



Towards a Comprehensive European Migration Policy: 20 years of EU Action

Brussels, 04 March 2015

For almost twenty years, the European Union has been building the foundations of an overarching and comprehensive migration policy. This memo offers an overview of European actions in this area, which also underscores the need for a comprehensive European Agenda on Migration.

At the start of the European integration process, Justice and Home Affairs were strictly a national competence. After the creation of a Single European Market in 1986, competences in the field of Justice and Home Affairs gradually shifted to the European level as well. Justice and Home Affairs were increasingly formalised and European legislation and policy-making were put in place since the 1990s, although several aspects still remain a shared competence with the national level.

The entering into force of the Lisbon Treaty in 2009 marked the end of the "third pillar" or a separate approach to the area of Justice and Home Affairs. As of 1st of December 2014, limitations to the judicial control by the European Court of Justice and to the Commission's role as Guardian of the Treaty over the area of judicial cooperation in criminal matters have come to an end. This has marked the beginning of a new era for the whole field of Justice and Home Affairs, with full competence for the Commission to launch infringement proceedings if EU law has not been correctly implemented.

European Migration Policy today includes policies on legal migration, irregular migration, borders, visa, a Common European Asylum System and the external dimension. In addition, the European Union has an [Asylum, Migration and Integration Fund](#) to support Member States with the efficient management of migration flows and the implementation, strengthening and development of a common European approach to asylum and immigration.

Legal migration, mobility and integration

20.4 million third-country nationals are living in the EU in 2013 amounted therefore to 4% of the total EU population. The most important groups of third country nationals were Turks, Moroccans, Chinese Indians and Ukrainians.

Since the early 2000s, the European Commission has been developing and expanding a European legal migration policy that set out the conditions of entry and residence and also minimum of rights that migrants should enjoy to successfully integrate our society.

In 2003, the EU created a single status for non-EU **long-term residents**. The [Directive](#) approximates the laws of EU countries and ensures equal treatment throughout the Union, whatever the EU country of residence. Under EU rules, all non-EU nationals residing legally in the territory of an EU country for at least five years of continuous legal residence, are granted "long-term resident" status.

It also adopted the [Family Reunification Directive](#) that establishes the rules and conditions under which non-EU nationals who are residing lawfully on EU territory – including refugees – may exercise the right to family reunification. On the basis of this law, legally residing non-EU nationals can bring their non-EU national spouse, under-age children and the children of their spouse to the EU State in which they are residing. Following the 2008 [report](#) on the application of this Directive, the Commission published a [communication with further guidelines](#) in 2014 on the application of the Directive.

In 2011, the EU has also established a "[Single Permit](#)" for third-country nationals to both reside and work in the territory of a Member State, and giving rights to migrants.

To attract talent and high skills workers, the European Union adopted the "[EU Blue Card](#)" directive and in 2009, and a directive to facilitate [intra-corporate transferees in 2014](#). In May 2014, the Commission issued a [report on the implementation of the EU Blue Card](#). In order to address some of the implementation challenges (see [Frequently Asked Questions](#)) the Commission will initiate a review of the Blue Card Directive in consultation with stakeholders, experts and the Member States over the course of 2015, in the framework of the forthcoming European Agenda on Migration.

The [seasonal workers directive](#) also set minimum rules for the admission of low skills workers

In addition, the EU also harmonised national legislation concerning the entry of [students and non-](#)

[remunerated trainees](#) and [researchers](#). On 25 March 2013, the Commission presented a proposal for new rules for the entry and residence of third-country national students and researchers as well as for school pupils, trainees, volunteers and au pairs. The new law simplifies and streamlines the existing legislation, thus replacing the Students and Researchers Directives. The European Parliament voted its first reading position in February 2014, fully supporting and also strengthening the objectives of the Commission recast proposal. Please update , the Council adopted a common position in December 2014 and the dialogues have already started

However, not everything in the field of migration policy has a legislative character. While **immigrant integration policies** remain a competence of the Member States, and are implemented at the regional and local level, the European Commission also created a [common framework for the integration of third-country nationals](#) as early on as 2005. The Commission was supported in this effort by the Member States in their [Common Basic Principles on Integration](#), reaffirmed by the [European Council Conclusions](#) of June 2014.

