

European Pact on immigration and asylum

PREAMBLE

The creation of the Schengen area of free movement, extended to 24 member States since 21 December 2007, represents an advance for freedom and democracy in Europe, as well as an essential asset for the dynamism and growth of the European economy. However, this suppression of obstacles to circulation gives rise to solidarity in the field of immigration between the States of the area of free movement. Member States are conscious of their interdependence in the field of immigration and asylum, and of the fact that any decision taken by each of them in this domain may have repercussions for its partners.

This solidarity is not merely the consequence of free movement. The European Union (EU) and its member States, due to their geo-political, demographic and economic situation, all face the great challenge of immigration, that promises to be an essential element of the 21st century.

Migratory flows have considerably increased in the European Union since the start of the 21st century. According to estimates from the OECD, they have passed from 1.9 million in 1999 to 2.8 million in 2004, which represents a considerable increase in a short time. Today, Europe is a continent that is more open to immigration than North America.

There are no European leaders who support the hypothesis that is simultaneously unrealistic and dangerous, of zero immigration. Europe needs migrants for demographic and economic reasons. However, it is clear that Europe does not have the means to receive all those who view it as an Eldorado in a dignified manner. The migration flow must necessarily adapt itself to Europe's capacity to receive it, insofar as the employment market, accommodation, and the health, education and social services are concerned.

The migratory pressure on Europe, taking the reality of international society into account, is likely to grow considerably in the future, considering the persistence of the differential in living standards and birth rates between Europe and certain parts of the world.

Therefore, it is urgent for the European Council, in the framework of work towards a global approach for migrations, to adopt the foundations of a veritable common immigration policy, based upon a clear division of tasks and missions between the community and national or intergovernmental levels, and on dialogue with countries of origin.

[p.2, or.]

The European Council decides to conclude a European Pact (Covenant)* establishing a common immigration and asylum policy, and to organise a systematic consultation between member States on each of their decisions that may have an impact for their European partners. Thus, it takes on five commitments:

- **Protecting Europe better by controlling external borders within a spirit of solidarity**
- **Organising legal migration on the basis of each EU member State's ability to receive, with a spirit of responsibility**
- **Organising effective removal from the EU for foreigners staying there illegally**
- **Constructing a Europe of asylum**
- **Promoting co-development and development aid**

I. Protecting Europe better by controlling external borders within a spirit of solidarity

The member States and Commission will mobilise all their means in order to ensure a rigorous control of external land, sea and air borders. For this purpose, the European Council decides:

- a) only to issue biometric visas as of 1 January 2011, and to progressively create joint centres for the issuing of visas, or joint European consulates.
- b) to give the Frontex agency, the European external borders police, the means to fully assure its role and its responsibility for the management of the common border, to tackle crisis situations and to undertake lasting operations. A senior staff body will be established, equipped with two permanent headquarters, one in the east, and the other in the south, at the EU's southern sea borders, with the capability to mobilise the means that member States commit to provide to Frontex on demand. Member States also decide to equip Frontex with a unit of "trainers-inspectors" by 1 January 2009.
- c) That each member State will deploy the necessary means to ensure a rigorous control of the part of the external border for which it is responsible, with the EU helping the member States that are most exposed, which will be able to count on solidarity on a European scale. The evaluation procedure will be improved in terms of effectiveness and transparency. Moreover, member States will reinforce their co-operation in the fight against illegal immigration at internal borders, notably within the framework of bilateral agreements.
- d) To deploy, at external borders by 1 January 2012, modern technological tools [such as those mentioned in the annex] (scratched out in original), among which the leading category includes the implementation of an automatic registration system of arrivals into and departures from the EU territory, and the interoperability of border surveillance systems.
- e) To reinforce co-operation in external border controls with countries bordering on the EU, by increasing EU aid for the training and equipping of their police forces entrusted with the management of migration flows.

[p.3, or.]

