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IMMIGRATION POLICY

A forward-looking and comprehensive European immigration policy, based on solidarity, is a key objective for the European Union. Immigration policy is intended to establish a balanced approach to dealing with both regular and irregular immigration.

LEGAL BASIS

Articles 79 and 80 of the Treaty on the Functioning of the European Union (TFEU).

COMPETENCES

Regular immigration: the EU is competent to lay down the conditions governing entry into and legal residence in a Member State, including for the purposes of family reunification, for third-country nationals. Member States retain the right to determine admission rates for people coming from third countries to seek work.

Integration: the EU may provide incentives and support for measures taken by Member States to promote the integration of legally resident third-country nationals; EU law makes no provision for the harmonisation of national laws and regulations, however.

Combating irregular immigration: the European Union is required to prevent and reduce irregular immigration, in particular by means of an effective return policy, in a manner entirely consistent with fundamental rights. An irregular immigrant is a person who comes to the EU without a proper visa or permit or who overstays their visa.

Readmission agreements: the European Union is competent to conclude agreements with third countries for the readmission to their country of origin or transit of third-country nationals who do not or no longer fulfil the conditions for entry into or presence or residence in a Member State.

OBJECTIVES

Defining a balanced approach to immigration: the EU aims to set up a balanced approach to dealing with regular immigration and combating irregular immigration. Proper management of migration flows entails ensuring fair treatment of third-country nationals residing legally in Member States, enhancing measures to combat irregular immigration and promoting closer cooperation with non-member countries in all fields. It is the EU's aim to establish a uniform level of rights and obligations for regular immigrants, comparable with that for EU citizens.

Principle of solidarity: under the Lisbon Treaty, immigration policies are to be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, among the Member States (Article 80 TFEU).

ACHIEVEMENTS

A. Institutional developments brought about by the Lisbon Treaty

The Lisbon Treaty, which entered into force in December 2009 ([1.1.5](#)), introduced co-decision and qualified majority voting on regular immigration and a new legal basis for integration measures. The ordinary legislative procedure now applies to policies on both irregular and regular immigration, making Parliament a co-legislator on an equal footing with the Council. The provisional measures to be taken in the event of a sudden inflow of third-country nationals are adopted by the Council alone, however, after consulting Parliament (Article 78(3) TFEU).

The Lisbon Treaty also made it clear that the EU shares competence in this field with the Member States, in particular as regards the number of migrants allowed to enter a Member State to seek work (Article 79(5) TFEU). Finally, the Court of Justice now has full jurisdiction in the field of immigration and asylum.

B. Recent policy developments

1. The ‘Global Approach to Migration and Mobility’

The ‘Global Approach to Migration and Mobility’ adopted by the Commission in 2011 establishes a general framework for the EU’s relations with third countries in the field of migration. It is based on four pillars: regular immigration and mobility, irregular immigration and trafficking in human beings, international protection and asylum policy, and maximising the impact of migration and mobility on development. The human rights of migrants are a cross-cutting issue in the context of this approach.

The Global Approach focuses on regional and bilateral dialogue between countries of origin, transit and destination. One of the main instruments of the Global Approach are the ‘mobility partnerships’ which can be concluded with third countries. These partnerships incorporate not only readmission agreements, but a whole set of measures, ranging from development aid to temporary entry visa facilitation, measures on circular migration, and measures to combat irregular immigration.

2. The June 2014 strategic guidelines

The Stockholm Programme (‘An open and secure Europe serving and protecting citizens’), adopted in December 2009 as a successor to the multiannual programmes adopted at Tampere (1999) and The Hague (2004), expired in December 2014. In March 2014, the Commission published a new communication setting out its vision on the future agenda for home affairs, entitled ‘An open and secure Europe: making it happen’, so that the European Council and Parliament could debate the strategic guidelines in June 2014.

In accordance with Article 68 TFEU, in its conclusions of 26 and 27 June 2014 the European Council then defined the ‘strategic guidelines for legislative and operational planning within the area of freedom, security and justice’ for the period 2014-2020. These no longer constitute a programme, but rather guidelines focusing on the objective of transposing, implementing and consolidating the existing legal instruments and measures. The guidelines stress the need to adopt a holistic approach to migration, making the best possible use of regular migration, affording protection to those who need it, combating irregular migration and managing borders effectively.

