

Documents published by the Commission:

Memo 08/402: A Common Immigration Policy for Europe

<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/08/402&format=HTML&aged=0&language=EN&guiLanguage=en>

Memo 08/403: Questions and Answers on the Policy Plan on Asylum

<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/08/403&format=HTML&aged=0&language=EN&guiLanguage=en>

Memo 08/404: Questions and Answers on the EU common immigration policy

<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/08/404&format=HTML&aged=0&language=EN&guiLanguage=en>

[EC] 17/06/2008 - [Taking forward the common immigration and asylum policy for Europe.](#)

Today the Commission adopted a Communication on "A Common immigration policy for Europe: principles, actions and tools" and a Policy Plan "Asylum – an integrated approach to protection across the EU". The Communication puts forward ten Common Principles on which to base the common immigration policy, grouped under the three main strands of EU policy: prosperity, solidarity and security. The Policy Plan on Asylum provides for the architecture of the second phase of the Common European Asylum System (CEAS). Both address the remaining elements on immigration and asylum of The Hague Programme. They should be endorsed by the European Council of 15 October 2008 and will, in the course of 2009, feed into a new five-year Programme in the Justice, Freedom and Security area. José Manuel Barroso, President of the European Commission, said: "The Migration Package adopted today shows that we need to take a new approach to dealing with Immigration and Asylum. Immigration contributes to European economic performance. But this potential will be possible only if integration of migrants succeeds and people's concerns about illegal immigration are recognized. Europe needs a common policy vision which builds on past achievements and aims at providing a more coherent and integrated framework for future action by the Member States and the European Union. If we work together on the ten principles to better manage immigration and reinforce the standards for protection of asylum seekers we will make tangible improvements in these crucial areas" On the Communication on Immigration Vice-President Jacques Barrot, Commissioner responsible for Freedom, Security and Justice, stated that "Immigration is an opportunity and a challenge for the EU: if properly managed, it's richness for our societies and economies. In a Europe without internal borders Member States and the EU need to act on the basis of a common vision. This is a prerequisite for managing legal migration and integration as well as fighting illegal immigration whilst upholding universal values such as protection of refugees, respect for human dignity and tolerance." With regard to the Policy Plan on Asylum he added: "With this Policy Plan the Commission launches the second phase of the Common European Asylum System, whose overarching objectives are to uphold and reinforce the Union's humanitarian and protection tradition and to achieve a true level playing field for protection across the EU. This means that we will have to improve the common legislative standards, increasing the quality of decision making by supporting practical cooperation between national asylum administrations and fostering more solidarity between the Member States and between the EU and third countries in receiving refugee flows".

Common Principles on immigration for Europe

The Communication on "A common immigration policy: principles, actions and tools", adopted today by the Commission, outlines the Commission view on how to further develop the common European immigration policy and calls on the European Council to endorse the ten common principles proposed therein, together with a selection of concrete actions. The ten common principles build on the 1999 Tampere European Council's milestones, the 2004 Hague Programme and the Global Approach to Migration, launched in 2005. Each of them is made concrete by a non-exhaustive list of actions to be implemented either at Member States' or EU level. These principles cover the broad spectrum of the immigration policies and are grouped under the headings of: **Prosperity and Immigration:** 1 – Clear rules and a level playing field; 2 – Matching skills and needs; 3 – Integration is the key to successful immigration. **Solidarity and Immigration:** 4 – Transparency, trust and cooperation; 5 – Effective and

coherent use of available means; 6 – Partnership with third-countries. **Security and Immigration:** 7 – A visa policy that serves the interests of Europe; 8 – Integrated border management; 9 – Step up fight against illegal immigration and Zero tolerance for trafficking in human beings; 10 – Sustainable and effective return policies. The common immigration policy will be delivered in partnership between the Member States and the EU institutions and will be followed up regularly through a new monitoring and evaluation mechanism, including an annual assessment and recommendations by the Spring European Council on the basis of a Commission's report on the immigration situation at European and national level.

