



# EU migration policy: An A-Z



**Hugo Brady**



CENTRE FOR EUROPEAN REFORM

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# Introduction

Europe is currently absorbing 2 million migrants each year – more as a proportion of its population than any other part of the world, including North America. This influx is altering the make-up of member-states' populations more than birth rates or death rates. Increased migration into Europe is part of a global trend. Cheaper travel and more information entice skilled and unskilled workers from poorer countries to rich ones. The UN predicts that, on current trends, the numbers of people migrating worldwide will increase by 40 per cent over the next 40 years.<sup>1</sup> (Most immigration figures, especially projections, are by necessity a mixture of estimation and guesswork.) <sup>1</sup> *United Nations, 'Trends in total migrant stock: The 2005 revision', 2006.*

Immigrants have become the subject of increasingly strident political debate in many European countries. The flow of workers into the UK and Ireland following the EU's 2004 enlargement was the largest inward migration ever recorded into either country over a two-year period. Spain's official immigrant population has risen by 400 per cent in ten years. And Italy worries about an estimated 100,000 Romanian immigrants, most of whom are thought to be without a job. In some places, robust growth and falling unemployment have helped to assuage concerns about the impact of immigration on local labour markets. But despite this – and economists' warnings that Europe will need ever more migrants in the years ahead – most polls show that migrants are seen as a problem, rather than as an opportunity.

The movement of people across borders is a phenomenon that recipient countries need to manage wisely. No country can address the challenges thrown up by migration in isolation. But whether, or

how, multilateral organisations – like the UN, the G-8, or the international financial institutions – should get involved is not always clear. The EU's role is particularly interesting: it is seen as both the cause (through successive enlargements) and a possible alleviator of migratory pressures. Many Europeans would agree that a concerted EU effort to manage migration is not only desirable but also necessary in order to sustain the right to free movement of people, which is one of the fundamentals of the single market. Nicolas Sarkozy is one of these. The French leader wants to put migration policy at the centre of France's EU presidency in the second half of 2008. Sarkozy, who first gained political prominence as an interior minister, believes that the EU should at the very least speak with one voice when dealing with other countries on migration issues.

Despite years of discussion and initiatives, a real EU migration policy has proved elusive. This is because the member-states cannot agree on clear political objectives (and thus, a legal mandate) for such a policy. Some countries think that a European migration policy would allow them to escape rigid national debates. Others want a pan-European migration policy so as to put pressure on countries outside the EU to take back more illegal entrants. For a few European federalists, a single migration policy is attractive almost by definition. It could advance the notion of the EU as a single state providing European citizenship, not just to the existing population but also to newcomers.

These different motivations complicate EU initiatives on migration. EU and national officials, for example, talk about the need to promote 'circular migration' and establish 'co-operation platforms' with African countries. But they struggle to clarify what these things will mean in practice, or how action at the European level would add value. Overall, the EU's response to public demand to 'do something' about migration has been to focus on policies aimed at immigrants' countries of origin. This is also a way to paper over disagreements at home: proposals from the European Commission

to adopt uniform immigration procedures across the EU often end up gridlocked.

But even in the absence of a coherent policy, EU co-operation is facilitating an exchange of experience with, and ideas about, managing migration. The emerging consensus amongst member-states is that European countries manage migration best when they work with the migrant's country of origin on everything from border control to development issues; have well-advertised, easy to understand schemes for skilled migration; provide a clear and fair route to citizenship for newcomers; and use the right mixture of sticks and carrots to get illegal immigrants to leave. However, efforts to advance these aims at EU level are still in their infancy.

This briefing does not try to point the way forward for EU migration policy. Its aim is more modest. It is a guide for the perplexed. The intention is to help non-specialists make sense of the debate; to disentangle fact from myth; and to highlight the significance of migration to other areas of EU policy-making.

## A-Z

**A**FRICA. Africa is the continent that matters most to EU policy-makers working on migration. The member-states can do precious little to manage the growing numbers of African migrants coming to Europe each year without help from African governments. The EU needs African countries to strengthen border controls, take back illegal immigrants, increase local employment opportunities and help protect refugees. <sup>2</sup> *European Union and African Union, 'Africa-EU partnership on migration, mobility and employment', December 2007.* Hence migration was a key item on the agenda when EU and African leaders met in Lisbon in December 2007. <sup>2</sup>

The summit – the first EU-Africa summit since 2000 – decided to move beyond declarations on migration to serious action. Previous meetings had already gone some way towards this: EU and African ministers dealing with immigration, development and finance issues met throughout 2006 to formulate a joint plan for managing the flow of people between Africa and Europe better. At meetings in Rabat and Tripoli in 2006, EU and African immigration ministers agreed on action to fight human traffickers in the region. Some EU governments have also offered money and expertise to Libya to help patrol its 4,000 kilometre land border and 2,000 kilometre sea border. (Along with Libya, Mauritania, Morocco and Senegal are a gateway for thousands of sub-Saharan migrants in transit to Europe.)

At another meeting in 2006, in Burkino Faso, EU and African governments set out plans to improve job opportunities in the African regions with the highest outward migration. The EU has promised to fund education and training programmes focused on local needs. For their part, African governments have agreed to help migrants find jobs nearer to home by opening up their labour markets to each other. And

the EU is working to establish a number of ‘job centres’ throughout Africa. These offices will warn migrants of the hardships and disappointments involved in illegal migration. But they will also provide job training, help with transferring money from diasporas abroad, and find returned migrants employment in the local labour market. The first EU job centre will open in Mali in 2008.

