

Common European Immigration Policy

Achievements during the legislative term 2014-2019: the role of the European Parliament

The (still to be achieved) common EU immigration policy covers legal migration; the support of Member States' actions for the integration of third country nationals; combating irregular immigration through an effective return policy; concluding readmission agreements with third countries; and combating trafficking in human beings. Throughout the 2014-2019 legislative term and with a view to overcoming the migration crisis, Parliament as co-legislator has contributed to enhancing the legal avenues to the Union and preventing irregular migration, notably through the interoperability of data bases; the strengthening of border control and effective returns; and the creation of a European network of immigration liaison officers as a decisive part of a holistic approach to migration. It has also discussed best practices on integration with national parliaments.

Primary EU law and international treaties on immigration policy

1. EU Treaties

Article 79 of the **Treaty on the Functioning of the European Union** (TFEU) mandates the EU to “develop a common immigration policy, ensuring efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings”. It is the EU’s aim to establish a uniform level of rights and obligations for regular immigrants, comparable with that for EU citizens. Competences flowing from this general purpose cover:

- **Legal migration:** the EU is competent to lay down the conditions and rights governing entry into and legal residence for third-country nationals in a Member State, including for the purposes of family reunification and freedom of movement and of residence in other Member States (see also Article 45(2) of the Charter of Fundamental Rights).



- **Integration:** the EU may provide incentives and support for measures taken by Member States to promote the integration of legally resident third-country nationals; however EU law shall not harmonise national laws and regulations here.
- **Combating irregular immigration and trafficking in human beings:** the European Union is required to prevent and combat irregular immigration, including by removal and repatriation of persons residing without authorisation, in a manner consistent with fundamental rights. It should also combat trafficking in persons, in particular women and children.
- **Concluding 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.

The EU shares competence on immigration policy - except integration - with the Member States. The provisions of the Treaty do not affect the right of Member States to determine the number of migrants allowed to enter a Member State to seek work, whether employed or self-employed (Art. 79 (5) TFEU). Since 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).

Article 45 (2) of the **EU Charter of Fundamental Rights** allows for the same freedom of movement and residence as EU citizens enjoy to be granted in accordance with the foreseen Treaty procedures to third-country nationals legally resident in the territory of a Member State.

2. International agreements

Article 8 of the Convention of 4 November 1950 for the Protection of Human Rights and Fundamental Freedoms (**European Convention on Human Rights (ECHR)**) establishes the right to respect for private and family life. The European Court of Human Rights has held that a State is entitled, as a matter of international law and subject to its treaty obligations, to control the entry of aliens into its territory and their residence there, and the Convention does not guarantee the right of a foreign national to enter or to reside in a particular country. Article 8, taken alone, cannot be considered to impose on a State a general obligation to respect a married couple's choice of country for their matrimonial residence or to authorise family reunification on its territory. However, it appears from the Court's jurisprudence that in a case which concerns family life as well as immigration, most typically in cases of family reunification, the extent of a State's obligations to admit to its territory relatives of persons residing there will vary according to the particular circumstances of the persons involved and the general interest. The family reunification process must also be adequately transparent and processed without undue delays.

The **Global Compact for Safe, Orderly and Regular Migration (GCM)** provides the first international and non-legally binding cooperative framework on migration. Between its inception through the UN General Assembly's [New York Declaration](#) in 2016 and its [adoption](#) in Marrakech in December 2018, the EU and its Member States engaged in discussions on the GCM which resulted in it largely reflecting European objectives. Three EU Member States did not endorse it in the end.

The GCM includes a cooperative framework comprised of 23 objectives with concrete actions that will help States to reduce irregular migration, fight trafficking in human beings and smuggling of migrants, manage borders and facilitate return. It will also help to focus on pathways for regular migration. The GCM is based on the principle of full respect of national sovereignty and it neither encourages migration nor discourages it. It contains no language promoting a "human right to migrate".

