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3rd Annual Report on Immigration and Asylum (2011)_

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I. INTRODUCTION

This Report presents a forward-looking analysis of EU policy on immigration and international protection based on developments in 2011, an important year for the EU in many respects, with consequent impact also on migration policy. Not only did the economic crisis continue to burden the EU's economy and growth, there were also the dramatic events of the Arab Spring and increasing migratory pressure on the EU's external borders, notably those bordering the Mediterranean and in the South East, plus the consequences arising from the misuse of visa liberalisation. These events served to further emphasise the need for a coherent, balanced EU migration policy which is both dynamic, to respond to short-term needs, and strategic, providing a longer-term vision.

In this context, there were several key initiatives, such as the new strategic framework set out in the Global Approach to Migration and Mobility (GAMM), bringing added value to the EU's and its Member States' actions notably in relation to its external migration policy, as well as the Visa Information System going live, the launch of the EU Immigration Portal, proposals to strengthen the governance of the Schengen area and the presentation of the EUROSUR proposal. Other notable achievements were the political agreement on extending the mandate of Frontex and on the amended Asylum Qualification Directive; the conclusion of a mobility partnership with Armenia; inauguration of the European Asylum Support Office (EASO); and the establishment of a new European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice. Along with the co-legislators, some progress was made towards achieving the goal of a Common European Asylum System in 2012.

Progress in EU *acquis* was also made with the adoption of Directives on the single permit for third-country nationals to reside and work in the EU and on a common set of rights for legally residing third-country national workers;¹ on extending the scope of long-term resident status to beneficiaries of international protection;² and on preventing and combating trafficking in human beings and protecting its victims.³ Member States also took further steps to transpose the Return and the Employer Sanctions Directives.

Last year's Annual Report⁴ followed the May 2011 Communication on Migration,⁵ which gave a perspective on policy development in light of events at that time. Both of these then served to inform the subsequent Justice and Home Affairs (JHA)⁶ and European Council⁷ conclusions in June 2011 which set orientations for the development of the EU's migration policy, specifically in regard to the governance of the Schengen area, the control of external borders, the development of partnerships with the countries of the Southern Neighbourhood and the completion of the Common European Asylum System by 2012.

¹ Directive 2011/98/EU of 13 December 2011

² Directive 2011/51/EU of 11 May 2011

³ Directive 2011/36/EU of 5 April 2011

⁴ COM(2011) 291 final and SEC(2011) 620

⁵ COM(2011) 248/3

⁶ *Council conclusions on Borders, Migration and Asylum Stocktaking and the way forward*, 3096th JUSTICE and HOME AFFAIRS Council meeting, Luxembourg, 9 and 10 June 2011

⁷ Conclusions of the European Council, Brussels, 23/24 June 2011

This year's report first gives an overview portraying the migration picture in the EU from a statistical perspective. The EU's response to the aforementioned key events which impacted on migration policy is then addressed, along with the Commission's contribution to the roadmap addressing increased migratory pressures. The report is again based principally on the Commission's and Member States' political assessments and complemented by a factual paper with statistical annex⁸ detailing developments that have occurred at both EU and, via the European Migration Network,⁹ Member State level.

II. A SNAPSHOT OF EU MIGRATION¹⁰

It is instructive to first place the EU's migratory situation in the wider global context. In a year in which the world's population surpassed seven billion, there are estimated to be some 214 million migrants worldwide (approximately 3.1% of the total world population),¹¹ meaning that 9.4% (around 20.2 million) of the world's migrants are third-country nationals residing in the EU. By comparison, Canada has around 3.4% of the world's total (7.2 million representing 21.3% of its national population), whilst the USA has around 20% of the world's total (42.8 million representing 13.5% of its national population).¹²

On 1st January 2011, the EU's total population was 502.5 million, with an increase of 1.4 million from 2010 which is equivalent to an annual rate of +2.7 per 1000 inhabitants made up of a natural increase of 0.5 million (+1.0‰) and net migration of 0.9 million (+1.7‰). The 20.2 million third-country nationals in the EU amounts to some 4% of the total EU population, which is more than the number of EU citizens (12.3 million or 2.5% of the total EU population) who have moved to another Member State.¹³ The largest resident third-country nationality groups in 2009 were from Turkey (approx. 2.4million), Morocco (approx. 1.8million) and Albania (approx. 1million).¹⁴ Using the UN Human Development Index (HDI), around 47% of non-EU born migrants are from high HDI, around 46% from medium HDI and around 7% from low HDI countries.¹⁵

In terms of first residence permits issued to third-country nationals, this amounted to almost 2.5 million in 2010; the number of permits issued for remunerated activities representing 32.5% of the total, against 30.2% for family reasons, 20.6% for study and 17% for various other reasons (protection-related, residence without the right to work, etc). Broken down by nationality, most residence permits were issued to nationals of the USA (around 212 000), India (around 200 000), China (around 172 000), Ukraine (around 167 000) and Morocco (around 157 000).

The 60th anniversary year of the Geneva Convention saw a significant increase of 16.8% compared to 2010 in the total number of asylum applicants, amounting to just over 302 000

⁸ SWD(2012) 139

⁹ EMN, <http://www.emn.europa.eu>

¹⁰ More detailed statistics, including a breakdown by Member State, are given in the Statistical annex of the accompanying Commission Staff Working Paper (SWD(2012) 139).

¹¹ Source: United Nations, Department of Economic and Social Affairs, Population Division *International Migration 2009*

¹² Figures from United Nations Department of Economic and Social Affairs Population Division *International Migration 2009*

¹³ Figures based on Eurostat 2010 data, see News Release 105/2011

¹⁴ Figures from Eurostat Statistics in Focus 24/2010.

