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COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT,
THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE
COMMITTEE OF THE REGIONS

**on common principles for the further development of the Common Immigration Policy:
a platform for a new European approach**

IMPACT ASSESSMENTⁱ

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TABLE OF CONTENTS

| | | |
|----|--|----|
| 1. | INTRODUCTION | 3 |
| 2. | PROBLEMS AND CHALLENGES TO TACKLE (problem definition)..... | 7 |
| 3. | WHAT ARE THE MAIN POLITICAL ORIENTATION AND OBJECTIVES? (explanatory memorandum)..... | 31 |
| 4. | FUTURE METHODOLOGY: BETTER GOVERNANCE OF IMMIGRATION ... | 41 |
| | ANNEX 1 – ILLEGAL IMMIGRATION | 43 |
| | ANNEX 2 – DEMOGRAPHIC CHANGES AND THE IMPACT OF MIGRATION | 46 |
| | ANNEX 3 – SKILLS AND LABOUR SHORTAGES..... | 51 |
| | ANNEX 4 – BRAIN DRAIN..... | 52 |
| | ANNEX 5 – MAINSTREAMING..... | 55 |
| | ANNEX 6 – INTEGRATION: OUTCOMES OF NON-EU BORN..... | 57 |
| | ANNEX 7 – CURRENT INTEGRATED BORDER MANAGEMENT..... | 59 |

1. INTRODUCTION

1.1. Procedural Issues and Consultation of Interested Parties

Lead DG: JLS

Directorate-General Justice, Freedom and Security

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This impact assessment has been prepared among others on the basis of diverse impact assessments, including impacts assessments or staff working documents accompanying :

- the Communication from the Commission on policy priorities in the fight against illegal immigration of third-country nationals¹,
- the Proposal for a Directive of the European Parliament and of the Council providing for sanctions against employers of illegally staying third-country nationals²,
- the proposal for a directive on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment³,
- the proposal for a directive on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State⁴,
- the Communication from the Commission to the European Parliament, the Council, the European economic and social committee and the committee of the regions – Report on the evaluation and future development of the FRONTEX Agency⁵; Examining the creation of a European Border Surveillance System (EUROSUR)⁶- Preparing the ext steps in border management in the European Union⁷.

This report has been drafted with input from a number of contacts between the Directorate-General for Justice, Freedom and Security and other competent services, including EMPL, EAC, ECFIN, REGIO, TAXUD, TRADE, MARKT and SG. Input has been provided through different meetings between Commission officials in charge of the different files and written contributions. Meetings of the inter-service steering group on migration were held on 14 January 2008 (at Director General's level), on 17 March 2008 (at Director's level), on 7 April 2008 (at expert level) and on 28 April 2008 (again at Director General's level) with representatives of the abovementioned DGs as well as RELEX, DEV, AIDCO, ESTAT, SANCO, RTD, TAXUD and COMM attending.

¹ SEC(2006)964.

² SEC (2007)603.

³ SEC(2007)1403.

⁴ SEC(2007)1393.

⁵ SEC (2008)149.

⁶ SEC(2008)152.

⁷ SEC(2008)154.

The Communication will mainly focus on suggestions for political principles and a vision for further policy developments of a common EU migration policy. The operational bullet points are mainly used as points of illustration to clarify the further steps in implementing the principles. This report is therefore a simplified version of an impact assessment insofar as it only consists of a problem definition, an explanatory memorandum and an insight in the future methodology.

1.2. Policy framework and context

Immigration is a complex issue and has become one of the most visible challenges posed by globalisation to EU Member States. Recognising that a common approach was necessary to manage migration more effectively, the Treaty of Amsterdam, adopted in 1997, foresaw the development of a common immigration policy as part of an EU-wide area of freedom, security and justice. To this end, a new Title IV was inserted in the EC Treaty, which included the legal base for EU measures in the field of immigration (Articles 62 and 63 EC).

Realising that a new approach to managing migration was necessary, EU leaders set out the elements for a common EU immigration policy at the October 1999 European Council in Tampere (Finland). The approach agreed in Tampere in 1999 was confirmed in 2004 with the adoption of the Hague Programme, which has set the objectives for strengthening freedom, security and justice in the EU for the period 2004-2009. This approach includes legislation as well as practical cooperation and requires close and constructive cooperation between all actors involved. This common policy is based on four principles:

- a comprehensive approach to the management of migration flows, by tackling all the different aspects of migration;
- fair treatment for third country nationals;
- the development of partnerships with countries of origin and of transit, including policies of co-development;
- a separate common policy for asylum.

Since the Tampere European Council of 1999 the EU has sought to develop a common immigration policy that would comprehensively address the phenomenon in all its main dimensions, i.e. legal and illegal immigration, integration and cooperation with the countries of origin of immigrants. In order to provide a coherent and efficient manner to respond to the challenges and opportunities related to migration, such a comprehensive policy has for the first time been defined by the European Council in December 2006, building on the Tampere conclusions, the Hague Programme and the Global Approach to Migration adopted by the European Councils in 2005 and 2006. This comprehensive approach involves all stages of migration, aims to harness the benefits of legal migration and covers policies to fight illegal migration and trafficking in human beings. It is based on the general principles of subsidiarity, proportionality, solidarity and respect for the different legal systems and traditions of the Member States. It is also based on respect for human rights and fundamental freedoms of migrants, the Geneva Convention and due access to asylum procedures. It requires a genuine partnership with third countries and must be fully integrated into the Union's external policies.

In December 2007 the European Council stressed that further developing such a comprehensive common policy remains a fundamental priority in order to respond to

challenges and opportunities of globalisation. Underlining the need for a renewed political commitment, the European Council asked for further policy developments and rapid progress towards a Comprehensive EU Immigration Policy. This policy should, as underlined by European Council Conclusions also in June 2007, be based on common political principles, encompassing all aspects of migration. These should serve as the platform for all future operational measures further developing this policy. The Lisbon Treaty, if entering into force in January 2009 as foreseen, will provide new tools and instruments as well as a reinforced legal basis to achieve the objectives.

Furthermore with the re-launch of the Lisbon Strategy the European Union and its Member States are committed to a new partnership aimed at securing sustainable growth and jobs. One of the four priority areas is "investing in people and modernising labour market". One instrument to achieve this is to support migrants, notably by fostering skills development. Migration is also an emerging policy priority within the next three-year cycle of the Integrated Guidelines 2008-2010.

1.3. Existing acquis in the field of immigration

1.3.1 Economic migration

From 2003 four legislative instruments have been adopted by the Council to harmonise national laws on the admission and residence of certain categories of non-EU nationals. These are the directives on family reunification⁸, on the admission of students⁹ and researchers¹⁰, and on the status of long term residents¹¹. In addition to this, in January 2005, the Commission re-launched the debate about the need for common rules on the admission of workers from third-countries through a Green Paper on economic migration¹². Building upon this consultation, the Commission released a policy plan on legal migration in December 2005¹³, announcing five legislative initiatives that would be presented between 2007 and 2009. In October 2007 the Commission presented the two first legislative proposals: the general Framework Directive¹⁴ aims at simplifying procedures for admission of third-country workers and granting a common set of rights to all third- country workers already admitted and legally working in a Member State and a Directive on the admission of highly qualified migrants creating the EU Blue Card¹⁵. The remaining proposals on seasonal workers, intra-corporate transferees and remunerated trainees will follow in autumn 2008.

1.3.2 Integration

The successful integration of lawfully residing third-country nationals in the societies of Member States is one of the greatest challenges of immigration policy and a key element in promoting cohesion within the EU. In the 2004 Hague Programme, EU Heads of State and member state Governments requested the establishment of a coherent European framework for integration. Following the adoption of Common Basic Principles on integration by the JHA Council in November 2004, the Commission presented, in September 2005, a

⁸ Council Directive 2003/86/EC.

⁹ Council Directive 2004/114/EC.

¹⁰ Council Directive 2005/71/EC.

¹¹ Council Directive 2003/109/EC.

¹² COM (2004)811 final.

¹³ SEC (2005)1680.

¹⁴ COM(2007)638.

¹⁵ COM(2007)637.

communication with proposals for a common framework (handbooks, website, annual reports, NCP meetings, ministerial conferences, integration forum, integration fund, etc.) within which, through concrete measures both at EU and national level, these principles should be put into practice. An Integration Fund has been created in 2007 to financially support integration policies at national and EU level.

1.3.3 Fight against illegal immigration¹⁶

The development of a common policy to fight illegal immigration has been shaped by a number of Commission Communications, the last of which was presented in July 2006 (Communication on Policy priorities in the fight against illegal immigration of third-country nationals). The EU strongly advocates a comprehensive policy in this field. This includes, among others, a common return policy. In this context, in September 2005 the Commission presented a proposal for a Directive on common standards and procedures for returning illegally staying third-country nationals¹⁷, which is due to be adopted in the course of 2008. These actions are accompanied by a systematic dialogue with third countries on managing migration, and the conclusion of Community readmission agreements, such as those now signed with Hong Kong, Macau, Sri Lanka, Albania and Russia; and the ones being negotiated with Western Balkans countries or Ukraine. Cooperation in other areas focuses on fighting smuggling and trafficking of migrants and developing the use of biometric technologies for making travel or identity documents more secure. Other important measures concern social and economic actors more directly, for example with respect to combating undeclared work and carriers' liability. In May 2007, the Commission presented a proposal for a Directive on sanctions for employers of illegal immigrants¹⁸. Other important initiatives include the establishment of the Rapid Border Intervention team (RABITs), further strengthening of the Borders Agency (FRONTEX) and examining the set-up of a European Patrols Network and European Surveillance system for the external borders. To support the EU's return policy, a European return fund started operating in 2008.

1.3.4 Cooperation with third-countries in managing migration flows

Managing migration requires dialogue and close cooperation with third countries. The Global Approach to Migration developed in 2006 aims to formulate comprehensive and coherent policies that address a broad range of migration-related issues, bringing together justice and home affairs, development and external relations in an effort to enhance dialogue and cooperation on migration in partnership. Thus far, the Global Approach has focused on Africa and the Mediterranean, promoting dialogue with African countries and regional organisations on migration issues. In May 2007, the Commission presented two Communications to strengthen the external dimension of EU migration policy. The first "On circular migration and mobility partnerships between the European Union and third countries" proposes establishing tailor-made mobility partnerships with countries and regions of origin and transit, comprising commitments both by interested third countries and the Commission and Member States, and looks at how circular migration can be fostered. The second Communication aims at "Applying the Global Approach to Migration to the Eastern and South-Eastern Regions Neighbouring the European Union".

1.3.5 Funding – Solidarity and Management of Migration Flows

¹⁶ For further details on achievements in the area of illegal immigration, see annex 1.

¹⁷ COM(2005)391 final of 1 September 2005.

¹⁸ COM (2007)249 final.

In summer 2007, the Framework Programme on Solidarity and Management of Migration Flows has been adopted. The main objective of this financial instrument is to address the issue of a fair share of responsibilities between Member States in the introduction of integrated management of the external borders of the Member States of the European Union and from the implementation of common policies on asylum and immigration. The Framework Programme consists of four specific instruments, namely: the European Refugee Fund, the External Borders Fund, the European Fund for the Integration of Third-country nationals and the European Return Fund. The overall amount foreseen for the Framework Programme on solidarity and management of migration flows is €4,020.37 million for the period 2007-2013.

2. PROBLEMS AND CHALLENGES TO TACKLE (PROBLEM DEFINITION)

In December 2007 the European Council asked for further policy developments and rapid progress towards a Comprehensive EU Immigration Policy on the basis of a renewed political commitment. This policy should be based on common political principles, encompassing all aspects of migration.

To achieve this, in the years to come, the EU and the Member States would need to tackle the following problems and challenges:

2.1. SHRINKING EU POPULATION AND DEMOGRAPHIC AGEING¹⁹

One of the most important elements that need to be taken into account and analysed when examining the problems and the challenges ahead of the EU is the impact of demographic ageing on the EU societies and labour markets, and on the policies needed to tackle these consequences.

Due to a decreasing fertility rate, combined with a stable mortality rate and a longer life expectancy, the EU population will undergo dramatic changes and become much older over the coming decades. Further to the withdrawal from the labour market of the baby boomers cohort (1946-1965), the working age population (15-64 years) will face in the coming years a sizeable decline. According to the "baseline" scenario of Eurostat's 2004 population projections, the natural decrease of the population -already reported in some EU countries- will be registered at a European scale as soon as 2011, whereas our competitors (USA, China and other emerging economies) will continue to show a more favourable outlook in terms of labour supply. The loss for the working age population is evaluated to 53 million (or 17%) by 2050 compared with 2005 levels (308 million). The balance between the working age population and the retired one will be therefore deeply modified and the old-age dependency ratio, which compares the number of people over 65 to the number of people aged 15-64, will consequently rise. From 25% at the present time, it will rise up to 53% in 2050.

As of 2017, the reduction of the employment, linked with a increasing number of older people, will result in a growing pressure on the health-care and long-term care system, as well as the pensions expenditure. Social protection will have to adapt to this new situation. More broadly, the annual average potential GDP growth rate in the EU-25 will decline from 2.4% in the period 2004 to 2010 to only 1.2% in the period 2031-2050.

¹⁹ For further developments, see annex 2

As a result of both a increase in the total world population and the zero annual population growth rate in Europe, the share of the EU in the total world will be decreasing, going from 18% in 2000 to around 10% in 2000²⁰.

In line with the 2006 Communication “The demographic future of Europe — from challenge to opportunity”²¹, an array of responses may be proposed against this demographic challenge. Together with policies promoting demographic renewal and employment in Europe, fostering the productivity and ensuring sustainable public finances, migration policy must be considered as a necessary tool.

If no net migration is allowed, the working age labour force would drop to below 220 million instead of 255, according to Eurostat's 2004 projections and the old age dependency ratio would reach 58.6% instead of 53%²².

Immigration has been the main element in EU demographic growth since 1992, and has far outweighed the contribution from natural change over recent years²³. Indeed, net migration into the EU has seen a substantial increase, rising threefold between the mid-1990s and early 2000s to reach around 1.5 to 2 million from 2002 onwards (although a sizeable part of this can be attributed to regularisation²⁴ of illegal immigrants, notably in Spain)²⁵. The main migratory movement is still, and is likely to remain, immigration into the EU from neighbouring countries, Africa and, increasingly, South America (into Spain).

However, migration will not constitute a solution to population ageing. A study by the United Nations has shown that to prevent from population ageing, unrealistic massive flows of young migrants would be required²⁶. For example, to keep the age structure in Germany unchanged, over 3 million migrants per year would have to be admitted.

Moreover, migration can be useful only if migrants supply the skills the labour market needs. In order to make immigration the most beneficial to host countries, labour matching policies should be further explored and a greater attention should be paid to current and forthcoming labour and skills shortages.

2.2. LABOUR AND SKILLS SHORTAGES

At the present time, there are around three million unfilled jobs in Europe and a number of Member States encounter labour and skills shortages²⁷, exacerbated by a low mobility of workers across the EU.²⁸

²⁰ See graph 2 in annex 2

²¹ COM(2006) 571, adopted on 12 October 2006. This communication followed a major public debate launched by the Green Paper ‘Confronting demographic change: a new solidarity between the generations’ of March 2005 as well as discussions at the level of heads of state and government at the Hampton Court informal summit of October 2005

²² See chart 3 in annex 2

²³ This trend is particularly marked in western Germany, eastern Austria, the north of Italy, Slovenia, the south of Sweden and regions in Spain, Greece and the United Kingdom.

²⁴ Also known as amnesty or legalisation of residence status in other Member States.

²⁵ See chart 4 in annex 2

²⁶ ‘Replacement migration: is it a solution to declining and ageing populations’, *UN population division*, New York, 2000, www.un.org/esa/population/unpop.htm.

²⁷ It needs to be recalled that labour shortages occur where the demand for workers in a particular occupation exceeds the supply of workers who are qualified, available, and willing to do that job. Within this definition, two types of shortages can be distinguished: aggregate labour shortage (where

As a consequence of economic globalisation and its consequent re-localisation and outsourcing, labour markets are polarizing on the extreme ends of the scale of skills. Needs for more both high-skilled immigration and low-skilled labour are on the rise and third-country migrants, overrepresented at the highest skill levels and at the lowest skill levels, already play an important role in meeting demands for labour at the low and high-skill ends of the labour market²⁹.

Skills shortages

Filling jobs in high-skill sectors, such as engineering, information technology, pharmaceuticals, healthcare and education sectors is becoming increasingly troublesome in certain regions³⁰. The growing importance of a knowledge - based economy, the structural economic change and the growth of service sector, the delocalization of labour intensive production, the outflows of nationals (brain drain) all contribute to these conclusions.

Demand for highly qualified workers in the EU is therefore growing and estimates of future evolution suggest there will be higher potential employment growth for highly qualified workers in the coming years³¹. Employment growth rates of people with a high level of educational attainments is thereby increasing³², as well as employment growth rates in high-education sectors³³ (such as manufacture of office machinery and equipment, computer and related activities, education, health and social work, or activities of membership organizations)³⁴.

In this context, the possibility for mobilizing the unused employment potential among third-country nationals should be taken into account. Indeed, third-country nationals, including those highly skilled, have higher unemployment rates than EU nationals in several Member States. In the light of this, it is central to increase the education levels of the foreign-born nationals, which lag behind.³⁵

Another crucial element to be considered as influencing the capacity of the EU to face its existing and arising skill shortages is promoting the geographic mobility of highly qualified workers across the EU Member States, who represent more than the half of the overall highly qualified workers inflows into Europe.

the labour market is near to full employment) and shortages due to a mismatch with the labour market (due to a skills shortage, regional or preference mismatch, information deficits). Geographical mobility is a crucial factor in this respect, which contributes to labour market matching.