After the elections, the new European Parliament will continue to engage and monitor the implementation of the Compact through a long-term plan, as this is an important development for the global management of human mobility. Furthermore, as clear supporter of the Compact, Parliament could ensure that it remains a reference for future legislative and non-legislative work, including the negotiation of financing instruments in the context of the 2021-2027 Multi-annual Financial Framework (MFF).

Policy measures taken to frame immigration policy

In 2015, the Commission published the **European Agenda on Migration**. The Agenda proposed immediate measures to cope with the crisis in the Mediterranean and follow-up measures to manage all aspects of immigration more effectively.

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

- Reducing incentives for irregular immigration;
- Border management – saving lives and securing external borders;
- Europe's duty to protect: a strong common asylum policy; and
- A new policy on legal migration.

With a view to enhancing legal avenues and supporting Member States with high numbers of arrivals, the Agenda also proposed setting up EU-wide relocation and resettlement schemes and announced the 'Hotspot' approach (EU agencies working on the ground with frontline Member States to swiftly identify, register and fingerprint incoming migrants). The Council set up three CSDP operations in the Mediterranean to save lives, dismantle smuggling networks and combat trafficking in human beings.

On the basis of the Agenda, in April 2016 the Commission published its **communication containing guidelines on legal migration**, and Parliament adopted its [framework resolution](#) on "The situation in the Mediterranean and the need for a holistic approach to migration". The resolution contains Parliament's position on EU migration and asylum policies and is its point of reference in this area.

There are four main strands to the Commission guidelines as regards regular migration policies: i) revising the Blue Card Directive; ii) attracting innovative entrepreneurs to the EU; iii) developing a more coherent and effective model for regular immigration in the EU by assessing the existing framework; and iv) strengthening cooperation with the key countries of origin (see the Commission's [Global Approach to Migration and Mobility](#) since 2011 and the new [Migration Partnership Framework](#) since 2016). They go together with the intention to create legal pathways to the EU while simultaneously supporting border control in third countries, in particular in Africa, and improving returns to the country of origin of persons who have no right to stay.

In May 2018, the Commission adopted a [proposal](#) to amend Regulation 862/2007 on **statistics on migration and international protection** to provide the detailed, frequent and timely information needed to support the Agenda. The proposal intends to provide better data on unaccompanied minors seeking asylum and to improve the frequency and level of detail of information on returns. It also introduces improvements to the data collection on the Dublin system and resettlement. Parliament's LIBE Committee in November 2018 insisted on gender-disaggregated data to identify vulnerabilities and inequalities, including gender and gender-based violence as a ground for applying for international protection. Variables such as gender identity and sexual orientation shall also be taken into account to collect data on LGBTQI+ persons' experiences and inequalities in migration and asylum processes. Agreement on this file was reached between Parliament and the Presidency but Member States have not backed it in COREPER.

EU main legislative acts and policy measures on immigration policy

Given the opposition of Council to adopting a general piece of legislation 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, while respecting the principle in Art. 79 (5) TFEU that Member States retain the right to determine volumes of admission of third-country nationals coming from third countries to their territory in order to seek work. In 2008 the [European Migration Network](#) was established as an EU network of migration and asylum experts from all Member States who work together to provide objective, comparable policy-relevant information.

1. Legal migration

Given that Art. 79 (2) a) TFEU also includes measures on 'standards on the issue by Member States of long-term visas and residence permits', since 2002 a **uniform format for residence permits** for third-country nationals was in force. In November 2017, amending [Regulation \(EU\) 2017/1954](#) came into force and established a new common design. It also enhanced security features for residence permit cards in the EU. Since January 2011, Regulation 1231/2010 has **extended modernised coordination of social security schemes to third-country nationals** legally resident in the EU and in a cross-border situation.

[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, for third-country workers to take up highly qualified employment in the Member States. The May 2014 implementation report identified several shortcomings. In June 2016, the Commission proposed a revision, including less stringent admissions criteria, a lower salary threshold/minimum length of the work contract, better family reunification provisions, and the abolition of parallel national schemes. Negotiations started in September 2017 on the basis of the LIBE [report](#) adopted on 15 June 2017 but stalled in December 2017. Since then Council has made no progress, notably regarding harmonisation and abolition of parallel national schemes, the inclusion in the scope of skills and recognition of professional experience equivalent to education qualifications. Without movement on those aspects Parliament, supported by the Commission, does not believe the revision can achieve real EU added value.