All such efforts are worthy and necessary. But this fledgling co-operation must become far more robust in the years ahead. However hard European countries work to stem illegal immigration, more powerful forces are driving African emigration, and will continue to do so. African population levels are expected to rise rapidly over the next 20 years. And, according to UN projections, the continent will

<sup>3</sup> *United Nations, ‘Climate change 2007: Impacts, adaptation and vulnerability’, Intergovernmental Panel on Climate Change, 2007.*

be the world’s worst affected by climate change. Based on fairly modest increases in temperature, African crop yields and fresh water supplies are due to drop by more than 20 per cent by 2050.<sup>3</sup>

**A**SYLUM. Millions of people each year flee war, disaster or persecution at home in search of protection elsewhere. International law sets down the rules for treating newly-arrived refugees and assessing their claims, under the 1951 Geneva Convention on the Status of Refugees. A person is not entitled to seek refugee status – also called asylum – for being poor, even when they are destitute. However, migrants often try to claim asylum after being denied a work visa, or because there is no way of migrating legally to their intended destination. This practice undermines faith in the asylum process, and makes life difficult for legitimate refugees. So governments face a conflict between being as open as possible to those fleeing persecution, and the fear of having the asylum system misused as a channel for economic migration. They also worry about ‘asylum shopping’ – the practice of lodging applications in several European countries at once, in the hope of being accepted somewhere. Consequently, only around half of European asylum applications are approved.

EU member-states are basing their asylum policies on a single set of rules, in line with their shared interpretation of the Geneva convention. Officials argue that the progressive implementation of a common asylum system will cut out abuses and ensure fair treatment of refugees in the member-states. The main EU law underpinning this policy is the so-called Dublin regulation. Agreed in 2003, the regulation requires potential refugees to be looked after by the EU country in which they first arrive. So an economic migrant cannot use permissive asylum laws in one country to enter the EU with the aim of getting to another which may offer better working conditions or social security. To enforce this rule, immigration officials have access to an EU-wide database of applicants’ fingerprints, called Eurodac. This allows them to return asylum shoppers, and failed applicants who re-apply, to the EU country in which they first arrived. However, countries at the geographic periphery of the EU – Cyprus, Greece and Malta for example – think that the Dublin regulation forces them to deal with a disproportionate number of refugees and want the law reviewed in 2008. Some countries also want Eurodac to be adapted to detect illegal immigrants who, having been returned to their home country, may attempt to re-enter the EU via other member-states.

A common asylum system should mean that all EU member-states provide refugees with the same essential services on arrival; assess their claims the same way; and use the same rules to grant and withdraw refugee status. Yet the treatment of refugees still varies greatly between the member-states. Part of the problem is poor implementation of existing EU asylum legislation. Franco Frattini is the EU commissioner with responsibility for justice policies, which include asylum and migration. In December 2007, he lamented that 20 out of 27 EU countries had failed to properly implement agreed EU standards for processing refugee applications. Only six EU member-states – Austria, Britain, Bulgaria, Germany, Luxembourg and Romania – got it right.

The member-states are reviewing EU asylum rules to try to improve matters. But harmonising laws can only do so much. The EU will

also establish an asylum support office in 2010. The exact remit is still being debated; at a minimum the office should offer training on EU asylum procedures, maintain a database on conditions in refugees' home countries and provide interpreters, which many member-states lack.

**B**ORDERS. Europe's borders record roughly 300 million crossings per year at around 1,700 check points. Frontex, the EU's fledgling border agency, is responsible for co-ordinating border management across most of Europe. The agency first came to public attention in 2005, after tens of thousands of Africans began arriving on Europe's southern shores in makeshift boats. EU governments asked Frontex to intervene, by co-ordinating multi-country coastal patrols and working to get humanitarian and medical assistance to migrants stranded at sea. Frontex has since negotiated agreements with Libya, Mauritania, Morocco and Senegal, which have allowed the agency to divert numerous boats (containing some 4,000 people) in waters controlled by those countries in 2006.

On paper, Frontex has plenty of patrol equipment to deploy in an emergency: 21 airplanes, 27 helicopters and 116 boats. But the agency has an inadequate budget (€68 million for 2008), problems finding staff and has no operations centre in southern Europe, where one is badly needed. The director of Frontex, Ilkka Laitinen, warns that the public must not expect too much of the agency since it has neither the resources nor the power to solve all of Europe's border control problems: "Frontex does not have any vessels itself and cannot afford deployment of a big number of units to a chosen

<sup>4</sup> Ilkka Laitinen, 'Frontex – facts and myths', November 2007, <http://www.frontex.europa.eu>

region. These assets belong to the member-states and they are subject to their will to deploy them."<sup>4</sup> EU governments want to increase the responsibilities and resources of Frontex over time. In 2007, they agreed, along with the European Parliament, to boost

its budget by €30 million. And, under a package of new border control proposals from the Commission, Frontex inspectors may get powers to order improvements to border controls where these are found wanting. The Commission also wants the member-states to create a shared electronic record of everyone who enters and exits the EU, and approval to create a pan-European border surveillance system – called Eurosur – that will link national coastal surveillance systems using the EU's Galileo satellite.