Policy Plan on Asylum

In parallel, but in a separate document that reflects the specific nature of asylum issues, the Commission is also adopting today a Policy Plan on Asylum which lists the measures that it intends to propose in order to complete the second phase of the Common European Asylum System (CEAS). The first phase of the CEAS (1999-2004) saw the adoption of an important number of legal instruments establishing common minimum standards in areas such as reception conditions for asylum seekers, asylum procedures and the requirements to qualify as a person needing international protection, as well as rules for the determination of the Member State responsible for an asylum application (the so called Dublin system). The Policy Plan proposes to improve definition at EU of standards for protection, in order to achieve the ambitious objectives set out in the Hague Programme, by amending the existing legal instruments. At the same time, it acknowledges that legal convergence must be complemented by adequate practical cooperation mechanisms (exchange of information and best practices, common trainings, etc.) if convergence in asylum decisions, and therefore equality of protection across the EU, is to be reached. A European Support Office on Asylum will be established in order to coordinate practical cooperation activities. The Policy Plan also sets out a number of tools to foster solidarity vis-à-vis those Member States confronted with strong pressures on their asylum systems. Finally, it presents ideas for supporting third countries which host high numbers of refugees, by inter alia the establishment of an EU-wide resettlement scheme and the expansion of the existing Regional Protection Programmes. For further information on the Communication on Immigration and on the Policy Plan on Asylum see related MEMO/08/402, 403 and 404.

EUROPEAN PARLIAMENT

Documents published by the Parliament:

[EP] 18/06/2008 - Parliament adopts directive on return of illegal immigrants
http://www.europarl.europa.eu/news/expert/infopress_page/018-31787-168-06-25-902-20080616IPR31785-16-06-2008-2008-true/default_en.htm

The compromise reached between Parliament negotiators and the Council on the directive on the return of illegal immigrants was approved at first reading by the full Parliament on Wednesday. This legislation, which is a step towards a European immigration policy, will encourage the voluntary return of illegal immigrants but otherwise lay down minimum standards for their treatment. The draft directive was adopted by Parliament under the co-decision procedure by 369 votes to 197, with 106 abstentions. The House approved the compromise amendments tabled by the EPP-ED group. Other amendments, by the PES, Greens/EFA and GUE/NGL groups, seeking to make the legislation more favourable to individuals who are the subject of an expulsion order, were thrown out, as was a proposal to reject the directive outright, which was tabled by the last two groups. The purpose of the legislation is to lay down EU-wide rules and procedures on the return of illegal immigrants. It covers periods of custody as well as re-entry bans but also includes a number of legal safeguards. Member States will be banned from applying harsher rules to illegal immigrants but allowed to keep or adopt more generous rules. In any case, this EU legislation applies only after a decision has been taken by the national authorities to deport an illegal immigrant: each Member State retains the power to decide in the first place whether it wishes to regularise or deport the immigrant.

Six-month detention period, with possible 12-month extension

Under the legislative text as adopted today, where a decision is taken to deport an individual, a two-step approach follows. First, the deportation decision is immediately followed by a voluntary departure period, limited to between seven and thirty days. Then, if the deportee does not leave, a removal order

will be issued. If the removal order is issued by a judicial authority which believes the individual in question might abscond, the person can be placed in custody. At present detainees can be held indefinitely in some Member States, including the UK (Ireland has a maximum of 8 weeks), but the directive lays down a maximum period of custody of six months, which can be extended by a further 12 months in certain cases. An amendment by the PES group, seeking to reduce this to three months plus a further three months, was rejected. If a person is placed in custody following an administrative decision, this decision must be approved by the courts "as speedily as possible". The original draft legislation required a court order within 72 hours, while the EP Civil Liberties Committee wanted 48 hours. A PES amendment seeking to restore the deadline of 72 hours was rejected. A re-entry ban would apply for five years maximum if the person is deported after the voluntary return period has expired, or longer if the individual represents a serious threat to public safety. However, Member States retain the right to waive, cancel or suspend such bans.

UK and Ireland have not opted-in

The UK and Ireland are not affected by the directive because they have not opted into this area of Community law. The UK government argues that a strong returns regime in the EU is in everyone's interest, including the UK. But it is not persuaded that this Directive delivers the strong returns regime that the EU needs and that's why the UK government has chosen to exercise its right not to participate in this proposal. Several Member States, argues the UK government, have made the point in the discussions that the Directive makes returning illegally staying third country nationals actually more difficult and more bureaucratic - by introducing restrictions on detention, obligations to provide legal aid to irregular migrants, and increasing the possibilities for challenging the return decision - over and above the strong protections already in place in EU law for refugees and asylum seekers.

Children and families to be detained only as a last resort

The directive also states that children and families must not be subject to coercive measures and can only be held in custody as a last resort. Unaccompanied minors may only be deported if they can be returned to their family or to "adequate reception facilities" in the state to which they are sent.

