

EMI Briefing Note

Safeguarding the EU's fundamentals and future: freedom of movement, asylum and immigration

A priority for the European Union

At its Members Council on 11 April 2014 in Athens, Greece, the European Movement International adopted a resolution on the freedom of movement, European Asylum Policy and legal immigration. The resolution called for the safeguarding of the freedom of movement as a fundamental right for all European citizens; the full implementation of the Common European Asylum System; a mechanism for fair burden sharing among EU Member States; an integrated strategy to manage irregular migration; and the promotion of channels of legal immigration.

At the same time, these issues had drawn the attention of the 'top candidates' of the European political parties that were competing in the European election campaign. Guy Verhofstadt (ALDE), spoke of a need for a legal common immigration policy. Ska Keller (Greens) spoke of an open Europe, where migrants are not seen as a security threat. Martin Schulz (S&D) spoke of intra-EU solidarity and a system of legal migration. Jean-Claude Juncker (EPP) presented a five-point plan on immigration.¹ All candidates saw a need for legal migration channels, as well as a need for more intra-EU solidarity. After the European elections in May, and the agreement on Jean-Claude Juncker as the new President of the European Commission, Juncker presented his Agenda for Jobs, Growth, Fairness and Democratic Change in July. Point 8 in this 10-point-agenda is 'Towards a New Policy on Migration'.²

Juncker's agenda point on migration policy includes several fields of action. It stresses the need for a strong common asylum policy; promotes a new European policy on legal migration including a review of the Blue Card legislation; points out the need for more cooperation with third countries to deal with irregular migration, including readmission; proposes to step up the capacity of FRONTEX to secure Europe's borders; and stresses the need for enforcing the new European rules to penalise human traffickers. All these points are also reflected in the Mission Letter from Juncker to Dimitris Avramopoulos, the new Commissioner for Migration and Home Affairs, with the fight against terrorism and radicalisation added to the list. In the letter, the new migration policy is defined as follows:

*"A successful migration policy is both a humanitarian and an economic imperative. We need to show that Europe can offer both a compelling case to attract global talent, and a vision of how to robustly address the challenge of irregular migration. We need a new policy on migration that will address skill shortages and the demographic challenges the EU faces and that will modernise the way the EU addresses these challenges."*³

In the Mission Letter, Avramopoulos is also called upon to work closely together with the first Vice-President, Frans Timmermans, and the High Representative, Federica Mogherini.

During his hearing on 30 September, Avramopoulos vowed to protect fundamental and human rights, and stated that the best way to combat illegal migration is not to build a 'Fortress Europe', but to create a regular immigration framework, and at the same time effectively police Europe's external borders. In line with the Mission Letter, he stated that reviewing the Blue Card legislation and setting up a migration policy that attracts the skills and talents Europe needs, are his main tasks. A full review of the Dublin II Regulation was ruled out by Avramopoulos, but he did announce that serious studies should be conducted for better burden-sharing, and he will encourage the Member States to host more refugees from third countries.⁴

¹ Andreia Ghimis, [Immigration and free movement in an unusual electoral race: what implications for the next political cycle?](#) European Policy Centre, 20-05-2014.

² Jean-Claude Juncker, [A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change](#), 15-07-2014.

³ Jean-Claude Juncker, [Mission Letter to Dimitris Avramopoulos](#), 10-09-2014.

⁴ [Immigration Commissioner denounces 'Fortress Europe' at hearing](#), EurActiv, 01-10-2014.

State of play

Legal framework

Since the Lisbon Treaty came into force in 2009, EU legal migration policy has been subject to the ordinary decision-making process, which entails qualified majority voting in the Council of Justice and Home Affairs and a co-legislator role for the European Parliament. In accordance with the changes, a new Commission portfolio of Home Affairs was created in 2010. Since then, much has happened in the area of migration policy. Several Directives on different categories of migrants have been adopted, including: the Blue Card Directive (2009), the Single Permit Directive (2011), the Directive on Seasonal Workers (2014), the Directive on intra-corporate transfers of non-EU skilled workers (2014), and a Directive on entry and residence conditions of students and researchers has now been proposed. Several (revised) Directives have also been adopted in the area of asylum policy, including a new Asylum Procedure Directive (2013, enforced in 2015) and the Common European Asylum System, which will come into full force in 2015. Other developments over the last years include a new FRONTEX mandate (2011), the adoption of the Schengen Governance Package (2013), a series of visa facilitation and readmission agreements, and new proposals from the Commission to amend the Visa Code (April 2014).⁵

Intra-EU mobility and third-country labour migration

Free movement of persons is a fundamental right of European citizens. However, this right is only exercised on a limited scope: only 3% of European citizens work and live in a different country, which aligns with the average global percentage. The 2004 enlargement led to an increase in the number of European citizens using their right to the freedom of movement, bringing the European percentage on a par with the global percentage, until the economic crisis reduced the East-West mobility flow. Since 2011, mobility has increased again, this time through a South-North mobility flow as a result of the crisis. In addition to the number of European citizens living and working in a different European country, around 4.3% of the European workforce are non-EU citizens.⁶

The free movement of persons within Europe stimulates economic growth, leading to GDP growth. In contradiction to popular beliefs, the misuse of social benefit schemes is negligible, and the benefits of immigrants to the national budgets is much higher. Furthermore, filling gaps in the labour market with labour migrants contributes to economic growth, which creates jobs instead of 'stealing' the jobs of local unemployed citizens. Immigrants are also often more efficient and productive, and cross-cultural interaction often leads to innovation. Countries that make use of these qualities of labour migrants also compete best internationally. This means that both the economy and native workers profit from growth generated by labour migrants.⁷

Because of these positive effects of the free movement of persons, increasing intra-EU mobility is seen as part of the solution in tackling the high unemployment rate in Europe, especially for young people. Apart from the effects of the economic crisis, the ageing and shrinking of Europe's workforce is a problem that will have huge consequences for Europe's economy and social model. The evolving needs of labour markets with regard to skills and qualifications, already expressed in the shortages of skills in certain regions and industries, are an additional problem for Europe in terms of its economic future.