A Common European Asylum System

- The **total number of refugees** under UNHCR mandate by mid-2014 was 13 million, the highest since 1996. This represents a fraction of the 51.2 million forcibly displaced worldwide, including 33.3 million Internally Displaced Persons (IDPs);
- The **European Union hosts a total of around 1 million recognised refugees representing 7.6% of total worldwide, and around 0.2% of EU population.** The countries which host the most refugees are France (238.000), Germany (200.805), United Kingdom (126.055), Sweden (114.175) and Italy (76.263);
- **Asylum flows to the EU have shown an increased trend** to reach almost **435,385** applications in 2013 and around **600.000 in 2014. 90% of Asylum applications were lodged in only 10 Member States**, notably: Germany (34%), Sweden (14%), Italy (10%), France (10%), UK (5%), Hungary (5%), Netherlands (4.2%), Belgium (3.9%), Austria (3.9%), Denmark (2.4%);

The European Union has one of the most advanced asylum protection systems in the world. Since 1999, the EU has been working to create a Common European Asylum System (CEAS) and several legislative measures harmonising common minimum standards for asylum were adopted between 1999 and 2005 (first stage of the Common European Asylum System).

New rules were been agreed in 2011 and 2013 setting out common high standards and stronger co-operation measures to ensure that asylum seekers are treated equally in an open and fair system – wherever they apply (second stage of the Common European Asylum System). These instruments are:

- **The revised [Asylum Procedures Directive](#)** aims at fairer, quicker and better quality asylum decisions. Asylum seekers with special needs will receive the necessary support to explain their claim and in particular there will be greater protection of unaccompanied minors and victims of torture.
- **The revised [Reception Conditions Directive](#)** ensures that there are humane material reception conditions (such as housing) for asylum seekers across the EU and that the fundamental rights of the concerned persons are fully respected. It also ensures that detention is only applied as a measure of last resort.
- **The revised [Qualification Directive](#)** clarifies the grounds for granting international protection and therefore will make asylum decisions more robust. It will also improve the access to rights and integration measures for beneficiaries of international protection.
- **The revised [Dublin Regulation \(Dublin II\)](#)** enhances the protection of asylum seekers during the process of establishing the State responsible for examining the application, and clarifies the rules governing the relations between states. It creates a system to detect early problems in national asylum or reception systems, and address their root causes before they develop into fully fledged crises.
- **The revised [EURODAC Regulation](#)** improves the functioning of the EU database of the fingerprints of asylum seekers to make it easier for States to determine responsibility for examining an asylum application. It will allow law enforcement access to this database under strictly limited circumstances in order to prevent, detect or investigate the most serious crimes, such as murder, and terrorism.

The European Asylum Support Office (EASO) is an Agency which was established in 2010 in order to support the coherent implementation of the Common European Asylum System and to provide support to Member States under particular pressure.

Relocation is a further solidarity tool aimed at transferring recognised refugees from overburdened Member States, while the **Temporary Protection Directive** is an exceptional measure to provide

displaced persons, with immediate and temporary protection in situations of mass influx.

The Common European Asylum System also relies on instruments and tools which operate in the external dimension, notably **Resettlement**: which offers protection seekers an opportunity to reach the EU in a safe and orderly manner, and **Regional Development and Protection Programmes**: which aim at strengthening protection capacities of partner countries. Both instruments are integral part of the Global Approach to Migration and Mobility (GAMM).

Smuggling of migrants into the EU

In 2014, more than 276.000 migrants irregularly entered the EU, which represents an increase of 159% compared to 2013. To enter the EU clandestinely via land, air and sea routes, most migrants have recourse to criminal networks of smugglers.

Syrians together with Eritreans were the largest group of person apprehended at EU external borders trying to enter the EU in an irregular manner. Other large groups included nationals from Afghanistan, Mali and Kosovo. (For more information, see [MEMO/15/3261](#))

The fight against migrant smuggling has been part of the EU policy to tackle irregular migration for over a decade. In 2002, the EU adopted a legal framework on smuggling (so-called "**facilitators package**": [Directive defining the facilitation of unauthorised entry, transit and residence](#) and [Framework Decision on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence](#)). Operational measures have been undertaken jointly by EU State law enforcement authorities with the support of EU Agencies to disrupt and dismantle organised criminal groups involved in the facilitation of irregular immigration. Intelligence on modus operandi and routes used by smugglers has been collected, including through debriefing of migrants and the [Network of the Immigration Liaison Officers](#).

The **Operational Action Plan on Illegal Immigration (OAP)** was created within the framework of the EU policy cycle for organised and serious internal crime 2014-2017 to disrupt the organised criminal groups involved in the facilitation of irregular migration operating in the source countries, on the main routes and at the main entry points of the EU. The OAP foresees joint operational actions by Member States law enforcement authorities with support of EU Agencies (Europol, Frontex, Cefpol and Eurojust). A dedicated Joint Operational Team (JOT) MARE was established to better identify and track smuggling networks operating in Mediterranean.