**C**IRCULAR MIGRATION. A key dilemma facing EU governments is how to prevent their migration policies triggering a so-called brain drain from poor countries. On the one hand, EU governments want skilled immigrants to plug gaps in their local labour market. On the other hand, a country that loses its best and brightest is less likely to develop its economy, which might trigger future migration flows of the unskilled and illegal kind. One way of addressing both issues is to encourage more 'circular migration'. Put simply, this means helping migrants to move to-and-fro between their homelands and foreign places of work.

Some EU and national officials think that the adaptation of national immigration and visa regimes to allow for circular migration could be a panacea for many migration challenges: labour shortages would be met and migrant workers would return regularly with money, skills and ideas. African countries would not lose doctors and other desperately needed skilled workers. And illegal immigration would drop as temporary workers go home willingly, confident they would be allowed to return if need be.

The International Organisation for Migration, an agency that works with governments and migrant communities worldwide, thinks that companies should offer migrants regular sabbaticals at home to promote circular migration. It also argues that



governments should make residence or dual citizenship available to more migrants and establish more flexible visa regimes. In 2007, EU governments picked up on these and other ideas by agreeing that the member-states would offer more favourable visa schemes to co-operative countries, in so-called mobility partnerships. The idea is to establish more intimate co-operation on illegal immigration with partner countries, in return for such benefits as long-term multi-entry visas for their citizens, and fast-tracking

<sup>5</sup> Council of the European Union, 'Justice and home affairs council meeting', December 2007, <http://www.consilium.europa.eu>.

returning migrants for new residence permits and work visas. To test this idea, the Commission is negotiating pilot mobility partnerships with Cape Verde and Moldova in 2008.<sup>5</sup>

One issue with the circular migration idea is that the term means different things to different EU countries. Some would only be prepared to give circular migration rights to highly-skilled migrants whereas others think the idea best suits seasonal migrants who return every year to do jobs in the agriculture, construction and tourist industries. But this need not be problematic in formulating a common migration policy. The Commission could combine different kinds of multi-entry visas from different member-states into one package to negotiate with countries willing to work closely with the EU on immigration issues.

**DEVELOPMENT AID.** Development aid to Africa and other poor regions is an essential complement to EU efforts to better manage migration. In principle, the EU should be well equipped to link its development policies to its migration goals. Together with its member-states the EU is the world's largest donor of official development aid (ODA), accounting for roughly half of the global total. In 2006, the EU spent €48 billion, the equivalent of 0.42 per cent of gross national income, compared with 0.17 per cent in the US and 0.25 per cent in Japan.

France, Germany and the UK are the EU's largest donors in absolute terms. In 2006, the UK spent about €10 billion on official development aid, France €8.3 billion and Germany €8.2 billion. However, looking at ODA as a percentage of GDP, the picture is rather different: Denmark, Luxembourg, the Netherlands and Sweden come out as the most generous EU member-states.

In practice, the EU has not managed to systematically link its aid and migration policies (see Global approach to migration). For example, officials and development workers believe that improving economic links between migrants and their home countries is a crucial ingredient of more effective development policies. Migrants from the same town or area often keep in touch through associations or community groups in their host country. Such groups could help to design and fund government aid projects in their native areas. They also want to organise migrant diasporas to give more to their home countries and to promote entrepreneurship there.<sup>6</sup>

<sup>6</sup> Steven Vertovec, 'Circular Migration: The way forward in global policy?', Working paper 4, International Migration Institute, University of Oxford, 2007.

**EUROPEAN MIGRATION PACT.** The interior ministers of Britain, France, Germany, Italy, Poland and Spain meet every six months – as the so-called G-6 – to strengthen practical co-operation between the EU's largest domestic security and immigration services. These countries want the EU to adopt a 'European pact on migration' in October 2008, during the French presidency.

One of the main aims of the proposed pact is to end the practice of mass amnesties for illegal immigrants in the EU. For example, northern EU countries were dismayed in 2005, when Spain gave residency (and therefore free movement around the EU) to 750,000 illegal immigrants. Northern European countries believe such amnesties are a 'pull factor' that spark off mass migrations to

Europe. But Spain and like-minded Mediterranean countries also want a grand migration bargain that includes money and resources to help them shoulder the burden of being the EU's gateway. Cyprus, Greece, Malta, Portugal and Spain have all criticised the EU for not helping them enough with large-scale migration from Africa and the Middle East.

If agreed, an European migration pact will probably mean an end to one-off amnesties for illegal migrants; joint action to strengthen borders, including the adoption of similar technology; and more EU pressure on countries in Africa, Eastern Europe and elsewhere to take back illegal entrants.

**F**REE MOVEMENT AND ENLARGEMENT. The EU has admitted 12 new member-states since 2004: eight Central and East European countries, plus Cyprus and Malta, joined in 2004, followed by Bulgaria and Romania in 2007 – bringing the EU's membership to 27. Roughly half of Western Europe's immigrants in recent years have come from these countries. (However, some large intra-EU movements have been unconnected to enlargement: an estimated 750,000 UK citizens, for example, have moved to Spain in recent years). Unlike immigrants from non-members, EU nationals are free to enter or live in other member-states without the need for visas or residence permits. EU citizens and their families have the legal right to live anywhere throughout the Union for three months, after which they must be working, studying or financially independent if they wish to stay. After five years, this right of residence becomes permanent. EU countries can expel other member-states' citizens only if the person is a proven threat to public safety. These rights are set out in detail in a key 2006 European directive on free movement.

