

COMMISSION DECISION

of 23 July 2009

amending Decision 2008/458/EC laying down rules for the implementation of Decision No 575/2007/EC of the European Parliament and of the Council establishing the European Return Fund for the period 2008 to 2013 as part of the general programme ‘Solidarity and management of migration flows’ as regards Member States’ management and control systems, the rules for administrative and financial management and the eligibility of expenditure on projects co-financed by the Fund

(Notified under document C(2009) 5453)

(Only the Bulgarian, Czech, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish texts are authentic)

(2009/614/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Decision No 575/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the European Return Fund for the period 2008 to 2013 as part of the General Programme Solidarity and Management of Migration Flows⁽¹⁾, and in particular Articles 23 and 35(4) thereof,

Whereas:

- (1) In the light of the experiences following the launch of the Fund, it is appropriate to extend the eligibility period of the annual programmes in order to enable Member States to implement the Fund in an effective way and to adapt the time schedule for the submission of the final report on the implementation of the annual programme.
- (2) It is also appropriate to adapt the procedure for the submission of the revised annual programmes by Member States.
- (3) 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, the United Kingdom is bound by the basic act and, as a consequence, by this Decision.
- (4) 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, Ireland is bound by the basic act and, as a consequence, by this Decision.
- (5) In accordance with Article 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not bound by this Decision nor subject to the application thereof.

- (6) The measures provided for in this Decision are in accordance with the opinion of the common committee ‘Solidarity and management of migration flows’,

HAS ADOPTED THIS DECISION:

Article 1

Commission Decision 2008/458/EC⁽²⁾ is amended as follows:

1. Article 23(1) is replaced by the following:

‘1. In order to revise the annual programme approved by the Commission pursuant to Article 21(5) of the basic act, the Member State concerned shall submit a revised draft annual programme to the Commission at the latest three months before the end of the eligibility period. The Commission shall examine and, as soon as possible, approve the revised programme in accordance with the procedure laid down in Article 21(5) of the basic act.’;

2. in point 4.1 of Annex V, Part A, the words ‘List of all pending recoveries at 30 June of the year N + 2 (N = year of this annual programme)’ are replaced by the words ‘List of all pending recoveries six months after the eligibility deadline for expenditure’;

3. in Annex XI, point I.4.1 is replaced by the following:

‘1. Costs relating to a project must be incurred and the respective payments (except for depreciation) made after 1 January of the year referred to in the financing decision approving the annual programmes of the Member States. The eligibility period is until 30 June of the year N (*) + 2, meaning that the costs relating to a project must be incurred before this date.

(*) Where “N” is the year referred to in the financing decision approving the annual programmes of the Member States.’;

⁽¹⁾ OJ L 144, 6.6.2007, p. 45.

⁽²⁾ OJ L 167, 27.6.2008, p. 135.

4. in Annex XI, point V.3. is replaced by the following:

- ‘3. Activities linked to technical assistance must be performed and the corresponding payments made after 1 January of the year referred to in the financing decision approving the annual programmes of the Member States. The eligibility period lasts at the latest until the deadline for the submission of the final report on the implementation of the annual programme.’.

Article 2

This Decision shall apply to all annual programmes for which the payment of the balance has not been made at the date of its adoption.

Article 3

This Decision is addressed to the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Federal Republic

of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 23 July 2009.

For the Commission

Jacques BARROT
Vice-President