

EN

EN

EN



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 17.6.2008
SEC(2008) 2027

COMMISSION STAFF WORKING DOCUMENT

Accompanying the

**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**

SUMMARY OF THE IMPACT ASSESSMENT

{COM(2008) 259 final}
{SEC(2008) 2026}

1. INTRODUCTION

This report has been drafted by the Directorate-General for Justice, Freedom and Security with input from a number of other services of the Commission. It is a simplified version of an impact assessment insofar as it only consists of a problem definition which takes into account the existing acquis, an overview on the main orientations (explanatory memorandum), and an insight into the future methodology. The following measures implementing the common principles will be subject to a full impact assessment.

Immigration is a complex issue and has become one of the most visible challenges posed by globalisation to EU Member States. 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, building on the new provisions adopted by the Treaty of Amsterdam. The approach agreed in Tampere in 1999 was confirmed by The Hague Programme (2004-2009). 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.

2. PROBLEMS AND CHALLENGES TO TACKLE (PROBLEM DEFINITION)

2.1. SHRINKING EU POPULATION AND DEMOGRAPHIC AGEING

As a result of diverse shifts in demographic features of the EU population, and further to the withdrawal from the labour market of the baby boomers cohort, the working age population will face, in the coming years, a sizeable decline. The doubling of the old-age dependency ratio, a growing pressure on the health-care and long-term care system, as well as the pension expenditure and a declining annual average potential GDP growth rate in the EU-25 are projected. Against this backdrop, migration has become a major determinant of demographic evolution in the EU since over recent years it has outweighed the contribution from natural change.

2.2. LABOUR AND SKILLS SHORTAGES

A number of Member States already encounter labour and skills shortages, exacerbated by a low mobility of workers across the EU. According to recent medium term forecasts, demand for many high-skilled non-manual jobs but also for some lower-skilled categories will continue growing. Non-EU nationals already play an important role in meeting labour market demands, since working age migrants from third countries tend to be slightly overrepresented at the highest skill levels and more significantly overrepresented at the lowest skill levels. In order to attenuate the labour market shortages, improving the labour market performance of non-EU residents and, in the short term, set up strategies aiming at attracting new labour migrants, are therefore needed.

2.3. INSUFFICIENT INTEGRATION OF LEGAL IMMIGRANTS

Effective sharing of information, coordinating with all tiers of authorities and stakeholders and paying due attention to gender issues and the specific needs of migrant youth and children, are still major challenges. The capacity to collect, analyse and disseminate integration-related information, as well as monitoring, evaluation of integration policies and identification of specific indicators are to date insufficient. Structural initiatives targeting the host population to reinforce its ability to adjust to diversity as well as participation of immigrants in the elaboration of integration policies are still underrepresented in national

strategies. Improving the educational attainment of non-nationals, their integration into the labour market and knowledge of the host society and of its language, ensuring that all immigrants understand, respect and benefit from the full scope of values and rights established by the EU and Member State laws, promoting non-discrimination and equal opportunities are also key issues of integration policies.

2.4. CONTINUOUS PRESSURE OF ILLEGAL IMMIGRATION

From a security perspective, illegal immigration may be linked with terrorism, trafficking in human beings, smuggling of drugs and weapons, exploitation, slavery-like working conditions and other serious crimes. Besides, illegal immigration is often associated with humanitarian tragedies, linked to attempts to enter into the EU territory with the help of criminal networks. Moreover, illegal entry, transit and stay undermine the credibility of the EU and Member States' immigration policies and results in multiple and diverse social costs. Illegal immigration is maintained by insufficient return measures, boosted by criminal networks engaged in smuggling and trafficking, and fed by the possibility of finding work and the prospect of a regularisation.

2.5. AN INSUFFICIENT PARTNERSHIP WITH THIRD COUNTRIES

In the last decades the European Union has become a destination continent for immigrants from various parts of the world and the volume of this migration has been growing until the early 2000s. Economic reasoning underpins all decisions to migrate; however, the process is complex and susceptible to a number of additional factors search of better livelihoods, underperforming governance, bad business climate due to corruption and instability, disrupted labour markets, natural disasters and conflicts, etc. The attenuation of the root causes of migration is an important element of the Global Approach.