²⁸ Currently EU workers represent only 2,5% of the EU working age population. The recent migration flow to the EU of third-country migrants of working age (15-64) measured as a share of the EU working age population, has been significantly higher (around 2.5 times) than the recent flow of migrants from other EU countries (1.5% versus 0.6%).

²⁹ See chart in annex 3

³⁰ In Germany for example, vacancies for engineers rose nearly 30% over the past year to around 23,000. CEDEFOP 2007.

³¹ ISCED 5-6: tertiary. Between 1996 and 2003, employment of people with a high level of educational attainments increased by 2.9%, while it was simply negative for people with lower education European Commission - elaboration based on Eurostat, LFS data.

³² I.e. sectors with at least 40 % of their workforce having attained higher education level: equal to 3% per year as compared to 1% in other sectors

³³ COM(2002)72 final; elaboration on Eurostat, LFS data.

³⁴ See below, II.3

However, in the future, EU Member States can hardly rely exclusively on national human resources. In fact, in the EU, people with high educational attainments have actually reached high employment rates³⁶. Furthermore, the different measures foreseen by the revised Lisbon Strategy, including the reduction of unemployment levels and the improvement of educational attainments of many young people, require investments and time to deliver.

Hence, to be able to adjust labour demand and supply on relatively short notice, the possibility to source skills outside of the EU is crucial, while striving to prevent the possible adverse consequences of such a demand in terms of "brain drain"³⁷. A number of countries have already set up specific schemes to attract highly skilled migrants and the incidence of third-country nationals in the highly skilled occupations³⁸ is rapidly increasing. In 2004, the share of non-EU nationals in total highly skilled employment was the 2.3% in EU 15, compared to 1.8% in 1999. Third-country high skilled workers incidence on total employment is even growing with a higher rate if compared to the trend of highly EU nationals³⁹.

However, the share of skilled migrant workers remains low, compared to other OECD countries. It is evaluated by 1.7% in the EU, compared to 9.9% in Australia, 7.3% in Canada, and 3.2% in the US. The employment patterns which characterize the occupational structure of third-country workers on European labour market is also significant, as exemplified in annex 3. These data reveal a substantial difficulty for the EU in attracting highly qualified workers from third countries with respect to the main worldwide benchmarks.

Different factors account for this situation⁴⁰. An important aspect influencing the attractiveness of EU with respect to highly qualified workers is represented by the barriers to EU intra-mobility which is a driver of both the demand (i.e. efficient allocation of the human resources and improvement of the European skills endowment) and the supply side (i.e. the possibility and willingness of moving throughout EU labour market and competing for the acquisition of ever improving remuneration and working conditions) of highly qualified workers. Regarding multinational companies, the possibility to transfer employees in countries where new businesses are set up and to transfer them temporarily to other offices or affiliates also play a key role for investments.

The 2007 Proposal for a Council Directive on the conditions of entry and residence of third country nationals for the purpose of highly qualified employment aims to support Member States' efforts in attracting and – where necessary – retaining the highly qualified third-country workers needed in their labour markets. It includes not only a fast-track admission procedure based on common criteria (notably work contract, professional qualifications and a salary threshold) and favorable conditions for residence and family reunification, but also a possibility for exercising demand-based intra-EU mobility without being penalized in terms

³⁶ In EU 15, the employment rate of highly educated people was 82.5% in 2004. However, it is worth noting that labour shortages and high unemployment rates can co-exist in the labour market (e.g. Germany and Sweden)

³⁷ See annex 4

³⁸ According to ISCO 88 classifications, categories 1, 2 and 3.

³⁹ Between 1999 and 2004, in EU 15, the share of HSW (ISCO categories 1, 2 and 3) coming from third countries as compared to total number of employed increased at an average annual growth rate of 4.8% (0,8% for EU nationals)

⁴⁰ Amongst others drivers: historical ties, the language preferences, the high past labour demand for low skilled workers in the European manufacturing sector, the institutions and expected income differences, the mechanisms and policy initiatives used by governments to attract and retain foreign highly qualified workers

of family life and of period necessary to acquire EC long-term residence. The specific issue of intra-corporate transferees will be addressed in a forthcoming directive, as foreseen by the Policy Plan.

Labour shortages

The economic weight of the lower-wage jobs in the total employment in each Member State is very significant, ranging from 10.8% in Sweden to 38.8% in Romania in 2005. Growing needs in the services sector are emerging, notably boosted by the increasing proportion of women in employment and ageing population, in particular in households, hotels and restaurants, construction and in sectors characterised by strong seasonality such as agriculture.

Immigrant workers play a key role in these sectors in a number of Member States, and this role is likely to expand in the future. Compared to native-born, a high share of third-country migrants are employed in the hotels and restaurants, private household and construction sectors, and also, although to a lesser extent, in real estate renting and business activities. With respect to seasonal work, many developed countries have made, and currently make, considerable use of unskilled foreign labour on a seasonal basis in order to fill the gaps in the national labour markets.

Typically, this category of workers is offered poor working conditions, which may lead to an unfair competition between EU workers and TC workers and result in distortion in the functioning of the internal market.

UE added value

- The policy taken in one MS can generate indirect impacts on other MS and call on consequently for a European action :
- differences between national legislations on workers (in terms of definition, entry and residence conditions) can produce distortions in the selection mechanisms through which the third-country nationals decide where to localize in EU territory (i.e. they can be more attracted either by an easy system of accession or by a wider system of recognized rights rather than by a demand of occupation);
- the lack of a right to internal mobility for third-country nationals may be a key discouraging element for workers in their decision of entering the EU economy or for multinational companies to establish a affiliate or a headquarter in Europe, although this is by no means the only element driving immigration choices of highly skilled workers from third-countries;
- in those Member States where a low level of rights is granted to third-country workers, employers could benefit from the recognition of poor working conditions (the rights gap), as they would avoid a set of responsibilities and related costs. These situations would create an unfair competition between EU Member States and would affect the proper functioning of the internal market.
- Finally, the effective development and implementation of the Global Approach to migration in close cooperation with third countries calls for a common action of EU as a whole on migration issues.

In the light of all these elements, an intervention at the EU level seems desirable.

2.3. SCOPE FOR A BETTER INTEGRATION OF LEGAL IMMIGRANTS

As a consequence of increasing inflows of immigrants, European societies are today faced more acutely with the question of diversity. Although some Member States experienced the phenomenon earlier, the whole Europe became gradually a destination for immigrants. In 2006, 18.5 million third-country nationals were registered in Europe, equivalent to just under 3.8% of the total population.⁴¹

A fundamental aspect of a well-managed migration policy is the successful integration of legally residing immigrants, which results in stronger economies, greater social cohesion, an increased feeling of security and cultural diversity, finally stepping up the Union's position in the world. Although a growing number of Member States recognise the vital importance of integration policies, which fall within their competence, and despite the increasing supporting role played by the EU, many integration challenges remain and call for a new stage step.

Mainstreaming

Mainstreaming integration becomes an integral part of policy making and implementation across a wide range of EU policies but a more coherent approach to integration should be developed. Effective sharing of information, coordinating with all tiers of authorities and stakeholders and paying due attention to the mainstreaming of gender equality and to the specific needs of migrant youth and children, are still major challenges⁴².

Evaluation and indicators

It is increasingly perceived the need to enhance the capacity to collect, analyse and disseminate integration-related information, including gender disaggregated statistics, in a more systematic way. More detailed data help avoiding confusion and improving visibility of immigrants' contribution to the host society's development. Further progress is necessary to monitor and evaluate integration policies and programmes and to identify specific indicators.

Management of diversity

Integration of third-country nationals has been the subject of a debate focussed on discrimination phenomena and cultural and religious diversity. In some cases, dramatic events were crucial in influencing the public perception of immigration. Many Member States identified new priorities and revised their policies.

A variety of measures are adopted to foster integration as a two-way process. However, to put this principle into practice in a meaningful way is a long-term challenge requiring further efforts. Structural initiatives targeting the host population to reinforce its ability to adjust to diversity are still underrepresented in national strategies.

⁴¹ COM(2007)780. Romania and Bulgaria are considered as EU nationals. If one focuses on migrants rather than on foreign national, the number is 27.3 million migrants representing 5.6% of its total population

⁴² For further developments, see annex 5

Education

Average educational attainment of non-nationals is generally substantially lower than that of nationals⁴³, which raises concerns about their future personal and professional development⁴⁴. In EU 15 in 2005 around 28% of men of working age with EU nationality had only a basic level of education, while the figure for non-nationals was 42%. 28% of men with EU nationality had tertiary education, and only 19% of non-nationals. Figures for women show lower rates but similar patterns.

Comprehensive integration policies should include education and training as fundamental elements of the integration process. The focus of integration policies should be more on targeted language classes and tuition to facilitate integration at school. Initiatives should promote respect for diversity in the educational environment and support for teachers.

The Green Paper on Education and Migration provides a detailed analysis on challenges posed by immigration onto education systems.

Empowering immigrants

Lack of basic knowledge of the host society and its language by immigrants is a major challenge. Integration strategies should focus more on introduction programmes, including language and civic orientation courses for newly-arrived. A growing number of initiatives increase the flexibility of courses in terms of targeting specific needs but only in few cases in-depth evaluation of these activities is carried out.

Shared values

Integration should be a dynamic, two-way process of mutual accommodation by all immigrants and residents of Member States but to put this principle into practice in a meaningful way is a long-term challenge requiring further efforts. Structural initiatives targeting the host population to reinforce its ability to adjust to diversity are still underrepresented. Not enough is done to actively assuring that all residents, including immigrants, understand, respect, benefit from, and are protected on an equal basis by the full scope of values, rights, responsibilities, and privileges established by the EU and Member State laws including the respect for the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, the concepts of dignity, freedom, equality and non-discrimination, solidarity, citizen's rights, and justice.

Employment

The integration of immigrants into the labour market remains a major challenge of integration policies. In many countries, the unemployment rate of non- EU-nationals is almost twice as high for non-EU nationals (17%) as for EU nationals (9%) and sometimes three times higher

⁴³ See charts 1 and 2 in annex 6

⁴⁴ Yet, in several countries, because of the presence of high-skilled migrants, the situation is reversed for tertiary education. An important factor which accounts for the varying ability of the education system to make converge the level of foreign-born population is the different composition of the foreign population in individual countries, in terms of the national origin and socio-economic, educational and linguistic background of the immigrant population.

than those for native-born⁴⁵. This gap is actually increasing in almost all these Member States.⁴⁶

In terms of gender, female non-EU nationals face particular difficulties compared to their EU-national counterparts, in particular for highly skilled women where the difference between employment rates for non-EU and EU nationals exceeds 20 percentage points. With regard to young people with a migrant background, they are disproportionately affected by unemployment (12-25 percentage points).

Measures to strengthen this aspect, including prevention of unemployment through education and training, more effective systems to recognise qualifications, fighting against discrimination at the work place and promotion of employment for immigrant women should be further fostered

Social aspects and Access to services

As reported in a number of *National Action Plans for Social Inclusion* and through EU studies, there is considerable evidence of the gaps in social outcomes that persist between the host country nationals and migrants, albeit at different scale according to other factors such as country of origin or motives for migration.

At EU level, non-EU migrants face much higher risks of poverty than people born in the host country (30% against 16%). The gap is even greater for households with children.⁴⁷

Although in a growing number of cases the capacity of service providers to interact with immigrants and initiatives on equal access to public institutions are launched, many immigrants still face many barriers when trying to access to services⁴⁸. Anti-discrimination and information measures and cooperation between governmental stakeholders and engagement of companies in debates on integration should be further fostered. For examples immigrants frequently face additional health risks linked to their living and working conditions; they require specific help and information to have access to health services. Some reports highlight also a lack of awareness of anti-discrimination legislation among health professionals, administrative staff.

With regard to social security issue, the EU has had a quite decisive impact on the situation of migrants through the existing provisions or proposals in the field of social security coordination concerning third country nationals (through extending the EU coordination

⁴⁵ This is the case in Austria, Belgium, Finland, France, Luxembourg, the Netherlands and Sweden

⁴⁶ Joint employment report 2007. See table 4 in annex 3. However, in many of the new Member States, as well as Greece, Spain and Portugal, where immigration is rather an economic and recent migration, the employment rate of non-EU nationals is above that of EU nationals. The composition of the migration inflows –rather based on family reunification or economically selected- account evidently for these findings. In the Member States where new migrants are mainly family members or refugees, the differential to native-born nationals with regard to newly-arrived (migrants resident 5 years or less) is of course more marked than for long-term residents. unemployment rates which are significantly higher than those of native-born in most of the Member States for which data is available (except for Cyprus, Portugal and Spain)For example, the probability of being unemployed for this category of migrants is more than 4 times higher in Austria, Belgium, Finland, the Netherlands and Sweden.

⁴⁷ Source: EU-SILC 2005. See table 3 in annex 6. The size of families, unemployment, low wages, and poor working conditions mainly contribute to this situation.

⁴⁸ as highlighted during the CLIP conference of Conference European cities integrating migrants of 7 April 2008

provisions to third country nationals; through association agreements, or community instruments).

In 2003, the European Parliament and the Council adopted Regulation 859/03 (OJ L 124 of 20.05.2003) which extends the provisions of Regulation 1408/71 to third country nationals who are (1) legally residing in the EU and (2) in a cross border situation. The objective of this Regulation is to provide to third country nationals who fulfil the above mentioned conditions equal treatment as regards coordination of social security schemes.

As Regulation 1408/71 will be replaced by Regulation 883/04, the Commission adopted in July 2007 a proposal extending the provisions of Regulation 883/04 to third country nationals who are (1) legally residing in the EU and (2) in a cross border situation (COM (2007)439). This proposal will have to be adopted in order to avoid a significant setback for the equal treatment of legally residing immigrants with regard to their social security contributions.

Participation and citizenship

The participation of immigrants in the democratic process is increasingly perceived as a significant aspect of successful integration. However not often migrants' representatives are involved in the elaboration/implementation of integration policies. In particular, there is a growing interest in active citizenship and naturalisation processes as elements to strengthen opportunities for involvement in the host society and these issues should be further explored.

Host societies and discrimination

Migrants often face negative stereotypes, which expresses directly or indirectly. The promotion of non discrimination and equal opportunities for all is key integration issues.

EU legislation provides a strong framework of anti-discrimination legislation⁴⁹. The European Year of Equal Opportunities for All in 2007 and the European Year of Inter-cultural Dialogue in 2008 have contributed to raise awareness in these matters but further efforts need to be spent.

EU added value

Immigration is a permanent feature of European society. If the flow of immigrants is orderly and well-managed, Member States reap many benefits. Taken together and across all Member States, these benefits advance the European process and strengthen the Union's position in the world. A critical aspect of managing migration is the successful integration of legally residing immigrants and their descendants. The failure of an individual Member State to develop and implement a successful integration policy can have in different ways adverse implications for other Member States and the European Union. For example, intercultural challenges faced in a Member State after a dramatic event might spread in neighbouring States. The precise integration measures a society chooses to implement should be determined by individual Member States. However, it is clearly in the common interest of all Member States of the Union that each individual Member State pursues effective integration strategies.

⁴⁹ Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

Mainstreaming of national policies and exchange of best practices can only be ensured by measures taken at the EU level.

2.4. CONTINUOUS PRESSURE OF ILLEGAL IMMIGRATION

In spite of the important legislative framework and a number of measures taken, at the national or European level, to combat illegal immigration, this phenomenon is still a major concern across Europe. A wide array of adverse consequences follows from this protean phenomenon, including on human rights and coherence of the overall migration policy. A number of factors account for this situation: difficulty to enforce the return decisions; persistence of a strong pull factor: possibilities of finding illegal employment; power of criminal networks of smugglers and traffickers.

Diverse impacts of the phenomenon

Whilst difficult to evaluate, indicative statistical data have put forward a total number of illegally staying migrants of several millions and a number of annual inflows into the EU of several hundreds of thousands.

In spite of efforts made either individually by Member States or in co-operation with other Member States at European level, illegal migration is still flourishing in the EU, under its different forms: illegal entry into the European Union, often on the basis of false or forged documents and with the support of organised criminal networks of smugglers and traffickers; overstaying by third-country nationals having entered legally –e.g. at the expiry of their visa or their residence permit or once their asylum request has been definitely rejected; abuse of procedures allowing legal entitlement for residence (e.g. fake marriages/family reunifications, false visa applications, misuse of the status of student).

Illegal immigration is often associated with humanitarian tragedies, linked to the conditions of entry into the EU territory, with the help of criminal networks. Moreover, illegal entry, transit and stay of third-country nationals who are not in need of international protection undermine the credibility of the common European and the Member States' immigration policy. Effective countermeasures against those infringements are therefore necessary and any regularisation programme should take into account the risk of creating pull factor. Finally, illegal employment constitutes a major pull-factor for third-country nationals looking for better prospects, creates an uneven playing field for employers, erodes tax revenues, undermines the financing of social security systems, may trigger unfair competition with indigenous workers and can lead to serious exploitation or even slavery like conditions.

Various factors

An incomplete return policy

Return, in full respect of fundamental rights, remains a cornerstone of EU migration policy.

A crucial concern in this area is the full compatibility of measures taken with fundamental rights, including refugee protection and human rights obligations derived from the European

Convention of Human rights⁵⁰. In that respect, voluntary returns which ensure a dignified return for returnees should be given the preference and are in fact increasing⁵¹. Besides, it is also in the interest of the authorities in terms of cost-effectiveness.

The return can be defined as the process triggered when a third-country national does not or does no longer fulfil the conditions for stay, resulting in the return to his/her country of origin or any third-country in which it will be accepted, on a voluntary or forced basis. These situations occur when third-country nationals enter illegally, overstay their visa or residence permit, or when their asylum claim has been finally rejected.

Several barriers prevent effective return of the third-country national: lack of reliable documentation leading to difficulties to identify the third-country national; practical difficulty to organise return operations; reluctance of third-countries to readmit their nationals, often linked to absence of readmission agreements.