Emergency situations

An article inserted by the Council provides for greater flexibility for the authorities in "emergency situations". If an "exceptionally large number" of third-country nationals places "an unforeseen heavy burden" on the administrative or judicial capacity of a Member State, that state may decide to allow longer periods for judicial review as well as less favourable conditions of detention. Member States must also take account of the situation of the individual's country of origin, under the principle of non-refoulement (which states that no state may send a refugee to a country where his/her life or liberty may be endangered). Following a recent ruling by the Court of Justice, the European Parliament will in future decide jointly with the Council (under co-decision) which countries are deemed "safe".

Legal aid subject to the terms of the "procedure" directive

The directive provides for legal aid to be granted to illegal immigrants who have no resources, albeit "in accordance with relevant national legislation or rules regarding legal aid" and with the "procedure directive" of 2005 on aid to asylum seekers. The Community return fund, set up for the period 2008-13 with funding of €676 million, may also be used to finance legal aid. Once the directive is adopted, Member States will have 24 months to bring it into effect. First of all, ministers have to approve the agreement officially at a Council meeting in July.

OTHER EUROPEAN INSTITUTIONS

[CoR] 18/06/2008 - Immigration: "Local and regional authorities are in the front line"

<http://www.cor.europa.eu/pages/PressTemplate.aspx?view=detail&id=babcb58c-b3e2-4ef0-80da-7eccefee92df>

Immigration was the subject of a lively political debate among members of the Committee of the Regions – representatives of local and regional authorities – meeting in plenary session in Brussels on 18 June. As elected local and regional representatives, CoR members are asking that their views be taken into account in the common policies put forward by the European Union as they feel that they and their administrations are "in the front line in helping manage the issue of immigrant workers."

Thus said Ms Anna Terron i Cusi (ES/PES), the Catalanian government's secretary for European Union affairs and rapporteur for the CoR opinion Developing a European policy on labour immigration in conjunction with relations with third countries. CoR members agreed that their local and regional authorities do indeed play a key role in providing public services for immigrant workers, not only in terms of health care, education and housing, but also in compiling the data and statistics that are so vital to dealing with this issue. Ms Terron lamented the failure of the Commission draft to mention or give due recognition to this local and regional dimension or the role played on the immigration front by devolved political authorities. Ms Terron also reiterated the need "to strike a fair balance at European level between restrictive measures to combat irregular immigration and ways of promoting regular immigration." The Party of European Socialists (PES), of which Ms Terron is a member, laid particular emphasis both on the need to respect fundamental rights and on the integration of migrants: "People's aspirations for a better life for their families or themselves ought not to be seen as something criminal. The EU should forge a fair, humane and broad-based migration policy that is fully mindful of fundamental rights and also comprises a comprehensive immigration policy, with clear rules for legal migration and effective policies to integrate immigrants." The European Commission has also sought the opinion of local and regional authority representatives on the issue of a common immigration policy. The rapporteur for that opinion, which will be submitted in the autumn, Mr Werner Jostmeier (DE/EPP), member of the North Rhine-Westphalia Landtag, said today that "for European industry to be competitive, marked improvements are needed in the attractiveness of the EU's highly skilled labour force. The local and regional authorities thus really do need to be involved in putting together a European framework for legal immigration, economic migration and integration." The Committee of the Regions feels that cooperation with third countries remains "vital to maintaining a comprehensive and coherent approach to immigration" and CoR members are calling on the Commission to devise new forms of cooperation, based on an approach of equality, with countries of origin and transit, creating a climate of trust "and avoiding any further exacerbation of the brain drain from the developing countries." Lord Tope (UK/ALDE), member of London Borough of Sutton, said that "a clear and harmonised European policy will bring genuine added value when it comes to combating irregular work in the European Union and will also help improve our relations with third countries." In April 2008, at the adoption of the CoR opinion on the Green Paper on the future common European asylum system, the elected local and regional representatives stressed the importance of partnership between the countries affected by migration flows. Mr Savino Santarella (IT/UEN-EA), mayor of Candela and rapporteur for the opinion, highlighted the vital necessity of "establishing, with third countries, reliable systems underpinned by mutual trust so that immigrants, especially the most highly skilled, are able to live and work in the EU free of restrictions and with rights equivalent to those accorded to national workers. It is essential, however, to ensure compliance with the requirement of legality, to push for the return of illegal immigrants and to punish employers who exploit immigrants. "