¹⁵ *Migrants in Europe: a statistical portrait of the 1st and 2nd generation*, Eurostat, December 2011. Note that these percentages relate to 2008.

and further affecting the asylum systems of several Member States. The most important countries of citizenship of asylum seekers were Afghanistan (28 000), Russian Federation (18 200), Pakistan (15 700), Iraq (15 200) and Serbia (13 900). In terms of protection granted in 2011, a total of 59 465 received protection at first instance (refugee (28 995), subsidiary protection (21 400) or humanitarian (9 065)), around 25% of all decisions taken.¹⁶

As addressed in Section IV, irregular migration continues to be a major component of migration to the EU. By its very nature, no reliable figures on the number of irregular migrants in the EU exist, with estimates of fewer than 2 million up to 4.5 million most often cited.¹⁷ More reliable indicators such as refusals, apprehensions and returns may be used, though they are subject to many caveats. In 2011,¹⁸ some 343 000 persons were refused entry to the EU, a decrease of 13% from 2010, with the vast majority (nearly 70%) being refused in Spain, notably at their external land borders. Also in 2011, some 468 500 persons were apprehended (a decrease from 2010 when it was about 505 000) and Member States returned around 190 000 third-country nationals (almost 15% less than in 2010).

III. CONTRIBUTION OF MIGRATION TO THE EU'S GROWTH AGENDA¹⁹

At first sight, the EU's current economic challenges might make it difficult to understand the necessity for legal migration and mobility channels. But it is necessary to bear in mind that, even with an overall EU unemployment rate of around 10%, equating to 23.8 million citizens, and increasing to 22.1% for youths (under 25),²⁰ many Member States are already experiencing labour and skills shortages²¹ in different sectors and for varying reasons.²² Most Member States are concentrating their efforts on addressing unemployment and increasing the employability of their own resident population and then using Union preference to address labour shortages. Currently, Member States tend to focus their approach to economic migration of third-country nationals more on (highly-) skilled workers, although several also require low skilled workers, albeit, in most cases, for a temporary period.

Economic migration thus remains an important component part of efforts to address the challenge of labour shortages, notably in the context of the EU's ageing population²³ and an increasingly competitive international market for talent, with other countries outside Europe also experiencing skills shortages. The lack of recognition of expertise and formal qualifications of those third-country nationals already residing in the EU, as well as of the portability of social security rights, represent additional barriers to benefit fully from this source of labour.

¹⁶ Figures based on Eurostat data, see News Release 46/2012

¹⁷ Figures are from the EU funded CLANDESTINO project for 2008.

¹⁸ Figures based on Eurostat data and exclude Luxembourg for whom data were not available.

¹⁹ <http://ec.europa.eu/europe2020>. See also 'Towards a job rich recovery' (COM(2012) 173 final).

²⁰ Eurostat News Release 16/2012

²¹ The European Vacancy Monitor provides a quarterly review of available vacancies, <http://ec.europa.eu/social/main.jsp?catId=955&langId=en>. In January 2012, for example, it noted that the number of job-finders in the 'professionals' group has grown by +34% in the second quarter of 2011. Longer-term projections are produced by the European Centre for the Development of Vocational Training (Cedefop), including its EU Skills Panorama (http://www.cedefop.europa.eu/EN/Files/5191_en.pdf).

²² Further details in *Satisfying Labour Demand through Migration*, EMN, June 2011 and by the IOM's *Independent Network of Labour Migration and Integration Experts*, <http://www.labourmigration.eu/>.

²³ 2012 is the *European Year of Active Ageing and Solidarity between Generations*. One of the findings of a Eurobarometer survey on Active Ageing found that majority of Europeans (71%) are aware that the population is getting older, but this is a concern for only 42 %.

In addition to the potential of migrants to contribute to economic growth,²⁴ they also bring to our societies a social and cultural contribution.

Given all this, the Commission proposes to launch, before the end of 2012, a consultation inviting broad debate with Member States, social partners and stakeholders on what the role of EU policies should be regarding the opportunities of economic migration.

In fact, the EU has already undertaken several forward-looking measures and future developments, in the framework of the Global Approach to Migration and Mobility,²⁵ will look into facilitating better the match between employers and employees within a global labour market, with a view also to enhance and mutually benefit from "brain circulation" rather than increasing "brain drain." Mobility partnerships form part of this approach and, following those already in place with the Republic of Moldova (henceforth Moldova), Georgia and Cape Verde, an agreement with Armenia was concluded in October 2011.²⁶ The Commission has also launched negotiations with some Southern Mediterranean countries with the aim to conclude Mobility Partnerships or other cooperation frameworks, such as Common Agendas for Migration and Mobility (see also Section IV.1).

In order to better inform migrants of the possibilities and conditions for legal migration, the EU Immigration Portal²⁷ was launched. It provides a first point of entry for up-to-date, targeted and practical information on EU and national immigration procedures and policies. It also explains the rights and the risks related to irregular migration in order to dissuade migrants from entering the EU via often dangerous routes.

The Global Approach to Migration and Mobility, along with an accompanying paper on Migration and Development,²⁸ also proposed a number of measures to maximise the development impact of migration and mobility. These included promoting the WHO Code of practice on the international recruitment of health personnel²⁹ and monitoring application of the 'EU Blue Card' Directive, which allows Member States to reject applications in order to ensure ethical recruitment, to mitigate brain drain. Another facet was to explore the setting up of diaspora investment vehicles that could channel the voluntary contributions of the diaspora, supplemented by EU resources to boost the development-oriented initiatives and investments in priority countries, such as in the Southern Mediterranean. Further measures aim to develop private-public partnerships to engage migrant entrepreneurs and SMEs in trade, investment and skills transfers between EU Member States and partner countries; to explore the usefulness of an annual remittances forum; and consider the added value of a common EU portal on remittances.³⁰ Providing assistance to partner countries to identify and monitor *bona*

²⁴ See, for example, *The Causes and Effects of International Migrations: Evidence from OECD Countries*, Francesc Ortega, Giovanni Peri, NBER Working Paper No. 14833 (April 2009) whose results imply that immigration increases the total GDP of the receiving country in the short-run one-for-one, without affecting average wages and average income per person.

²⁵ COM(2011) 743 final

²⁶ Commission Press Release IP/11/1257 of 27 October 2011. Mobility partnerships with Armenia, Moldova and Georgia are part of the EU's Eastern Partnership strategy (COM(2011) 564 final). Negotiations with Ghana are ongoing and it is planned to open discussions with Egypt, Morocco and Tunisia.

²⁷ <http://ec.europa.eu/immigration>

²⁸ SEC(2011) 1353 final.