Moreover, the lack of coordination and harmonisation at the European level give rise to specific problems. Member States' legislation on returning illegal third-country nationals differs widely, as regards terminology as well as substantive provisions applying to return, removal, use of coercive force, temporary custody and re-entry. This diversity yields a distorting effect on the distribution of illegally staying immigrants within the EU and weakens the effects of a return decision. For example, when a MS does not implement its decisions refusing residence permit to a third-country national, it has potential implications on the territory of all Member States, owing to the absence of internal borders. The weak impact of the return decision on the European scale is another concern in this area: in absence of mutual recognition of the return decisions taken by a Member State, the third-country national may comply with his/her obligation to leave by moving to another Member State, which leads to uncontrolled secondary movement among Member States and may lead to further illegal presence in another Member State.

Whether provisions aiming at enhancing coordination between Member States already exist, their implementation through practical measures lags behind. For example, the Directive on the mutual recognition of decisions on the expulsion of third-country nationals of 28 May 2001, which aims at allowing the recognition of an expulsion decision issued by one Member State against a third-country national present within the territory of another Member State, is not fully implemented because of the lack of systematic exchange of information on expulsion decisions. In the respect of joint returns, the regulatory framework already provides the means of sharing costs, making better use of resources and demonstrating common action in the fight against illegal immigration, but more frequent use of such flights could enhance the effectiveness of the national return policies of the Member States.

Power of criminal networks: smuggling and trafficking of migrants

Crossing of the external borders, transit through or illegal stay on the territory of the Member States of the European Union are often facilitated by criminal networks. Third-country nationals who are looking for a better life pay to those facilitators amounts of money that exceed many times an average annual salary in their countries of origin. Illegal immigrants

⁵⁰ In that connection, it should be noted that the Committee of Ministers of the Council of Europe have adopted twenty guidelines of Forced Return to ensure that such procedures are consistent with international human rights.

⁵¹ Return migration: policies and practices in Europe, IOM, January 2004

may also be subject to human trafficking for the purpose of sexual or labour exploitation, domestic servitude, begging, forced marriage. Human trafficking is therefore a serious crime against persons. Moreover high profits from labour and sexual exploitation are often subject to money laundering and may enable traffickers to engage in other criminal activities and to achieve economic, social or even political power. It often has a transnational dimension as numerous trafficked persons move or are brought across external borders. Migrant smuggling and human trafficking are linked by the fact that they are frequently organised by internationally operating criminal networks and part of organised crime phenomena linked with the demand for cheap and illegal services. Many victims or potential victims of human trafficking are women, children and individuals belonging to ethnic and minority groups who may be subject to discrimination in their place of origin.

The EU Plan on best practices, standards and procedures for combating and preventing trafficking in human beings, adopted by the Council on 1 December 2005⁵², proposes a array of measures aiming at preventing trafficking and protecting victims. Further to this Plan, the Commission services presented Recommendations on the identification and referral to services of victims of trafficking in human beings⁵³, calling for the establishment of a national mechanism aimed at early identification and assistance to victims. On 18 October 2007, an Assessment Manual on Measuring responses to THB was also presented by the Commission services in order to help Member States to self-assess their anti-trafficking policy on the basis of comparable criteria.⁵⁴

A human rights centred approach requires early identification and assistance to victims of trafficking in human beings. Identification is crucial to ensure both the protection of the rights of trafficked persons, and successful prosecution of the traffickers. Yet, this identification currently takes place too late, once factual evidence has been provided, resulting in an insufficient protection of victims. Measures such as prevention strategies specific to vulnerable groups such as women and children (in particular unaccompanied minors), allowing a larger access to assistance services⁵⁵, the national labour market, vocational training and education as well as existing programmes and schemes aiming at the recovery of a normal life, and a secured legal status are therefore required. Smuggling and trafficking must be addressed as clear law enforcement priorities and enhancing operational cooperation with the concerned actors⁵⁶ should be a key objective at national, EU and worldwide level. Training of all stakeholders and raising awareness - to which the EU Anti-Trafficking Day, established on 18 October of every year, also contributes- should accompany this policy. In addition, funding measures addressing factors that make persons vulnerable to trafficking, e.g. poverty, discrimination and lack of access to basic and higher education are to be continued.

In parallel, Member States and the Commission are not actively enough in pursuing policies reinforcing the criminalization of human trafficking, depriving it of any economic advantage and, where financial gain has been made, to seize and confiscate any assets. At present, the

⁵² OJ C 311, 9.12.2005, p.1.

⁵³ 18 October 2007- The Recommendations are available on the JLS website.

⁵⁴ It should be also noted that the Council of Europe Convention of 16/05/2005 against Trafficking, which constitutes a valuable framework for the prevention, combating and protection of the rights of victims of trafficking entered into force on the 1st February 2008.

⁵⁵ With regard to this matter, a questionnaire was disseminated during the Finnish Presidency to map services available to victims. Under the German Presidency agreement was reached to publish the relevant links on JLS website.

⁵⁶ E.g. civil society organisations, trade unions, officials in charge with these issues such as immigration officials, health care officials and labour inspectors, etc.

investigation of human trafficking is not afforded the same priority as other areas of organised crime in that specialist investigative techniques and disruption strategies, including pro-active intelligence led investigations, are not yet sufficiently employed.

Action against smuggling and trafficking is not yet intensive enough, as regards border control and migration management related measures, including a need for an improved status of trafficked persons under Directive 2004/81/EC of 29 April 2004, which defines the conditions for granting a residence permit to third-country nationals who are victims of human trafficking or who have been subject of an action to facilitate illegal immigration and who cooperate with the authorities. The possible access by victims of human trafficking to the national labour market, vocational training and education as well as to existing programmes and schemes aiming at the recovery of a normal life will be important in this context.

In order to improve the effectiveness of the fight against smuggling and trafficking and to allow transnational coordination, it is necessary to have a clear view of the magnitude of the phenomenon, including reliable statistics⁵⁷.

Pull factor: illegal employment

One of the factors encouraging illegal immigration into the EU is the possibility of finding work. As a first step to counter this pull factor, on 16 May 2007, the Commission decided to propose a directive providing for sanctions against employers of illegally staying third-country nationals. Within the EU, undeclared work is estimated to be between 7-16% of the EU GDP⁵⁸, although this is of course only partly performed by illegally residing third-country nationals or legal third-country nationals working in breach of their residence status⁵⁹.

Illegally staying migrants work mostly in the low-skilled sector such as in construction, agriculture, catering or cleaning and housekeeping services to support themselves. Often they are hired for the so-called “3 D”- jobs (dirty, dangerous and demanding work), which are rejected by the domestic labour force. Their wages are often below the official minimum and show a high flexibility.

The guidelines of the policy approach following from the 2003 Council Resolution combine measures intended to reduce the attractiveness of undeclared work (e.g. through the reforms of tax and social protection system), to reduce the cost of compliance with regulations and to raise awareness. Indeed, avoidance of tax and administrative burdens and the low awareness of sanctions constitute, according to a recent survey⁶⁰, two main drivers of undeclared work.

Despite progress reported in a number of Member States in these areas, there is a wide scope for improvements in the diverse policy branches. A review of the national schemes shows that the core problem is rather related to enforcement of the law than to the absence of legal rules, as evidenced by the fact that the legislation of most EU Member States already provides penalties (ranging from public procurement contracts, to limitations on future recruitment, to

⁵⁷ To this end and in the framework of the recently established experts group on criminal statistics, a sub-group is now working on criteria for data collection and assessment on trafficking. The sub-group will produce an operational definition and/or indicators early in 2008. The final goal is the issuing of Guidelines for data collection by the Commission, in compliance with the EU Action Plan.

⁵⁸ Council Resolution on transforming undeclared work into regular employment, October 2003. See also Schneider, 2005: this share has been assessed 22-28% in Southern Europe

⁵⁹ E.g. students carrying out a full-time job where the national legislation only allows a half-time job.

⁶⁰ Special Eurobarometer survey (N° 284).

criminal sanctions, and to the obligation to bear return costs) and preventive measures (e.g. imposing on employers to verify the immigration status of third-country nationals before offering employment; obliging employees to be able to identify themselves in the work place). An overview of the situations in Member States shows that the risk of being detected by competent authorities is currently very low, both for the employer and for the employee. Yet, people who consider the risk to be small are more likely to be involved in undeclared work. Attention must therefore focus on enforcement of the sanctions, which is impeded by the following shortcomings: lack of coordination between actors responsible for combating illegal work (social security organisms⁶¹, labour inspectorates and trade unions), insufficient human and financial resources allocated to enforcement bodies, lack of information to undertake effective controls and lack of data to assess the outcome of the inspections.

The insufficient international cooperation and the insufficient cross-border enforcement of sanctions, especially regarding non criminal fines⁶², are other main concerns, flowing from a growing cross-border business which is at the same time becoming more complex. This phenomenon gives rise also to abuses in the provision of service aimed at benefiting from a lower cost of work and social contributions⁶³. Often in connection with cross-border activities, new developments in the labour market (agency work, sub-contracting, false self-employment) have not always been taken into account by legal framework and control bodies. A continuous updating of the information related to illegal work is all the more a concern as this phenomenon tends to become less transparent and more complex, as policies are toughening.

As a result, undeclared work is not, at large, in the decline. It would even be on the rise in several Member States⁶⁴ according a recent study. Furthermore, the growing demand for household and care services could contribute to extending the range of undeclared work.

Pull factor: prospect of a regularisation (amnesties)

In response to these concerns, a mutual information system on national measures in the area of migration A number of regularisation programmes have taken place recently, sometimes at a large-scale. Besides a possible immediate decrease of illegal work⁶⁵, such decisions may trigger off two effects: on the short term, a "spill-over" effect, namely the entry of regularised third-country nationals into the territory of other Member States as a consequence of the abolition of internal border controls within the Schengen area; potentially, a pull effect on the third-country nationals in their countries of origin.

⁶¹ The 2006 Commission proposal for a Regulation of the European Parliament and of the Council laying down the procedure for implementing Regulation 883/2004 concerning the coordination of social security schemes (which will replace Regulation 1408/71 as soon as the implementing regulation is adopted) contains provisions strengthening the cooperation between social security institutions of the Member States.

⁶² For criminal fines, see the Framework Decision 2005/214/JHA on the application of the principle of mutual recognition to financial penalties, OJ L 76, 22.3.2005, p.16.

⁶³ An employment relationship is dissimulated behind a provision of services from a company based in a low-wage and –social contributions country. As the case-law of the ECJ has established that third-country nationals may not be the subject of administrative formalities when they are lawfully employed by a service provider established in another Member State, the check of the compliance with the rules is to be achieved through cooperation with the sending country authorities.

⁶⁴ By the European Employment Observatory: www.eu-employment-observatory.net

⁶⁵ Migrants and the underground economy in Southern Europe, Emilio Reyneri, lecture CEP-LSE, London, April 21st, 2007: this result has been observed in Italy.

Therefore, many Member States have voiced their concern about the absence of coordination of such measures which had been discretionary taken by the concerned governments. In response to these concerns, a mutual information system on national measures in the area of migration and asylum has been set up in 2007⁶⁶, pursuant to which Member States must communicate information on measures considered likely to have a significant impact on several Member States or on the European Union as a whole. A web-based network is a central element of the information mechanism.

However, this tool is not satisfactory. Although the Council Decision provide that communication of the relevant information should take place at the latest when the measures concerned become publicly available and encourages Member States to transmit it as soon as possible, Member States neglect to use it and the objective of a mutual cooperation is therefore not met.

Added value of a European action

A goal of zero illegal immigration seems unrealistic. However, without reinforced Community action, the phenomenon as already seen and perceived today would spread. The need of a common action is all the more acute as a number of drivers are likely to further increase illegal immigration. Environmental degradation, possible natural disasters, increasing numbers of facilitators that organize the smuggling of human beings and continued conflicts will contribute to increase the magnitude of the phenomenon. Moreover, the continuing high population growth in Europe's neighbourhood, especially in Africa, combined with poor economic performance and political instability, could act as a strong push factor.⁶⁷

In this context, EU action is necessary in order to:

- avoid a situation where illegally staying third-country nationals would move (including secondary movements) to the Member States that treat them most favourably, which requires adequate and similar treatment of illegal residents throughout the EU, regardless of the Member State where they are apprehended;
- be in a stronger position to negotiate with third-countries than each Member State individually, e.g. readmission agreements;
- enhance the effectiveness of the fight against illegal immigration through coordinated actions (e.g. networks of information; organisation of joint return flights);
- reallocate resources according to the need of the Member State through the Return and Border Fund;

⁶⁶ 2006/688/EC: Council Decision of 5 October 2006 on the establishment of a mutual information mechanism concerning Member States' measures in the areas of asylum and immigration.

⁶⁷ The European region has a low TFR at 1.5; Africa is at the other extreme with an average rate still close to 4.9. Figures from the year 2000 show a total GDP for the EU almost 10 times greater than the combined GDP of sub-Saharan Africa. In comparison, GDP for North America was approximately 3 times larger than that of Central and South America. The Mediterranean Sea represents one of the sharpest demographic divides in the world. Greece, Italy and Spain, which have among the lowest fertility rates, are ageing rapidly and will see their populations shrink, while the countries on the southern rim have some of the most rapidly growing populations.

- in a view to tackling the problem at the root, send a clear message to third-country nationals designed to reduce the impetus for them to leave their home countries for an illegal job in the EU. This message would underline both the enhanced effective sanctions and promote legal channels;
- avoid distortions of competition within the single market;

2.5. NEED FOR A GENUINE PARTNERSHIP WITH TC

Since the so called Tampere milestones from 1999, partnership with third countries in the management of migration has been one of the fundamental priorities of the European Union. The added value of closer cooperation through partnerships lies in the increased joint abilities to monitor, assess, steer and manage migration flows in the interest of the European Union, as well as in the interest of the partner countries. In order to achieve these goals, a certain degree of trust and confidence needs to be developed between the partners involved.

The European Union in its external policies has gradually established the basis of such trust and confidence. By launching the Global Approach to migration in 2005, the Union gave expression to a political will to bring the partnership idea into a new dimension. This was a broader strategy that incorporates various policy areas into one coherent approach, covering foreign, development and migration policies.

In terms of the migration policy issue area, it draws together all relevant aspects, including asylum, border control, visa policy, readmission and return, migration and development, and measures against trafficking and smuggling of human beings. In addition, streamlined financial instruments have been reserved in order to put the objectives into practice and operational results. Much of this support has been focusing on institutional capacity building in partner countries, as well as adding a Community dimension to Member State financing of migration management of relevance to the external relations.

The Global Approach has gradually been further developed and elaborated upon. In the first phase, it was mainly focusing on cooperation with countries in the Southern Mediterranean and sub-Saharan Africa. Subsequently, it was also extended to cover the regions to the East and South East of the Union as well as parts of Asia.

A broad tool box has been developed within the framework of the Global Approach to Migration, including the concepts of mobility partnerships, circular migration, migration profiles, migratory routes and cooperation platforms. In the particular context of the migration and development nexus, measures and financing have focused on making remittances more efficient for development; facilitating the voluntary contribution of members of the diaspora to development of their former home countries; and mitigating brain drain and brain waste.

Specific political progress has been achieved in placing the Global Approach on the international policy agenda. Two main examples are the ministerial conferences during 2006 in Rabat, focusing on regional migration, and in Tripoli, which was the first all-African and all EU ministerial dedicated to migration. Follow-up work of these ministerials, including through their related Action Plans, have translated into an ambitious range of measures and

initiatives. Related work includes migration information centres and the setting up of a remittance institute as well as migration observatories in migrant source countries.⁶⁸

Despite these advancements in developing the Global Approach and the external aspects of migration policy, it is clear that this will only count as the first step of a necessarily long-term process. There are still major gaps in terms of implementation and operationalisation. Considerably more efforts and resources will be needed in order to further implement what has been formulated so far. In crude terms, this will mean that the Commission and its Member States will step up the quality, scope as well as volume of external cooperation in the migration area. More joint activities will take place, and with more countries. More resources at various levels will be necessary in order to maintain the momentum in terms of what has been achieved. New elements will have to be added as cooperation is being consolidated towards genuine partnerships.

The linkages between development and migration are still not sufficiently explored or understood in terms of real policy measures and results. There is still a lack of capacities in many third countries' administrations to formulate coherent and efficient migration policies or to work in close cooperation with EU Member States. Migration remains to be fully integrated into national development plans and for third countries in the developing regions to consider it as an issue of ownership and national concern. There are major gaps in the availability and reliability of basic statistics and data on migration. Emigration pressures will remain high in countries which continue to suffer from political instability, lack of good governance and the rule of law, lack of employment and income opportunities, and high levels of corruption and crime as well as human rights violations. Political, social and economic aspects are often overlapping and intertwined which require a process of dialogue and awareness raising in close cooperation with the governments in some third countries.

Results from broader development cooperation with a clear impact on migration patterns cannot be expected in the short term. Long-term commitments are therefore necessary and can best be achieved through partnerships. Addressing the brain drain problems in specific countries, notably in sub-Saharan African and the Caribbean, and in the health sector, can best be addressed through broad strategies that also address the general conditions in the source countries. Adequate mechanisms to promote and ensure brain circulation are still to be developed. The management of remittances to promote development in migrants' countries of origin will have to be further promoted and evaluated. Also the related policy area of contributing to the voluntary involvement of diasporas in their home country development is yet to be developed. Further steps can be made especially in the area of supporting entrepreneurial businesses and to develop mechanisms for economic reintegration in source countries after periods abroad. Such policies can only be successful if they are developed in close cooperation and partnership with the third countries concerned.