The right to free movement does not automatically entail the right to work in another member-state. Existing EU members were

allowed a transitional period of seven years before opening their labour markets to workers from the new entrants. The majority now have no restrictions on workers from those countries that joined the EU in 2004. But a large number have maintained restrictions on Bulgaria and Romania. The exceptions are Cyprus, the Czech Republic, Estonia, Finland, Latvia, Lithuania, Poland, Slovakia, Slovenia and Sweden. From 2014, the period of transition will end and there will be complete free movement of workers between all member-states. However, EU countries can still close labour markets in an emergency, if the Commission approves the decision.

**G**LOBAL APPROACH TO MIGRATION. Effective migration policies take account of, and try to influence, the factors that trigger migration. Officials and migration experts divide these into two categories: 'push' and 'pull'. Policies dealing with push factors address the forces which make migrants want to move out of certain areas. Pull factors are the forces that draw them to other areas. A push factor might be political instability, poverty or high unemployment. Pull factors include a booming economy, demand for cheap labour, higher salaries, better working conditions or the prospect of family reunification.

In recent years the EU has tried to take a 'global approach' to these factors. This means that the member-states are trying to bring together all migration-relevant policy areas in a more coherent way. These include measures to fight illegal immigration, overseas development, managing demand for skilled labour, and action against traffickers. The current priority areas for the global approach are Africa and non-EU countries in Eastern and South-Eastern Europe. (Some officials think the strategy badly needs an Asian dimension too, given that a growing number of Europe's migrants are from this region). A major strand is for the European Commission to negotiate easier visa regimes and help governments in these regions to train border guards and immigration officials.

Another strand is for the EU to reduce the push factors that force migration by focusing development efforts on poverty alleviation.

The strategy is far more aspiration than reality. For a start, it is difficult enough for any single government, let alone the EU, to join up all its various policies in pursuit of strategic objectives. Second, the Commission needs to be able to offer aid and visas to African countries willing to take back large numbers of undocumented migrants. But these things are mostly the responsibility of the member-states. Some critics view the strategy harshly, seeing it either as meaningless or an attempt to create a ‘fortress Europe’. Others point out that a truly global approach would consider how EU farm subsidies and over-fishing in African waters undermine the livelihoods of those who might otherwise stay at home.

**HIGHLY SKILLED LABOUR.** The European economy needs more highly skilled workers, such as information-technology specialists, business managers, and doctors and nurses. But the EU is currently losing the global competition with Australia, Canada and the US to attract such workers. An overwhelming majority of EU immigrants from Africa and Asia are unskilled. In contrast, 50 per cent of migrants to the US from these same regions are highly skilled. The Commission estimates that the EU will need to attract 20 million skilled migrants over the next 20 years to address skill shortages in Europe’s engineering and computer technology sectors.

Commissioner Frattini’s solution is an EU ‘blue card’ – a common working visa – to lure young, highly skilled workers to Europe. Under the scheme, recipients would get a two-year residency in any member-state where they have a job offer. The job must be paid at three times the local minimum wage and be guaranteed for at least one year.

For the migrant, the main benefit of the blue card would be the option to extend their stay after the initial contract and to work anywhere else in the EU.<sup>7</sup> The Commission is not looking for the authority to decide how many workers a member-state should admit. National governments are loth to give this power away. But the Commission would set the criteria for granting a blue card and have the power to guarantee cardholders the same healthcare, tax and pension rights throughout the EU. An EU blue card would send a strong signal to European citizens that the Union can contribute to an effective migration policy. It would also fill an important gap in those countries that have no proper legal migration system of their own.

However, some member-states remain unenthusiastic about the idea. The UK, the most popular destination in Europe for non-EU workers, has just begun to use a separate ‘points system’ to manage legal migration and has therefore opted out. (See Quotas.) So have Ireland and Denmark. Austria worries that the idea is “a centralisation too far”. And most EU member-states, including Germany and France, do not want the Commission to have any say over how they admit immigrants. The prospects for the blue card therefore look bleak, as long as the EU continues to decide labour migration questions by unanimity. (See JHA/Lisbon treaty.)

**ILLEGAL IMMIGRATION.** Since 2005, governments have argued over a law to ban illegal immigrants found in any member-state from re-entering the EU. The Commission argues that this ‘returns directive’ is central to EU efforts to establish a common approach to illegal immigration. But member-states do not seem to like the proposal very much. Most feel that EU institutions should have little say in how they expel non-EU citizens.

<sup>7</sup> Jakob Von Weizsäcker, ‘What should a cautious EU immigration policy look like?’, *Bruegel, Spring 2007*.

EU governments find it more practical to focus on developing other tools for tackling illegal immigration such as negotiating so-called readmission agreements. These spell out the procedure for returning illegal immigrants to where they came from, which could be a transit country, rather than their home country. Over the years, countries with high numbers of illegal migrants – notably France, Germany, Greece, Italy, Spain and the UK – have negotiated several such deals bilaterally. But the agreements are often difficult to conclude: impoverished countries like Mali or Senegal do not see why they should bear the costs of returning migrants or cut deals with former colonial masters. Many countries are also afraid that they might be burdened with large numbers of illegal immigrants from elsewhere.