Trafficking in Human Beings

Eurostat reports that in 2010-2012, 30.146 victims of trafficking were registered in the EU. There are reasonable grounds to believe the actual number is higher. During the same period, 8 551 prosecutions against traffickers were reported across the EU.

Trafficking in human beings is prohibited by Article 5 of the EU Charter of Fundamental Rights. In 2004, the EU adopted a [Directive](#) establishing rules and conditions for issuing residence permits to third-country nationals who are victims of trafficking. 25 EU Member States have notified the Commission of full transposition.

At the end of 2010, the Commission appointed for the first time an [EU Anti-Trafficking Coordinator](#), a mandate enshrined afterwards in the EU anti-trafficking directive. The coordinator's mandate is provide overall strategic policy orientation and to improve coordination and coherence between EU institutions, agencies and EU and non-countries, and international organisations.

The [EU Strategy towards the Eradication of Trafficking in Human Beings](#) was adopted in 2012. The Strategy is a set of concrete and practical measures to be implemented over the next five years. It follows a comprehensive and multidisciplinary approach, based on five priorities: protection of victims, prosecution of traffickers, prevention, partnership and increasing knowledge on emerging trends.

The EU adopted a comprehensive legal and policy framework that is victims centred, human rights based and gender specific. This approach is anchored in the anti-trafficking **Directive**, adopted in April 2011. In addition to approximating EU States' substantive criminal laws, it establishes robust provisions on victims' protection and prevention, as well as supports the principle of non-punishment and unconditional assistance.

Sanctions against the employment of irregular migrants

Loopholes in the regular economy facilitate the unauthorised employment of irregular migrants, and enable the accompanying exploitation of non-EU nationals. EU Member States agreed on rules to identify and prevent the employment of irregular migrants through the [Employer Sanctions Directive](#). It lays

down common minimum standards on sanctions against employers who infringe the prohibition. The Directive not only seeks to make employing irregular migrants more difficult, but also includes protection measures in favour of workers, especially those exploited by unscrupulous employers.

Five years after its entry into force in 2009, the Commission adopted, in May 2014, a first [application report](#) on this Directive. In this report the Commission found that following transposition of the Directive, all Member States prohibit the employment of irregular migrants and impose financial, administrative or criminal sanctions on their employers. However the severity of the sanctions as determined by law varies considerably between Member States., There remains room for improvement in all areas offering protection to irregular migrants. Some Member States are likely to need to make substantial efforts to increase the number of inspections.

A humane and effective return and readmission policy

A humane and effective [return policy](#) is essential to a comprehensive and sustainable migration policy. The [Return Directive](#) is one of the main pieces of EU legislation in this field. It fosters voluntary departure, forced return monitoring and enhances the use of alternatives to detention, in full respect of fundamental rights.

In March 2014, the Commission published its first [political](#) communication which drew an overall positive assessment of the transposition and the effects of the return Directive. According to this report, the Directive has positively influenced national law and practice regarding voluntary departure and has been a driver for change in forced return monitoring. It contributed to a convergence — and overall to a reduction — of maximum detention periods across the EU and there has also been consistent movement towards a wider implementation of alternatives to detention across Member States. It also limited Member States' ability to criminalise mere irregular stay, and its procedural safeguards have contributed to more legal security. According to the report, the concern, expressed by some Member States at the time of adoption of the Directive, that its protective provisions would undermine the efficiency of return procedures has not materialised. Experience confirms that the procedures foreseen in the Directive allow for determined action and the main reasons for non-return relate to practical problems in the identification of returnees and in obtaining the necessary documentation from non-EU authorities.

Another key instrument in this area is **readmission agreements**. Effective cooperation with non-EU countries on the basis of [readmission agreements](#) is essential to ensure that the return policy is efficient. Readmission agreements set out clear obligations and procedures for the authorities of the non-EU country and of EU Member States as to when and how to take back people who are irregularly residing in the EU. These are in principle technical instruments to improve cooperation between administrations and can only be used after a return decision has been made in accordance with certain procedural guarantees set out by the Return Directive. So far, EU readmission agreements with the two Chinese Special Administrative Regions of Hong-Kong and Macao, Sri Lanka, Russia, Ukraine, the Western Balkan countries, the Republic of Moldova, Georgia Turkey, Armenia, Azerbaijan, Cape Verde and Pakistan have entered into force. The Commission has been also formally authorised to negotiate with Morocco, Algeria, China, Tunisia and Belarus.

The Commission is also developing a pilot initiative on returns. The aim of the pilot initiative on return is to mobilise all possible means and tools to encourage selected pilot countries to comply with international obligations to readmit their own nationals living irregularly in the EU. The pilot is still in the preparatory stage.