The external migration relations of the Union will increasingly encompass all aspects of migration management, including those which so far have been treated as an internal policy issue. As Member States continue to reform their national policies to allow for more

⁶⁸ By the end of 2007, the first Euro-Mediterranean Ministerial meeting on Migration in November, and the Partnership on migration, mobility and employment, in the framework of the First Action Plan of the Joint Africa/EU Strategy, adopted at the Africa-EU Summit in December, marked other major policy developments that will need to be continued in terms of operational measures with some funding implications. A second EU-African Ministerial Conference on Migration and Development is scheduled to be held in Paris in October 2008 and will lead to further implementation requirements.

economic immigration, and as progress is being achieved with putting in place Community legislation in line with the Policy Plan for Legal Migration, increased efforts will also be necessary in order to strengthen cooperation and partnerships with third countries.

The Union and its Member States will need to integrate the management of temporary and more permanent forms of economic immigration in the external relations, e.g. through setting up more mobility partnerships and by including legal migration in existing regional and bilateral cooperation frameworks. Management of circular migration in particular will require the involvement of governments and coordination of relevant stakeholders on both sides. One focal point for such cooperation will be the joint efforts between the EU and partner countries to better match the supply and demand of labour. Another key policy area will be to address employment and decent work in developing countries. Closer coordination between development and migration policy will be essential.

Enhanced partnerships with third countries will also be necessary when further developing the policies to fight illegal immigration, to manage control at the external borders, to manage visa policies, in the deployment and operation of liaison officers, in combating smuggling and trafficking of human beings, and in ensuring progress in readmission agreements and implementation of return in due respect of human rights.

If the Union is to achieve efficient and flexible external cooperation in the migration area, and true coherence in external policies relating to migration and its governance, it will be necessary to ensure appropriate resources within all the relevant national and Community financial instruments in a coordinated manner, including support to administrations of third countries willing to cooperate with the Union.

On the basis of the work that has already been initiated and given that there is an established and agreed upon policy framework for migration in the EU's external relations, mainly through the Global Approach, it is of crucial importance that all this work can continue and also be brought to a deeper level of cooperation. One aspect of the consolidation of the work already achieved would be to bring forward and further refine the tool-box of the Global Approach. A next phase of the Global Approach would extend and transform the geographic meaning of the approach – gradually shifting from a region-based perspective to a country-by-country perspective depending on the evolving interests and shifts in migration patterns.

Moreover, there remains a need to further coordinate and bring into greater coherence the Global Approach instruments with the broader external cooperation of the EU, in which migration plays an increasingly important role. This means that migration should be fully integrated into the Union's development cooperation and other external policies. More efforts will be needed in order to mainstream migration into other initiatives, to avoid overlaps and to streamline the organizational management of migration in relation to third countries. The available instruments and resources must be used in a coordinated and consistent way in order to maximise efficiency.

The further development of migration as part of the external relations will be facilitated by the entry into force of the Lisbon Treaty, which inter alia foresees the setting up of a European External Action Services. It needs to be assured however that migration stays in a prominent place on the agenda of these external offices. Other aspects related to the Treaty will relate to visa policies and the management of longer term visas as well as screening procedures. As part of the broader external actions and in order to facilitate the expected increase in global mobility, it will also be necessary to include provisions on social security coordination in the

agreements concluded between the EU and its Member States and third countries. Apart from the principle of equal treatment, such provisions could cover in particular export of pensions.

2.6. DEVELOPING A TECHNOLOGY BASED VISA POLICY AND THE INTEGRATED BORDER MANAGEMENT

The removal of the EU's internal border controls is one of the greatest achievements of European integration. An area without internal borders, which has expanded from 7 countries in 1995 to 24 countries at the end of 2007 cannot function, however, without shared responsibility and solidarity in managing its external borders.

Indiscriminate checks

The passenger flows at the external borders of the European Union have been growing and will continue to increase in the future. Taking into account the forecasts for international travel and its development in the mid-term⁶⁹, the current infrastructure at border crossing points, in particular at the airports, will have even greater difficulties in dealing with the growing numbers than today. Given that most of the passengers are so called bona fide travellers and are granted entry in compliance with the existing Regulations and rules, measures aimed at distinguishing them from other passengers and proportioning the intensity of the check to this kind of consideration would be desirable. Crossing the external border is not enough simple for bona fide travellers, which are subject to time-consuming, burdensome and costly checks at borders (entry and exit). Several Member States have developed pilot programmes and projects at various airports throughout the EU.⁷⁰ Yet, the different national Registered Traveller schemes are not interoperable across EU Member States, in absence of common standards and guidelines. This shortcoming calls thereby for an initiative a European level.

The concept of an integrated border management⁷¹ refers to an array of measures regarding third country nationals. While the Commission has taken important initiatives towards a greater degree of harmonisation of the common visa policy through the proposal for a visa code, the approach of national visas giving access to the entire Schengen territory will never allow for fully equal treatment of all applicants, nor a fully harmonised application of the criteria for security checks. National visas will also continue to pose problems in individual cases in terms of which Member State is competent for treating the application, depending on the main Member State of destination or entry into the Schengen territory.

In this context the possibilities of visa applicants to actually submit their application easily and without incurring additional costs, notably for travel, must be stressed. However, in large countries applicants may have to travel long distances in order to reach a consulate of a

⁶⁹ <http://tinet.ita.doc.gov/view/f-2000-99-001/index.html>. In 2006, the United States hosted 51 million international visitors, a 4 percent increase from 2005. The arrivals forecast for 2007-2011 predicts that by 2011, international arrivals will reach 61 million, an increase of 20 percent between 2006 and 2011. Forecasts are derived from Global Insight, Inc. econometric travel forecasting model and are based on key economic and demographic variables as well as DOC consultation on non-economic travel factors. The rates of the United States are used, because there does not exist comprehensive estimations from Europe.

⁷⁰ For example, in the UK at Heathrow, Gatwick, and Birmingham airports; in the Netherlands at Schiphol airport; in France at Charles De Gaulle airport; in Germany at Frankfurt airport; in Portugal at Lisbon airport.

⁷¹ Elaborated in annex 7.

Member State. Not all Member States are represented in all countries meaning that sometimes applicants may have to travel to another third country just to be able to submit their application. The Commission has presented a proposal to provide a legal framework for common application centers allowing Member States to cooperate more closely with a view to ensuring presence in all third countries. It has also sought to support pilot projects to this effect, the take up of which has however been limited so far.

Difficulty to manage control at the external borders

There are around 300 million EU27 annual external border crossings⁷² at designated border crossing points. It is estimated that 160 million of these border crossings are made by EU citizens, 60 million⁷³ by third-country nationals not requiring a visa and 80 million by third-country nationals requiring visas.

Efficient, extensive and effective border control makes a significant contribution to the level of security in the Member States. Border controls are a key component in the fight against illegal immigration and in countering cross-border crime such as terrorism, trafficking in human beings, drug smuggling, smuggling of weapons, etc. Three areas should be further explored in order to enhance the efficiency of borders controls: identification of overstayers (i); strengthening of surveillance at borders(ii); improvement of the practical cooperation through a strengthening of Frontex(iii).

(i) Border controls do not cope efficiently at the present time with the phenomenon of "overstaying". According recent data there were up to 8 million illegal immigrants within the EU in 2006, over half of which entered the EU legally but become illegal or irregular due to exceeding their right to stay. This finding underlines the importance of the check at border and suggests that entry and exit dates be recorded and related to an alert system when the third-country nationals overstays. Indeed, it is today very difficult to identify those third-country nationals who have overstayed their visa or visa free period. In theory, it should be possible to calculate the time a third-country national has spent in the area of the Member States on reading the stamps on the passport. However, they may be illegible or the target of counterfeiting. In addition, there is no record of the time spent in the Schengen area for third-country nationals. Due to these reasons, at the moment there is at the border crossing point no easy manageable and reliable mean of determining if a third-country national has overstayed his/her right to stay, no consistent record of entries and exits of travellers from the Schengen area, which could help to improve border management, security and planning and no possibility to gather information on overstayers.

(ii) Another shortcoming in the borders controls is the scanty part of the borders subject to surveillance. For the time being, owing to technical and financial limitations, national border surveillance systems are covering with permanent and mobile surveillance means only a few, selected parts of the EU external borders. Yet, this situation is not satisfactory, since as soon as border controls in one area have been reinforced or one illegal immigration route has been closed down, the smuggling networks use other methods and techniques or re-route their

⁷² IA SEC(2008)153. The figure was calculated by adding the number of trips of EU residents outside EU27 with the number of third-country nationals travelling to EU27.

⁷³ The figure was calculated on the numbers of trips made into Europe by the most important countries.

operations and so the transfer of the migratory pressure to other Member States or third countries not prepared to face them⁷⁴.

Consequently, a common framework for surveying the entire length of the Union's external borders, focusing in a first step on the southern maritime and eastern land external borders, is needed. To this end, cooperation with third countries located on the southern shores of the Mediterranean Sea in terms of detection, apprehension, reception and further processing and readmission of migrants shall be enhanced.

(iii) FRONTEX has faced high expectations from EU institutions, Member States and the public at large to take forward operational coordination to counter illegal immigration, in particular for the coordination of operations at the southern maritime borders. During the years 2006 and 2007 FRONTEX has conducted 33 joint operations and 10 pilot projects. However, this increase in Frontex powers is not sufficient against the challenges posed. Because of their short term duration operations conducted at high risk areas in 2006 and 2007 are not able to ensure effective border controls and surveillance which implies a permanent nature of the joint operations at specific high-risk areas.

Moreover, whereas one of the tasks of FRONTEX is to provide the necessary assistance for organising joint return operations of Member States, the Agency has only been involved for the organisation of nine joint return operations, concerning 361 returnees.

With respect to risk analysis, which is central in the fighting against illegal immigration, the level of cooperation with other law enforcement agencies such as Europol, Interpol and relevant counterparts in third countries is lagging behind. So far only a single joint risk analysis has been carried out with Europol.

Finally, cooperation with third countries, which constitutes a key component of the integrated border management model contributing to the successful implementation of joint operations, enhancing the added value of risk analysis, and supporting capacity building in third countries, yielded modest results. At date, this cooperation has translated in only 3 working arrangements.

EU added value

- fight against overstaying requires a coordinate action at EU level;
- As it is not tolerable that some Member States do not comply with their obligations and given that the control of the 6.000 km of land border and about 85.000 km of coastline lie unevenly with Member States, financial solidarity mechanisms, resources and human pooling are necessary;
- common centres allow economies for Member States and improve the quality of service provided to third-country nationals;

⁷⁴ For instance, in 2006, after tightened border control measures in Ceuta and Melilla as well as in Morocco, migration flows have partly shifted to Italy, mainly to Lampedusa, but also to Malta. In parallel, Sub-Saharan nationals and traffickers have found a new route leading to the Canary Islands.

- common rules with respect to visas giving access to the entire Schengen territory allow for equal treatment of all applicants and a fully harmonised application of the criteria for security checks

2.7. NEED FOR MAINSTREAMING COORDINATION AND COHERENCE OF ACTIONS AT EU AND NATIONAL LEVEL

Since it is a cross-cutting policy, migration should aim at becoming an integral part of policy making and implementation across a wide range of EU policies. In fact, mainstreaming migration into other policies is indeed already a concern and a reality in EU policy⁷⁵, but this comprehensive approach of migration issues must be pursued and further explored.

Migration has become a main component in demographic changes and must therefore be addressed as one of the most relevant factors in future demographic and economic developments. Environmental problems, as food shortages, may trigger migration and should therefore be considered taking into account the diverse facets of the issue.

Migration has obviously a close link with integration policy, insofar as foreign-born nationals take with them differences which need to be duly taken account in order that they become an asset for them as for the hosting society. Tax measures may also constitute as helpful tool to attract people into employment and deter them from the shadow economy.

Illegal migration, smuggling and trafficking touch upon a number of matters. Besides security matters, an in-depth dialogue with countries of origin is needed to tackle the problems at the root strengthen political dialogue on the human rights dimensions of antitrafficking policies and continue to raise the issue in relevant regional and multi-lateral fora. It is also indispensable to counteract the best as possible adverse effects such as brain waste and to propose legal paths.

2.8. NEED FOR BETTER MONITORING AND EVALUATION

As recognized by The Hague Programme (2004)¹, “evaluation of the implementation as well as of the effects of all measures is, in the European Council's opinion, essential to the effectiveness of Union action”⁷⁶. According to the Action Plan implementing The Hague Programme, a Communication was presented with a view to developing an evaluation mechanism at EU level⁷⁷.

Existing monitoring and evaluation mechanisms are indeed too fragmented and need to be merged in one coherent and comprehensive mechanism for evaluation of EU policies on freedom, security and justice. This mechanism encompass both monitoring implementation, which consists of reviewing progress on carrying out policies, and evaluation of the results, defined as “*judgement of interventions (public actions) according to their results, impacts and the needs they aim to satisfy*”⁷⁸.

This proposal seeks to remedy the current lack of evaluation culture and overall evaluation mechanisms, which notably translate into insufficient consultation of the diverse stakeholders,

⁷⁵ See annex 5

⁷⁶ Annex 1 to the Presidency Conclusions of the Brussels European Council, November 2004

⁷⁷ Communication from the Commission to the Council and the European Parliament, 28 June 2006, (2006)332 final, Evaluation of EU Policies on Freedom, Security and Justice

⁷⁸ SEC(2000) 1051

insufficient availability of statistics, analysis ability as well as absence of indicators, and is intended to allow a comprehensive assess of the results achieved on freedom, security and justice, from a quantitative and qualitative perspective, while contributing to the general EU objectives of transparency and better regulation.

A three-step progressive mechanism is proposed in the aforementioned Communication, building on information and subject to consultation, then to a reporting mechanisms and an in-depth evaluation. This information is underpinned by overall policy objectives and a set of indicators.

Finally, it is worth noting that, with more and more legal instruments in the area of immigration being adopted and entering into force, monitoring their transposition by the 27 Member States is becoming more and more a challenge, especially for the European Commission. Reinforcing the human resources allocated to this task is a necessity in order to ensure that, also in this policy area, the Commission will continue to live up to its institutional role as the “Guardian of the Treaty”. However, outsourcing of at least the factual data collection parts may prove a resource saving complementary action while bearing in mind that the legal and political assessment of the transposition situation in Member States will always remain the exclusive responsibility of the Commission which cannot be transferred to any other body or entity. The possibilities offered by outsourcing were first tested in 2007 when a contract was signed with an external contractor to do a first substantive conformity checking of measures of transposition with respect to 10 directives from the immigration and asylum field. This study, which was released at the beginning of 2008, will allow an in-depth monitoring of the current immigration and asylum legislation adopted in Member States, facilitate the drafting of application reports and possible infringement procedures. Further studies of this kind will have to follow in the future.

2.9. NEED FOR MORE SOLIDARITY, MUTUAL TRUST, TRANSPARENCY AND EFFICIENCY

As a consequence of the absence of border checks in the Schengen area, of the common visa policy, of the tight economic and social relations between EU Member States and the development of common immigration and asylum policies since the entry into force of the Treaty of Amsterdam, asylum and immigration measures taken by one Member State are likely to have an impact on other Member States. For instance, a very restrictive migratory policy in one Member State may deviate migration flows to its neighbours, whereas a regularisation procedure may attract illegal immigration into one Member State, from which regularised migrants could afterwards more easily move to other Member States. Other national asylum and immigration measures, including, among others, changes in procedures for granting international protection, determination of safe countries of origin, admission programmes for third-country nationals (including quotas), and integration measures may also have an impact on other Member States or on the Community as a whole.

A parallel and harmonious development of national and Community asylum and immigration policies is therefore needed. In this sense, it is essential that Member States and the Commission be kept informed of important new measures taken by every Member State. Otherwise, if no action towards better information and coordination is taken, the risk exists that the development of divergent and even contradictory national policies will undermine the efforts to build common EU asylum and immigration policies.

In order to facilitate the exchange of different types of information between Member States, the mutual information mechanism concerning Member States' measures in the areas of asylum and immigration⁷⁹ (MIM) has been set up and became operational in Spring 2007. Besides the MIM, other networks are managed at EU level in order either to exchange relevant information, or to facilitate the exchange of good practice. For instance, ICONet is a secure web-based information and coordination network for Member States' Migration Management Services⁸⁰ and is used to exchange strategic, tactical and operational information concerning illegal migratory movements and the fight against such phenomena.

As called for by The Hague Programme, the Commission has developed a widely accessible website to support the promotion of structural exchange of experience and information on migration policy. It will be operational in the course of 2008.

Moreover, European Forums such as European Integration Forum, enable to assemble stakeholders active in the area of integration at EU level and allow exchange of expertise.

Establishment of common definitions, statistical standards and guidelines contribute also to the coordination of actions. Indeed, the lack of common terminology makes more difficult the exchange of information between Member States and the improvement of practical cooperation. Harmonised and comparable Community statistics on migration and asylum are essential for the monitoring of Community legislation and policies and for an exchange of statistical information.⁸¹

In order to achieve the quality of Community actions and a better integration of all interests, it is also necessary to promote stronger involvement of the social partners. The Treaty confers a specific role to the social partners, based on their capacity to give input to policy-making in the social field and to take own action in the areas of employment and working conditions which may have an impact on migrant workers and their families.

Solidarity

The framework programme "Solidarity and management of migration flows" aims at addressing the issue of a fair share of responsibilities between Member States as concerns the financial burden arising from the introduction of an integrated management of the Union's external borders and from the implementation of common policies on asylum and immigration.

The allocation of financial resources to Member States within each Fund is based on specific and objective criteria which reflect the current and forthcoming situation of the Member State with regard to the obligations undertaken on behalf of or for the overall benefit of the Community for the policy area concerned. For this purpose, the instruments foresee the use of

⁷⁹ OJ L 283 14.10.2006, p. 40

⁸⁰ OJ L 283, 1.4.2005, p. 48

⁸¹ To this end, following a series of "gentlemen's agreements", Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection has been adopted with a view to ensure, in a uniform manner, regular, timely and rapid delivery and dissemination of harmonised data. In the area of integration, in the absence of clear legal base for community legislation, Handbooks on Integration for Policy-Makers and Practitioners, compiled in cooperation with NCPs together with regional/local authorities and non-governmental stakeholders, have proved to be a useful a driver for the exchange of information and good practice.