II. Organising legal migration on the basis of each EU member State's ability to receive, with a spirit of responsibility

- a) The European Council recalls that it is each member State's prerogative to decide what number of migrants are authorised to settle on its territory and in what conditions, in the knowledge that migration must proceed from a double willingness, that of the member State and that of the migrant. The European Council notes that large-scale and collective regularisations [generally] produce an important pull factor and it is hence agreed to do without them in the future. Regularisation will have to depend on a case-by-case examination, in exceptional circumstances, notably

humanitarian ones, in response to some precise objectives. It cannot be a means of managing migration flows.

The European Council invites member States to equip themselves with common and harmonised statistical tools in order to evaluate migratory phenomena. Noting that an obvious link exists between member States' quantitative goals and their ability to receive and integrate, the European Council will organise an annual debate between member States on the general approaches of the common immigration policy and their national objectives. Member States also commit to inform each other mutually about any new measure or legislative reform.

- b) The European Council notes the weak qualification of immigration towards Europe. It stresses that, according to a communication from the European Commission, "54% of immigrants who are originally from the Middle East and North Africa and are holders of a university degree, live in Canada and the United States, whereas 87% of those who have not completed their primary or secondary studies are in Europe". Member States will favour an immigration that is chosen and concerted, of a professional kind, within respect for their national specificities and while taking into account the situation of the employment market and of the talents and competencies they require. The European Council has also decided to cross over into a new stage to promote the reception of students and enable their movement in Europe.

It is convenient to pursue the harmonisation of admission rules for residence of workers by categories. The European Council calls upon member States to promote integration through professional insertion, notably for women. To do so, member States commit to promote employment (or return to employment) for foreigners through some active policies to support the search for employment and professional redeployment where necessary. Language courses and the assessment of professional competencies will be implemented in a systematic manner, including before entry into Europe.

- c) The European Council wishes for a better regulation of family immigration, on the basis of both the ability to receive of each of the member States and the ability to integrate of the people concerned, to be appreciated particularly with regards to their resources, their conditions of accommodation and their mastery of the language of their destination country.
- d) The European Council recognises the interest of the integration contract for third-country nationals who are admitted for long-term residence on their territory and encourages member States to propose it at a national level. This integration contract must be [p.4, or.] compulsory. It will include the requirement of learning the national language, European national identities and values, such as respect for other people's physical integrity, equality between men and women, tolerance, compulsory schooling and education for children.

III. Organising effective removal from the EU for foreigners staying there illegally

Member States have a duty before their partners to proceed to return migrants in an irregular situation to the border, within respect for the rule of law. Now, only one removal decision out of three is executed in Europe. It is essential to respect the rule according to which a migrant in an irregular situation must either leave voluntarily or be taken back to

their country, throughout the European area. Moreover, member States must apply the principle, adopted in 2001, whereby a removal measure taken by one of them is applicable in any location in the EU territory.

- a) Whenever necessary, member States must resort to joint return flights between several member States. The Frontex agency will develop its operational capabilities in this field with a view to becoming able to co-ordinate measures for group returns effectively.
- b) Member States must reinforce their co-operation with neighbouring countries in the field of returns.
- c) The European Council notes the inadequacy of readmission agreements reached at a European level. A truly global approach must be developed in order to reach a tangible result in this domain. The mandates of agreements that have not come to fruition to date must be reviewed. The European Council invites member States and the Commission to support and enable the negotiation of readmission agreements by means of any diplomatic and commercial instruments. The goal is for each of the member States to have the required legal instrument for the return of foreigners in an irregular situation towards the main countries of origin, whether this is through an agreement reached at a European level, or in the form of a bilateral agreement, or also through the use by a member State of a bilateral agreement reached by another member State (mutualisation). Consequently, the European Council invites the member States and Commission to attain the conclusion of agreements with the main countries of origin within a delay of five years.
- d) The European Council invites member States to avail themselves of national incentivating rules as regards aid for voluntary returns, to prevent the unlawful re-entry of people who have enjoyed this aid, and to dialogue with each other as regards the monetary value of this aid.
- e) The European Council invites member States to fight with great firmness against employers and landlords of illegals and to relentlessly combat trafficking in human beings. It also invites them to make their penal and administrative sanctions stricter, to progressively harmonise them and to apply a policy of unconditional repression of illegal employment.
- f) All the solutions for co-operation between the EU and countries of origin and transit to combat criminal networks of smugglers and traffickers of human beings must be implemented, including the means of police and judicial co-operation with the countries concerned. Member States must envisage dissuasive penal sanctions, at least equivalent to those used to repress drug trafficking, and mobilise all their police forces as well as EUROPOL's resources in the fight against this flow.