²⁹ <http://www.who.int/hrh/migration/code/practice/en/>

³⁰ Outflows of workers' remittances was €31.2 bn in 2010, a 3% increase compared to 2009. *Eurostat Statistics in Focus 4/2012*

fide recruiters in order to empower migrants, notably with a view to facilitating circular migration³¹ is a further aspect. Finally, proposals were included to broaden the traditional migration and development agenda to better address issues such as the social consequences of migration on countries of origin and the protection of the rights of migrants in transit. The Commission stands ready to address these various measures through dialogue and cooperation with non-EU countries. Indeed, this is already an integral part of all the political dialogues and cooperation frameworks the EU has developed with third countries and regions, currently amounting to seven regional processes, covering more than a hundred countries and over twenty bilateral processes.

Another significant achievement has been the adoption of the 'Single Permit' Directive,³² with transposition into national legislation required by December 2013. This serves to simplify migration procedures and ensure that legally residing third-country nationals enjoy a common set of rights on an equal footing with nationals. Elsewhere, some Member States have transposed the 'EU Blue Card' Directive.³³ However, overall progress has been limited, leading the Commission to launch infringement procedures for non-communication of national measures. For students³⁴ and for researchers,³⁵ who also contribute to and are an investment for the EU's economy, a number of shortcomings have been identified. For example, for students there was an identified need to strengthen mobility clauses in the Directive, to stimulate synergies with EU programmes that facilitate third-country nationals' mobility into the EU and reinforce procedural guarantees; whilst for researchers there was an identified need to provide clear and unambiguous definitions of researchers' rights, to make clear distinctions between permits for researchers and other types of permits and to provide better guidance and information on the possibilities provided by the Directive. Consequently, in order to make better use of these instruments and to promote further the attractiveness of the EU, a proposal to amend and merge these two Directives is planned to be tabled in December 2012 with the aim also to promote greater mobility of students and researchers.

There was some progress in negotiations on the proposed Directives for seasonal workers³⁶ and for intra-corporate transferees.³⁷ The former will provide legal means by which seasonal workers may enter and work in the EU, as well as preventing exploitation and protecting their health and safety, ensuring also that EU employers have the necessary workforce. The latter serves to address an identified need of multinational companies to more easily transfer their highly-skilled staff to their premises and related enterprises in the EU by overcoming the plethora of different rules and red tape in the Member States. It thus has the potential to enhance growth, to reinforce EU competitiveness, improve the ability to deliver on the goals of the EU 2020 Strategy and ensure equal access and opportunity to all relevant stakeholders. Whilst there are a number of issues still to be resolved during the negotiations, Member States

³¹ The EMN study on EMN Study on *Temporary and Circular Migration* looked at empirical evidence, current policy practice and future options for these types of migration.

³² Directive 2011/98/EU of 13 December 2011 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 legally residing third-country workers.

³³ 2009/50/EC of 25 May 2009. See also Commission Press Release IP/11/1247 of 27.10.2011.

³⁴ 2004/114/EC of 13 December 2004 and including also pupils, unremunerated trainees and volunteers. See also report on implementation of this directive, COM(2011) 587.

³⁵ 2005/71/EC of 12 October 2005. See also report on implementation of this directive, COM(2011) 901.

³⁶ Proposal for a Directive on the conditions of entry and residence of third-country nationals for the purposes of seasonal employment (COM(2010) 379)

³⁷ Proposal for a Directive on conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer (COM(2010) 378)

are urged to reach political agreement as soon as possible so that these EU instruments may also become part of the tools needed to tackle the current economic crisis and the challenges ahead.

Also, the report on the Long-Term Residents' Directive³⁸ concluded that, for a variety of identified reasons, the potential of this EU instrument is far from being fully exploited. The Commission will step up its efforts to ensure that the Directive is correctly transposed, primarily through technical meetings with Member States and, if necessary, also via infringement proceedings.

The corollary of legal migration is the need to have effective integration policies. Whilst developing and implementing integration policies falls within the competence and responsibility of the Member States, the Commission continues to play a supportive role, as most recently recognised by the JHA Council.³⁹ However, while there are many examples of ambitious integration policies,⁴⁰ not all measures have met their objectives. Much still needs to be done to fully benefit from the potential offered by the 20.2 million third-country nationals in the EU. With reference also to the Europe 2020 headline targets,⁴¹ in 2010 the average employment rate of third-country nationals aged 20-64 was 58.5%, compared to 68.6% of the total population aged 20-64. Some 19.4% of third-country nationals in the same age group were unemployed, compared to 9.3% of the total population and 46.4% of third-country nationals were overqualified for their jobs, compared to 21.2% of the total population. For those third-country nationals who become unemployed, there is the additional risk that they might then lose their legal residence status too. In 2010, 32.4% of third-country nationals aged 20-64 were at risk of poverty, compared to 15.0% of the total population in the same age group. Also in 2010, the rate of early school leaving among third-country nationals aged 18-24 was 33.0%, compared to 14.1% of the total population in the same age group.⁴²

The European Agenda for the Integration of Third-Country Nationals⁴³ sets out the next steps in order for migrants, and thus the EU, to make full use of their capacities and skills, underpinned by the respect for and promotion of fundamental rights. Measures proposed in order to fully benefit from the potential of migration include stronger economic, social, cultural and political participation of legally resident third-country nationals in their receiving societies, as well as knowledge of their rights and obligations and a positive approach to

³⁸ COM(2011) 585 final

³⁹ 3135th JUSTICE and HOME AFFAIRS Council meeting, Brussels, 13 and 14 December 2011

⁴⁰ The Migrant Integration Policy Index (MIPEX), which serves to assess, compare and improve integration policy, is a useful reference. Work has also begun to develop and evaluate common European "Indicators" to comparatively monitor results of integration policies. A pilot study on *Indicators of Immigrant Integration* was published by Eurostat in June 2011 and a dedicated webpage created, see http://epp.eurostat.ec.europa.eu/portal/page/portal/employment_social_policy_equality/migrant_integration/indicators.

