



## IMMIGRATION POLICY

A forward-looking and comprehensive European immigration policy, based on solidarity, is a key objective for the European Union. Immigration policy is intended to establish a balanced approach to dealing with both regular and irregular immigration.

### LEGAL BASIS

Articles 79 and 80 of the Treaty on the Functioning of the European Union (TFEU).

### COMPETENCES

Regular immigration: the EU is competent to lay down the conditions governing entry into and legal residence in a Member State, including for the purposes of family reunification, for third-country nationals. Member States retain the right to determine volumes of admission for people coming from third countries to seek work.

Integration: the EU may provide incentives and support for measures taken by Member States to promote the integration of legally resident third-country nationals; EU law makes no provision for the harmonisation of national laws and regulations, however.

Combating irregular immigration: the European Union is required to prevent and reduce irregular immigration, in particular by means of an effective return policy, in a manner consistent with fundamental rights.

Readmission agreements: the European Union is competent to conclude agreements with third countries for the readmission to their country of origin or provenance of third-country nationals who do not or no longer fulfil the conditions for entry into, or presence or residence in, a Member State.

### OBJECTIVES

Defining a balanced approach to immigration: the EU aims to set up a balanced approach to managing regular immigration and combating irregular immigration. Proper management of migration flows entails ensuring fair treatment of third-country nationals residing legally in Member States, enhancing measures to combat irregular immigration, including trafficking and smuggling, and promoting closer cooperation with non-member countries in all fields. It is the EU's aim to establish a uniform level of rights and obligations for regular immigrants, comparable with that for EU citizens.



Principle of solidarity: under the Lisbon Treaty, immigration policies are to be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States (Article 80 TFEU).

## ACHIEVEMENTS

### A. Institutional developments brought about by the Lisbon Treaty

The Lisbon Treaty, which entered into force in December 2009 (1.1.5), introduced qualified majority voting on regular immigration and a new legal basis for integration measures. The ordinary legislative procedure now applies to policies on both irregular and regular immigration, making Parliament a co-legislator on an equal footing with the Council. The provisional measures to be taken in the event of a sudden inflow of third-country nationals are adopted by the Council alone, however, after consulting Parliament (Article 78(3) TFEU).

The Lisbon Treaty also made it clear that the EU shares competence in this field with the Member States, in particular as regards the number of migrants allowed to enter a Member State to seek work (Article 79(5) TFEU). Finally, the Court of Justice now has full jurisdiction in the field of immigration and asylum.

### B. Recent policy developments

#### 1. The 'Global Approach to Migration and Mobility'

The 'Global Approach to Migration and Mobility' (GAMM) adopted by the Commission in 2011 establishes a general framework for the EU's relations with third countries in the field of migration. It is based on four pillars: regular immigration and mobility, irregular immigration and trafficking in human beings, international protection and asylum policy, and maximising the impact of migration and mobility on development. The human rights of migrants are a cross-cutting issue in the context of this approach.

#### 2. The June 2014 strategic guidelines

The Stockholm Programme for the area of freedom, security and justice (AFSJ), adopted in December 2009 as a successor to the multiannual programmes adopted at Tampere (1999) and The Hague (2004), expired in December 2014 (4.2.1). In March 2014, the Commission published a new communication setting out its vision on the future agenda for the AFSJ, entitled '[An open and secure Europe: making it happen](#)'. In accordance with Article 68 TFEU, in its conclusions of 26 and 27 June 2014 the European Council then defined the '[strategic guidelines](#) for legislative and operational planning within the area of freedom, security and justice' for the 2014-2020 period. These no longer constitute a programme, but rather guidelines focusing on the objective of transposing, implementing and consolidating the existing legal instruments and measures. The guidelines stress the need to adopt a holistic approach to migration, making the best possible use of regular migration, affording protection to those who need it, combating irregular migration and managing borders effectively.

#### 3. European Agenda on Migration

On 13 May 2015, the Commission published the [European Agenda on Migration](#). The Agenda proposes immediate measures to cope with the crisis in the Mediterranean and



measures to be taken over the next few years to manage all aspects of immigration more effectively.

As regards the medium and long term, the Commission proposes guidelines in four policy areas:

- Reducing incentives for irregular immigration;
- Border management — saving lives and securing external borders;
- Developing a stronger common asylum policy; and
- Establishing a new policy on regular immigration, modernising and revising the ‘blue card’ system, setting fresh priorities for integration policies, and optimising the benefits of migration policy for the individuals concerned and for countries of origin.