Community statistics, and where these are not available, national statistics, in compliance with the new regulation on migration statistics.

Provisions have been made not only to avoid any kind of duplication between Funds, but also to ensure the development of synergies wherever possible⁸².

The same provisions have been defined for the operation of the four instruments: multiannual strategic programming cycles (with two periods defined as 2007-2010 and 2011-2013) on the basis of guidelines communicated by the Commission, annual allocation of resources and operational programming, multiannual evaluations.

3. WHAT ARE THE MAIN POLITICAL ORIENTATION AND OBJECTIVES? (EXPLANATORY MEMORANDUM)

Principle 1 – Clear rules

Owing notably to demographic, economic and political factors, migration flows are not expected to decline in the next years. Building on that certainty, migration should be managed in the interest of all interested parties, host societies, sending countries and third-country nationals.

Drawing up clear and transparent rules is a pre-requisite for the definition of a migration policy. First, migrants should decide to head for Europe on the basis of realistic prospects and founded hopes. They should be provided objective and clear information on the diverse legal existing channels to be admitted in Europe, while at date existing channels of information (family network, smugglers) are biased towards more rosy prospects. Moreover, they should be aware that these legal possibilities are all-comprehensive and that illegal migration is not an alternative to the legal pathway. Setting up clear and transparent rules for entry and residence also means that (potential) immigrants and applicants for legal immigration should be made fully aware of what their rights will be as legal residents, and which rules they have to comply with if they intend to remain in the EU. The latter information should not only cover residence conditions, rules under which the residence permit may be withdrawn or not renewed, appeal rights and procedures, but also explain the realities of life in the EU, the need to respect the basic values of the European Union, such as rule of law, equality, antidiscrimination, solidarity, openness, participation and tolerance.

Information is a necessary but not a sufficient measure. As much as possible, migrants shall also be provided with concrete and realistic possibilities to fulfil the requirements to be issued a visa and a residence permit, for instance through linguistic courses when linguistic skills are required as pre-requisite for entry. This is in particular very important when it comes to exercising the right to family reunification.

The objective of a better integration will also follow from an enlarged set of rights. As far as possible, third-country nationals should benefit from the same rights as the EU citizens, as called for in the Tampere European Council conclusions of 15-16 October 1999. Besides the direct implication on the economic ability of migrants, these measures would be an important

⁸² Particular attention has thereby been given to the issue of complementarity and synergy of actions between the Integration Fund and the European Social Fund (ESF), both in the definition of the objectives of the Integration Fund and in its implementation

signal that host society recognizes the positive contribution of third-country nationals to the European economy. From the host societies' perspective, a pedagogical exercise is in fact also crucial. Rejection of migrants is often fuelled with ignorance and phantasms. Raising awareness of the diverse contributions from migrants to European societies will pave the way to a better acceptance by the receiving societies and consequently to a better integration of the foreign nationals.

Principle 2 – Economic migration

Against the background of a decreasing working age population in Europe and forthcoming growing labour shortages, migration is one of the possible options aimed at compensating adverse demographic tendencies. Beyond the demographic and economic challenges, migration policy, actively involving social partners, must strike the balance between the interests of third-country nationals, sending countries and host societies and endeavours to meet short-term needs, while anticipating long-term impacts.

This policy thereby goes along with employment and educational policies seeking to reduce unemployment of national citizens and third-country nationals already legally residing in the EU, notably through lifting up the level of educational attainment, granting them further economic rights, including training and education, as soon as possible, as suggested in the proposal for a framework directive, making best use of the attainment of third-country nationals thanks to a better recognition of qualifications and reducing the attractiveness of illegal work. The contributions of the foreign-born entrepreneurs to the European economy should be better assessed, and encouraged through a removal of the obstacles they may encounter. Fighting against discrimination at the work place remains also a priority. Within the framework of this policy consisting of harnessing existing potential, efforts should focus on the female immigrants who display low employment rates and suffer the most from "over-qualification". In this context Member-States will also be encouraged to further enhance their action towards improving the labour market situation of migrants in the context of the Structural Funds⁸³ and to strengthening their labour market infrastructures, above all public employment services (PES), in a way which takes account of the opening of legal paths to economic migration. Furthermore within the European Employment Strategy comprehensive lifelong learning strategies will be promoted to ensure the continual adaptability and employability of workers, particularly the most vulnerable and effective active labour market policies that help people cope with rapid change, reduce unemployment spells and ease transitions to new jobs; and modern social security systems that provide adequate income support, encourage employment and facilitate labour market.

This policy must however be carried out in full respect of the principle of community preference, which should translate consequently and first of all into the removal of the transitional barriers to access to the labour market as soon as possible.

This policy should also be carried out in parallel to other complementary actions in order to avoid negative side-effects. As regards the negative consequences for the sending countries, the effect of brain drain should be reduced thanks to measures aimed at encouraging training, harnessing the educational potential of third-country nationals and fostering temporary or permanent return.

⁸³ Over the last years, the ESF has financed many actions in favour of immigrants and ethnic minorities. Present estimates suggest that the ESF trains or supports more than 600.000 immigrants and ethnic minorities per year.

Additionally, it is crucial to take advantage of the enhanced mobility of migrants and to allow an intra-EU mobility where appropriate in order to maximise the benefits of migration. It is fundamental for the EU labour markets to be able to fill relatively quickly changing needs in the labour markets of the Member States: to make this happen, mobile third-country workers should not only be granted enhanced mobility, but also they should not be penalised in comparison to non-mobile third-country workers in respect of family life or the acquisition of permanent residence. A first step in this direction has already been taken with the Commission proposal on entry and residence conditions for highly qualified workers.

The largest benefits of migration will be reaped on condition that migrants and host society be complementary. The issue of migration cannot be limited to a quantitative problematic: increased prosperity, rather than an increased size of the economy, should be the end result.

Benefits of migration are maximized when the economic needs of the host society are taken into consideration, without of course prejudice to forms of migration other than labour migration, such as family reunification, students, etc. As regards economic migration, conditions of admission should as far as possible build on a needs assessment and labour matching policies, which require an enhanced information towards third-country nationals and a possible training in countries of origin. This more effective matching between labour needs and necessary skills will have a crucial contribution to the promotion of labour utilisation and labour productivity and therefore growth and jobs. At Community level, the EU will encourage the coordination of forecasting instruments at both national and European levels to ensure a closer adequacy between labour demand and supply. Given the high demand of highly skilled workers across Europe, simplified and non-bureaucratic procedures, such as the scheme proposed in the blue card directive, should be put in place to facilitate their entry. Low skills are also indispensable, notably to meet the growing needs for childcare and elderly care. An efficient management of migration requires in any event a strengthened coordination between EU and national levels, with a view to preventing inconsistencies.

Systems for admission should be able to satisfy shifting labour needs and to provide accordingly a swift reaction in response to this demand. In order to take efficient and informed decisions on policy and legislation, it is therefore crucial that policy makers in the EU become fully aware of the real needs and gaps on the national labour markets, of course to the extent possible as these needs may change – also quickly – over time. The first comprehensive assessment of the future skills requirement in Europe up to 2020 called on by the European Council of Spring 2008 will underpin the future immigration policy. On the basis of this assessment, immigration profiles could be set up, providing a clear picture of needs at a European level. Symmetrically, an in-depth knowledge of the skills composition of the migratory flow will underlie the reviewed management of migration. Beyond the direct matching of demand on the labour markets, the guiding principle of the policy should be the promotion of labour adaptability and mobility, in order to prevent any ulterior mismatch and to improve labour market efficiency.

Principle 3 – Integration

Integration of third-country nationals is a process of mutual accommodation by both the host societies and the immigrants and an essential factor in realising the full benefits of immigration. There can be no immigration without integration.

The EU policy framework is the 'Common Agenda for Integration', implementing the 'Common Basic Principles for Immigrant Integration Policy in the EU' established by the

Council. The implementation of the EU framework for integration needs to be further consolidated. A strong political commitment is needed to achieve further progress. In the future, EU co-operation should go beyond the exchange of information and practice.

There is a common understanding that the Commission has to pursue its integration agenda with determination, focus and coherence. The mainstreaming approach based on the Common Agenda for Integration has already been followed and should be further strengthened. In accordance with one of the most important elements of good governance, both mainstreaming and targeting are necessary to achieve progress. That is why at the same time strengthening migration/integration in other relevant policies is needed, as well as targeting this area and target group of immigrants in a specific instrument.

The integration of legal immigrants shall be improved by strengthened efforts from host Member State and contributions from immigrants themselves (“two-way-process”). At each step of the migrant journey and of the integration process, different provisions must be taken for backing the efforts of the migrants towards integration and providing for the conditions of equal opportunities.

This implication of the host society should be marked as regards specific integration programs for newcomers, who should be not only indicated the way to go but also granted the means to follow it, possibly varying according to their length of stay. In this connection, implications of new forms of migration such as circular migration with regard to integration policies should be further explored. Language tuition and an efficient orientation also from the employment services should be for instance provided by the receiving country. Adaptation of public services to migrants particularities, in order to enable them to make the best use of these provisions, fight against discrimination, promotion of diversity management at the work place and awareness rising amongst all actors concerned, fall under the obligations of the hosting society. Gender issues should be paid a specific attention, given on the one hand the disadvantages that they face with respect to unemployment and over-qualification, and on the other hand the central role of migrants mothers regarding the socialisation of the children.

Development of indicators and regular evaluation are indispensable prerequisite for improving the situation, as proved by many studies. Community action will thus continue supporting, notably through The European Integration Fund, national actions dedicated to measures of performance.

A crucial element for the successful integration of immigrants is the exercise of the right to family reunification. Family reunification is a necessary way of making family life possible. It helps to create socio-cultural stability facilitating the integration of third country nationals in the Member State, which also serves to promote economic and social cohesion, a fundamental Community objective stated in the Treaty. The basic conditions under which such right can be exercised by third-country nationals legally residing in the Member States are set out in Council Directive 2003/86/EC, which in its Article 19 also foresees that the Commission shall report on its application and, if necessary, propose amendments (clause of rendez-vous). Such report is due to be presented in the course of 2008.

Principle 4 – Political solidarity, mutual trust, transparency, shared responsibility and information

In order to achieve efficiency and coherence in migration policies at national and EU level, it is necessary to further strengthen coordination between the different competent tiers.

Coordination requires that at Member State level as well as at EU level, migration policy is designed and implemented in a transparent manner and in full compliance with the competences of each level. To that end, best use must be done of the mechanism of Mutual Information System, created in 2006. The resort to this tool must be both more frequent and earlier in the process of policy-making in order to enhance its efficiency.

Exchange of information as well as exchange of best practices should be further promoted, through working groups including representatives of EU and of Member States, as well as wider fora allowing for the participation of civil society in the debate. This continuous debate is a pre-requisite for the establishment of a mutual trust and an indispensable condition for releasing a clear and univocal message at a world level, by means of taking a concerted approach in all aspects of immigration policy.

Coordination necessitates also appropriate adequate resources within all relevant national and Community financial instruments, constant review aiming at preventing any overlaps, pooling of technical means and human resources and interoperable systems.

Principle 5 – Solidarity

The development of the area of Freedom, Security and Justice requires adequate financial resources and appropriate burden-sharing, which translated into the framework programme “Solidarity and management of migration flows” for 2007-2013.

Financial solidarity is a valuable tool in order to ensure a similar application of the community legislation and policies without imposing a disproportionate task on individual MS. Furthermore, financial solidarity promotes mutual trust through cooperation, dissemination of best practices and enhancing of knowledge on border management and migration policy. In implementing it, it is necessary to ensure that EU funds are used at best to face common challenges and achieve results in the interest of all Member States. This is in particular true in respect of the External Borders' Fund, where a high degree of coordination and interoperability is a necessary prerequisite for achieving an efficient control of the external borders of the EU.

With a view to ensuring effectiveness of action, a first evaluation on the operation of the framework programme will be carried out in 2010, at the time of the review of the Hague Programme; the results of this evaluation will also feedback into the management and operation of the programme. Evaluations of the results of the multiannual programmes under the Funds will be made available in 2012.

As the programme is a flexible tool which is likely to adapt to evolving needs and priorities, the financial distribution keys in the areas of integration and external borders will be possibly reviewed, notably, in the case of integration, in light of the results of the final evaluation of preparatory actions initiated in 2005.

Designed as a flexible instrument, implementation of the Programme needs to be carried out at regular intervals. Total appropriations of the Programme, in the context of the budget review 2009, as well as the distribution key for the allocation of the resources to the Member States, will be questioned, following an evaluation of the implementation, in a view to adapt to new national situations.

Principle 6 – Need for a genuine partnership with third countries

An effective management of migration flows requires a genuine partnership with third countries. This implies that the EU needs to further develop and deepen its relations with selected third countries. The EU needs to work much closer during the coming years with partner countries on opportunities for legal mobility, building capacities for migration management, protecting fundamental rights and fighting irregular flows. The EU and its Member States will need to invest more human and financial resources into developing mutual trust and a sense of ownership in the partner countries with a view to helping them develop policies for well-managed migration. This work will also include a focus on employment and labour market policies for improved assessment of the match between national labour market trends and human capital development, bringing education and vocational training systems more in line with national, regional and global labour market needs.

Moreover, more resources will be focusing on compliance with decent work standards, and in line with 2007 Council Conclusions, the EU will further develop policies on ethical recruitment and how to prevent, avoid and mitigate brain drain and brain waste. Other initiatives will continue to focus on how to harness the development potentials of remittances, supplementing the involvement of the diasporas in promoting the development of their countries of origin, and facilitate returnee entrepreneur businesses. Attention will also focus on facilitating real possibilities for circular migration, by setting up or strengthening legal and operational measures granting legal immigrants the right or a priority for further legal residence in the EU, and by ensuring the brain circulation becomes a viable alternative to brain drain in identified key shortage sectors. Furthermore, sustainable voluntary return and social as well as economic reintegration in migrants source countries will require more focused work in the border-area between migration and development policies.

Exploratory work takes place with the concept of mobility partnerships. The setting up of a growing number of such partnerships may require additional resources. Some of them should be paving the way towards firm arrangements for the management of labour immigration with selected long-term strategic allies, geared towards mutual benefits.

The European Union will also further develop its leading role in the global governance of migration and fully engage in existing and future mechanisms for dialogue and cooperation in order to ensure full implementation of existing commitments in multinational forums. This will also include further integration of EU activities and presence into regional cooperative processes of relevance for migration.

In sum, the further deepening and strengthening of external cooperation on migration with third countries will have to focus to a large extent on the concept of partnerships. Further policy developments will require a consolidation of what has already been embarked upon in terms of a policy framework, through mainly the Global Approach but also with a view to further integrate and mainstream migration into other external policy areas such as foreign and development policies but also relatively unexplored areas, such as trade, agriculture and fisheries and finance policies. This will also be in line with the next generation of the Global Approach and the further refinement of its tool box of instruments, so that Community and Member States resources are used efficiently, in solidarity and pooled in a coherent and consistent manner.

Principle 7 – Enhance security and facilitate the entry of bona fide travellers

The development of the integrated four-tier access model as such was described in the Communications and impact assessment forming part of the border package of 13 February 2008.

In relation to visa policy, in the long-term it is necessary to build on the achievements currently under way with a greater degree of harmonisation through the proposed visa code and increased cooperation between Member States through common application centres. In this perspective, only a development towards truly European short-stay visas will ensure an equal treatment of all visa applicants. This goal was already included in the Tampere Programme, and would entail a full harmonisation of the criteria for giving a visa as well as of the practical implementation of those criteria. A logical and necessary development towards managing the visa applications at common European visa centers should accompany the move to European visas, gradually replacing the issuing of visas at national consulates. The pooling of resources and economies of scale that would be achieved would also ensure easy access of applicants to the premises where such visas would be issued, as such European centres should be set up in all third countries. The further development of these centers will need to be coordinated with the developments of the Common External Action Service, where the future EU delegations could possibly take on the tasks in question and staffed by either EU officials or pooled national officials.

Principle 8 – Integrity of Schengen territory

The Community policy in the field of the EU external borders aims at an integrated management ensuring a uniform and high level of control, which is a necessary pre-condition to the free movement of persons within the European Union and a fundamental component of an area of freedom, security and justice.

The measures needed to take forward border checks and new systems, the establishment of a European border surveillance system and the reinforcement of the Frontex Agency were analysed in the impact assessments accompanying the border package of 13 February 2008. This package included measures to reinforce all dimensions of border controls, that is, border checks, border surveillance and operational coordination:

- measures to develop border surveillance, by improving cooperation between Member States and by using new technology;
- reinforcement of operational coordination between Member States through FRONTEX (the EU Border agency) by fully exploiting the current mandate of the Agency, in particular by further intensifying joint operations between Member States including sea border patrols;
- the introduction of an entry-exit system to record the dates of entry and exit of each third-country national admitted to the Schengen area using biometric identifiers. This will verify that a person is not overstaying;
- a registered traveller programme to facilitate border checks for certain categories of frequent travellers from third countries, by pre-screening travellers wishing to be part of such a programme and by introducing automated checks to speed up their border crossing;

- launching a discussion on whether a system requiring an electronic authorisation to travel before arriving at the border itself could be introduced for people not requiring a visa.

It is however also necessary to ensure a coherence between internal and external policies in the field of border management. Properly managed borders in neighbouring regions can enhance European security as well as facilitate travel for third-country nationals, while improving access to international protection for those in need. A more strategic approach in selecting key partners for this purpose is needed, with a clearer definition of comprehensive long-term objectives that go beyond mere technical assistance. The setting of objectives should take into account the role of sound border management in improving the stability of certain regions as well as crisis management. A coherent approach to search and rescue activities in the maritime domain must involve closer cooperation with third countries taking into account migratory pressure. Moreover, better coordination between measures taken at national, European and international level must be put in place.

