minors.

Until the results of the comparative study on best practices in the field of return of minors are available, actions related to unaccompanied minors will be considered as exploratory measures.

Eligible actions

- Setting up and further development of common approaches of cooperation of at least two Member States in the field of reintegration in order to coordinate reintegration measures envisaged in the country of return at an early stage and to develop a common approach towards specific countries of return.

3.2. Distribution of Resources

For each of the categories of actions, the amount of grant per project will not exceed **90%** of the total eligible costs.

Category of Community actions as defined in section 3.1	Indicative total EU amount available	Indicative Minimum EU funding per project	Duration	Estimated number of actions
Category 1 (Creation of an EU network on voluntary return)	€1.000.000	n/a	Maximum 24 months	1
Category 2 (Cooperation of two or more Member States in the field of pre-departure and post-arrival reintegration activities)	€3.825.000	Minimum: €250.000	Maximum 18 months	8-10

3.3. Procedure for project selection and implementation

For both categories of actions described in point 3.1, grants will be implemented pursuant to a call for proposals (see section 3.4).

3.4. Grants awarded through a call for proposals (Categories 1 and 2)

3.4.1. Access to the programme

This call for proposals is addressed to:

- public authorities from the 26 Member States participating in the Fund³;
- International Organisations, EU Agencies, private bodies and Non-Governmental Organisations registered in the 26 Member States mentioned above, provided that they

³ Denmark does not participate in the Return Fund.

all work on a strictly non-profit basis and have proven experience and expertise in the fields covered.

Proposals must be submitted by an entity together with **at least one partner** entity.

Attention has to be paid to ensure optimal synergy with programmes carried out at Community and national level by the EU Agencies, the Member States and international organisations. This will require effective information sharing about the activities so that the necessary contacts and connections can be made.

In case of co-funding of an activity by both the national programme(s) and the Community actions, a clear division has to be established in order to avoid double-funding. Under no circumstances a project may be covered by both national programmes and Community actions.

3.4.2. Eligibility criteria

Projects must be presented by authorities as defined in section 3.4.1.

Projects must fall within one of the two categories as defined in section 3.1.

The indicative budget, the objectives of the project and its intended impact must be clearly indicated, and a detailed description must be given of the activities envisaged, the results and impacts anticipated, and the approach, working methods and timetable to be followed.

The duration of the projects must be in line with the table as set out in section 3.2.

3.4.3. Selection criteria

- Except for public authorities of Member States and international organisations, co-beneficiaries will have to demonstrate their capacity to finance the proposed activities properly;
- Except for public authorities of Member States, co-beneficiaries will have to demonstrate their operational capacity to complete the action to be supported.

3.4.4. Award criteria

Among the projects which have passed eligibility and selection criteria, the Commission will select the proposals achieving the highest score following evaluation according to the award criteria set out below, taking into account the funds available:

- *Relevance*: the extent to which the proposed action falls within the priorities and objectives of the programme defined in section 3.1 above and the clarity and pertinence of the project's objectives;
- *Quality of the proposed action*: the thoroughness, appropriateness and feasibility of the approach, methodology, timeframe and organisation;
- *Synergies*: level of synergy with programmes carried out at Community and national level by EU Agencies and the Member States;
- *Value for money*: the adequacy of the forecast budget, appropriateness of the amount requested as to the expected results, inter alia in view of the number of persons concerned by the project;

- *Impact of the project*: the sustainability of the project and/or its results after the termination of the grant (where relevant), the dissemination of results, lessons learned and acquired know-how beyond the national level.

3.4.5. Timetable

Publication of the notice of the call for proposals:	September 2010
Deadline for submission of proposals:	November 2010
Evaluation of projects:	December 2010-January 2011

3.5. Contractual framework

The implementation will be on the basis of either a standard grant agreement for an action with a single beneficiary or a standard grant agreement for an action with multiple beneficiaries in those situations where the beneficiary will act as coordinator (the main co-beneficiary) in collaboration with other Member States or organisations (the other co-beneficiaries).

3.6. Payment conditions

The grant shall normally be paid under the following conditions:

- Pre-financing, representing 75% of the amount of the grant awarded upon signature of the grant agreement by the last of the parties;
- The balance upon receipt and approval by the Commission of the final technical and financial implementation reports, together with a request for payment.

3.7. Expected results

- 9-11 projects selected;
- Creation and implementation of a network improving the cooperation in the area of voluntary return;
- Improvement of the cooperation in the area of reintegration in specific countries of return.

4. ANNUAL WORK PROGRAMME FOR 2010 "COMMUNITY ACTIONS" (TENDERS)

4.1. Amount allocated to Calls for tenders

In 2010 the amount available for tenders is 950.000 €

4.2. Indicative number, type and subject of the contracts envisaged

The Commission proposes in this Annual Work Programme at least 2 studies intended to examine:

1. the situation of third-country nationals pending postponed removal aiming to gather the information needed on the situation of non-removable returnees, identified by the Commission in its June 2009 *Communication on an area of freedom, security and justice serving the citizen* (COM (2009) 262 final),

2. the implementation of the Return Directive in Member States aiming to evaluate implementation of the Return Directive (2008/115/EC) in those Member States which have notified its transposition to the Commission.

Other contracts might be added, if a need arises after adoption of this annual work programme.

4.3. Indicative timetable

The open calls for tenders will be published in the third/fourth quarter of 2010.