⁴¹ Specifically, raise to 75% the employment rate for women and men aged 20-64, [...] and the better integration of legal migrants; and improving education levels, in particular by aiming to reduce school drop-out rates to less than 10% and by increasing the share of 30-34 years old having completed tertiary or equivalent education to at least 40%. [European Council, 17th June 2010]

⁴² These data come from Eurostat's Labour Force Survey and their EU Statistics on Income and Living Conditions.

⁴³ COM(2011) 455 final and subsequent 3135th JHA Council conclusions of 13 and 14 December 2011. A Eurobarometer on Migrant Integration (http://ec.europa.eu/public_opinion/archives/quali/ql_5969_migrant_en.pdf) was also published.

diversity. The Commission is also strengthening cooperation with local and regional authorities and developing a role for countries of origin.

Another related component concerns family reunification with certain Member States explicitly stating their desire to limit this form of legal migration. Within such a context, a public debate⁴⁴ on family reunification was launched in November 2011 on how this type of migration might be developed further without losing sight of the objective in Directive 2003/86/EC, including preserving the fundamental right to family life. On the basis of the feedback received, the Commission shall then decide on the next steps.

IV. EU'S POLICY RESPONSE TO MIGRATORY PRESSURES

Whilst only 4% (or 27 465 out of 706 000)⁴⁵ of those fleeing the civil strife in Libya travelled North to the EU, the resulting impact, combined with the increase in irregular migration flows from Tunisia⁴⁶ and at the Turkey-Greece border⁴⁷ along with a significant increase of asylum applicants arriving at the EU's southern external borders,⁴⁸ served to demonstrate that the EU is still under increased migratory pressure⁴⁹ with no expectation of this declining in the future.⁵⁰ Indeed, the consequences of the Arab Spring,⁵¹ principally in Italy but also in Malta, plus the migration flows at the Greece-Turkey border during 2011, led to serious reflections on how the EU should best respond to these migratory pressures, whilst at the same time having efficient entry mechanisms to permit orderly and managed migration.

Irregular migration to the EU is often a risky endeavour and, for those trafficked or smuggled, an abhorrent exploitation of human beings. Even within the EU, migrants may be in an irregular situation as a result of, for example, overstaying their visa limit or not returning to their country of origin upon receiving a negative asylum decision. The EU has always placed particular emphasis on identifying measures aimed at reducing irregular migration and in

⁴⁴ COM (2011)735 final. Contributions received in response to this Green Paper are available at http://ec.europa.eu/home-affairs/news/consulting_public/consulting_0023_en.htm. The European Migration Network also undertook a study on abuses through marriages and convenience and declarations of parenthood to inform this debate.

⁴⁵ *Humanitarian Emergency Response to the Libyan Crisis*, IOM, December 2011.

⁴⁶ Some 26 354 primarily Tunisian nationals fleeing from Tunisia arrived in Lampedusa (Source: *Humanitarian Emergency Response to the Libyan Crisis*, IOM, December 2011).

⁴⁷ According to Frontex, throughout 2011 there were over 55 000 detections at the Greek-Turkish land border in the Evros region, an increase of approximately 17% compared to 2010.

⁴⁸ For example, and according to Eurostat, the number of asylum applications in Italy in 2011 was 34 115, a 239% increase from 2010, and for Malta it was 1 890, a 980% increase from 2010. The number of applications from Tunisia increased 12-fold to 6 335 in 2011 with the vast majority lodged in Italy.

⁴⁹ According to Frontex, the majority of irregular border crossings are limited to 'hotspots' such as the Eastern, notably at the Greek land border with Turkey, and Central Mediterranean routes (50% and 33% of the EU total respectively), plus increasingly the Western Mediterranean route (almost 10% of total). The most commonly detected migrants were from Afghanistan. These increased flows have also been matched by an increase in the number of applications for international protection. *Frontex Quarterly Report, Issue 3, July-September 2011*

⁵⁰ For example, the *ACP Observatory on Migration's Human Mobility Report 2011* estimates that the population in sub-Saharan Africa was 802 million, increasing on average by 2.7% per year. The report also states that more than two-thirds of the population in Africa are under 25 years of age implying "a large increase in the share of working-age persons likely to seek greener pastures abroad." See also population projections for Africa in *Eurostat Statistics in Focus 19/2012* of 27 March 2012.

⁵¹ See MEMO/11/918 of 16 December 2011 for an overview of the EU's overall response to the Arab Spring.

2011 several Council Conclusions⁵² addressing irregular migration were adopted. The Commission Communications of 4 May⁵³ and 24 May 2011⁵⁴ included priorities for reducing irregular migration. They also extensively examined the situation of irregular migration, including composition of flows, nature and scale of the impact, as well as measures and best practices undertaken by the EU and its Member States. Whilst it is clear that the situation across the EU differs, given the geographical and political specificities, there is now a need for more effective implementation of the already existing processes and measures agreed at EU level. The EU's response should be tailor-made to the different challenges, but the objectives to be achieved and the means at the disposal of the EU and the Member States remain the same.

This is a common challenge for the EU and its Member States. No Member State is able to respond to these challenges on its own, yet each has a responsibility to ensure their effective implementation of agreed measures. The added value of action at EU level, and between the EU and our partners, and in particular our neighbours, is therefore essential. It is also important to identify and jointly support a strategic and comprehensive approach to addressing irregular migration, including ensuring that the external borders of the EU are effectively managed with appropriate legal channels for entry.

Migration and mobility should therefore be placed in the context of the need to maintain orderly movements and in full respect of fundamental rights. This implies dialogue and cooperation with non-EU countries with a view to facilitating legitimate migration and mobility, while at the same time efficiently tackling irregular migration and having an effective return policy. It also implies properly functioning external border controls and solidarity with those Member States most affected. Without this, it will not be possible for the EU to offer more opportunities for legal migration and mobility. It is also an essential element to preserve freedom of movement and internal security inside of the EU. The legitimacy of any policy framework relies on this. As the following will demonstrate, existing acquis and the initiatives tabled in 2011 would, if effectively implemented, provide the EU with the necessary tools to address these challenges.