The member-states are happy for the Commission to use the EU's collective weight to negotiate better readmission pacts. When the EU as a whole negotiates a readmission agreement, previous bilateral arrangements are superceded. So far the EU has concluded readmission agreements with Albania, Hong Kong, Macau, Moldova, Russia, Sri Lanka and Ukraine. Negotiations are continuing with China, Pakistan and Turkey. Another idea is for EU countries to take advantage of post-colonial ties and other special relationships by sharing each others' bilateral re-admission agreements. In other words, the Netherlands might return Indonesian illegal immigrants on the behalf of Portugal, in return for a similar facility.

France and the UK, are also experimenting with a different approach: encouraging illegal immigrants to return home voluntarily by offering them lump sums and benefits to establish a new livelihood there. In 2006, Britain returned 6,000 illegal immigrants this way. Although simpler and cheaper, such schemes run great risk of attracting more illegal immigration if potential migrants are drawn to a country with the intention of being paid to go home.

**I**NTEGRATION. The EU will only be able to cope with a growing number of immigrants if member-states get better at helping them to integrate. This can only be done at the national and local level. Nonetheless, member-states do have some stake in each others' integration strategies. The mistreatment of minorities in one European country could quite easily fuel unrest and instability in another or push them to migrate to another EU country where they are better treated.

President Sarkozy aims to use France's EU presidency to lobby other member-states to adopt an idea from his days as interior minister: national integration 'contracts' between immigrant and host state. Immigrants would be required to enter into a binding agreement to learn the local language and respect national institutions and values, in return for certain guaranteed rights. Arguably, the best way to integrate immigrants is to provide a clear route to citizenship – and the sense of being a stakeholder – in the country of settlement. But some EU countries effectively block access to citizenship for migrants. In others, migrants have to wait up to ten years before they are eligible to apply for citizenship. Even then, they can be required to prove that they pose no financial burden to the state. Moreover, the legal status of their spouses and children can remain insecure for many years.

The 'migrant integration policy index', a survey of European integration policies funded by the European Commission, ranks EU countries depending on how effective their integration laws are. These include laws on family reunion, residence rights, labour market access, political participation, access to nationality and anti-discrimination. Finland, Sweden, the Western Mediterranean, the Benelux and the UK top the index. The policies of the Baltic republics, Denmark, the countries of the Eastern Mediterranean and Central Europe come last.<sup>8</sup>

<sup>8</sup> Jan Niessen and others, 'Migrant integration policy index', British Council and Migration Policy Group, 2007.

**J**USTICE AND HOME AFFAIRS (JHA). EU policies on immigration, asylum, border controls and crime are subsumed under the term ‘justice and home affairs’. JHA-related policies account for nearly 40 per cent of new laws emerging from Brussels. Since JHA policies can be politically sensitive, initiatives in this area have to strike a careful balance between facilitating co-operation and preserving national sovereignty. Therefore until a few years ago all JHA policies were decided by unanimity, with a very limited role for EU institutions, such as the European Parliament and Court of Justice.

In 1997, the EU merged the Schengen agreement on borderless travel (initially concluded among a smaller group of member-states) into the Amsterdam treaty. With this, border and immigration co-operation became legally-binding, but still with a requirement for unanimity. Ireland and the UK chose to remain outside Schengen. Along with Denmark, they also negotiated to keep their involvement in EU initiatives on borders, immigration and asylum optional rather than obligatory.

Shortly after the Amsterdam treaty entered into force, EU leaders agreed on a detailed list of goals for EU asylum and immigration policies called the Tampere programme. In 2004, the governments took stock and added some new goals, renaming it the Hague programme. Shortly after, the member-states used a special *passerelle* clause in the Treaty of Nice to move decisions on asylum and immigration to qualified majority voting, except for legal migration. Further changes will be made to the JHA area under the Treaty of Lisbon.

**L**ISBON TREATY. EU countries signed the Treaty of Lisbon in December 2007. If ratified, it will switch all remaining EU decisions on asylum, immigration and integration to qualified majority voting after 2009. (This includes new laws on entry requirements for non-EU nationals). However, the treaty also

makes clear that member-states have an exclusive right to determine the numbers of foreign nationals admitted to their territory and that co-operation on integration is supplementary and not about the harmonisation of laws. The European Parliament already has an equal say with national ministers in most EU legislation dealing with immigration, border and visa issues. But under the treaty it will gain a stronger say in both legal and illegal migration measures. Britain, Ireland and Denmark opt out of many migration-related policies at present, and this will not change under the new treaty.

The Lisbon treaty states for the first time that member-states will support any EU country faced with a sudden influx of refugees. But it does not specify how this obligation would work in practice. The text also strengthens the Commission’s legal standing to negotiate agreements with home countries to take back illegal immigrants.

**M**EDITERRANEAN: The EU member-states along Europe’s Mediterranean coastline have all experienced mass migration to their shores in recent years. These arrivals have shocked authorities, not because of their numbers – the migratory movements linked to enlargement are far larger – but because they were sudden and unexpected. Coastal patrol services were temporarily overwhelmed and medical and social services were ill-prepared to deal with the resulting humanitarian emergency.