Besides legal regulation, a limited number of **labour migration pilot projects** with third countries is underway or under preparation by Member States supported by the Commission. Pilot projects are presented by the Commission to test and put in place new structures and approaches to manage legal migration more effectively with key partner countries. Projects combine e.g. addressing skills shortages in the IT sector with potential reintegration, or trying out specific regional mobility schemes with selected countries in North Africa.

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 for regular immigrants. The Commission's [implementation report](#) of March 2019 found that the multiple administrative steps require a restrictive interpretation of equal treatment provisions in some Member States and that the lack of information among third-country nationals about their rights hampers the directive's objective of promoting their integration and non-discrimination.

[Directive 2014/36/EU](#) regulates the conditions of entry and residence of third-country nationals for the purpose of **employment as seasonal workers**. Migrant seasonal workers can stay legally and temporarily in the EU for between five and nine months (depending on the Member State) while retaining their principal place of residence in a third country. It includes a facilitated re-entry procedure for subsequent seasons. The directive also clarifies the set of rights of such migrant workers, including rules governing working conditions to prevent exploitation of workers.

[Directive 2014/66/EU](#) on the conditions of entry and residence of third-country nationals in the framework of an **intra-corporate transfer** (adopted 15 May 2014) 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** (adopted on 11 May 2016) [replaces](#) previous instruments covering students and researchers, broadening their scope and simplifying their application.

The **status of third-country nationals who are long-term residents** in the European Union is still regulated by Council **Directive 2003/109/EC**. It was amended in 2011 to extend its scope to refugees and other beneficiaries of international protection. Current work on the [Qualifications Directive](#) - a Directive the Commission proposes to replace by a Regulation - and the [Blue Card Directive](#) includes amendments to the Directive on long-term residents. In its March 2019 [implementation report](#) the Commission finds that the goals

of the directive have not been fulfilled. Primarily on two accounts, namely: i) Member States do not actively promote the European long-term residence status, but issue mainly national long-term resident permits instead; and ii) only few third-country nationals use their right to move to other Member States, thereby hampering the attainment of the EU internal market.

Council [Directive 2003/86/EC](#) concerns the right to **family reunification** and covers common rules of law relating to the right to family reunification. The aim is to enable family members of non-EU nationals residing lawfully in an EU country to join them, thus protecting the family unit and facilitating the integration of non EU nationals. The rules do not apply to Ireland, Denmark and the United Kingdom. In addition, it does not preclude any more favourable conditions recognised by national legislation. The **directive goes beyond the right to family life in Art. 8 ECHR** as the ECtHR generally finds that if family members can enjoy family life elsewhere, there is no obligation to admit family members, and thus no right to family reunification is granted. Since a 2008 implementation report concluded that the directive was not fully and correctly applied in the Member States, the Commission published a [communication](#) in April 2014 providing guidance on [how to apply it](#). In its March 2019 [implementation report](#) the Commission finds that progress has been made, but that family reunification - and especially the wide discretion Member States have when applying “may” provisions - remain major challenges.

The [Legal Migration fitness check](#), published in March 2019, revealed that the objectives of the legal migration directives are still relevant to the EU's needs, although the EU/national set-up, including different national implementation choices have led to a fragmented system which also impacts the coherence and effectiveness of the system as a whole. The Commission considers the directives 'largely fit for purpose'. It nevertheless stresses the need for a more effective approach in attracting highly skilled workers, enforcing the directives, improving data collection on the implementation of the acquis, and facilitating information-sharing and cooperation between Member States. A [recent EP study](#) found that **a number of gaps and barriers to a comprehensive immigration policy remain**, mostly stemming from the sectoral approach taken in the EU legal framework, which does not cover all third-country nationals - and not in the same way - and in part leaves parallel national schemes in place. Different treatment of third-country nationals and other barriers result in differences in their employment rate, over-qualification, lower job quality, lower earnings and poorer long-term integration outcomes. At societal level these deficiencies undermine the EU's ability to attract workers, to tackle EU labour market shortages in specific sectors or occupations, to address demographic changes (ageing population), and to boost innovation and growth. These deficiencies cost the EU over EUR 20 billion in lost benefits per year.