2.6. INSUFFICIENT ADAPTATION OF BORDER MANAGEMENT AND VISA POLICY TO THE NEEDS OF A GLOBALIZED WORLD

Given that border controls are a key component in the fight against illegal immigration and in countering cross-border crime, it is indispensable to ensure an efficient and extensive border control. Two areas are of particular importance to ensure the efficiency of borders controls: identification of overstayers and strengthening of surveillance at borders. At the same time, most of the passengers do not pose any threat to security and should be able to cross borders in a streamlined and not too burdensome manner. Moreover, the approach of national visas giving access to the entire Schengen territory do not allow for full equal treatment of all applicants, nor for a fully harmonised application of the criteria for security checks. Finally, in a number of countries applicants may have to travel long distances in order to reach a consulate of a Member State.

2.7. UNSATISFACTORY GOVERNANCE OF MIGRATION

Asylum and immigration measures taken by one Member State are more than likely to have an impact on other Member States; this is a consequence of the absence of border checks in the Schengen area, the common visa policy, 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. Due to the transnational nature of migration issues, national measures prove to be insufficient and action needs to be taken at an EU level, e.g. to set out common rules across Europe, deliver a common message towards prospective migrants or negotiate with third countries. A parallel and harmonious development of national

and Community asylum and immigration policies is therefore needed. This has so far been hindered by a number of factors, including the unanimity rule in the Council, the low level of mutual information, the lack of comparable Community statistics, an uneven share of responsibilities, an insufficiently comprehensive approach of migration and weak monitoring and evaluation mechanisms.

3. WHAT ARE THE MAIN POLITICAL ORIENTATIONS AND OBJECTIVES?

Based on the needs and problems analysis outlined above, and on the EC legal and political framework in the immigration and borders policy area, a series of objectives for the further development of the common policy should be set out. The European Council already decided on a number of objectives and policy options: indeed, with two exceptions - the issue of regularizations, and the active involvement of social partners and regional and local authorities - all of the objectives of this policy have already been fixed at the highest political level.

The Commission has compiled and summarised these objectives into eleven principles. Each of these principles shall be translated in concrete policy options and operational measures, which should constitute the contribution from the Commission's side to the major policy debate which shall take place in 2009 in order to define the specific contents of the successor of The Hague Programme (2009-2014) in the field of immigration.

Principle 1 – Clear rules

Drawing up clear and transparent rules is a pre-requisite for the definition of an efficient and effective migration policy. Migrants should therefore be provided with objective and clear information on the diverse existing legal channels to be admitted in Europe, on their future rights and obligations, including to respect the basic values of the European Union, and should also be provided, in origin and destination countries, with concrete and realistic possibilities to fulfil the requirements enabling them to be issued with a visa and a residence permit. The objective of better integration will also follow from an enlarged set of rights granted to third-country nationals, who should benefit as far as possible from the same rights as EU citizens.

Principle 2 – Economic migration

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. As regards economic migration, conditions of admission should, as far as possible, build on a needs assessment – to which the upcoming assessment of the future skills requirement in Europe until 2020 will contribute –, immigration profiles and labour matching policies, using possibly training in countries of origin. This policy therefore accompanies employment and education policies seeking to harness existing potential and to reduce unemployment of third-country nationals already legally residing in the EU, and is also to be carried out in full respect of the principle of Community preference.

Principle 3 – Integration

Integration of third-country nationals is a process of mutual accommodation by both the host societies and the immigrants, and is an essential factor in realising the full benefits of immigration. The mainstreaming approach based on the Common Agenda for Integration has already been followed and should be further strengthened. Specific integration programmes for newcomers, adaptation of public services to migrants' particularities, fighting against

discrimination, promotion of diversity management at the work place and awareness raising amongst all actors concerned, fall under the obligations of the host society. Gender issues should be paid specific attention. Development of indicators and regular evaluation are also indispensable prerequisite for improving the situation.