Under the guidance of the Polish Presidency of the Council of the EU, the latest trends in irregular migration were addressed on several occasions with a view to preparing a set of proposals for possible common actions.⁵⁵ Working with the Commission and the Member States, the Danish Presidency then took forward the work and developed a coherent response which resulted in the adoption by the JHA Council in April 2012 of the roadmap *EU Action on Migratory Pressures – a Strategic Response*.⁵⁶ The Commission's contribution to the development of this roadmap is outlined in Section IV.6.

IV.1. Dialogues on Migration, Mobility and Security⁵⁷

As part of the Global Approach to Migration and Mobility, dialogues on migration, mobility and security leading to the conclusion of Mobility Partnerships were launched on 6 and 13

⁵² On 25/26 February 2010, 3rd June 2010, 11-12 April 2011 and 9-10 June 2011 and most recently on the basis of a Note (Council Doc 18302/11) from the Polish Presidency in December 2011.

⁵³ COM(2011) 248/3

⁵⁴ COM(2011) 291 final

⁵⁵ Council Doc 18302/11

⁵⁶ Council Doc 8714/1/12

⁵⁷ See also COM(2011) 292/3

October 2011 with Tunisia and Morocco respectively, and the necessary preparations to start the dialogue with Egypt have been made. Similar dialogues will follow with other countries in the Southern Mediterranean region, notably with Libya, as soon as the political situation permits. These dialogues allow the EU and the partner countries to discuss in a comprehensive manner all aspects of their possible cooperation in managing migration flows and circulation of persons with a view to *inter alia* establishing Mobility Partnerships. The principle of conditionality is applied in these dialogues in order to encourage effective commitment in preventing irregular migration flows, in managing borders and in cooperating on the return and readmission of irregular migrants.

It is also time to re-consider the proposal made by the Commission at the beginning of 2011 – as noted by the conclusions of the JHA Council of 25 February 2011- to launch a dialogue with Turkey.

Dialogues of a similar format, aimed at jointly addressing mobility and related security elements, have been in place with the Western Balkan countries since 2008. The process is based on country-tailored roadmaps with benchmarks including *inter alia* document security; strengthening capacities in migration, border management and readmission; and the fight against transnational organised crime, terrorism and corruption. Following the lifting of visa-requirements, the Commission has been working intensively with Western Balkans countries to prevent and remedy the situation of misuse of the visa free regime. The countries concerned have adopted a series of targeted measure to address this phenomenon.

Likewise, concrete proposals were made to enhance further the level of political and operational cooperation in the area of Justice and Home Affairs between the EU and its Eastern Partners.⁵⁸ Particular priorities were to consolidate the existing frameworks for dialogue and cooperation, including by identifying the principles for such cooperation; and to analyse the progress made to then propose orientations for further strengthening of cooperation, including its thematic priorities.⁵⁹

IV.2. Support to Greece

The land border between Greece and Turkey is particularly vulnerable to irregular migratory movements and particular attention has been devoted to reinforcing controls at this border, with political and material support provided mainly under Frontex coordination. Frontex also assisted Greece via the Attica Project, which supported the Hellenic Police in return capacity building. The Commission was actively engaged with the Greek authorities and regularly undertook missions to Greece to review progress in the implementation of the Action Plan, then reporting back to the JHA Council.

In view of the need for Greece to make rapid progress in implementing the Action Plan on Asylum Reform and Migration Management, adopted in September 2010,⁶⁰ the External Borders Fund has provided and will continue to provide substantial financial support⁶¹ towards improving border management, in particular, by supporting the establishment of modern screening and detention facilities in the Evros region at the Greece-Turkey land

⁵⁸ Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine. See COM(2011) 564 final.

⁵⁹ Conclusions were adopted by the JHA Council meeting in December 2011.

⁶⁰ MEMO/10/450 of 27 September 2010. The quarterly reports of the Task Force for Greece places this Action Plan in the wider context of other technical assistance to Greece.

⁶¹ In the period 2007-2011, Greece received €119 million and a further €44.7 million is foreseen for 2012.

border. High priority was also given to enhancing Greece's capacity to ensure that irregular migrants are returned to their countries of origin, in accordance with the standards set out in the Return Directive (2008/115/EC), again with substantial financial support⁶² available from the Return Fund to support forced return operations and the introduction and implementation of voluntary return programmes. The Fund also financed measures reinforcing Greece's operational capacity for return management and the effective transposition of the Return Directive. The Commission has made, and continues to make suggestions to Greece on how to maximise the effectiveness of the support available, including through working with organisations such as the IOM.

However, these actions in themselves would not be sufficient without parallel, enhanced cooperation with the immediate neighbours, and in particular Turkey. In this respect, and referring also to Section IV.1, the conclusion of the readmission agreement with the Turkish authorities and ensuring their commitment to combat irregular migration remain a high priority.

The Commission, Member States, EASO and UNHCR supported Greece also in the reform of its asylum system, including financially,⁶³ and a number of positive developments occurred, such as the adoption of new asylum laws, the creation of a new independent Asylum Service, Initial Reception Service and Appeals Authority, a reduction in the backlog of applications, and EASO developing an Operating Plan to deploy Asylum Support Teams from May 2011. However, significant concerns still remain over *inter alia* the inappropriate reception conditions, in particular in the Evros region. The Greek authorities are requested to address these concerns swiftly, whilst ensuring the respect of the fundamental rights of the persons concerned.

IV.3. Safeguarding the EU's External Borders

The added value of Frontex in facilitating operational cooperation between Member States on border security and return was once again demonstrated, notably in respect to assisting the Greek authorities, including via a RABIT,⁶⁴ at its border with Turkey and in Mediterranean Sea operations. Its budget was reinforced by €30 million to enable the Agency to further expand its operational capacity.

Amongst the notable evolutions, following the agreement on amending its founding Regulation,⁶⁵ is for the Agency to be able to strengthen its cooperation with third countries, including providing technical assistance;⁶⁶ the deployment of European Border Guard Teams; and the establishment of a Fundamental Rights Officer plus a Consultative Forum on Fundamental Rights, which should serve to mainstream fundamental rights in all of its activities. Member States are requested to continue to share operational information and

⁶² In the period 2008-2011, Greece received €52.2 million and a further €37.3 million is foreseen for 2012.