Frontex

The **Frontex Agency** is the agency that manages the operational cooperation at the external borders of the EU. It is located in Warsaw and is staffed with around 315 persons. Its budget for 2015 is around 115 million euro. Frontex has since its creation been dealing with the increasing challenge of supporting Member States facing high migratory pressure at different parts of the EU external borders while having limited resources at its disposal.

Frontex does not coordinate Search and Rescue (SAR) operations, and it does not have its own border guards. Frontex can only provide assistance to those Member States that ask for it. Member States remain responsible for managing and controlling their part of the external border. Frontex has a supporting function in coordinating operational cooperation between the Member States, especially in support of Member States facing the highest migratory pressure.

Frontex coordinates joint operations for the purpose of border checks and surveillance at the external borders of the Member States of the EU. The objectives of these operations can for instance include the support of a Member State facing particular pressure (as a tangible expression of European solidarity) as

well as to gather further information on modus operandi of irregular immigrants and facilitators and sharing best practices and expertise between Member States.

Frontex can deploy guest officers that are part of the "European Border Guard Teams", which consist of national border guards assigned or even seconded by Member States to Frontex for joint operations, rapid interventions (previously known as Rapid Border Intervention Teams) and pilot projects.

In 2014, the Council and the European Parliament adopted a [Regulation establishing rules for the surveillance of the external sea borders in the context of operational cooperation coordinated by Frontex](#) to strengthen border surveillance operations coordinated by the Agency and to establish clear rules of engagement for joint patrolling and the disembarkation of intercepted or rescued persons in order to ensure the safety of those seeking international protection and to prevent loss of life at sea.

Equally important is also the targeted use of funds notably under the Internal Security Fund for borders by Member States to improve their structural capacity to deal with high pressure at those parts of the external EU borders they are responsible for. For more information on funding, see the recent [press release](#) on existing and additional funding allocations in the Mediterranean.

In 2014, the Management Board of the Agency has launched an external evaluation that covers all the activities of the Frontex Agency. It is expected to be ready by the summer of 2015. A [study on the feasibility of a system of European Border Guards](#) has also been carried in June 2014. On the basis of these two studies, the Commission will initiate a debate on the long-term perspectives for the future development of the Agency.

EU visa policy

The border-free Schengen Area cannot function efficiently without a common visa policy which facilitates the entry of legal visitors into the EU, while preventing irregular migration and safeguarding internal security. The EU has set up a common visa policy for short stays, i.e. stays up to 90 days in any 180 days period. Citizens from around 105 non-EU countries are required to hold a visa when travelling to the [Schengen Area](#); citizens from around 60 countries can come visa free. To those requiring a visa, so-called "Schengen visas" are issued. These visas are issued by the consulates of the 26 Schengen States^[1] and are mutually recognised: generally, a short-stay visa issued by one of the Schengen States entitles its holder to travel throughout the 26 Schengen States for up to 90 days in any 180-day period. Visas for visits exceeding that period remain subject to national procedures.

In 2013, the Schengen States issued around 16 139 000 visas on a total number of around 17 250 500 applications. There was a steady increase in the number of visa applications for four consecutive years: by 68.9 % since 2009. The data for 2014 are not yet complete, but the available figures suggest that the number of Schengen visas issued may not exceed 16 million, with a drop in particular in Russia (the country where the highest number of visa applications is lodged).

[Regulation No 539/2001](#) establishes the common list of countries whose citizens must have a visa when crossing the external borders and a list of countries whose citizens are exempt from that requirement. These lists are regularly reviewed. The Commission has announced a new review of the visa lists during the second half of 2015. This Regulation also provides a reciprocity mechanism which applies when a visa free third country imposes a visa requirement for citizens of one or more Member States, and a suspension mechanism that can be triggered by Member States when the citizens of a visa free country abuse the visa waiver. The EU has concluded or is negotiating Visa Waiver Agreements with certain third countries that have been transferred to the list of visa free countries in order to ensure full visa waiver reciprocity.

The Visa Code harmonises the conditions and procedures for issuing Schengen visas, and establishes the rules for consular organisation and cooperation. As a result of the evaluation of the implementation of the Visa Code (applicable since May 2010) and in order to develop a smarter visa policy for economic growth, the Commission has proposed in 2014 a recast of the Visa Code and the establishment of a new type of visa, the Touring visa (allowing its holder to circulate for more than 90 days per 180 days in the Schengen area, without taking up residence in a Schengen State). These proposals should promote visits by legitimate travellers by facilitating the procedures for issuing visas in particular for travellers with a positive visa history while filtering out third country nationals who are considered to constitute a risk for irregular migration of public order and security.