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 further to strengthen coordination between the different competent tiers. Coordination requires that, at Member State level, as well as at the EU level, migration policy is designed and implemented in a transparent manner, and in full compliance with the competencies of each level. To that end, the Mutual Information System mechanism, created in 2006, exchange of information, as well as exchange of best practices, should be further promoted, allowing to establish mutual trust and to send clear and unambiguous messages.

Principle 5 – Solidarity

Financial solidarity is a valuable tool ensuring a similar application of Community legislation and policies without imposing a disproportionate task on individual Member States and promoting mutual trust through cooperation, dissemination of best practice and enhancement of knowledge. Designed as a flexible instrument, implementation of the Framework 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, with 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 work much closer during the coming years with partner countries on opportunities for legal mobility, building capacities for migration management, a better matching between labour markets trends and human capital development, protecting fundamental rights and fighting irregular flows. Moreover, more resources will be focused on compliance with good standards at work, and the EU will further develop policies on ethical recruitment, prevention and mitigation of brain drain and brain waste, possibilities for circular migration, harnessing the development potential of remittances, facilitating returnee entrepreneur businesses. Exploratory work is taking place on mobility partnerships, paving the way towards firm arrangements for the management of labour immigration, with selected long-term strategic allies.

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

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. Only development towards truly European short-stay visas will ensure an equal treatment of all visa applicants. A logical and necessary development towards managing the visa applications at common European visa centres should accompany the move toward European visas. The pooling of resources and the economies of scale that would be achieved, would also ensure easy access of applicants to the premises where such visas would be issued.

Principle 8 – Integrity of Schengen territory

Diverse responses are needed, including action to develop border surveillance, measures to reinforce the operational coordination between Member States through FRONTEX, and introduction of an entry-exit system to record the dates of entry and exit of each third-country national admitted to the Schengen area. It is also necessary to ensure coherence between internal and external policies in the field of border management. A more strategic approach in selecting key partners for this purpose is needed, with a clearer definition of comprehensive long-term objectives. The mechanisms for ensuring burden-sharing and mutual solidarity between Member States in managing the EU's external borders must also be continuously refined.

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

Initiatives in this area should focus on prevention, sanctions and enforcement and must involve European institutions, Member States and key stakeholders, such as social partners. An important step forward will be made with the adoption of the proposal for a Directive providing for sanctions against employers of illegally staying third-country nationals¹. Incentives towards declared work should be bolstered and further efforts to enforce sanctions should be undertaken, materialising in additional national financial and human resources, including the establishment of specialised control bodies, risk analysis, enhanced coordination and a better evaluation of controls. Moreover, legislation, monitoring and sanctions schemes must adapt to new kinds of fraud such as sub-contracting and false self-employment.

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

National and Community legislation must be reviewed in order better to reflect new criminal phenomena and to offer an enhanced protection to victims. Accordingly, existing the 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. Moreover, it should be ensured that investigative techniques, funding of civil society organisations, and more generally all prosecution and protection measures are endowed sufficient resources by Member States. On the other hand, owing to the cross-border nature of the phenomena, EU action should be stepped up at regional and international level, especially making use of international instruments against human trafficking.

Principle 11 – Sustainable and effective return policy – regularisations

An effective readmission and return policy, whilst respecting the human rights and fundamental freedoms of the person concerned, requires an improved operational co-operation among Member States, an enhanced role of FRONTEX in supporting joint return operations, and intensified cooperation and partnership with third countries and the setting up of common standards. 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, in particular when it comes to regularisation measures, which could have spill-over effects on other Member States.

¹ COM(2007) 249, 16.5.2007.

4. FUTURE METHODOLOGY: BETTER GOVERNANCE OF IMMIGRATION

Immigration, being a complex and multifaceted phenomenon, requires a mixture of policy actions covering a wide range of issues and fields: demographic constraints, economic needs, social expectations, health impacts, trade commitments, development needs, education opportunities, security dimension, etc. Moreover, as a consequence of a shared competence policy area, coordination between the EU and the national level, especially on 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.

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. On the basis of individual immigration profiles, multiannual guidelines and objectives should be defined. 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. Availability of statistics and of the necessary analytical capacity is a key component in the development of any evaluation system. 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.