⁶³ In the period 2008-2011, Greece received €35.5 million (including emergency support for 2008-2011) and a further €4 million is foreseen for 2012.

⁶⁴ Rapid Border Intervention Teams, as established by Council Regulation (EC) 863/2007. See also Frontex's *RABIT Operation 2010 Evaluation Report*, August 2011.

⁶⁵ Regulation (EU) No 1168/2011 of 25 October 2011

⁶⁶ This shall be done, for example, via the Immigration Liaison Officers (ILOs) network which, following adoption of Regulation (EU) 493/2011 of 5 April 2011, is now integrated into Frontex operations.

cooperate with each other and Frontex in order to reduce the loss of lives at sea and the number of irregular immigrants entering the EU undetected.

Elsewhere, the adoption of the legal basis for the establishment of a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice⁶⁷ will ensure, once it becomes fully operational at the end of 2012, the continuous, uninterrupted exchange of data between national authorities using EURODAC, the Visa Information System (VIS) and the second-generation Schengen Information System (SIS II). Apart from managing these systems, the Agency will also be responsible for the development and operational management of these systems, as well as for other large-scale IT systems based on Title V of the TFEU.

Looking to the future, the Commission tabled its proposal to establish the European Border Surveillance System (EUROSUR),⁶⁸ aiming to reinforce the surveillance of the Schengen external border, especially the southern maritime and eastern land borders, from 2013 onwards. It also launched its vision⁶⁹ on the next generation of border management, using new technologies to simplify life for those travelling frequently to the EU and to better monitor border crossings. This "Smart Borders" initiative consists principally of an Entry/Exit System (EES) and a Registered Travellers Programme (RTP). Following consultations with the European Parliament, the Council and the European Data Protection Supervisor, the Commission intends to table legislative proposals for an EES and RTP in 2012 on the basis of an extensive impact assessment.

IV.4. A Common EU Visa Policy

Some 12.7 million Schengen visas were issued in 2011,⁷⁰ a number likely to increase in the coming years. With the launching of the Visa Information System (VIS) on 11th October 2011 in North Africa, and to be progressively deployed worldwide, applications are processed much faster and identity theft tackled more effectively. Since its launch and up to the end of 2011, the system had stored almost 300 000 visa applications, with some 243 000 decisions made to issue a visa and 38 000 not to. Most of the applications came from Morocco (around 74 000), Algeria (around 71 000), Tunisia (around 29 000) and Egypt (around 23 000). More than 50% of all applications were processed by France (some 116 000 applications) and Spain (some 44 000 applications). About 500 persons were registered with multiple applications, all of which were rejected.⁷¹

In part also as a result of the sudden and substantial increase of unfounded asylum applications following the introduction in November 2009 of visa liberalisation with the

⁶⁷ Regulation (EU) No 1077/2011 of 25 October 2011

⁶⁸ COM(2011) 873 final

⁶⁹ COM(2011) 680 final

⁷⁰ Such visas entitle the holder to stay in the EU for up to three months in any six-month period. In 2011, the highest number, around 41% of the total, of Schengen visas were issued in the Russian Federation.

⁷¹ Corresponding figures in 2012, up to the end of April 2012, are around 453 900 visa applications, with about 368 400 decisions made to issue a visa and 63 000 not to. Most of the applications came from Algeria (around 122 000), Morocco (around 119 000), Egypt (around 41 000) and Tunisia (around 39 000). More than 50% of all applications were processed by France (some 185 000 applications) and Spain (some 78 000 applications). About 3 000 persons were registered with multiple applications, all of which were rejected.

Balkan States, the amendments to Regulation 539/2001⁷² proposed in May 2011 included a visa safeguard mechanism that could be used as a last resort measure.

Substantial progress was made on negotiating visa facilitation agreements with Cape Verde and on upgrading the existing visa facilitation agreements with Moldova, Russian Federation and Ukraine.⁷³ Negotiations with Ukraine were finalised in December 2011.⁷⁴ The Commission will continue to make use of visa facilitation agreements in order to promote people-to-people contacts, including in the framework of the Eastern Partnership⁷⁵ and, in the future, in the Southern Mediterranean. The dialogue on visa liberalisation has started with Kosovo⁷⁶ and is continuing with Moldova, Russian Federation and Ukraine.

IV.5. Schengen governance

Schengen, as an area without internal border controls, is one of the principal pillars of the EU and has facilitated travel for over 400 million Europeans in 26 countries. However, the influx to other Member States, notably France, of Tunisian nationals granted temporary permits in Italy⁷⁷ and the plan to introduce border measures by Denmark, put Schengen under strain and brought into focus the need to enhance Schengen governance. In order to improve the functioning of Schengen, the Commission tabled proposals⁷⁸ to enhance the evaluation and monitoring of the application of the Schengen rules, in order to transform the current mechanism into an effective and preventive tool. The proposals also included a mechanism for the reintroduction of internal border controls as a last resort,⁷⁹ which should occur only in exceptional circumstances, and ensuring that a coordinated EU response is available to protect the functioning and the integrity of the Schengen Area as a common good.

Several amendments⁸⁰ to the Schengen Borders Code (SBC) were proposed as well. The Commission believes they improve clarity and narrow the scope for divergent interpretations, while responding to practical problems that have arisen plus serve to strengthen further the protection of fundamental rights. Negotiations have advanced in Autumn 2011 and adoption can be expected in the course of 2012.

In order to ensure a coherent implementation and interpretation of the rules governing Schengen, the Commission also developed guidelines, in consultation with Member State experts, on the issuing of temporary residence permits and travel documents to non-EU

⁷² COM(2011) 290 final proposing a Regulation to amend Council Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.

⁷³ The Action Plan on Visa Liberalisation was presented to Moldova on 24 January 2011 and to Ukraine on 22 November 2010. Both contain benchmarks in the area of migration and asylum.

⁷⁴ Ukraine-EU Summit Joint Statement, 19 December 2011

⁷⁵ COM(2011) 564 final

⁷⁶ This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence. All subsequent mentions of Kosovo are also to be understood within the context of this statement.