2. Integration

As the EU's competence in integration is limited to incentives and support for Member States' measures, the Commission in 2016 presented an [Action Plan](#), including the [European Migration Forum](#), the [Website on Integration](#), and the [European Integration Network](#). But **integration measures require sufficient funding**. Therefore, supporting the integration of legally residing third-country nationals and persons with a migrant background is a focal point of the proposed Multi-annual Financial Framework (MFF) 2021-2027. Actions generally centred on the early phases of integration include basic language training, civic orientation, and one-stop-shop advice centres. Other measures cover more systematic labour market integration and social inclusion. Under the new MFF proposals and Parliament's first reading positions, integration measures may be funded under the Asylum and Migration Fund as well as under cohesion funds (European Social Fund+ and European Regional Development Fund).

3. Irregular immigration

The EU has adopted some major pieces of legislation to combat irregular immigration and trafficking in human beings:

- The '**Returns Directive'** ([2008/115/EC](#)) sets out common EU standards and procedures for returning irregularly resident third-country nationals. 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 on the duties of national authorities carrying out return-related tasks. Additionally, in 2016, Parliament and Council adopted [Regulation \(EU\) 2016/1953](#) on the establishment of a European travel document for the return of illegally staying third-country nationals. Nevertheless, return rates remain low across all Member States. Therefore, 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 in Member States, and clearer rules on detention. The EP's LIBE Committee criticised that the proposal focuses on forced returns instead of making voluntary returns - possibly in cooperation with third countries - more effective and appealing. A [targeted Parliament impact assessment](#) found that the proposal would entail substantial costs for Member States through increased detention. There is no clear evidence that the proposal would lead to more effective returns, but that it was likely that it produces breaches of the fundamental rights of irregular migrants.
- [Directive 2009/52/EC](#) specifies **sanctions and measures to be applied in Member States against employers of illegally resident third-country nationals**. The first implementation report was submitted on 22 May 2014.
 - As regards **trafficking of human beings**, [Directive 2011/36/EU](#) on preventing and combating trafficking in human beings and protecting its victims 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. The directive represents the main instrument for combatting trafficking within EU, together with the [EU Strategy 2012-2016](#) and the [2017 Communication stepping up EU action](#). This Communication focuses on disrupting the business model on which trafficking in human beings depends, improving victims' access to rights, and ensuring that EU internal and external actions provide a coordinated and consistent response. On 12 May 2016 Parliament adopted a [Resolution on the implementation of Directive 2011/36/EU](#) from a gender perspective. It called on the Member States to speed up the full and correct enforcement of the directive and it pointed to the special vulnerability to trafficking of asylum seekers, refugees and migrants. It also held that special attention should be given to women, children and other vulnerable groups and urged Member States to increase cooperation - including in the hotspots - to identify potential victims. In this context it should be recalled that in the Strategic own-initiative report on the situation in the Mediterranean and the need for a holistic approach to migration of 12 April 2016, Parliament called for a clear distinction between smuggling and trafficking and welcomed the positive role of navy vessels in saving lives at sea and disrupting criminal networks involved in smuggling and trafficking. In its [resolution](#) of July 2016 on the fight against trafficking in human beings in the EU's external relations, Parliament stressed the need for a consistent approach to the internal and external dimensions of the EU's policies for combating trafficking, taking into account the increasing use of the internet and social networks.
 - 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. 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 "Facilitators' Package", which was preceded by a [public consultation](#). The Commission found that there was insufficient evidence pointing to actual and repeated prosecution of individuals or organisations for humanitarian assistance. However, in 2018 and 2019 NGOs and legal experts deplored that accusations of smuggling and trafficking in human beings made against those saving lives in the Mediterranean were completely unfounded and constituted a violation of international obligations. The Commission continues to argue that a review of the Facilitators Package will not bring more added value than its effective and full implementation, but there is general agreement that non-legislative measures to support Member States' authorities, civil society organisations or other stakeholders - as well as enhanced cooperation with third countries - could bring added value. Parliament's [resolution](#) of 5 July 2018 underlines that acts of humanitarian assistance should not be criminalised, and regrets Member States' very limited transposition of the humanitarian assistance exemption provided for in the Facilitation Directive. It notes that the exemption should be implemented as a bar to prosecution so as to ensure that individuals and civil society organisations assisting migrants for humanitarian reasons are not persecuted. Accordingly, Parliament calls on Member States to transpose the humanitarian assistance exemption and to annually collect information on criminalisation of persons providing humanitarian assistance. Parliament's call on the Commission to adopt guidelines for Member