The Agenda also launched the idea of setting up EU-wide relocation and resettlement schemes (see fact sheet on asylum policy [4.2.2](#)), announced the ‘Hotspot’ approach (where relevant EU agencies work on the ground with frontline Member States to swiftly identify, register and fingerprint incoming migrants), and proposed a possible common security and defence policy (CSDP) operation in the Mediterranean to dismantle smuggling networks and combat trafficking in persons (which was launched soon afterwards as [EUNAVFOR MED — Operation Sophia](#)).

On the basis of this agenda, on 6 April 2016 the Commission published its guidelines on regular migration, as well as on asylum, in a [communication](#). There are four main strands to the guidelines as regards regular migration policies: revising the Blue Card Directive, attracting innovative entrepreneurs to the EU, developing a more coherent and effective model for regular immigration in the EU by assessing the existing framework, and strengthening cooperation with the key countries of origin, with a view to ensuring legal pathways to the EU while at the same time improving returns of those who have no right to stay.

In May 2018, the Commission published a [progress report](#) on the implementation of the European Agenda on Migration, which examines progress made and shortcomings in the implementation of the Agenda.

### C. Recent legislative developments

Since 2008, a number of significant directives on immigration have been adopted and several have already been revised. The Commission is currently carrying out a [fitness check](#) (REFIT evaluation) to evaluate and assess the existing EU legislation on legal migration as described here below; the first results should be published in 2018.

#### 1. Regular immigration

Following the difficulties encountered in adopting a general provision covering all labour immigration into the EU, the current approach consists of adopting sectoral legislation, by category of migrants, in order to establish a regular immigration policy at EU level.

[Directive 2009/50/EC](#) on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment created the ‘EU blue card’, a fast-track procedure for issuing a special residence and work permit, on more attractive



terms, to enable third-country workers to take up highly qualified employment in the Member States. The first report on the implementation of this directive was published in May 2014 and identified several shortcomings. In June 2016, the Commission proposed a revision of the system, including less stringent admissions criteria, a lower salary threshold/minimum length of the work contract required, better family reunification provisions, and the abolition of parallel national schemes; work on this revision is ongoing in Parliament (the LIBE Committee [report](#) was adopted on 15 June 2017) and the Council, although lately progress in Council has stalled, especially on the inclusion of skills and the recognition of professional experience equivalent to education qualifications.

The Single Permit Directive ([2011/98/EU](#)) sets out a common, simplified procedure for third-country nationals applying for a residence and work permit in a Member State, as well as a common set of rights to be granted to regular immigrants. The first report on its implementation was due by December 2016.

[Directive 2014/36/EU](#), adopted in February 2014, regulates the conditions of entry and residence of third-country nationals for the purpose of employment as seasonal workers. Migrant seasonal workers are allowed to stay legally and temporarily in the EU for a maximum period of between five and nine months (depending on the Member State) to carry out an activity dependent on the passing of seasons, while retaining their principal place of residence in a third country. The directive also clarifies the set of rights to which such migrant workers are entitled.

[Directive 2014/66/EU](#) on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer was adopted on 15 May 2014. The directive makes it easier for businesses and multinational corporations to temporarily relocate their managers, specialists and trainee employees to their branches or subsidiaries located in the European Union.

[Directive \(EU\) 2016/801](#) on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing was adopted on 11 May 2016, and was to be transposed by 23 May 2018. It replaces the previous instruments covering students and researchers, broadening their scope and simplifying their application.

Lastly, the status of third-country nationals who are long-term residents in the European Union is still regulated by Council Directive [2003/109/EC](#), as amended in 2011 to extend its scope to refugees and other beneficiaries of international protection. Current work on the [Qualifications Directive \(4.2.2.\)](#) and the [Blue Card Directive](#) includes proposed amendments to the Directive on long-term residents.

## 2. Integration

Council [Directive 2003/86/EC](#) sets out provisions on the right to family reunification. Since the 2008 implementation report concluded that it was not fully and correctly applied in the Member States, the Commission published a [communication](#), in April 2014, providing guidance to the Member States on how to apply it. The Commission's current REFIT evaluation also covers the family reunification directive.