★ **Canary islands (Spain).** Located off Africa’s west coast, the Canary islands have been a major staging post for mass migrations. More than 31,000 African migrants reached the islands in 2006. However, stricter border checks and co-operation with countries such as Senegal and Morocco have reduced the numbers of illegal arrivals. In 2007 Spain detained less than half the illegal migrants stopped the previous year. It

is also important to keep the numbers in perspective: illegal migrants from Africa represent only 5 per cent of Spain's considerable immigrant population.

- ★ **Malta.** With a population of just 400,000 people, the EU's smallest member is also one of the most affected by North African migration. Malta is a consistent critic of what it sees as the EU's failure to forge a coherent migration policy. In June 2007, the country refused to accept a number of immigrants found stranded off its coast, maintaining that its small coastguard should not be expected to patrol Europe's international waters. However, other EU interior ministers have rejected a Maltese proposal that the member-states should share responsibility for migrants rescued at sea.
- ★ **Lampedusa (Italy).** The tiny Italian island of Lampedusa is the nearest geographical arrival point in the central Mediterranean for would-be migrants to enter the EU from North Africa. Thousands depart in boats from Libya and Tunisia each year. According to the Italian interior ministry, 178 vessels carrying over 10,000 people arrived in Lampedusa in 2006. The facilities at Lampedusa for dealing with such humanitarian emergencies are severely inadequate.
- ★ **Samos (Greece).** Greece is the EU's most porous gateway, with a vast coastline stretched out over thousands of islands. In contrast to the Western Mediterranean, the country experienced a major rise in illegal arrivals in 2007. From January to August, the Greek police detained almost 70,000 illegal immigrants, up a quarter from the previous year.<sup>9</sup> Most were Albanian, but there was also a sharp increase from war-torn countries such as Iraq and Afghanistan. The island of Samos – one of Greece's three main migrant detention centres – received the largest influx, mostly comprising Iraqi, Afghan and Palestinian refugees.

<sup>9</sup> Niki Kitsantonis, 'Greece struggles to curb influx of illegal immigrants', *International Herald Tribune*, October 4<sup>th</sup> 2007.

**NEIGHBOURHOOD POLICY.** The European neighbourhood policy (ENP) aims to make the countries to the EU's east and south more stable and prosperous. It does so by offering aid, market access and co-operation on various policies, while in return asking the partner countries to implement economic and political reforms. As part of the ENP, the EU has signed bilateral action plans with twelve partners (Armenia, Azerbaijan, Egypt, Georgia, Israel, Jordan, Lebanon, Moldova, Morocco, the Palestinian Authority, Tunisia and Ukraine). And more are in the pipeline.

Migration is a major issue in these action plans. The ENP budget pays for projects to strengthen border controls; upgrade facilities for refugees; and fight illegal immigration and people trafficking in partner countries. For example, EU experts train authorities in the management of migratory flows, including refugees. In Morocco, the EU funds efforts by the National Agency for Employment to reintegrate returned immigrants. EU officials help local authorities in Moldova to fight the trafficking of people and smuggling through an €8 million border assistance mission. The EU wants to deepen co-operation under the ENP by negotiating additional agreements to lessen visa requirements for partner countries. In exchange, the EU expects ENP countries to co-operate more on migration issues and improve refugee facilities at home.

**POPULATION.** The EU's population currently stands at almost 500 million. But it is set to decline unless Europeans start having more children. At the same time people are living longer, which means that European societies are ageing and pension systems are coming under strain. The enlargement of the EU has done little to rejuvenate Europe, since most new member-states also have ageing populations and low birth rates. These trends, unless reversed, will weaken the EU's ability to compete with emerging economies with large and young workforces.<sup>10</sup>

<sup>10</sup> Katinka Barysch, 'Why Europeans don't have babies,' *CER blog*, June 2007.

Economists often argue that countries should accept higher levels of immigration as a way to alleviate Europe's demographic problems. However, unacceptably large numbers of migrants would be needed to keep the ratio of workers to pensioners stable in countries such as Italy and Germany where birth rates are very low. It is difficult to see any country willing or able to permit immigration on this scale. In any case, migrants themselves grow old, while their own birth rates converge over time with those of the host population. It

<sup>11</sup> Alasdair Murray, 'Growing old gracefully: How to ease population ageing in Europe', CER essay, January 2008.

follows that immigration is unlikely to prove a panacea for the challenge of Europe's ageing population.<sup>11</sup>

**QUOTAS.** Many European countries have no proper system for attracting legal migrants. Of those that do, most operate quota systems to issue work visas based on the country's need for migrant labour, according to information provided by local bodies, employment and social affairs ministries and employers' associations. For example, from 2004 to 2006, Italy expected to admit 79,500 foreign workers. So it allocated quotas to countries that had signed co-operation agreements with Italy on immigration, including Albania, Egypt, Morocco and Tunisia.

The Czech Republic, Germany and the Netherlands have used 'green card' or work permit systems, in partnership with employers, to attract and select highly skilled workers. In 2008, the UK became the first European country to introduce a 'points-based' system, modelled on those in Australia and Canada. Under the new system the UK will allocate work visas depending on the skills and qualifications that are lacking in its labour market. Those accumulating the highest points will not even require a job offer to secure a visa. Some economists have criticised points systems as ineffective and bureaucratic. But advocates argue such schemes are a much more sophisticated method than quotas for identifying, attracting, and retaining workers.