- States specifying which forms of facilitation should not be criminalised so far have not had any effect, although it was underpinned by a [hearing](#) in September 2018 and an exchange of views on 2 April 2019.
- The Commission in its [March 2019 progress report on the European Agenda on Migration](#) found that in 2018 **Europol's European Migrant Smuggling Centre** had played a key role in more than 100 high priority smuggling cases and that Joint Investigation Teams are active in tackling smuggling in countries such as Niger.
 - Since 2001, [Directive 2001/51](#) on **carrier sanctions** requires Member States to make certain that carriers ensure that non-EU nationals intending to enter the EU possess the required travel documents and visas, and, if they are refused entry, return them at their own cost.
 - Since 2001 Member States have **mutually recognised their respective expulsion decisions** ([Directive 2001/40](#)), meaning that a decision by a Member State to expel a non-EU national present in another EU country is respected and complied with.

In addition, since 2004, **networks of immigration liaison officers (ILOs)** have been established ([Regulation 377/2004](#)). The ILOs posted to the consular authorities in non-EU countries maintain direct contacts with the authorities in the host country in order to facilitate exchanges of information, especially on flows, routes and factors influencing irregular migrants originating from or transiting through the host country, as well as on the scope for preventing irregular migration flows and optimising facilitation of the return of irregular migrants to their countries of origin. In 2018, the Commission [proposed](#) to **recast the ILO Regulation** to create a European network of immigration liaison officers to enhance coordination and optimise the use of ILOs by the competent authorities of Member States, the Commission and Union agencies. The final act was signed in June 2019.

External action and EU readmission agreements

In order to reduce the number of arrivals in the Union, the Council and the Member States have **intensified their cooperation with third countries**. Following the EU-Turkey Statement of March 2016, which led to a decisive drop in numbers of irregular border crossings from Turkey to Greece, the EU (EC and EEAS) as well as Member States started negotiations with third countries, notably in Africa (see [Valletta Summit](#) of November 2015) in the context of the "Partnership Framework on Migration" as part of the European Agenda on Migration. The Partnership also aims to address the root causes of migration (supported by the EU Trust Fund for Africa, see below), combatting smuggling networks, returns and readmissions.

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 implementation. The agreements are linked to visa facilitation agreements, which aim to provide the incentive for readmission negotiations in the third country concerned without increasing irregular migration. In March 2019, formal readmission agreements or practical arrangements on return and readmission with 23 countries of origin and transit were in place. The EU and Member States have also established **informal readmission agreements**, such as the "[Joint Way Forward](#)" with Afghanistan. Moreover, the Union and mainly Italy got strongly involved in the development of a Libyan Border and Coast Guard with the aim of bringing refugees and migrants leaving on unseaworthy boats back to Libya and preventing them from crossing the Mediterranean and disembarking in Europe. In the summer of 2018, Italy also started to close its ports for ships with rescued migrants from boats in distress.