The financial dimension is not only relevant for supporting the cooperation with third countries described above. The mechanisms for ensuring burden-sharing and mutual solidarity between Member States in managing the EU's external borders must be continuously refined also. These mechanisms must take into account the need for supporting investments and capacity-building as well as a burden-sharing component for the operational costs incurred in the daily management of the borders, costs which due to the functioning of the Schengen area are not evenly distributed.

Principle 9 – Enhancing the fight against illegal employment and undeclared work

Illegal immigration is driven by a range of push and pull factors. Decisions to migrate are based on push factors such as unemployment or permanently low wage levels and natural disasters, political instability or ecological devastation, and of pull factors such as employment with higher wage levels (including informal employment), political stability, maintenance of the rule of law and effective protection of human rights. Undeclared work and illegal employment can seriously undermine legal migration policies. These phenomena are fairly spread and they have negative implications affecting the objectives of the Lisbon Strategy, in particular with regard to employment and social cohesion. Combating illegal employment of illegal third country nationals and undeclared work of lawful residents is as important as integration efforts and should complement them. Initiatives in this area should focus on prevention, sanctions and enforcement and must involve European institutions and Member States as well as key stakeholders, such as social partners, at all relevant levels. As concerns in particular the employment of third-country nationals in an irregular position, an important step forward will be done with the adoption of the proposal for a directive providing for sanctions against employers of illegally staying third-country nationals⁸⁴, currently under negotiation in the European Parliament and in the Council. This will bring positive effects in the form of reduced losses to Member States public finances, less pressure on working conditions and less distortion of competition between EU businesses.

As confirmed recently by a Eurobarometer survey, high levels of taxation, social security contributions and administrative red-tape are the main drivers of undeclared work, in

⁸⁴ COM(2007) 249 final of 16.05.2007

particular for atypical and seasonal work, but the increasing trend towards sub-contracting and false self employment also calls for special attention.

More generally, incentives towards declared work should be beefed up, including further improvements of the tax and social security system. The sanctions represent the other side of this policy approach. Twin efforts in terms of financial and human resources in the one hand, preparation (risk tolls analysis) and coordination (cross-checks between administrations possibly organised by a European platform for cooperation between labour inspectorates and other enforcement bodies, exchange of good practices) and evaluation of controls on the other hand, of should be undertaken. Legislation, monitoring and sanctions schemes must adapt to new kinds of fraud such as sub-contracting and false self employment and encourage, with a view to curbing efficiently the phenomena, the setting up of specialised control bodies and international cooperation, if needed through international cooperation agreements⁸⁵.

Principle 10 – Fighting smuggling of migrants and trafficking in human beings

Combating migrant smuggling and trafficking in human beings is a central part of the fight against illegal immigration and in favour of the protection of human rights.

It requires a appropriate legislation adapted to new forms of criminality, actual law enforcement, enhanced international cooperation and a central attention paid to victims.

Legislation must be reviewed in order to better reflect new criminal phenomena and to offer a enhanced protection to victims. Accordingly, existing legal framework on the facilitation of illegal entry and stay as well as the sexual exploitation of children should be strengthened and adapted to today's realities.

Design of comprehensive regulations is the first step to combat smuggling and trafficking, but the practical implementation of the legal material requires most attention. First, it should be ensured that investigative techniques, civil society organisations funding, more generally all prosecution and protection measures are endowed sufficient resources. Second, owing to the cross border nature of the phenomenon, regional and international level of EU action should be stepped up, especially making use of the international instruments against human trafficking that are in place at regional and international level. The EU should take a stronger role in assisting countries of origin of trafficked people, especially those where the financial and administrative capacity is not sufficient to the task.

Building on minimum standard of assistance measures provided by Community and international instruments⁸⁶, unconditional assistance should be provided to all victims of trafficking, regardless of their interest in the criminal justice process, in a non-discriminatory manner and in compliance with basic principles derived from international human rights norms, in particular the respect for privacy, confidentiality, self-determination and freedom of movement. The safety and protection needs of the victims must be ensured. Following from an individual needs assessment, tailored assistance should be offered and be based on a cross

⁸⁵ Commission recommendation of 31 March 2008 on enhanced administrative cooperation in the context of the posting of workers in the framework of the provision of services

⁸⁶ Article 6 of the UN Palermo Protocol to prevent, suppress and punish trafficking in person, especially women and children; Article 12 of the CoE Convention on action against trafficking in human beings; Articles 6-12 of the EU Council Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities.

cultural and gender-sensitive approach, including insights about the effects of physical and sexual abuse. Given the particular vulnerability of children, special rights must be also granted to them, including the representation by a legal guardian or equivalent authority as soon as a child victim is identified, in the best interest of the child. Service providers for trafficked persons should develop standards based on clear and measurable indicators, to regularly monitor and assess the quality of their services.

In the light of the twin aim to allow the trafficked person to complete his/her recovery and to achieve a long-term social inclusion, and in full respect of the existing Community legislation, the additional cases where the Member States should grant a temporary or a permanent residence permit to the victim should be assessed, taking into account the personal situation of the victim concerned. In this respect, the Commission intends to report on the application of Council Directive 2004/81/Ec and, if necessary, propose amendments (clause of rendez-vous included in Article 16 of the Directive).

Principle 11 – Sustainable and effective return policy – regularisations

Along with the consolidation of legal channels and the long-term work on the root causes, and besides improvement of border management, fight against criminal networks and undeclared work, return policy is a crucial component of the fight against illegal immigration. These measures contribute also to the acceptance by the EU citizens of a more open legal migration policy.

An effective return policy, whilst respecting the human rights and fundamental freedoms of the person concerned, requires an improved operational co-operation among Member States, intensified partnership with third countries and the setting up of common standards.

Community rules are in particular indispensable for addressing cases where a third-country national who is already the subject of a return decision, removal order and/or re-entry ban issued by one Member State, is apprehended in another Member State or tries to enter another Member State. The mechanism of a "re-entry ban", as foreseen in the proposal on common standards and procedures in MS for returning illegally staying third-country nationals, has a dissuasive impact and would in principle accompany removal orders. The generalisation, at the European scale, of the effects of national return measures intends to have preventive effects and foster the credibility of a truly European return policy.

As a number of return decisions cannot be implemented because the returnee has no documentation, stress will be put on measures aiming at facilitating identification of undocumented returnees and preventing identity theft.

With respect to joint returns, the implementation of the legislative framework⁸⁷ must be improved and the role of FRONTEX in supporting joint return operations must be strengthened, in line with the request from the conclusions of the Council of June 2007.

Addressing regularisation is also a priority in order both to remove a pull factor and to avoid secondary movements of migrants within the EU. The Commission is conducting a study on regularisation programmes in Member States which shall serve as a basis for future

⁸⁷ Council Directive 2003/110/EC of 25 November 2003 on assistance in cases of transit for the purposes of removal by air and Council Decision 2004/573/EC of 29 April 2004 on the organisation of joint flights for removals

discussions on this issue with the Member States and which may lead to further initiatives in the coming years. Furthermore, experience has shown that is indispensable to go beyond the Council Decision of 5 October 2006 on the establishment of a mutual information mechanism concerning Member States' measures in the areas of asylum and immigration. Improving the mutual exchange of information thanks to a timely communication of the relevant information is a minimal requirement.

4. FUTURE METHODOLOGY: BETTER GOVERNANCE OF IMMIGRATION

4.1. Coordinated and coherent action

Immigration, being a complex and multifaceted phenomenon, requires a mix of policy replies which covers a wide range of issues and fields: demographic constraints, economic needs, social expectations, health impacts, trade commitments, development musts, education opportunities, security dimension, etc. Any further development of the common Immigration Policy, in order to be effective, will have to ensure that migration issues are factored (“mainstreamed”) into all related policies. Moreover, as a consequence of a shared competence policy area and taking into account this variety of issues, **coordination between the EU and the national level**, especially in the area of economic, social and development policies, must be significantly fostered.

Timely, transparent and systematic **consultation of all relevant stakeholders** on further policy developments has to be ensured. In the immigration area, stakeholder consultation includes between others Member States’ experts, third countries, international organizations, but also civil society with the non-profit sector, the industry (namely through public-private partnerships), academia, relevant EU agencies such as the European Union Agency for Fundamental Rights or the European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX). These stakeholder consultations should also be used to gather and cross-check relevant information.

4.2. Common methodology

Any further policy development will have to take into account the immigration situation in each Member State with regard to stock and flow data. To this end specific **immigration profiles** should be developed for each individual Member State in order to establish the skills composition of the existing immigrant population and possible future labour needs. The comprehensive overview needed for drawing up such profiles would have to be fuelled by a multitude of sources, including state agencies, social partners, academic expertise, international organisations, immigrants associations and civil society.

On the basis of individual immigration profiles, **multiannual guidelines and objectives** should be defined in order to ensure that, in future, the skills available within the existing immigrant population and the concrete labour market needs of the host Member State better match. Setting up clear guidelines and objectives covering a multiannual period constitute important steps towards further common action as they give a meaning to the day-by-day policy.

Once the multiannual guidelines and objectives are set, it is also necessary to devise **evaluation and monitoring mechanisms** providing regular feedback to policy makers. To allow for policy improvements, quantifiable performance indicators and benchmarks should be developed, ideally per Member State. **Availability of statistics** and of the necessary

analytical capacity is a key component in the development of any evaluation system. Indeed, statistics will be required as baseline data to assess whether existing needs are being addressed and, ultimately, to be able to draw conclusions about the impact of policies. Improvements should be made in three areas: quality, availability and analysis. The overall aim of better evaluation and monitoring should be to ensure a more determined enforcement of political commitments and legislative obligations.

Annual immigration reports by the European Commission should be presented to provide a comprehensive overview, analyse possible labour market needs and allow the Council to make a political assessment and issue policy recommendations. Submission of these reports to the European Council should be envisaged, preferably to the **Spring European Council** to strengthen the link with the Lisbon Agenda.

ANNEX 1 – ILLEGAL IMMIGRATION

Achievements

The Treaty of Amsterdam sets out Community competences in the area of combating illegal immigration in its Title IV. Article 62 TEC as the legal base for measures relating to border controls and visa policy, and Article 63 (3) TEC as the legal basis for measures on illegal immigration and illegal residence, including repatriation of illegal residents.

On the base of these articles, several measures have been adopted to fight against illegal immigration, harmonise the legal framework and improve practical co-operation:

Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals (applicable as of 2 December 2002)

- (1) Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985 (applicable as of 11 February 2003);
- (2) Council Framework Decision 2002/496/JHA of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence (applicable as of 5 December 2004) adopted under Title VI of TEU constitutes another important element of the development of a common EU policy against illegal immigration.
- (3) Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence (applicable as of 5 December 2004);
- (4) Council Directive 2003/110/EC of 25 November 2003 on assistance in cases of transit for the purposes of removal by air (applicable as of 6 December 2005);
- (5) Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities (applicable as of 6 August 2006);
- (6) Council Decision 2004/191/EC setting out the criteria and practical arrangements for the compensation of the financial imbalances, complementing the 2001 Directive 2001/40/EC on mutual recognition of decisions on the expulsion of third-country nationals
- (7) Council Decision 2004/573/EC of 29 April 2004 on the organisation of joint flights for removals from the territory of two or more Member States, of third-country nationals who are subjects of individual removal orders (applicable as of 7 August 2004);
- (8) Council Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network (applicable as of 5 January 2004);
- (9) Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data (applicable as of 5 September 2006);

- (10) Council Decision 2005/267/EC of 16 March 2005 establishing a secure web-based Information and Co-ordination Network for Member States' Migration Management Services (applicable as of 21 April 2005);
- (11) Commission Decision of 15 December 2005 laying down detailed rules for the implementation of Council Decision (2005/267/EC) of 16 March 2005 C(2005) 515 final
- (12) Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex)
- (13) The European Parliament and the Council Regulation (EC) No 562/2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)
- (14) The European Parliament and the Council Regulation (EC) No 1931/2006 laying down rules on local border traffic at the external borders of the Member States and amending the provisions of the Schengen Convention
- (15) The European Parliament and the Council Regulation (EC) No 863/2007 establishing a mechanism for the creation of Rapid Border Intervention Teams and amending Council Regulation (EC) No 2007/2004 as regards that mechanism and regulating the tasks and powers of guest officers.

There are also several other Regulations that are particularly relevant in this field, notably the European Parliament and the Council Regulation (EC) on the Visa Information System (VIS) and the exchange of data between Member States on short stay-visas.

In addition, the Commission Recommendation establishing a common Practical Handbook for Border Guards was adopted on 6 November 2006.

With regard to funding measures, two funds have been put in place in the area of illegal migration on 23 May 2007: the external borders fund (EBF) and the European Return Fund (ERF). The EBF supports Member States with specific requirements for checks and surveillance of long or difficult stretches of external borders and Member States confronted with special and unforeseen circumstances due to exceptional migratory pressures on their external borders. The EBF is operational already 2007 and it will apply for the financial period 2007-2013 with €1.82 billions. Regarding the financial dimension of return, a ERF has been established for the period 2008-2013 as part of the general programme: "Solidarity and Management of Migration Flows", in order to support the efforts made by the Member States to improve the management of return in all its dimensions, on the basis of the principle of integrated return management, and with a view to supporting a fair and effective implementation of common standards on return, as established under Community legislation on return⁸⁸. Its total budget reaches €676M.

⁸⁸ 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'.

It should also be noted that the Commission presented a number of proposals that are particularly relevant in this field and are currently under negotiation in the Council and the European Parliament:

- Proposal for a Directive of the European Parliament and the Council on common standards and procedures in Member States for returning illegally staying third-country nationals⁸⁹. The objective of this proposal is to provide for clear, transparent and fair common rules concerning return, removal, use of coercive measures, temporary custody and re-entry, which comply with fundamental freedoms of the persons.
- Proposal for a Directive on sanctions against employers of illegally staying TCN⁹⁰.

Illegal work

Recommendations and communications also take place in the community policy regarding fight against illegal work. A Council Recommendation was adopted on 22 December 1995 with a view to harmonising means of combating illegal immigration and illegal employment⁹¹. Illegal work is also a part of a comprehensive policy led in the framework of the European Employment Strategy and the employment guidelines. The objective is to transform undeclared work into formal work, as announced in the Council Resolution of 20 October 2003, and to mix preventative measures and sanctions. A communication was presented the 20th October 2007 in order to step up the fight against undeclared work⁹².

⁸⁹ COM(2005)391.

⁹⁰ COM 2007 (249) final.

⁹¹ OJ C 5, 10.1.1996, p. 1.

⁹² COM(2007)628 final.

ANNEX 2 – DEMOGRAPHIC CHANGES AND THE IMPACT OF MIGRATION

Fertility trends

Fertility has been declining since the 1970s, in some cases at a very high speed. For example, Spain, Portugal, Ireland and Poland have experienced a drop by 50% or even more since the 1960s. Whereas the replacement rate is estimated by 2.1, the current TFR⁹³ for the whole EU is 1.5, albeit very different across Europe.⁹⁴

Although the impact of postponed childbearing is not taken into account in these figures and even if the situation could therefore slightly improve in the coming years (a increase from 1.5 to 1.6 is foreseen for the EU-25), the fertility rate will remain far from the replacement rate. However, this does not mean that the population size is bound to decline, since migration and life expectancy may compensate this trend.

Life expectancy

Life expectancy is currently evaluated to 75.6 for men and 81.8 for women. Historically, progresses in life expectancy, linked to general socio-economic progress, public health measures and medical treatment, have been obtained through declining mortality rates in the early life, then in mid-life. The improvement of life expectancy is now mostly conditioned to improvement regarding the higher ages.

Life expectancy is expected to go on lengthening, although there is inevitably a degree of uncertainty as regards the pace of this change.

Size and composition of the EU population

As a result of a declining fertility rate and a quasi stable mortality rate, population is not able to grow anymore naturally.

Because of the rising life expectancy and the migration, the total population size will be broadly the same until 2050. However, as a result of both a increase in the total world population from 6.4 billion today to 9.1 billion in 2050 and the zero annual population growth rate in Europe, the share of the EU in the total world will be decreasing. According to the UN population projections (2004), the share of the EU-25 in the total world population is projected to go from 7% today to around 5%, compared to the share of 15% a century ago⁹⁵.

In addition to this loss of relative importance, the structure of the EU population will undergo serious shifts. According to Eurostat's baseline population projection, the median age of the

⁹³ The Total Fertility Rate (TFR) is the most common indicator used. It indicates the average number of children per woman and is based on the assumption that all women are going to give birth according to age specific fertility rates observed for a given period

⁹⁴ the difference observed in MS between the highest and the lowest fertility rate is above 0.7 points. Moreover, all fertility rates below 2.1 do not have the same implications: below a threshold by 1.6, the level of migration needed to offset this indicator is deemed impossible to reach

⁹⁵ A significant illustration of this loss of influence of the EU population compared to that of its neighbour is given by the examples of Italy and Egypt: in 1950 Egypt had less than half the population size of Italy; in the early 1990s, both countries were of equal size; by 2050, Egypt's population is likely to be about three times that of Italy's.

EU will increase between 2004 and 2050 from 39 to 49 years. In parallel, according to Eurostat projections, the share of the total population over 80 will rise from 4.1% in 2005 to 6.3% in 2025 and to 11.4% in 2050.