**REMITTANCES.** Development experts think that the money migrants send home, known as remittances, has huge potential to alleviate poverty and promote the development of poorer countries. Migrants probably send as much as \$400 billion in remittances to their home countries each year, <sup>12</sup> *Philippe Legrain, 'Globalisation: A liberal response', CentreForum, Winter 2007.* four times what the West gives in aid.<sup>12</sup> Remittances also outstrip foreign investment in poor countries. But the cost of transferring remittances can be scandalously high – up to 40 per cent of the total may be creamed off in transit by companies and governments. Development ministries can do a lot to help prevent migrants being duped by simply providing them with information on where to find the best transfer rates. (The UK's development ministry operates a good example of this: <http://sendmoneyhome.org>.) Brice Hortefeux, France's immigration minister, wants the EU to go further and establish an International Bank for Remittances, where migrants could save and send money home at negligible cost, topped up by funds from European development budgets.

**SCHENGEN.** Most EU countries are part of the Schengen area, where passport checks and border controls have been abolished. On December 21<sup>st</sup> 2007, the Schengen area underwent an historic eastward expansion, taking in new EU members Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovenia, Slovakia and the Czech Republic. The area also includes two non-EU members, Iceland and Norway; a third, Switzerland, is due to join in late 2008. Britain and Ireland have chosen to maintain their border controls indefinitely, while Bulgaria, Cyprus and Romania are not yet ready to join.

The EU provided almost €1 billion to the new members to bring their border and visa regimes up to Schengen standards, and it inspected their border controls repeatedly. This was important for giving West Europeans confidence since the EU's common frontier now reaches the Balkans, Belarus, Russia and Ukraine.

Nonetheless, interior officials in the Schengen area reported an increase in illegal immigration immediately after the lifting of controls. Given the publicity surrounding the Schengen expansion, this increase was perhaps inevitable. But the new security challenges of the enlarged free travel area, plus concerns about mass migrations on the EU's southern frontiers, are forcing Schengen countries to think about how they can better co-ordinate internal controls to detect illegal immigrants.

Schengen is not simply about the abolition of border controls. Police and judges already work closely together in the Schengen area, sharing information via a single computer system (called the Schengen Information System, or SIS). Police also have extra powers to pursue crimes and carry out surveillance across borders. For example, Dutch officers can carry out surveillance on suspects in Germany, with or without prior notification. Austrian policemen can follow a suspected drug smuggler in 'hot pursuit' into Slovakia – until the local police arrive. A new generation of the SIS is under development. The new system (SIS II) is due to have much greater capacity, as well the capability to store and exchange biometric data. Although SIS II was due to be ready in time for the 2007 expansion, persistent delays in developing and testing the new system mean that it will not be in use until September 2009, at the earliest.

Ireland and the UK, which have a free-travel area between them, are eligible to join the Schengen area but have chosen to maintain their own border controls. However, the UK's planned 'e-borders programme' – a system for monitoring air, sea and rail travellers to and from Britain – will require formal passport checks to be introduced between Ireland and the UK from 2009. In a long-awaited judgement, the European Court of Justice ruled in 2007 that Schengen members had the right to block Britain and Ireland from joining the board of Frontex, since they do not participate in the common system of border controls.

**T**RAFFICKING OF PEOPLE. Migrants desperate to move to Europe often fall prey to traffickers and smugglers. The International Labour Organisation (ILO) estimates that, at any given time, 2.5 million people are in the hands of traffickers around the world. Human trafficking is the fastest growing criminal activity globally. It is a savage form of modern slavery that generates massive profits for international criminal gangs. Over 100,000 victims are trafficked into Western Europe every year. Organised gangs, particularly from Albania, China, Romania, Russia and Turkey, have developed complex networks, often adapted from smuggling drugs and weapons. Business is depressingly good: the ILO estimates the annual profit made by human traffickers worldwide at \$44 billion.<sup>13</sup> The EU combats human trafficking on three main fronts: co-operation through Europol, its office for police co-operation, and Eurojust, its prosecution unit; common legislation to outlaw trafficking and encourage victims to testify; and agreements to work with non-EU immigration services and police to crack down on trafficking networks.

<sup>13</sup> *International Labour Organisation, 'Forced labour and human trafficking: The profits', 2006.*

**U**N REFUGEE AGENCY (UNHCR). Recent wars and unrest in Africa and the Middle East have increased the numbers of people seeking asylum in Europe. In 2006, Iraq became the single most important source of asylum seekers in Europe. Yet the refugees most in need of outside help remain trapped in their home region, unable to afford or undertake the long journey to Europe. The UNHCR, arguably the most powerful UN agency, is an important player in making sure that EU aid reaches the worst refugee crises. However, the agency has also been a fierce critic of moves towards a single European asylum system. It believes EU procedures for returning failed asylum-seekers set the bar too low for determining whether the receiving country is safe for the rejected claimants.



Nonetheless, EU countries work closely with the agency, providing long-term funding of its services to refugees in places like Tanzania, through so-called regional protection programmes. Some EU countries even give the agency powers to process asylum requests on their behalf in the worst affected areas, through so-called resettlement programmes.

**VISAS.** After the expansion of the Schengen area, a non-EU citizen can move from Trondheim to Warsaw without a passport check. Therefore immigration services in Schengen countries have a single set of rules for patrolling their borders and issuing short-stay visas.