The **Commission regularly reports to the LIBE Committee on the implementation of the EU readmission agreements**, with particular reference to the ongoing work of the Joint Readmission Committees. The LIBE Committee has strongly criticised the development of informal 'arrangements' with third countries in the field of readmission, as it considers that they undermine the competences of Parliament by excluding it from the decision-making and scrutiny processes. The committee considers that any type of arrangement or statement concluded with third countries with the aim to improve the effectiveness of return and readmission needs to be monitored and scrutinised, in particular when it produces effects similar or equivalent to those of a readmission agreement. To ensure that the supervisory powers of the Parliament are fully respected, the European Commission - in addition to its reporting on formal readmission agreements - is also scrutinised on these 'practical arrangements'. However, this practice is not fully satisfactory and Parliament still does not have access to these arrangements in the same way as it has to the formal agreements. Thus it is deprived of the ability to fully exercise its scrutiny role on behalf of the European citizens.

EU migration funding

1. Asylum, Migration and Integration Fund

Under the Asylum, Migration and Integration Fund ([AMIF](#)), 2,195 projects - including the integration of more than 3.3 million persons and support for 160,000 vulnerable persons and unaccompanied minors - have so far been financed, with a contribution of over EUR 1.2 billion. The AMIF contributed to 77,000 voluntary returns and the resettlement of 24,000 persons. Following the modification of AMIF, relocation and legal admission from Turkey can continue to be financed. Under the new Multiannual Financial Framework (MFF), the AMIF is to be replaced by the **Asylum and Migration Fund (AMF)**, EUR 9.2 billion in 2018 prices). Its objectives are: to strengthen and develop all aspects of the common European asylum system, including its external dimension; to support legal migration to the Member States, including contributing to the integration of third-country nationals; and to contribute to countering irregular migration and ensuring effectiveness of return and readmission in third countries. In March 2019 Parliament adopted its first reading [position](#) on the COM proposal and proposed to keep “integration” in the fund’s title.

2. Integrated Border Management Fund

To support Member States in managing the EU’s common external borders, the Commission in May 2018 adopted a [proposal](#) to set up an Integrated Border Management Fund (IBMF) in the context of the MFF 2021-2027. The IBMF would provide funding to build and enhance Member States’ capacities in the common visa policy area, deal with migratory challenges and potential future threats at external borders, address serious cross-border crime, and ensure a high level of internal security within the EU. It would also reinforce cooperation between them and with relevant Union agencies such as the European Border and Coast Guard Agency (EBCGA). Parliament adopted its first reading [position](#) on the IBMF proposal in March 2019.

3. EU Trust fund for Africa

The [EU Trust fund for Africa](#) (EUTF for Africa) aims at fostering stability and better managing migration by addressing the root causes of destabilisation, forced displacement and irregular migration. It supports activities in 26 countries across three regions of Africa: the Sahel and Lake Chad, the Horn of Africa and the North of Africa with an amount of about EUR 4 bn. Of this sum, 89% is funded by the EU budget and the European Development Fund, which operates outside of the EU budget. In its December 2018 [special report](#) the European Court of Auditors concluded that the EUTF for Africa is a flexible tool, but given the challenges it faces, it should have been more focused.

4. EU-Turkey Facility

The EU-Turkey Facility is a mechanism to coordinate the mobilisation of resources made available through the EU budget and contributions from Member States. These are integrated into the EU budget as external assigned revenue amounting to a total of EUR 3 billion for the period 2016-2017 and another EUR 3 billion for the period 2018-2019.

EU agencies and bodies

1. European Border and Coast Guard Agency (EBCGA)

The EBCGA, established by [Regulation 2016/1624](#), is to work towards a European integrated border management as a shared responsibility of the Agency and the national border management authorities. In September 2018, the Commission [proposed](#) a new Regulation to strengthen the EBCG. The relevant provisional [agreement](#) between Council and Parliament of April 2019 foresees a standing corps of 10,000 border guards to be set up by 2027 with up to 3,000 staff employed directly by the Agency. Subject to authorisation by the host Member State, members of teams deployed from the EBCGA’s standing corps will be able to perform border control and return tasks requiring executive powers such as identity checks, authorising or refusing entry at external borders, and border surveillance action to support Member States on

the ground. In addition to organising and financing joint return operations, the Agency can provide technical operational assistance to Member States. However, Member States remain solely responsible for return decisions. Parliament managed to include reinforced safeguards for respect of fundamental rights, such as a strengthened fundamental rights monitoring system and independence of the fundamental rights officer. Oversight of the Agency was also reinforced through additional reporting, transparency obligations and a new provision on cooperation between national parliaments and the European Parliament in the scrutiny of the Agency.

