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Legal migration and the follow-up to the Green paper and on the fight against illegal immigration

Check Against Delivery
Seul le texte prononcé fait foi
Es gilt das gesprochene Wort

University of Harvard

Boston, 7 november 2005

Introduction

The entry into force of the Amsterdam Treaty in May 1999 **represented a turning point in the EU's commitment to work together in the fields of Justice and Home Affairs, in particular with regard to immigration and asylum.** Based on the new powers under this Treaty, in autumn 1999, EU Heads of state – at their meeting in the Finnish city of Tampere – adopted comprehensive guidelines (“Tampere conclusions”) for the development of a common EU immigration and asylum which should build upon four clearly identified core elements: partnership with countries of origin; a common European asylum policy; fair treatment of third country nationals; and the effective management of migration flows.

In November 2000, the European Commission published a comprehensive strategy paper indicating how it intended to translate these guidelines into concrete action. *

In November 2004, the “Tampere guidelines” were replaced by a new work programme for the period 2004 to 2009, the so-called “**Hague programme**” adopted by the EU Heads of State and Government at their meeting in the Dutch capital – hence the name.

As far as migration is concerned, a major policy development underlying both the Tampere and Hague work programmes was a particular emphasis on the contribution which legally admitted immigrants could make to the economic growth and to the cultural and social enrichment of Europe.

In an overall economic and social context characterised by a number of skill and labour shortages, competition for the highly skilled in a globalised economy and accelerating demographic ageing, **immigration is taking on a new profile in the EU.**

The new key message is: **Europe will need more migration**, since labour and skills shortages are already noticeable in a number of sectors and they will tend to increase. **Demographic projections** indicate that a decline in employment in the order of 20 million workers for EU-25 can be expected between 2010 and 2030 as a result of demographic change. This phenomenon will affect some Member States more than others. Nevertheless, it is a common trend.

The European Statistical Office's (EUROSTAT) projections foresee that the **working age population in the EU-25 will start declining in 2011.** This is an average figure, in many EU countries this decline has already started.

Immigration is only one of the solutions to compensate for demographic ageing and to sustain the growing costs of the EU welfare systems. First and foremost, the EU must tap into its existing human resources (EU nationals and third-country nationals already resident in EU territory).

Volumes of admission of third-country nationals seeking work in the EU are – and will – remain the responsibility of Member States.

But, **decisions to admit third country nationals are no longer the exclusive remit of each Member State. Such decisions affect other Member States** and the EU labour market as a whole (i.e. impact of acquired rights such as the right to travel within the Schengen area, to deliver services in other Member States or to move to another Member State, once long-term resident's status has been obtained). This “*political difference*” has encouraged Member States to discuss a common way to proceed.

Migration is a really complex phenomenon that has no simple answers and **needs to be coherently addressed in all its dimensions**.

The EU must therefore **aim at efficient and effective management of legal migration flows** and, at the same time, fight illegal migration, in particular as concerns the trafficking of human beings and organised crime.

How to effectively manage legal migration flows - The green paper on economic migration and the policy plan on legal migration

Last January the Commission published a green paper in order to launch a **wide public debate on a future common policy in the field of economic migration**, specifically on which rules should be adopted at EU level for the admission of migrants for paid and self-employed activities and on the added value of having such a European approach.

The purpose was to discuss with relevant stakeholders their needs and concerns, as well as to hear their views and receive input on the strategy which the EU should adopt in respect of the sensitive issue of labour migration, in order to find commonly shared solutions. The **Commission received about 130 written contributions** from Governments, local authorities, NGOs, EU bodies, International organisations, third-countries, the academia. Several contributions were particularly constructive.

To complete the debate, the Commission organised a **public hearing** in June 2005, where broad support for the perspective of a common European framework for economic migration was expressed.

Even though their views did not fully coincide, **some common messages** could be extrapolated:

- any system agreed must be **simple, un-bureaucratic and flexible** enough to adapt to the different needs of the labour markets in the Member States;
- most of those who took the floor asked for a **horizontal approach**, accompanied by **special schemes** for either high skilled or seasonal workers (or both);
- broad support was given to the principle of granting preference to EU and already established third-country nationals over newly arriving third-country workers (**Community preference**);
- the idea of a **job-seeker permit** (in very broad terms comparable to the "US lottery") was supported in general terms, but it might be difficult to be put in place at EU level;
- a **common framework of rights** was considered essential for ensuring fair treatment of all third-country nationals;
- strong integration policies and increased cooperation and dialogue with the countries of origin were considered essential;
- The Commission is using the analysis of the public consultation on the Green Paper as a basis for the **Policy Plan on legal migration**, which it will table before the end of this year.

The Commission is discussing internally the various components of the Policy Plan. But it will be a **roadmap outlining the legislative and operational measures** to be proposed in the field of legal migration, in particular for labour migration.

Four specific issues deserve particular attention in this framework: (1) the inseparable link between legal migration and integration; (2) the attraction of highly skilled migrants; (3) worker's rights; and (4) cooperation with third-countries of origin and transit.

Legal migration and integration are inseparable issues and should mutually reinforce each other. In September this year, the Commission has adopted a **Communication on integration**, providing a framework for the integration of third-country nationals residing in the EU and proposing concrete measures to be implemented at EU and national level.

The Commission is pursuing a **holistic approach to integration**, covering economic, social, political and cultural dimensions. It has been repeatedly emphasized that, in the EU, greater efforts in this field are needed and that integration is a continuous, two-way process based on mutual rights and corresponding obligations of the legally residing third-country national and the host society.

Another important issue is how to improve the EU's capacity to attract the **highest skilled migrants**. In this respect Europe must learn from countries like the US, Canada and Australia, who have longstanding experience in this field. There is increasing international competition to attract highly skilled and qualified migrant workers.

