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(Preparatory Acts)

COMMISSION

Proposal for a Council Decision on a Joint Action adopted by the Council on the basis of Article K.3 of the Treaty on European Union establishing measures to provide practical support in relation to the reception and the voluntary repatriation of refugees, displaced persons and asylum applicants

*(1999/C 37/04)**COM(1998) 733 final — 98/0357(CNS)**(Submitted by the Commission on 13 January 1999)*

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

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

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

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

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

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

(6) Whereas it is appropriate to provide for financing from the Community budget for measures adopted under this Joint Action;

(7) Whereas, taking joint action in relation to the reception of asylum applicants and displaced persons and the voluntary repatriation of asylum applicants, displaced persons and refugees will promote the sharing of responsibility between the Member States,

HAS ADOPTED THIS JOINT ACTION:

CHAPTER I

OBJECT AND SCOPE

*Article 1***Principles and objectives of the measures**

1. The Union shall take measures to provide practical support in relation to the reception of asylum applicants and displaced persons and the voluntary repatriation of refugees, displaced persons and asylum applicants, which shall qualify for Community financial support.

2. The general objectives of the measures shall be:

(a) to improve the conditions in which asylum applicants and displaced persons are received in the Member States, and to support asylum procedures which are fair, efficient and accessible to persons in need of international protection;

(b) to assist the voluntary repatriation of asylum applicants, displaced persons and refugees from the Member States to their countries of origin, and their reintegration there.

*Article 2***Definitions**

1. For the purpose of Article 1(2)(a) and Article 3:

(a) 'displaced persons' means persons granted permission to stay in a Member State under temporary protection, or under subsidiary forms of protection

in accordance with Member States' international obligations and national law, and persons seeking permission to remain on such grounds who are awaiting a decision on their status;

- (b) 'asylum applicants' means persons who have requested protection from a Member State by claiming refugee status within the meaning of Article 1 of the Convention relating to the Status of Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967, and in respect of whose requests a final decision has not yet been taken.

2. For the purpose of Article 1(2)(b) and Article 4:

- (a) 'refugees' means persons who have obtained refugee status within the meaning of Article 1 of the Convention relating to the Status of Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967;
- (b) 'displaced persons' means persons granted permission to stay in a Member State under temporary protection, or under subsidiary forms of protection in accordance with Member States' international obligations and national law;
- (c) 'asylum applicants' means persons who have requested protection from a Member State by claiming refugee status within the meaning of Article 1 of the Convention relating to the Status of Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967, including persons in respect of whose requests a final negative decision has been taken, but who have not yet departed from the territory of the Member State.

Article 3

Reception

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

- (a) the measures to improve the infrastructure in the Member States for the reception of asylum applicants and displaced persons;
- (b) the enhancement of fairness and efficiency of asylum procedures and the facilitation of access to them, including the provision of: legal assistance and other counselling services; interpretation services; information on the procedure to be followed, and the rights and obligations of the asylum applicant

during the procedure; access to precise and up-to-date country information;

- (c) the ensuring of a basic standard of living conditions for asylum applicants and displaced persons, including accommodation, medical care, education and training;
- (d) special assistance to vulnerable groups, such as unaccompanied minors, victims of torture or rape, and people requiring special medical treatment;
- (e) the provision of information to the public on Member States' obligations to persons seeking international protection and the European Union's asylum policy, including public awareness measures complementing other measures financed under this Joint Action.

Article 4

Voluntary repatriation

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

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

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

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

*Article 5***Financing criteria**

The projects to be financed from the Community budget shall be subject to a selection procedure taking into account in particular the following criteria:

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

CHAPTER II

FINANCIAL PROVISIONS

*Article 6***Financial control**

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

*Article 7***Level of Community finance**

1. Financial support from the Community budget shall not exceed 80 % of the total cost of the project.
2. All types of expenditure which are directly attributable to implementation of a project and incurred during a specific, contractually defined period shall be eligible, subject to conditions to be specified in guidelines which shall be established by the Commission, up to the ceiling of appropriations authorised under the annual budgetary procedure.

*Article 8***Financial management**

1. Measures adopted under this Joint Action and financed by the budget of the European Communities shall be managed by the Commission in conformity with the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities⁽¹⁾,

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

CHAPTER III

MANAGEMENT PROVISIONS

*Article 9***General management provisions**

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

In particular, in order to ensure that this Joint Action is implemented efficiently and effectively, the Commission may have recourse to technical assistance which may be financed from the appropriations available for measures under this Joint Action.

*Article 10***Submission of projects**

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

*Article 11***Procedure**

1. Until 31 December 1999, decisions on the financing of projects shall be taken in accordance with paragraphs 2, 3 and 4. From 1 January 2000, they shall be taken in accordance with the procedure laid down in paragraph 5.

2. Where the financing is less than EUR 200 000, the Commission shall keep the Council informed of the

⁽¹⁾ OJ L 356, 31.12.1977, p. 1.

number of requests received for the financing of specific projects, the principles applied in granting support thereto and the results of such projects.

3. Where the financing is EUR 200 000 or more and less than EUR 1 million, the Commission shall be assisted by a committee consisting of one representative from each Member State and chaired by a representative of the Commission. The Commission shall submit to the Committee a list of the projects which have been submitted to it. It shall indicate the projects it selects and shall give reasons for its selection. The Committee, acting by the majority provided for in the second subparagraph of Article K.4(3) of the Treaty, shall deliver its opinion on the various projects within a period of two weeks. The Chairman shall not vote. The opinion shall be recorded in the minutes; moreover, each Member State shall have the right to ask that its position be recorded in the minutes. The Commission shall take full account of the opinion delivered by the Committee. It shall inform the Committee of how it has done so.

4. Where the financing is EUR 1 million or more, the Commission shall submit to the Committee, referred to in paragraph 2, a list of the projects which have been submitted to it. It shall indicate the projects it selects and shall give reasons for its selection. The Committee, acting by the majority provided for in the second subparagraph of Article K.4(3) of the Treaty, shall deliver its opinion on the various projects within a period of two weeks. The Chairman shall not vote. If a favourable opinion is not delivered within the time limit, the Commission shall either withdraw the project(s) concerned or submit it (them), with any opinion from the Committee, to the Council, which, acting by the majority provided for in the second subparagraph of Article K.4(3) of the Treaty, shall take a decision within one month.

5. The Commission shall be assisted by an advisory committee composed of the representatives of the Member States and chaired by the representative of the Commission.

The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a time limit which the Chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

FINAL PROVISIONS

Article 12

Monitoring and evaluation

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

Article 13

Entry into force

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

It shall be applicable until 31 December 2000.

Article 14

Publication

This Joint Action shall be published in the *Official Journal of the European Communities*.