2. Fundamental Rights Agency (FRA)

The [EU Agency for Fundamental Rights](#) (FRA) provides expert advice to EU institutions and Member States to ensure that the fundamental rights of people living in the EU are protected. It collects data and information, shares evidence-based insights and advice with policy- and decision-makers and raises fundamental rights awareness. The FRA has regularly supported Parliament's LIBE Committee with opinions, most recently in its [March 2019 update](#) of a 2016 opinion on fundamental rights in the hotspots set up in Greece and Italy. As regards irregular migrations, FRA published a [2015 study](#) on "Severe labour exploitation: workers moving within or into the European Union" which found that victims of severe labour exploitation who are in an irregular residence situation are discouraged by their status from reporting to any public authority for fear of having to leave the country.

3. eu-LISA

The [European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice](#) (eu-LISA), was established in 2012 to provide a long-term solution for the operational management of large-scale IT systems, which are essential instruments in the implementation of the asylum, border management and migration policies of the EU. It manages Eurodac, the 2nd generation Schengen Information System and the Visa Information System (VIS).

In December 2017, the Commission put forward [two proposals](#) ("the **interoperability package**") to improve data exchange between systems in order to better manage borders, security and migration. The package allows for simultaneous searches in a European portal instead of in separate, unconnected ones; a shared biometric matching service for cross-matching fingerprints and facial images from several systems; a common identity repository with biographical information such as dates of birth and passport numbers; and a multiple-identity detector. In addition, in their [agreement](#) of April/May 2019, Parliament and Council agreed on safeguards to protect fundamental rights and access to data.

4. The EU anti-trafficking coordinator

As foreseen in the Anti-trafficking Directive 2011/36/EU, the EU has an **Anti-trafficking coordinator** who is responsible for improving coordination and coherence among EU institutions, EU agencies, Member States and international actors, and for developing existing and new EU policies to address trafficking in human beings. The role also includes monitoring the implementation of the [EU Strategy towards the eradication of trafficking in human beings 2012-2016](#) and the [December 2017 Communication](#) stepping up EU Action to address trafficking in human beings.

5. The European Labour Authority

The [European Labour Authority](#) was [agreed](#) between Council and Parliament in June 2019. Its tasks are *i.a.* to coordinate and support concerted and joint inspections and control activities at the request from Member States, and to fight fraud, abuse and undeclared work. This role also extends to third-country nationals who are legally resident in the Union, such as intracorporate transferees, long-term residents, as well as their family members.

Tools to support the evidence-based policies

1. Meetings with experts

The European Parliament has held numerous hearings, interparliamentary committee meetings and conferences on various aspects of immigration policy. At the following events experts were heard and discussions on key issues were held:

- Hearing on [The Visa Package](#), 17 June 2015;
- Interparliamentary Committee meeting on [A holistic approach to migration](#), 23 September 2015;
- Hearing on [Reforming the EU Blue Card](#), 7 November 2016;
- High-level conference on [Migration management](#), 21 June 2017;
- Hearing on [Agreements and cooperation with third countries on migration management and return](#), 28 November 2017;
- Interparliamentary Committee meeting on [The European Agenda on Migration - What about Legal Avenues and Integration?](#), 24 January 2018;
- Interparliamentary Committee meeting on [The UN Global Compacts on refugees and migrants and the role of Parliaments](#), 27 February 2018;
- Mini-hearing on "[Supporting Niger, key cross-road of migrations to the EU via Libya](#)", 4 June 2018 (with the DEVE Committee);
- Hearing on [Trafficking of women and children in the context of migration](#), 21 June 2018;
- Hearing on [The Implementation of the Facilitation Directive and humanitarian assistance to irregular migrants](#), 27 September 2018;
- Joint hearing with the FEMM Committee on [Gender Specific Measures in Anti-trafficking Actions](#), 18 October 2018.