The [Visa Information System](#) (VIS) allows Schengen States to exchange visa data. It consists of a central IT system and of a communication infrastructure that links this central system to national systems. VIS connects consulates in non-EU countries and all external border crossing points of Schengen States. It processes data and decisions relating to applications for short-stay visas to visit, or to transit through, the Schengen Area. The system can perform biometric matching, primarily of fingerprints, for identification and verification purposes.

The EU has also concluded [visa facilitation agreements](#) with the following non-EU countries: Armenia, Azerbaijan, Cape Verde, Georgia, Moldova, Russia, Ukraine. Based on these agreements, both the EU and non-EU citizens benefit from facilitated procedures for issuing visas. The EU is negotiating a Visa Facilitation Agreement with Morocco and will start negotiations soon with Tunisia. Visa facilitation agreements are linked to readmission agreements.

External dimension of migration: a wide-ranging approach

Migration policy is not only about the internal dimension but inherently also contains a strong external component. The EU therefore has on-going partnerships and collaborations with relevant sending and transit countries.

The [Global Approach to Migration and Mobility](#) (GAMM) – launched in 2005 and renewed in 2011 – is the overarching framework of the EU external migration and asylum policy. The framework defines how the EU conducts its policy dialogues and cooperation with non-EU countries, based on clearly defined priorities and embedded in the EU's overall external action, including development cooperation. (For more information, see [MEMO/11/800](#))

Within the framework of the GAMM, migration issues are part of overall political and economic relations with a series of key partners and countries of origin and transit. Migration is also a major priority in a series of regional initiatives, such as the EU-Africa Partnership on Migration, Mobility and Employment, the Rabat process with West African countries, the Eastern Partnership, the Prague process, the Budapest process (the so-called "Silk Routes"), the EU-ACP and the EU-CELAC cooperation as well as the most recently launched cooperation with Eastern African countries, the so-called Khartoum process.

In recent years, the EU has also signed [mobility partnerships](#) with several countries in its immediate and further neighbourhood. These offer a comprehensive framework for bilateral cooperation between the EU and its partner countries, based on mutual offers of commitments and project initiatives covering mobility, migration and asylum issues, within the Global Approach to Migration and Mobility (GAMM). The Mobility Partnership with [Jordan](#) (October 2014) is the first of its kind with a country in the Middle East region. It follows the signature of such partnerships with other countries bordering the Mediterranean ([Morocco](#) in June 2013 and [Tunisia](#) in March 2014). Mobility Partnerships are also in place with the Republic of [Moldova](#) and [Cape Verde](#) (2008), with [Georgia](#) (2009), with [Armenia](#) (2011) and with [Azerbaijan](#) (2013).

In addition, the EU also offers financial and structural support to countries in conflict and with high numbers of displacement and refugees. Most recently, the EU's response to the **Syria** crisis:

- The EU has mobilised almost €3 billion in humanitarian, development, economic and stabilisation assistance for Syrians since the start of the conflict.
- Approximately €872 million has been mobilised by the Commission in different instruments to help respond to needs within Syria and its neighbouring countries hosting large numbers of refugees (Lebanon, Jordan, Turkey and Iraq). More than half of the EU's humanitarian funding for the Syrian crisis addresses the needs of refugees.
- In December 2014, the Commission adopted a [€180 million package](#) to help deal with the impact of the Syria crisis inside the country as well as in Lebanon and Jordan. This package deals with the longer-term development needs of refugees and internally displaced persons.

Following the tragic incidents off the coast in Lampedusa in 2013, the EU set up the [Task Force Mediterranean](#), to better manage migration and asylum flows, and prevent deaths at sea. A year later, in May 2014, the Commission issued a [communication](#) on the work of the Task Force. Since 1 November 2014, the [Joint Operation Triton](#) was launched at the request of the Italian authorities, to support them in the Central Mediterranean. Since then, over 19.500 lives have been saved, and the operation has been extended until the end of 2015 (see [IP/15/4453](#)).

[IP/15/4545](#)

[1] Today, the Schengen Area encompasses most EU States, except for Bulgaria, Croatia, Cyprus, Ireland, Romania and the United Kingdom. However, Bulgaria and Romania are currently in the process of joining the Schengen Area. Of non-EU States, Iceland, Norway, Switzerland and Liechtenstein have joined the Schengen Area.

MEMO/15/4544

General public inquiries:

[Europe Direct](#) by phone [00 800 67 89 10 11](#) or by [email](#)