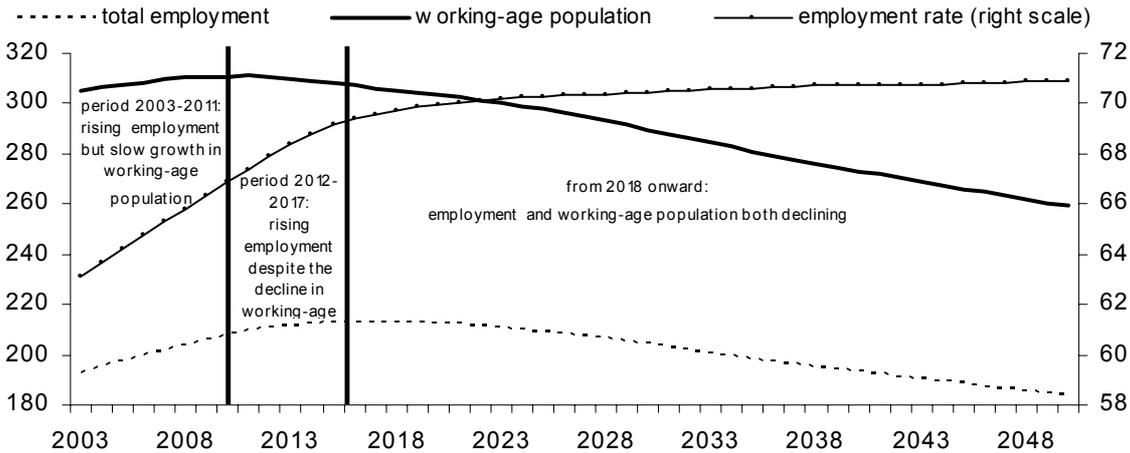
One of the most striking characteristics of this demographic change which will be visible the soonest is the decline in the working age population.

The decline of the working age population- economic and social consequences

When the baby boomers cohort (1946-1965) will be totally retired, the balance between the working age population and the retired one will be deeply modified and the old-age dependency ratio, which compares the number of people over 65 to the number of people aged 15-64, will consequently rise. From 25% at the present time, it will rise up to 53% in 2050⁹⁶. The size of the population of working age (15-64) will be maximal around the year 2010 (331 million) then will decline to about 255 million by 2050.

Although the population of working age (aged 15-64) is already due to decline from around 2011 onwards, total employment in the EU-25 is expected to continue growing up to around 2017 due to rising labour force participation, mainly from women and older workers⁹⁷. After that point, the contribution from employment to economic growth will be declining.

Graph 1: Projected working-age population and total employment, EU25



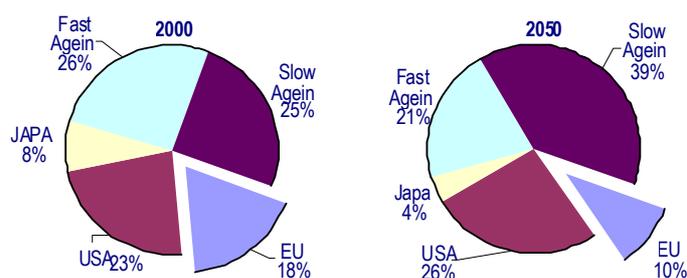
As of 2017, the reduction of the employment, will result in a declining annual average potential GDP growth rate in the EU-25, from 2.4% in the period 2004 to 2010 to only 1.2% in the period 2031-2050. In fact, in the long-term, productivity improvements will be the sole contributor to economic growth.⁹⁸ Linked with an increasing number of older people, the doubling of the old-age dependency ratio, a growing pressure on the health-care and long-

⁹⁶ In some MS of South Europe, according to projections, one third of workers will have to care for two thirds of old people.
⁹⁷ Female participation is expected to rise from 55% today up to 65% by 2025, while older workers employment rates should increase from 40% to 47% for the same period.
⁹⁸ See Economic Policy Committee and European Commission (DG ECFIN) (2006), ‘The impact of ageing on public expenditure: projections for the EU25 Member States on pensions, health-care, long-term care, education and unemployment transfers (2004-2050)’, European Economy Special Reports, No. 1.

term care system, as well as the pensions expenditure is projected. Social protection will have to adapt to this new situation. More broadly,

The impact of ageing population is estimated to be much stronger in the EU than e.g. the US. Estimates suggest that the EU would see its share in global output fall from 18% in 2000 to 10% in 2050, and the share of Japan would halve from 8% to 4% over the same period.⁹⁹ In contrast, the US is projected to increase its share in global output to 26% by 2050, an increase of 3 percentage point and would reach two and half times the output of the EU by 2050.¹⁰⁰ The relative better performance of the US can mainly be attributed to a more favourable evolution of the working-age population.

Graph 2: composition of global output, 2000 and 2050



Source: Kieran Mc Morrow and Werner Röger (2003), 'Economic and financial market consequences of ageing populations', European Economy Economic Papers No 180.

Possible responses

In line with the 2006 Communication “The demographic future of Europe — from challenge to opportunity”¹⁰¹, an array of responses may be proposed against this demographic challenge. Besides promoting demographic renewal and employment in Europe, fostering the productivity and ensuring sustainable public finances, one of the options is migration policy.

Encouragement to births

According to EU surveys, many Europeans would like more children than they have actually. Public policies should therefore aim at helping people concretize their ideals. In that respect, the link between public policies that promote greater gender equality and facilitate the reconciliation of work and care on the one hand, and high fertility rates, on the other one, has to be underlined. Access to services (in particular affordable day care provision of high quality), flexibility in working hours and conditions as well as gender equality (including shared family and domestic responsibility) are all important factors in allowing to combine work with private life.

⁹⁹ Kieran Mc Morrow and Werner Röger (2003), 'Economic and financial market consequences of ageing populations', European Economy Economic Papers No 180.

¹⁰⁰ It may be noted that in 1970 the EU accounted for 25% of global output, compared with 23% in the US.

¹⁰¹ COM(2006) 571, adopted on 12 October 2006. This communication followed a major public debate launched by the Green Paper ‘Confronting demographic change: a new solidarity between the generations’ of March 2005¹⁰¹ as well as discussions at the level of heads of state and government at the Hampton Court informal summit of October 2005

The impact of this policy striving to increase the fertility rates will however be limited by two factors: first, it will be visible only after at least 20 years. Secondly, the number of women of childbearing age is expected to fall because of the ageing composition of the EU population.

Promoting employment in Europe: more jobs and longer working lives of better quality

In accordance with the Lisbon strategy and the European Employment Strategy, varying measures should be taken to reach this objective. General policies must be based on a general life-cycle approach aimed at enabling people to remain much longer active and productive, based on lifelong learning and better health protection. Raising levels of educational attainment and reducing the number of early school leavers are also of great importance, since higher levels of education are associated with significantly higher employment rates and much lower unemployment rates¹⁰². Spending on tertiary education in the EU-25 represents only 1.2% of GDP, compared to 2.9% in the US. Both endeavour to increase employment and growth and provide guidance on how to meet demographic challenges.

Specific efforts should be also undertaken to improve the employment rates of some categories of workers, including women, old workers, disabled persons and ethnic minorities. This will require for instance better provision of affordable highquality childcare and care of other dependents, enhanced gender equality and equal opportunities, measures providing effective incentives for later retirement and consisting in promoting health throughout working life.

A more productive and dynamic Europe

Economic growth and high living standards beyond 2017, when total employment is expected to decline, will depend crucially on increases in labour productivity.

The key to unlocking this potential is to invest in top-level education and research, as exemplified by the highest performing Member States. The 2006 Commission Communication "The long-term sustainability of public finances in the EU", pointed to a three-pronged strategy to cope with the sustainability challenge, namely (i) reducing debt levels at a fast pace; (ii) increasing employment rates, including for older workers, and enhancing productivity; and, reform welfare systems.¹⁰³

Sustainable public finances to guarantee adequate social protection and equity between the generations

In all Member States, the ageing of the population will increase public expenditure on pensions, health and long-term care, which will have to adapt accordingly through budgetary consolidation and further reform efforts. In addition, reducing current deficit and debt levels and avoiding unsustainable expenditure trends are recommended policies to ensure that Member States remain capable of meeting future spending needs, including those arising from population ageing.

¹⁰² In 2005, the average employment rate among the highly-skilled in the EU was 82.5%, for the medium-skilled (those having completed upper secondary education) it was 68.7%, whereas for the lowest skilled it was only 46.4%.

¹⁰³ See COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT, 'The long-term sustainability of public finances in the EU', SEC(2006)1247, COM(2006) 574, Brussels, 12.10.2006.

Migration

Chart 3: Projected working age population (aged 15-64) in the EU-25, 2005 to 2050

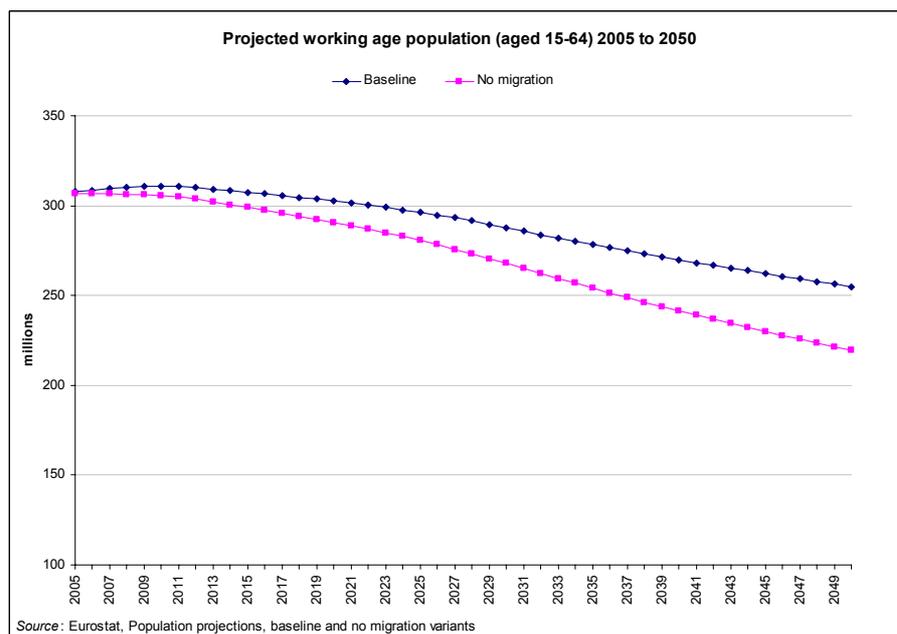
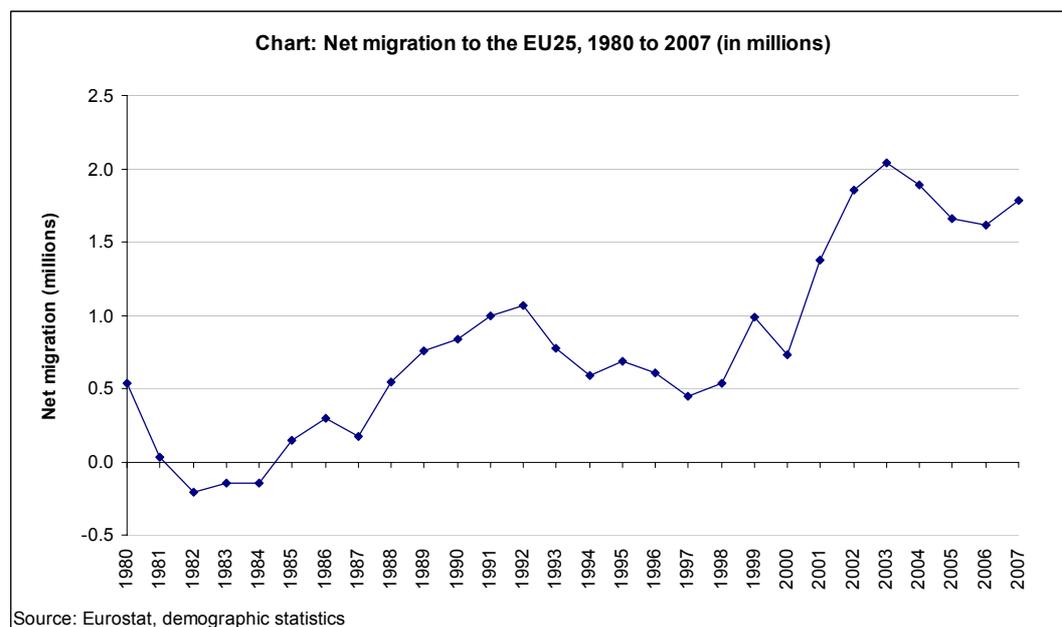
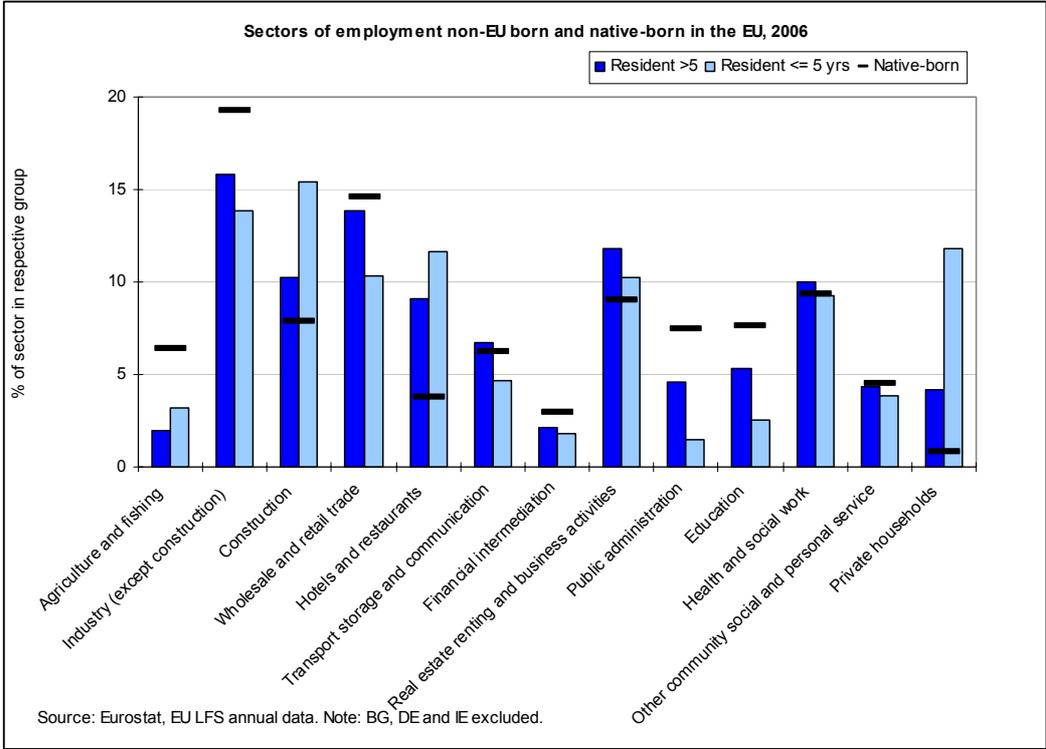


Chart 4: Net migration to the EU-25, 1980-2007



ANNEX 3 – SKILLS AND LABOUR SHORTAGES

Chart



ANNEX 4 – BRAIN DRAIN

The potential impact of an active migration policy on the third-country should also be considered.

On this issue, within the last two decades an increasing amount of attention has been focused on the relation between migration and brain drain, and the latter is often cited as the most important adverse consequence of the recruitment of HSW from less developed countries. Indeed, the extent of this “flight of human capital” is quite impressive. According to the UN Economic Commission for Africa and the International Organization for Migration, since 1990, at least 20,000 qualified people have left Africa every year¹⁰⁴. Nevertheless, the transfer of human capital concerns also such industrial countries as Canada, the United Kingdom, and Germany, where an important fraction of talented natives is working abroad.

Moreover, regarding the size and the education structure of international migration, there is a fair amount of evidence suggesting that the brain drain is now much more extensive than it was two or three decades ago¹⁰⁵. For example, Haque and Jahangir (1999) indicate that the number of highly skilled emigrants from Africa increased from 1,800 a year on average during 1960–75 to 4,400 during 1975–84 and 23,000 during 1984–87. These trends were confirmed in the 1990s in the face of the increasingly “quality-selective” immigration policies introduced in many OECD countries (Australia, New Zeland, Canada, US, some EU countries).

Although there has been no systematic empirical assessment of the brain-drain magnitude, apart from numerous case studies and anecdotal evidence, the emigration rate of HSW can be a useful approximation for the investigation of such a phenomenon. Focusing the attention on such data, first of all, it appears that brain drain disproportionately affects small countries, as evidenced by the fact that nine of the ten countries with the highest rates of emigration of skilled professionals are island states in the Caribbean (where the rate of skilled migration is 42.8%) and areas in the Pacific Oceania, which are groupings of small islands (rate of skilled migration up to 75%). Other significantly affected areas are Eastern, Middle, and Western Africa (where the rate of skilled migration is respectively, 14.8%, 16.1% and 14.8) and Central America (16.9%). Finally, data by continent shows that Africa is the most affected continent (10%) whereas, the lowest-skilled migration rates are observed in America (3.3%)¹⁰⁶.

However, the negative effects of brain drain have been recently called into question by various arguments focused on the fact that while source countries may lose human capital, migration on the other hand may also have beneficial consequences in the form of knowledge gained and transferred and significant remittances from broad¹⁰⁷.

Moreover, the high rates of unemployment among highly educated people in developing countries, as well as the frequent lack of sufficiently attractive employment opportunities for the highly skilled in these countries, should be considered when the problem of brain drain is discussed.

¹⁰⁴ The newsletter of UNESCO’s Education sector, January 2007.

¹⁰⁵ International migration, remittances and brain drain, World Bank 2006.

¹⁰⁶ Source of data: World Bank 2006.

¹⁰⁷ ILO 2006, Competing for global talent.

With reference to unemployment in the sending countries, significant evidence arise from the MENA countries, one of the closest pool for economic migration to Europe and currently the first most important region of origin of immigrants in Europe.