Therefore, Europe needs to put together **high quality packages** to persuade the top end of migrants, such as engineers and biologists, to choose our continent as their destination. A first important achievement in this sense is the facilitated procedure for the **admission of third-country researchers** which the EU Council of Ministers adopted in October and which will become applicable in two years time. Now the EU common immigration policy must be pushed further following this successful precedent.

As far as the issue of **rights of workers** is concerned, we should be absolutely steadfast in not accepting any compromises. The Hague Action Plan clearly states that we need *"to ensure the full development of policies enhancing citizenship, monitoring and promoting human rights"*.

Third-country workers should enjoy the **same working conditions and rights** as our nationals. This will protect both the third-country migrants and EU workers from discrimination and exploitation. There is a need for a **basic set of rights, common to all Member States**: this will encourage migrants to go where their work and skills are needed rather than where the social security is more advantageous. This scenario will continue to occur until complete harmonisation is achieved, but at least the worst disparities could be levelled out initially.

A successful EU policy on economic migration requires that migration flows are managed in **cooperation with the countries of origin and transit**, taking into account their reality and needs. Increased dialogue and cooperation with these countries are therefore necessary. For example, the EU is sustaining immigration management projects in the countries of origin. A strong link between immigration and development initiatives and policies is more and more required.

Fight against illegal immigration

Combating illegal migration is to be a **key priority for the EU in the coming years** as the migration pressure on the EU and especially its southern member States is high and increasing. Illegal migration from **sub-Saharan Africa** is on the rise seriously and is expected to increase even further in the coming years: sharp rise in African population, continued poverty, environmental degradation, increasing numbers of gangs that organize the trafficking and smuggling of human beings and continued conflicts are all backing that assessment.

Illegal immigration is a global problem that calls for global responses and the EU is ready to play an active role in developing these. To this end, **in March next year, the Commission will present its views on the future priorities of the EU in this field.**

The EU pursues a **comprehensive approach** to possible Community actions aiming at suppressing illegal migratory flows. To this end attention is being paid to **further development of the common legal framework, to the strengthening of administrative cooperation among Member States** as well as with third countries. **Reinforcing cooperation with third countries** which are countries of origin and/or transit is a crucial element of the effective fight against illegal immigration. Our efforts should be aimed at providing a comprehensive package to these countries to better manage migration. Such a package would cover also promoting the usage of legal channels for migration.

An effective return policy is the necessary corollary of a common policy on legal migration and asylum, and obviously key in the fight against illegal immigration. The Hague Programme called for the establishment of an effective removal and repatriation policy based on common standards for persons to be returned in a humane manner and in full respect for their human rights and dignity. The Commission responded to this call in September this year by proposing to **approximate Member States' procedures for the return of illegally residing Third Country Nationals**. The proposed legislative instrument ("directive") sets out clear, transparent and fair common rules concerning return, removal, use of coercive force, detention and re-entry. It should be noted that the proposal also takes into account special concerns as regards safeguarding public order and security.

The Hague Programme also asks for the **strengthening of administrative and operational cooperation between the Member States**. Joint operations and further development of the immigration liaison officers' network in third countries will be encouraged. Timely exchange of accurate and relevant statistical data would also contribute to better planning of the possible countermeasures on EU level. The **availability of statistical data** will, in the future, be improved through a new statistical regulation which has just been proposed by the Commission.

Improving the control of the external borders of the EU is a policy priority for many years and, in particular, as the Union has enlarged in 2004 and now has significantly longer land and sea borders. Improving cooperation and coordination on the ground was a primary feature of several **action plans on illegal migration** adopted during the first phase of establishing the common immigration and asylum policies. This phase was crowned by the landmark decision to set up an **EU Border Agency** responsible for external border management at European level. The Council adopted the Regulation establishing the Agency at the JHA Council on 25 – 26 October 2004, and the Agency has taken up its responsibilities this summer.

The Agency's objective is to render the implementation of the EU policy on the management of its external borders more effective by better **co-ordinating operational co-operation between the Member States**. Its mission is to facilitate the application of existing and future Community measures relating to the management of the external borders by ensuring the co-ordination of Member States' actions when they implement them.

The EU's strategy to effectively combat illegal immigration includes also efforts to enhance **document security, including the introduction of biometric identifiers into passports and other ID documents. Moreover large scale IT systems are in the process of being developed, notably the Visa Information System and the second generation of the Schengen Information System.** They will all remarkably facilitate more effective checks, and thus render the EU's fight against illegal immigration more effectively.

In this context, one issue deserves particular attention: the recognition that the **fight against illegal migration starts with preventive measures and the suppression of its main incentives.** Therefore the EU must also intensify its efforts aimed at **reducing the informal, black economy**, which acts as a "pull factor" for illegal immigration. Tackling the unregulated labour market is therefore a common objective which touches not only the area of immigration but also that of employment, as those who work in the hidden economy are often subject to exploitation, and denied the rights of other workers. The problem of undeclared work and the need for policy aiming at transforming undeclared work into regular employment has been addressed in all European Employment Strategies since 2001.

Finally, the real novelty: migration has become an important item of European political agenda. The necessity to build up an European migration policy – with its Mediterranean dimension, a real new awareness, looking back to traditional old Europe style – is now a very common and consensual task . Member States are aware that all the decisions they take here will impact on the situation in other Member States. That is why there is a need for a common policy that is firm in its opposition to clandestine immigration and trafficking in human beings, above all women and children.

After Hampton Court, the informal meeting of European Heads of State and Government – two weeks ago - , "how to control but also to use migration to boost the effectiveness and competitiveness of the European economy" has become the fourth area suggested for priority work.