IV. Constructing a Europe of asylum

Foreigners have an effective right to claim asylum and to be recognised as refugees if they fulfil the conditions to do so. The application of the corresponding rules is varied in Europe. The European Council welcomes the progress achieved over the last few years to harmonise asylum policy, but considers that part of this effort towards harmonisation must be pursued and intensified and, on the other hand, that the strengthening of external border controls must not impede access to the territory of the EU of the people [who have a basis] for obtaining refugee status.

- a) Member States commit to establish a European support office in 2009, and to establish some common guarantees in the field of asylum and a uniform refugee status in 2010.
- b) In a spirit of solidarity with the States that are subjected to the most substantial irregular entry attempts, member States decide to set up some joint teams for the assessment of asylum claims, capable of intervening in border regions when there are mass arrivals of people, in 2009.
- c) The external dimension of asylum policy must be reinforced. The European Council invites the Commission to study, between now and 2010, the mechanisms to allow people requiring international protection to submit their applications outside the EU territory through UNHCR. Member States also commit to favour resettlement within the EU of people identified by UNHCR within programmes of regional protection.
- d) In the long term, that is, within a five-year delay, the EU and member States decide to establish an institution, a procedure and common criteria for the assessment of asylum applications and for the recognition of refugee status in Europe.

V. Promoting co-development and development aid

In accordance with the conclusions of the Rabat conference of July 2006, the EU and each of its member States are convinced that the solution of the problems related to immigration passes through the development of countries of origin. The migratory flows cannot be managed without a close partnership with countries of origin and transit.

It is worth considering migration issues within co-operation and development aid policies. The EU and member States will mobilise significant means in key sectors for the management of immigration (education, health, governance), and will co-ordinate their actions in these fields in order to make them more effective.

- a) Within the framework of partnerships for mobility, member States commit to offer their partners possibilities for legal immigration for the purposes of working and studying in exchange for a heightened and effective co-operation in the fight against illegal immigration and trafficking in human beings.
- b) The European Council invites member States to fight the plunder of brains by avoiding to favour the definitive immigration of qualified people when their departure would have the effect of depriving the countries of origin of an indispensable resource for their development or for the populations' daily lives; this is particularly the case of African doctors. It also invites the Commission to evaluate the extent and the consequences of the phenomenon, to study possible compensatory measures and to draw up an inventory of best practices that are already in force. This should happen between now and 2010.
- c) The EU and member States decide to resolutely embark upon the path of an immigration of mobility, circulation, that will allow professionals from countries of origin to come to Europe for training or to deepen their experience before placing this knowledge at the service of the development of these countries and the well-being of their inhabitants.
- d) The European Council invites member States to equip themselves, by 2011 at the latest, of instruments (for example through tax incentives or banking products) to enable migrants' participation in the development of their countries of origin and

asks the Commission to support these initiatives. Furthermore, it invites the Commission to establish measures to facilitate money transfers between EU countries and migrants' countries of origin, and to submit proposals concerning the collection of migrants' savings in Europe with a view to their investment in countries of origin.

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Migration must become an important component of member States' and the Union's external relations, which entails taking into account, in relations and co-operation with each third country, the quality of existing dialogue and co-operation with it on migratory issues. For this purpose, member States must hold consultations with each other and with countries of origin. This new immigration policy involves the signature of agreements for the concerted management of migration flows, within the framework of the European Union if possible, or, if this is not possible, within a bilateral framework, co-ordinated at a European Union level.

The European Council invites member States to create a mechanism for the collective evaluation of the commitments in this Pact. The measures contained in this Pact will undergo six-monthly follow-ups by the Justice and Home Affairs Council. Moreover, member States will equip themselves with numerical indicators to evaluate the impact and effectiveness of their policies, and will inform each other mutually about any new measure or legislative reform whose adoption they envisage. (Statewatch translation)