In recent years, EU countries have begun to incorporate digital photographs, fingerprints and eye-scans – also called biometric data – into new passports and visas. This is part of a global trend: the International Civil Aviation Authority has recommended that all countries convert travel documents to this hugely expensive technology. Immigration officials in Europe, as well as the US, believe that switching to the new technology is vital to keep track of who is crossing their borders. By 2011, all EU passports and visas (including from non-Schengen countries) will carry biometric data technology.

In 2008, EU immigration services are due to start using a new biometric database called the Visa Information System (VIS). The database will centrally store records of all Schengen visas issued by European consulates, making it possible to cross-check such information automatically for the first time. EU countries not in the Schengen area – like Ireland and the UK – will not have full access to VIS, but will be able to check its records to deal with illegal immigration and process asylum applications, if need be. The new database is intended to stop ‘visa shopping’, or applying for a visa elsewhere despite rejection by other Schengen countries, and to detect the use of fake passports.

Over the next few years, the Commission wants the EU to open ‘Euro-consulates’, single offices abroad for applying for visas to the Schengen area. This should cut costs for those countries that struggle to provide consular services worldwide. Several member-states – Belgium, Britain, France, Germany and the Netherlands – are also co-operating to reduce the huge costs of collecting biometric data for visas. As part of a pilot project called ‘Biodev’, applicants in several African countries can now submit biometric data for a visa to any one of these countries through only one consular service.

**WORK.** The Commission estimates that there are around 8 million illegal immigrants in the EU, and that this number increases by 500,000 to 1 million every year. The majority of these originally come legally on short-term visas and stay on after these expire. Many find work in Europe’s thriving black economy, which could make up as much as 16 per cent of EU GDP.<sup>14</sup> These workers are drawn to Europe mainly by the knowledge that they can find work illegally in the construction, agriculture, cleaning and hospitality industries. Many end up doing under-paid or dangerous work.

<sup>14</sup> *European Commission, ‘Towards a comprehensive European migration policy: Cracking down on employment of illegal immigrants and fostering circular migration and mobility partnerships’, May 16<sup>th</sup> 2007.*

Commissioner Frattini wants to tackle the problem by toughening up laws on undeclared work. The Commission wants member-states to adopt a directive in 2008 that would set fines and jail sentences for employing illegal labour and would increase the number of checks on businesses in those sectors most affected. All member-states, except Cyprus, have some form of black market labour legislation already, but the Commission argues most do not enforce such laws rigorously enough.

**XENOPHOBIA.** The EU must find a way of reconciling migration with cultural and political cohesion. In recognition of this, EU governments named 2008 as the European Year of Inter-cultural Dialogue.

There are few greater challenges. The arrival of millions of foreigners in the EU over two decades has coincided with a rise in racism and xenophobia that has at times spilled over into the political arena. Since the attacks of September 11<sup>th</sup> 2001, most attention has focused on a ‘clash of cultures’ with political Islam. But other racist trends predate this. Since the 2007 accession of Bulgaria and Romania, for example, the EU now has 8-10 million Roma among its citizens, which is more than the population of many of its smaller member-states. This group has been the subject of ongoing discrimination across Europe for centuries.

The EU’s Fundamental Rights Agency is responsible for monitoring levels of racism, xenophobia and anti-semitism in Europe. The member-states also famously isolated the Austrian government in 2000 for entering a coalition government with the far-right Freedom Party. Article 7 of the current EU treaty allows the member-states to suspend the voting rights of governments which fail to respect EU principles of democracy, the rule of law and human rights, including the rights of minorities, refugees and immigrants. And European legislation requires each member-state to have its own commission for racial equality. But EU efforts are merely supplementary to national ones.

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**ZERO-TOLERANCE TO IMMIGRATION.** The 2004 elections to the European Parliament returned 25 MEPs from ten anti-immigrant, neo-Nazi and extreme right-wing parties across seven member-states, including three new members. On the accession of Bulgaria and Romania in 2007, they were joined by several more ultra-nationalists and formed a separate political

grouping in the parliament: Identity, Sovereignty and Tradition (which collapsed a few months later due to national differences).

At local level, the picture has been equally disturbing. Since 2004, the Belgian Vlaams Blok, the French National Front, the German National Democratic Party and others have all performed well at local and regional elections. Poland’s government from 2005 to 2007 included at least one party with anti-semitic leanings.

Many commentators would prefer to treat such parties as short-lived phenomena with no real base in public opinion. Austrian support for the far-right Freedom Party dried up shortly after it entered government. The Dutch anti-immigration party, Lijst Pim Fortuyn, all but collapsed in 2005. Danish anti-immigrant parties have also suffered setbacks in recent years. In reality, however, mainstream parties in these countries have wrong-footed the extremists by adopting tougher rhetoric on immigration matters.

Immigration will always be a touchy political subject. What is vital is that mainstream political parties do not ignore genuine public concern over the issue, thus handing the issue over to the political fringe. Governments manage attitudes to immigration best when they combine a liberal approach with safeguards in which the public can have confidence.



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# EU migration policy: An A-Z

**Hugo Brady**

More and more people want to come to Europe to live and work. This is a welcome development, given Europe's ageing population. But increasing migration poses big challenges for EU governments. They know that they need to work together in order to manage large-scale immigration effectively, yet they are far from adopting a single approach. In this A-Z guide, Hugo Brady explains the EU's growing role in migration policy and highlights some of the key debates over how to best manage this global phenomenon.

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