3. European Agenda on Migration

On the basis of a [Commission proposal](#) (10-point action plan), on 23 April 2015 the Member States undertook (see [European Council statement](#)) to take swift action to save lives and step

up the EU's action in the field of migration. A [European Parliament resolution](#) was adopted a few days later, on 29 April 2015.

The Commission then published the European Agenda on Migration on 13 May 2015, in keeping with its stated intention of making immigration a central priority. The Agenda proposes immediate measures to cope with the crisis in the Mediterranean and measures to be taken over the next few years to manage all aspects of immigration more effectively.

As regards the medium and long term, the Commission proposes guidelines in four policy areas: reducing incentives for irregular immigration; border management – saving lives and securing external borders; developing a sound common asylum policy based on the implementation of Europe's Common European Asylum System, but also assessing and, possibly, revising the Dublin Regulation in 2016; lastly, establishing a new policy on regular immigration, modernising and revising the 'blue card' system, setting fresh priorities for integration policies and optimising the benefits of migration policy for the individuals concerned and for countries of origin, for example by facilitating cheaper, faster and more secure remittance transfers.

Among the emergency measures, the Commission tripled with immediate effect the capacities and resources available in 2015 and 2016 for Frontex's joint operations Triton and Poseidon, on the basis of an amending budget for 2015 and a new Triton Operational Plan. Above all, however, it made practical proposals for acting on the principle of solidarity laid down in Article 80 TFEU: on the one hand, by means of a temporary system for distributing asylum-seekers, to be supplemented in late 2015 by a proposal for a permanent European relocation system to be applied in urgent situations involving a massive influx of migrants; on the other hand, by means of an EU-wide resettlement programme for displaced persons who manifestly require international protection in Europe (see [fact sheet on asylum policy 5.12.2](#)). These proposals were adopted by the Council on 14 and 22 September 2015. Lastly, the agenda proposes that, as part of the Common Security and Defence Policy (CSDP), consideration be given to a possible operation in the Mediterranean to dismantle smuggling networks and to combat trafficking in migrants.

On the basis of this agenda, on 6 April 2016 the Commission published its guidelines on regular immigration in a communication entitled: 'Towards a reform of the common European asylum system and enhancing legal avenues to Europe'. There are four main strands to the guidelines: revising the Blue Card Directive, attracting innovative entrepreneurs to the EU, developing a more coherent and effective model for regular immigration in the EU by assessing the existing framework, and strengthening cooperation with the key countries of origin.

C. Recent legislative developments

Since 2008, a number of significant directives on immigration and asylum have been adopted and some other relevant directives are due to be revised in the near future.

1. Regular immigration

Following the difficulties encountered in adopting a general provision covering all labour immigration into the EU, the current approach consists of adopting sectoral legislation, by category of migrants, in order to establish a regular immigration policy at EU level.

Directive 2009/50/EC on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment creates the 'EU blue card', a fast-track procedure for issuing a special residence and work permit, on more attractive terms, to enable third-country workers to take up highly qualified employment in the Member States. The first report on the implementation of this directive was published in May 2014, and the Commission has just

proposed a revision of the system currently in place, which is functioning properly only in a very small number of Member States.

The Single Permit Directive (2011/98/EU) sets out a common, simplified procedure for third-country nationals applying for a residence and work permit in a Member State, as well as a common set of rights to be granted to regular immigrants. The first report on its implementation is due by December 2016.

Directive 2014/36/EU, adopted in February 2014, regulates the conditions of entry and residence of third-country nationals for the purpose of employment as seasonal workers. Migrant seasonal workers are allowed to stay legally and temporarily in the EU for a maximum period of between five and nine months (depending on the Member State) to carry out an activity dependent on the passing of seasons, while retaining their principal place of residence in a third country. The directive also clarifies the set of rights to which such migrant workers are entitled.

Directive 2014/66/EU on conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer was adopted on 15 May 2014. It is to be transposed by 29 November 2016, and will make it easier for businesses and multinational corporations to temporarily relocate their managers, specialists and trainee employees to their branches or subsidiaries located in the European Union. The first report on its implementation is due by the end of November 2019.

On 25 March 2013, the Commission put forward a proposal ([COM\(2013\)0151](#)) for a directive improving the existing legislative instruments applicable to third-country nationals seeking entry to the EU for the purposes of study or research (Directives 2004/114/EC and 2005/71/EC). The new directive (2016/801/EU) was adopted on 11 May 2016 and an assessment of its implementation must be submitted by 23 May 2023 at the latest.