The EU's competence in the field of integration is limited. In July 2011, the Commission adopted the [European Agenda for the Integration of Third-Country Nationals](#). More recently, in June 2016 the Commission put forward an [action plan](#), setting out a policy framework and practical steps to help Member States integrate the 20 million non-EU nationals legally resident in the EU. Existing instruments include the European Migration Forum (formerly the European Integration Forum); the [Website on Integration](#); and the [European Integration Network](#) (until 2016 the Network of National Contact Points on Integration).

### 3. Irregular immigration

The EU has adopted some major pieces of legislation to combat irregular immigration:

- The so-called 'Facilitators Package' comprises Council [Directive 2002/90/EC](#), setting out a common definition of the crime of facilitating unauthorised entry, transit and residence, and [Framework Decision 2002/946/JHA](#), establishing criminal sanctions for this conduct. Trafficking is addressed by [Directive 2011/36/EU](#) on preventing and combating trafficking in human beings and protecting its victims. The package is complemented by Council [Directive 2004/81/EC](#), providing for the granting of a residence permit to trafficked or smuggled persons who cooperate with the competent authorities (on trafficking, see also fact sheet on 'Judicial cooperation in criminal matters' [4.2.6](#)). In May 2015, the Commission adopted the [EU Action Plan against migrant smuggling \(2015-2020\)](#), and, in line with the Action Plan, the Commission conducted a [REFIT evaluation](#) on the application of the existing legal framework, which was preceded by a [public consultation](#). The Commission found that, at that point in time, there was not sufficient evidence pointing to actual and repeated prosecution of individuals or organisations for humanitarian assistance, and concluded that the EU legal framework addressing migrant smuggling remains necessary in the current context. It further found that a review of the Facilitators Package would not bring more added value than its effective and full implementation, while a general agreement emerged that non-legislative measures to support Member States' authorities, civil society organisations or other stakeholders, including enhanced cooperation with third countries, could bring added value. The Parliament [resolution](#) of 5 July 2018 called on the Commission to develop guidelines for Member States to prevent humanitarian assistance from being criminalised, and a [hearing](#) was held on the topic in September 2018;
- The 'Returns Directive' ([2008/115/EC](#)) sets out common EU standards and procedures for returning irregularly resident third-country nationals. The first report on its implementation was adopted in March 2014. In September 2015, the Commission published the [EU action plan on return](#), which was followed by the adoption, in October 2015, of the Council conclusions on the future of the return policy. In March 2017, the Commission supplemented the Action Plan with a [communication](#) on 'a more effective return policy in the European Union — a renewed action plan' and a [recommendation](#) on making returns more effective. In September 2017, it published its updated '[Return Handbook](#)', providing guidance relating to the performance of duties of national authorities competent for carrying



out return-related tasks. Additionally, in 2016, Parliament and the Council adopted [Regulation \(EU\) 2016/1953](#) on the establishment of a European travel document for the return of illegally staying third-country nationals. In September 2018, the Commission proposed a [targeted review](#) of the Return Directive, including a new border procedure for asylum applicants, clearer procedures and rules to prevent abuses, efficient voluntary return programmes to be set up in Member States, and clearer rules on detention.

- [Directive 2009/52/EC](#) specifies sanctions and measures to be applied in Member States against employers of illegally resident third-country nationals. The first report on the implementation of the directive was submitted on 22 May 2014.

At the same time, the EU is negotiating and concluding [readmission agreements](#) with countries of origin and transit with a view to returning irregular migrants and cooperating in the fight against trafficking in human beings. The so-called Joint Readmissions Committees monitor their implementation. These agreements are linked to visa facilitation agreements, which aim to provide the necessary incentive for readmission negotiations in the third country concerned without increasing irregular migration.

## ROLE OF THE EUROPEAN PARLIAMENT

Since the entry into force of the Lisbon Treaty, Parliament has been actively involved, as a full co-legislator, in the adoption of new legislation dealing with both irregular and regular immigration.

Parliament has adopted numerous own-initiative resolutions addressing migration, in particular its [resolution of 12 April 2016](#) on the situation in the Mediterranean and the need for a holistic EU approach to migration, which assesses the various policies at stake, and develops a set of recommendations. The LIBE report adopted in plenary was accompanied by the opinions of eight other committees of Parliament. The resolution encompasses Parliament's position on all relevant EU policies on migration and asylum and is Parliament's point of reference in this area.

Read more on this topic:

- [Migration in Europe](#)
- [Migrant crisis in Europe](#)
- [EU asylum policy](#)

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