⁷⁷ It is estimated that up to 12 000 permits had been issued and subsequently renewed by the Italian authorities. Whilst it is known that many Tunisian nationals then travelled to other Member States, notably France, the actual numbers are unknown.

⁷⁸ COM (2011)559 final

⁷⁹ COM (2011)560 final

⁸⁰ COM(2011) 118 final

citizens and police measures in the internal border zones. These guidelines are expected to be presented in 2012.

In addition, and following the endorsement of the JHA Council in December 2011, the Commission plans to present regular reports on the functioning of the Schengen cooperation, serving as a basis for a political discussion in the Council and in the European Parliament. The first report was published in May 2012.⁸¹

Positive to note was the formal accession of Liechtenstein⁸² to Schengen; the inclusion of the Kaliningrad oblast as an eligible area for local border traffic;⁸³ and the progress made by Bulgaria and Romania towards joining Schengen.⁸⁴

IV.6. Next Steps – a verifiable roadmap

As the previous sections have demonstrated, the EU already has a number of instruments in place to reduce irregular migration, with not only Frontex but also Europol and EASO expected to play key roles. There is thus no need to create new structures or mechanisms, but rather to concentrate on a more effective implementation of the already existing processes and measures agreed at EU level. These should be used to their full potential and Member States are urged to work closely with the Commission to ensure that this happens.

Indeed, following on from the aforementioned extensive discussions in Council during 2011, in particular during the Polish Presidency, the way forward is now set out within the coherent framework of the roadmap *EU Action on Migratory Pressures - A Strategic Response*, developed under the Danish Presidency, which gives clear goals and measurable priorities. On the basis also of priorities identified by the Member States and the recognition that only a strategic and holistic response at EU level would be successful in addressing them, the Commission contributed to the development of this roadmap on the basis of the following five priorities:

- (1) concrete solidarity between Member States, most notably for those most affected, while ensuring that Member States makes all necessary efforts to effectively manage their external borders;
- (2) an enhanced role at operational level of EU Agencies (in particular Frontex, EUROPOL and EASO);
- (3) a stronger capacity to persuade third countries to act more effectively and to cooperate with the EU in preventing irregular migration and in readmitting⁸⁵ irregular migrants in full respect of their fundamental rights, to be obtained by offering more substantial incentives and rewards for their cooperation, as well as through dialogue and partnership to address all aspects of migration management;

⁸¹ COM(2012) 230 final

⁸² Council Decision 2011/842/EU of 13 December 2011

⁸³ Regulation (EU) 1342/2011 of 13 December 2011. Certain administrative districts of Poland in the eligible border area are also included.

⁸⁴ 3135th JUSTICE and HOME AFFAIRS Council meeting, Brussels, 13 and 14 December 2011

⁸⁵ See COM(2011) 76 final for a review of EU readmission agreements.

(4) mobilisation of appropriate financial resources, including via the future Asylum and Migration Fund;⁸⁶ and

(5) full transposition and use of existing *acquis*, notably the Return Directive,⁸⁷ with continued emphasis on voluntary departure, reintegration and monitoring of the fundamental rights safeguards; and the Employer Sanctions Directive,⁸⁸ plus progress on already tabled relevant proposals, notably on seasonal workers and EUROSUR.

The roadmap adopted by the JHA Council in April 2012 has, to a large extent, incorporated the approach proposed by the Commission.

V. INTERNATIONAL PROTECTION FOR THE 21ST CENTURY

The EU has a long-standing tradition of providing protection to those who need it and shall continue to do so, in accordance also with its international obligations. A key priority, also of many Member States, remains the achievement of a Common European Asylum System in 2012 and some progress towards this goal was made. Following extensive and often difficult negotiations with the co-legislators, political agreement was reached on the extension of the Long-Term Residents Directive to include beneficiaries of international protection⁸⁹ and the recast Qualification Directive.⁹⁰ Progress has also been made with the Asylum Procedures and the Reception Conditions Directives following amended proposals in June 2011. Less positive were negotiations on the recast Dublin Regulation and the EURODAC Regulation, which were stalled for most of 2011. In order to move forward, the Commission calls on the European Parliament and the Council to adopt a constructive approach to negotiations in order that a fair and balanced compromise, acceptable for all parties concerned and increasing harmonisation, is reached. In this respect, the Commission has expressed its will to move forward with a proposal, including law enforcement access to EURODAC, if real progress in the negotiations on the whole package can then be made.

EASO has been operational since mid-2011 and the office will present an activity report on its first year in June 2012. As well as its support to Greece, EASO's main commitment has been on recruitment, the setting up of the necessary structures in Malta and taking responsibility for practical cooperation measures, such as the European Asylum Curriculum. Formal negotiations on the participation of associated countries, including Norway, to EASO are expected to be concluded during the first half of 2012. EASO should achieve independence by mid-2012, making full use of the practical cooperation measures and tools provided for in its founding Regulation.⁹¹ Likewise, Member States should also support EASO by making relevant experts and assets available on a structural basis, and not only in cases of particular pressure.

Solidarity continues to be an essential component of EU asylum policy. The Communication on intra-EU solidarity in asylum⁹² seeks to reinforce practical, technical and financial cooperation among Member States, moving towards a better allocation of responsibilities and

⁸⁶ COM(2011) 751 final

⁸⁷ Directive 2008/115/EC of 16 December 2008

⁸⁸ Directive 2009/52/EC of 18 June 2009

⁸⁹ See Footnote 2.

⁹⁰ Directive 2011/95/EU of 13 December 2011

⁹¹ Regulation (EU) No 439/2010 of 19 May 2010

⁹² COM(2011) 835 final

an improved governance of the asylum system. All actors, in particular Member States, are requested to engage constructively in the follow-up to this Communication. In terms of existing actions, and with the agreed launching of the second phase of the EU Relocation from Malta (EUREMA) project,⁹³ the Commission will undertake a thorough evaluation of the project in order to assess how relocation may then be further developed.