2. Ad-hoc delegations

The European Parliament organises ad-hoc delegations to gather information from countries or organisations. In the field of migration policy, this has proved a very useful tool to get a first-hand view of the refugee and migrant situation in a country and to assess the cooperation with the EU. During this legislative term, LIBE organised ad-hoc delegations to Italy in July 2015 (Sicily), September 2015 and April 2017, Lebanon in September 2016, Greece in May 2016 and May 2017, France (Calais) in July 2016, Tunisia in September 2017, and Niger in April 2018. It went to Marrakech on 10-11 December 2018 to follow up on the New York Declaration and to lend Parliament's support to the adoption of the Global Compact for Safe, Orderly and Regular Migration. In addition, its Chair participated in the ad-hoc delegation to Libya and Tunisia on 20-23 May 2018.

3. Supporting analyses

The European Parliament's Policy Departments and the European Parliamentary Research Service have commissioned several analyses, mainly at the request of the LIBE Committee, to support the work of Parliament in the field of immigration policy, such as:

- Study on [Exploring New Avenues for Legislation for Labour Migration to the European Union](#), September 2015;
- Study on [EU Cooperation with Third Countries in the Field of Migration](#), October 2015;
- In-depth-analysis on [Between the East and the West: Mobility and Migration from the EU's Eastern Partners](#), April 2016;
- In-depth-analysis on [Overview on the Use of EU Funds for Migration Policies](#), September 2016;
- Briefing [What has the European Union done in the field of migration since 2014?](#), June 2017;
- Briefing [European Parliament's positions on key issues related to asylum and migration](#), June 2017;

- Study [The implications of the United Kingdom's withdrawal from the European Union for the Area of Freedom, Security and Justice](#), December 2017;
- Briefing [The implications of the United Kingdom's withdrawal from the European Union on readmission cooperation](#), February 2018;
- Study [EU funds for migration, asylum and integration policies](#), May 2018;
- Study [Brexit and migration](#), October 2018;
- Study [Humanitarian visas](#), October 2018;
- Study [Fit for purpose? The Facilitation Directive and the criminalisation of humanitarian assistance to irregular migrants: 2018 update](#), December 2018;
- Study [The proposed Return Directive \(recast\)](#), February 2019;
- Study [The cost of non-Europe in the area of legal migration](#), March 2019.

Conclusions

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

Despite the EP's repeated initiatives to put European migration policy on a more stable and supranational footing, the migration crisis revealed a number of shortcomings of existing European legislation. Parliament and Council were able to adopt new or strengthened legislation for better control of the external borders, but a return to full free movement in the Schengen area was not reached. Nor have they been able to proceed with a modernisation or further harmonisation of the legal migration acquis. The holistic approach to migration pursued by the EP (resolution of April 2016) in order to establish a sustainable EU migration policy could not be realised.

The Union's migration policy as laid down in the Treaties was further undermined through measures known as "externalisation of EU migration policy" (e.g. the EU Turkey Statement). Furthermore, the Council decided to develop a closer cooperation with third countries in the area of migration in order to establish partnership agreements on migration or formal or informal readmission agreements. Given the intergovernmental character of most of these agreements, this approach meant that Parliament was excluded from decision-making and democratic scrutiny.

The legal migration acquis remains very fragmented. The ageing European Union still fails to attract and provide legal channels of migration to the talents and skills its economic development requires. Irregular and dangerous arrivals via the Mediterranean have decreased but migration from Africa and the Middle East, although somewhat contained in Turkey and Northern Africa, are not likely to stop. It will be up to the new Parliament and its co-legislator to reflect and find ways to ensure that EU legislation is fit for the long-term challenges and that funds are allocated to the priority areas.

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