Many young adults in the MENA are confronted with high unemployment and low returns to skills. For example in Algeria, the unemployment of young between 20 and 29 years ranges, respectively, from the 30.3% to 21,3%. Moreover, the 13% of unemployed persons between 18 and 35 years have a University degree¹⁰⁸, whereas more than the 25% of unemployed have a high school degree . Similar patterns are recorded in other MENA countries, such as Morocco, where unemployment is particularly high among highly skilled persons (23.5% of people with a diploma are unemployed, against 9.1% of those with no diploma). Nevertheless, with reference to Morocco, the most critical situation is among the young highly qualified women, with 75.3% of unemployed women having a university degree.

In this view, migration of HSW could represent an outlet for unemployment among young people with higher education in the countries of origin¹⁰⁹.

Another argument that substantially challenges the thesis of brain drain relates to the investment in education in the developing countries. In fact, in a developing economy with a limited growth potential, the return to human capital are likely to be low. This in turn lead to a limited incentive to acquire education. It has been argued that images of success that highly skilled migrant workers convey to their community of origin are susceptible to enhance non-migrants' motivations for investing in education, and thus foster human capital building in the environment left behind. The result would be a general increase in the skills endowments of the sending countries. However, this "virtuous circle" is not always granted and the key element in this respect would be to ensure – also by means of financial support from donors – that the number of people trained well exceeds the needs of the country.

Finally, emigration can improve the welfare in the country of origin through remittances. Indeed most of the gains of migration accrue to immigrants themselves (their wage bill) and, through remittances, to their families in the source country. In this way, remittances raise the income of recipients and contribute to the country's growth through investment or consumption as well as they can constitute an important part of foreign exchange earnings of poor countries. For this purpose, it worth mentioning that remittances are the second largest source of external finance for developing countries, after FDI and often two to three times as large as the official development assistance flows (World Bank, 2004 and European Commission, 2005).

However, even if these arguments could limit the scale of the issue, they do not curb at all the problem of brain drain from third countries. The question is what is the real extent of the brain drain the developing world suffers from, and do these costs associated with brain drain exceed such benefits of migration as remittances and skill transfers.

¹⁰⁸ Contribution of the Euro-Mediterranean Consortium for Applied Research on International Migration (CARIM) to the debate around the Green Paper: on an EU Approach to Managing Economic Migration. Source of data: ONS, Enquête sur l'emploi de septembre 2004 for Algeria; CERED, Formes d'activités économiques, emploi et chômage des jeunes, Rabat, 2005, for Morocco.

¹⁰⁹ Nevertheless, several other writings emphasize the weak relationship between unemployment and labour market. They pointed to the impact of selectivity of migration on the labour market. The argument is that migration is selecting the skilled from each occupation and many who migrate have been working before. In other words, migrants are not coming from the unemployment pool (Nasser 2004).

In this view, active policy measures may have a positive impact on this phenomenon, as reckoned in a 2005 Communication¹¹⁰ that sets the framework for integrating migration issues into the EU's external relations and development policies and suggests a number of key initiatives aimed at improving the impact of migration on development. These initiatives are focused on several areas of policy action, such as the promotion of circular migration and brain circulation, the facilitation of remittances' transfer, the strengthening of diasporas and the development of an EU code of conduct with a view to disciplining recruitment in cases where it would have significantly negative repercussions for developing countries. Initiatives aimed at improving the living and working conditions of HSW in countries of origin are fundamental in that respect.

¹¹⁰ COM(2005) 390 final.

ANNEX 5 – MAINSTREAMING

It is worth to be noted that to facilitate incorporation of immigration into Commission initiatives a Commissioners Group on Migration Issues was established bringing together all related policy areas¹¹¹.

With respect to employment, the Commission monitors the impact of national reform programmes with annual Joint Employment Reports and Member States will report on main social aspects of migration already in their 2008 National Strategy Reports. A High Level Advisory Group on Social Integration of Ethnic Minorities and their Full Participation in the Labour Market was established to analyse labour market barriers and exchange good practice. In addition, immigrants represent an important pool of potential entrepreneurs in Europe whose businesses have a significant impact on EU economic growth. An Ethnic Minority Entrepreneurship Network was set up to exchange information to overcome difficulties in setting up businesses. A study on good practice in this area will be published in Spring 2008.

With respect to social inclusion, in the framework of the social OMC, Member States have agreed to **mainstream the social impact of migration** into the work of the new 2008-2010 cycle; Member States will report on main social aspects of migration already in their 2008 National Strategy Reports. In 2008 preliminary work will also be carried out through PROGRESS-supported activities (studies and a peer review). Drawing on this preliminary work, the social impact of migration is proposed as a focus theme for 2010. Findings and results will become part of the *Joint Report on social protection and social inclusion*, and of its supporting documents.

The importance of the cultural dimension of integration is increasingly recognised and intercultural dialogue, including inter- and intra- faith dialogue, became an essential instrument to foster successful integration and counteract racism and extremism. The 2008 European Year of Intercultural Dialogue will give a major input to the strengthening of activities in this area.

Promotion of fundamental rights, non-discrimination and equal opportunities plays a crucial role in the context of integration. An Inter-service Group against Racism and Xenophobia coordinates policies within the Commission and the Fundamental Rights Agency provides expertise in this area. Efforts to tackle structural barriers faced by immigrants are being reinforced in the context of the '2007 European Year of Equal Opportunities for All' launching a major debate on benefits of diversity.

As women are a majority of the immigrant population in the EU27, addressing their specific needs is increasingly reflected in gender mainstreaming mechanisms such as the Roadmap for Equality between Women and Men 2006-2010.

Within the Commission, an Inter-service Group on Urban Development coordinates the urban dimension in community policies and other urban initiatives (such as the European network Cities for Local Integration Policy CLIP, coordinated by the European Foundation for the Improvement of Living and Working Conditions) have been set up to share good practice on a wide range of integration-related issues. As regards housing, here is a need for better

¹¹¹ (3rd Report MI).

forecasting regarding numbers of immigrants and where they are likely to concentrate for reasons of employment or family reunification. Health issues related to immigrants will be further addressed through initiatives developed in the context of the new EU health strategy¹¹².

Education and training provide tools for improving the level of successful attainments and are essential to empower immigrants to be active participants in society. Integration is promoted through educational initiatives such as the Education and Training 2010 programme. As immigrant children and youth tend to have lower school results than other pupils, an upcoming Commission Communication will explore causes and identify measures to address these educational challenges. Integration is a spontaneous process especially for children. Tackling integration challenges at a very early stage is a key approach for successful outcomes and the EU strategy on the rights of the child takes into account the potential of this group. Moreover, the structured dialogue at EU level in the context of youth policies as a follow-up of the European Youth Pact, contributes to addressing the specific needs of this target group, focusing on the social and professional integration of young people in 2007 and on intercultural dialogue in 2008.

¹¹² For the health strategy document, entitled 'Together for Health: A Strategic Approach for the EU 2008-2013', see http://ec.europa.eu/health/ph_overview/Documents/strategy_wp_en.pdf.

ANNEX 6 – INTEGRATION: OUTCOMES OF NON-EU BORN

Chart 1: Education of EU born and non-EU born, 2006

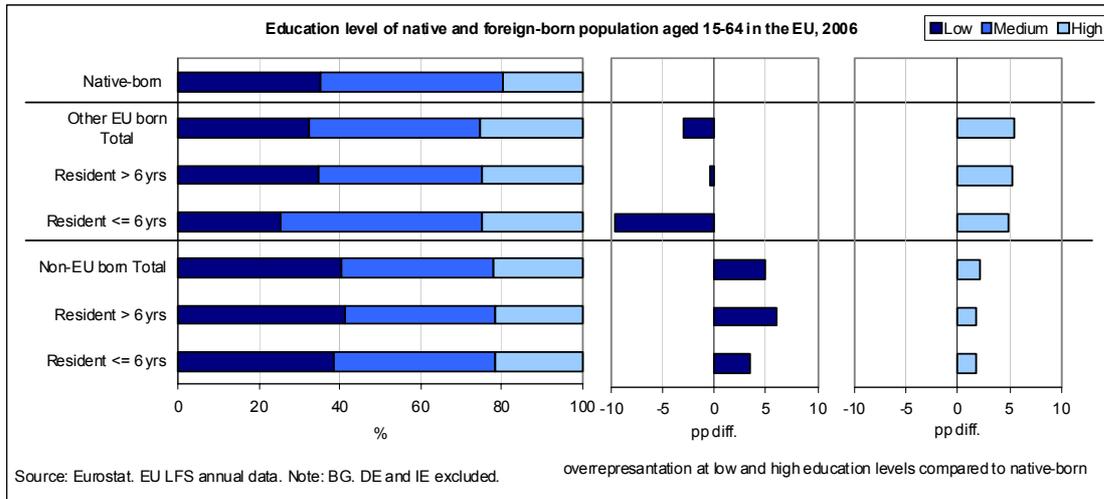


Chart 2: Shares of tertiary education among EU-born and non-EU born, 2006

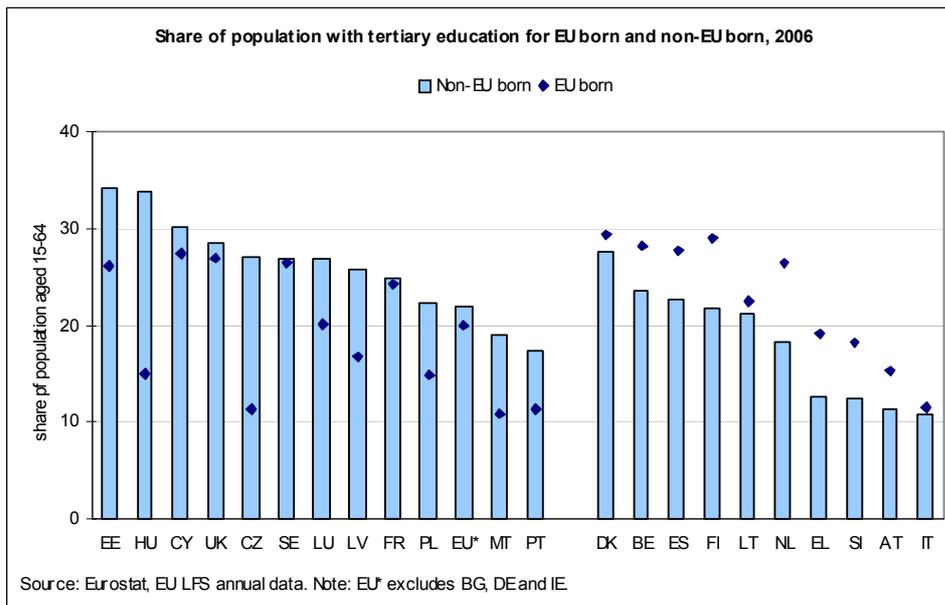
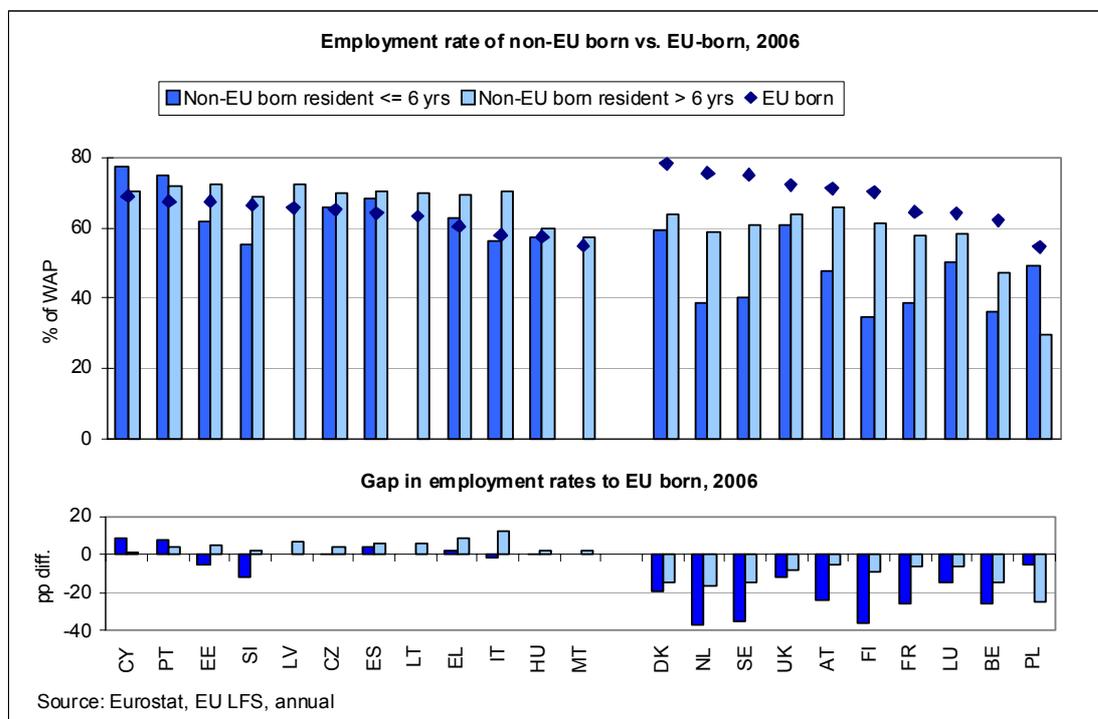


Table 3: At-risk-of poverty rates of households with/without children, by place of birth, 2005

| | Those born in country of residence | | Those born outside EU | |
|-------------|------------------------------------|------------------|-----------------------|------------------|
| | With children | Without children | With children | Without children |
| BE | 12 | 12,4 | 64,3 | 37,2 |
| DK | 8 | 14,5 | 39,0 | 42,2 |
| DE | 12 | 13,5 | 32,6 | 23,9 |
| EE | 21 | 19,2 | 25,9 | 25,4 |
| IE | 20 | 21,0 | 40,2 | 27,7 |
| EL | 18 | 19,1 | 43,1 | 23,4 |
| ES | 22 | 18,6 | 52,6 | 20,5 |
| FR | 11 | 11,7 | 41,4 | 32,3 |
| IT | 23 | 15,9 | 33,2 | 21,4 |
| CY | 11,4 | 26,9 | 29,7 | 32,7 |
| LU | 8,6 | 5,2 | 52,8 | 34,5 |
| NL | 13,3 | 8,2 | 51,3 | 16,3 |
| AT | 12,1 | 10,1 | 34,8 | 28,8 |
| SI | 10,5 | 16,3 | 19,2 | 23,2 |
| FI | 9,0 | 14,0 | 29,6 | 45,4 |
| SE | 6,3 | 9,8 | 27,7 | 29,7 |
| UK | 20,6 | 18,3 | 40,2 | 25,9 |
| EU25 | 17,6 | 14,5 | 40,5 | 24,9 |

Source: EU-SILC 2005.

Chart 4: Employment rate of non-EU born vs. EU-born, 2006



ANNEX 7 – CURRENT INTEGRATED BORDER MANAGEMENT

The concept of an integrated border management refers to an array of measures regarding third country nationals and taken at the consulates of Member States in third countries, as well as at the border itself and within the Schengen area. It also covers measures taken in cooperation with neighbouring third countries.

As defined in Community law travellers from certain third countries are subject to the visa obligation. When they apply for a visa at the consulates of Member States in third countries, they are subject to a first check aimed at verifying that they fulfil the conditions of entry and stay.

Third country nationals requiring a short stay visa will be checked against the Visa Information System, which will be fully operational in 2012 at the earliest including the rollout at consulates and border crossing points. The main purposes of the VIS are, on entry, to verify the authenticity of the visa and the identity of its holder. Biometrics – facial image and fingerprints - will be introduced from the start in the VIS. The Commission has presented a proposal to amend the Schengen Borders Code, making compulsory the verification of the identity of the visa holder at each entry. If these TCN are subject to a check within the Schengen territory, the VIS allows for identifying them.

Checks performed on visa request are of the utmost importance, as a number of illegal migrants entered into the European territory on the basis of a short-term visa. According to the visa policy of MS, TCN may set up strategies to enter into Europe. For example, a study showed that a lot of illegal migrants regularised in Italy or Spain came from Germany or France where they were issued far more easily a visa.

According to the Schengen Borders Code, third country nationals, regardless of whether they need a visa or not, must be subject, at entry, to a "thorough check", which encompasses, besides the examination of the travel document, the verification of their purpose and length of stay and their means of subsistence, as well as a search in the Schengen Information System and in national databases to verify that they are not a threat to public policy, internal security, public health and the international relations of the Schengen States.

Border guards manually stamp – indicating the date and place of entry and exit – the travel documents of third country nationals crossing the external border.

At the consulates as well as at the borders the Schengen Information System (SIS) is consulted to verify that the person is not signalled by a Member State for the purpose of denying entry. The SIS and the future SIS II registers alerts, with respect to third country nationals, on persons to be refused entry to the Schengen area, wanted persons, and persons to be put under protection. All third country nationals entering the EU, whether under visa obligation or not, are checked systematically in the SIS. These procedures can lead to refusals to enter the EU. In 2006 over 300,000 (year 2006 280 000; year 2004 397 000)¹¹³ persons were refused entry at EU borders¹¹⁴. Most of these were from third countries whose nationals

¹¹³ Excluding the figures for Spain that are very high (600,000) due to refusals made outside of the EU at Spanish enclaves in North Africa.

¹¹⁴ See Annex 4, table 1 and 2.

require visas¹¹⁵. This compares with the estimated 70 million third-country entries into the EU (both visa and non visa holders); approximately 4 per thousand are refused for entry at borders. However, the majority of those refused entries are neither terrorists nor serious criminals but those without the appropriate travel documents and suspected of being prospective illegal immigrants.

Finally, reference should also be made to the Commission's proposal on the use of Passenger Name Records for persons arriving by air, essentially equivalent to the information contained in the flight reservation⁹. This information is also transmitted just before or in relation with boarding to law enforcement authorities. This system would apply to all Member States, as it is not linked to the Schengen cooperation as such. The transmission of PNR data takes place for the purpose of preventing terrorism and organised crime, not for border checks.

¹¹⁵ See Annex 4, table 2.