Third countries also benefit from the EU's solidarity in the area of asylum and a new priority, within the context of the Global Approach to Migration and Mobility, is to increase cooperation with relevant third countries in order to strengthen their asylum systems in compliance with international standards. Regional Protection Programmes (RPPs) are a key instrument towards this goal.⁹⁴ Another facet concerns resettlement⁹⁵ in the EU in cooperation with third countries. The Commission thus welcomes the Council's and Parliament's decision to establish common EU resettlement priorities for 2013, paving the way for new rules concerning the financial support that EU Member States receive through the European Refugee Fund.⁹⁶

Unaccompanied minors, and not only those who applied for asylum, continue to be a priority in the context of the Action Plan on Unaccompanied Minors (2010 – 2014).⁹⁷ In 2011, at least 11 800 unaccompanied minors applied for asylum,⁹⁸ more than in 2010 (around 10 700). Less is known about the numbers of those not in the asylum system.⁹⁹ As well as integrating specific actions for unaccompanied minors into the anti-trafficking Directive (see below); the technical Schengen Borders Code proposal;¹⁰⁰ and those to be undertaken by EASO, notably with regard to age assessment; emphasis is also placed on continuous dialogue and close cooperation with the countries of origin and transit. A mid-term review of the implementation of the Action Plan will be presented in 2012.

The fight against trafficking in human beings, along with smuggling, also remain priorities. Again owing to its nature, data are scarce,¹⁰¹ but indications are that trafficking is increasing in scale. With the adoption of the Directive on preventing and combating trafficking in human beings and protecting its victims,¹⁰² the Commission, supported by the EU Anti-Trafficking Coordinator, shall table its Integrated Strategy on Trafficking in Human Beings in 2012 focussing on concrete actions to more effectively tackle this phenomenon in order to *inter alia* realise the full potential of this Directive. Related to this, the outcomes of an initiative launched by the Commission in 2011 to obtain reliable and comparable data on trafficking in

⁹³ The second phase aims to resettle over 360 refugees in 2011-2012.

⁹⁴ A new RPP in North Africa (Egypt, Tunisia and when possible Libya) started in December 2011.

⁹⁵ About 3 000 refugees were resettled in EU Member States in the course of 2011, 10 of whom have annual resettlement programmes.

⁹⁶ Council Press Release 6838/12 of 8 March 2012 on Common EU resettlement priorities for 2013 and new rules on EU funding,

⁹⁷ COM(2010) 213 final

⁹⁸ Figure excludes numbers in ES and PL which were not available when this report was published. In 2010, there were 15 unaccompanied minors in ES and 230 in PL.

⁹⁹ Some estimates are given in Table 10 of the accompanying Commission Staff Working Paper.

¹⁰⁰ COM(2011) 118 final

¹⁰¹ Available data on the number of residence permits issued to victims of trafficking are now recorded by Eurostat. In 2010, for example, this was 462 in IT, 304 in NL and in 108 in BE. Some numbers are also reported by Member States on the Commission's Anti-Trafficking website, <http://ec.europa.eu/anti-trafficking/>. Austria and Hungary in particular saw increased smuggling during 2011. According to the ICMPD yearbook 2010, the number of persons found being smuggled to Hungary was 350 in 2010, whilst a total of 6 664 persons were apprehended as being smuggled to Austria.

¹⁰² Directive 2011/36/EU of 5 April 2011

human beings at EU level will be presented in 2012. Following the first implementation report on the Action-Oriented Paper on the EU external dimension on action against trafficking in human beings,¹⁰³ and in line with the Council's subsequent recommendations, this issue is and will continue to be systematically included in all relevant EU agreements and strategic partnerships with non-EU countries and also in all political dialogues on migration and mobility. Capacity-building is a key element of the EU's external action in this field, as well as compliance with international standards in this area, in particular ratification and implementation of the UN Convention on Transnational Organised Crime and its protocols on trafficking in human beings and smuggling of migrants.

VI. CONCLUDING REMARKS – A FRAMEWORK FOR ADDRESSING COMMON CHALLENGES TOGETHER

Migration is and will continue to be an essential enhancement for the EU, not only in economic terms, but also in respect to the social and cultural aspects of our societies. Understandably, it has also contributed to certain perceptions which need to be aired through open and balanced debates, not dominated solely by anti-immigration rhetoric. Whilst the downsides of migration are often widely reported, one should not forget the positive contributions that migration brings and will need to bring in order for the EU to grow and continue to thrive. Effective integration benefits our increasingly diversified societies and this can only be achieved through further improvement of our societies' understanding and attitudes towards migrants, as well as for migrants themselves to have the incentives to become fully involved in the society in which they live.

A coherent EU migration policy needs to instil confidence in EU citizens that it is effectively managed to meet the needs of the EU, in partnership with third countries and in full respect of fundamental rights and freedoms. The caricature of a so-called "Fortress Europe" is not an accurate representation of EU policy. Rather, the EU has a duty to ensure that Europe's borders are safe and secure with appropriate legal channels for entry. This can only be achieved through the continued positive engagement of the EU, its institutions and its Member States, as well as of wider civil society, including migrant associations, plus the business community and trade unions, in order to have a policy which meets the needs of the EU and provides a safe haven to those requiring protection. Clearly, the EU cannot work in isolation, and dialogue with the outside world is an essential aspect to show *inter alia* the benefits that can result when migrating to the EU. Given this, the Commission considers that the EU should further strengthen its external migration policy, for which the Global Approach to Migration and Mobility provides the overarching framework.

Much has already been achieved since the initial development of a common policy in 1999 and the EU now has in place a comprehensive set of tools able to meet most needs. These tools must, however, be used more effectively and consistently. The historic events of 2011 demonstrated the need to have appropriate measures able to react in a dynamic manner and served to identify certain obstacles in the implementation of EU migration policy. The Commission played its role in reacting to these challenges, and will continue to do so, including by proposing how they might be addressed in the future. As well as the developments already described, the tabling of a proposed Asylum and Migration Fund Regulation¹⁰⁴ showed how funding could be used to support and promote EU actions in both

¹⁰³ Council document 12401/11

¹⁰⁴ COM(2011) 751 final

the short- and long-term with its focus on people flows and the integrated management of migration.

The Commission looks forward to further debates, notably in the European Parliament and the Council on the basis of this report, and in particular to taking forward the *EU Action on Migratory Pressures - A Strategic Response*.