Lastly, the status of third-country nationals who are long-term residents in the European Union is still regulated by Council Directive 2003/109/EC, as amended in 2011 to extend its scope to refugees and other beneficiaries of international protection.

2. Integration

Directive 2003/86/EC sets out provisions on the right to family reunification. The 2008 report on its implementation concluded that it was not fully and correctly applied in the Member States: as a consequence, a green paper was published in 2011, initiating a public consultation procedure. In April 2014, the Commission published a communication providing guidance to the Member States on how to apply the directive.

In April 2010, the Commission presented the third edition of the Handbook on Integration for policy-makers and practitioners, and in July 2011 it adopted the European Agenda for the Integration of Third-Country Nationals. In addition, since 2009 two instruments have been created to deal with the issue of integration: the European Integration Forum (organised by the Commission and the European Economic and Social Committee) and the European Website on Integration (<http://ec.europa.eu/ewsi/en/>). In January 2015, the scope of the European Integration Forum was extended, transforming it into the European Migration Forum. Lastly, in June 2016 the Commission put forward an action plan, setting out a policy framework and practical steps to help Member States integrate the 20 million non-EU nationals legally resident in the EU.

3. Irregular immigration

The EU has adopted two major pieces of legislation to combat irregular immigration:

- The ‘Return Directive’ (2008/115/EC) sets out common EU standards and procedures for returning irregularly resident third-country nationals. Member States were called upon to transpose the directive by 24 December 2010. The first report on its implementation was adopted in March 2014. The main areas for further action include ensuring its proper implementation, promoting consistent, fundamental rights-compatible practices, improving cooperation between Member States and enhancing the role of Frontex. One of the main tasks of the teams supporting national authorities at hotspots in Italy and Greece is to ensure that people actually return to their country of origin. On 9 September 2015, the Commission published a European Union action plan on return ([COM\(2015\)0453](#) final), which was endorsed by the Council the following October.
- Directive 2009/52/EC specifies sanctions and measures to be applied in Member States against employers who infringe the ban on employing illegally resident third-country nationals. Member States were required to transpose the directive by 20 July 2011. The first report on the implementation of the directive was submitted on 22 May 2014.

At the same time, the EU is negotiating and concluding readmission agreements with countries of origin and transit with a view to returning irregular migrants and cooperating in the fight against trafficking in human beings. These agreements include reciprocal cooperation commitments between the EU and its third-country partners. The negotiations completed with the following countries resulted in the entry into force of such agreements: Hong Kong, Macao, Sri Lanka, Albania, Russia, Ukraine, Bosnia and Herzegovina, the Former Yugoslav Republic of Macedonia, Montenegro, Pakistan, Serbia, Moldova, Georgia, Armenia, Azerbaijan and Cape Verde. In February 2014, Parliament approved the conclusion of a readmission agreement with Turkey, which was finally signed on 16 December 2014. On 18 March 2016, a new agreement was signed between the EU and Turkey, which included plans to repatriate to Turkey all irregular immigrants arriving in Greece from 20 March 2016 onwards and a resettlement agreement for Syrians.

ROLE OF THE EUROPEAN PARLIAMENT

Parliament actively supports the introduction of a European immigration policy. On the admission of third-country nationals, it has called for the development of legal instruments, and, in particular, measures to reduce incentives for irregular immigration.

In its resolution on the Stockholm Programme, adopted on 25 November 2009, Parliament urged that integration, immigration and asylum policies be built on full respect for fundamental rights. It once again deplored refoulement and collective expulsions to countries where human rights are not respected. Parliament has always stressed the importance of addressing the needs of the most vulnerable groups, such as refugees and minors.

Since the entry into force of the Lisbon Treaty, Parliament has been actively involved in the adoption of new legislation dealing with immigration. For instance, it played a pivotal role in the drafting and adoption of the ‘Return’ and ‘Single Permit’ Directives.

In response to the arrival of increasing numbers of migrants on the Union's Mediterranean coasts and the growing number of shipwrecks since the end of 2013, on 17 December 2014 Parliament adopted a [resolution](#) on the situation in the Mediterranean and the need for a holistic EU approach to migration, which authorised its Committee on Civil Liberties, Justice and Home Affairs (LIBE) to draft an own-initiative report. Parliament adopted the draft report on 12 April 2016. The report, which deals with an increasingly topical subject, provides the European Parliament with a general framework for its future positions in this field, particularly for the

two packages which the Commission published in 2016 on asylum (see fact sheet on asylum policy [5.12.2](#)) and economic migration.

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