⁵ Cecilia Malmström, [EU migration policy – new realities, new opportunities](#), Challenges and new beginnings: Priorities for the EU's new leadership, European Policy Centre, 09-2014; Piotr Bakowski, [Briefing: Dimitris Avramopoulos, Migration and Home Affairs](#), European Parliamentary Research Services, 09.2014.

⁶ Radoslaw Sikorski, [Freedom of movement of persons – the building-block of European growth](#), Challenges and new beginnings: Priorities for the EU's new leadership, European Policy Centre, 09-2014; Rainer Münz, [To the Commissioner in Charge of Mobility, Migration of Mobility, Migration, Asylum and Border Management](#), EU TO DO in 2015-2019: Memos to the New EU Leadership, BRUEGEL, 09-2014.

⁷ Malmström [EU migration policy – new realities, new opportunities](#); Sikorski [Freedom of movement of persons – the building-block of European growth](#)

For these problems, solutions in terms of an increase in third-country labour migrants are proposed. The need to address ageing and labour shortages through regulated labour migration is recognized by many; but not only in Europe. Europe is already losing out in a global race for talent, with a decreasing voluntary migration to the EU, and the profile of a third-country national living in Europe unfavourably contrasting with one in, for example, Australia or Canada. Europe could be more attractive for migrants if it would allow intra-EU mobility and enable integration and labour market participation of all migrants, avoiding over-qualification and under-employment.⁸

Irregular immigration

While intra-EU mobility and third-country labour migrants are currently regarded as an economic opportunity, asylum, irregular migration and border management remain areas of concern in the European Union. An increasing number of people cross Europe's borders to claim asylum. With some countries – Italy, Greece, Malta - most exposed to irregular migration flows, the increased of asylum seekers has led to misconduct and violation of refugees' rights. It also led to increased media attention for irregular immigration, for example in the case of Lampedusa, or the drama of people drowning in an attempt to cross the Mediterranean Sea. Over the last years, the EU has attempted to develop a comprehensive European policy for dealing with asylum seekers, irregular migrants and border control, but the unresolved issue of the lack of burden-sharing between the Member States, with huge differences between countries in the number of asylum applications and inflow of irregular migrants, remains a problem.

The lack of a comprehensive European policy and the ensuing problems regarding the safeguard of the fundamental rights of refugees are increasingly recognized. To list but a few: on 21 October, the European Court of Human Rights judged that Italy and Greece had violated fundamental rights of asylum seekers in a case regarding 32 Afghan nationals.⁹ On 22 October, the European Ombudsman announced an inquiry into how FRONTEX ensures the respect of fundamental rights of migrants who are subject to forced returns.¹⁰ On 23 October, MEPs called for further details on a joint European policy operation against clandestine migrants, expressing concerns on how to reconcile the fundamental rights of migrants with the need to dismantle human trafficking networks.¹¹

Public opinion

Intra-EU mobility and third-country labour migrants are considered as positive by many policy makers, researchers and politicians in Brussels, recognizing increased mobility as one of the solutions to the current economic crisis. However, this opinion is not shared by the majority of European citizens. Instead, a majority of European citizens think that migration has more negative than positive effects, and that governments have lost control over migration flows. In several destination countries a majority of citizens also opposes intra-EU mobility.¹² This negative opinion on migrants is also reflected in the rise of anti-migration (and/or anti-European) political parties, as well as governmental plans to reform social welfare systems in light of intra-EU migration and plans for the restriction of the freedom of movement within the EU.¹³

In response to these sentiments but in particular in response to governmental plans for restricting the freedom of movement, a 'Right to Move' campaign was launched by the European Citizen Action Service on October 22, proposing 7 strategies to improve the free movement of persons in the EU.¹⁴

⁸ Münz, [To the Commissioner in Charge of Mobility, Migration of Mobility, Migration, Asylum and Border Management](#); Malmström [EU migration policy – new realities, new opportunities](#)

⁹ [Greece fined for violation Asylum seekers' rights](#), EUobserver, 21-10-2014.

¹⁰ [Fundamental rights and forced returns of migrants: Ombudsman opens investigation](#), European Ombudsman, 22-10-2014.

¹¹ [MEPs ask for further details of EU-wide police crackdown on clandestine migrants](#), European Parliament, 23-10-2014.

¹² Münz, [To the Commissioner in Charge of Mobility, Migration of Mobility, Migration, Asylum and Border Management](#)

¹³ [Barroso warns Cameron that arbitrary migration cap would breach EU law](#), The Guardian, 19-10-2014.

¹⁴ www.righttomove.eu

Way forward

The state of play in Europe regarding intra-EU mobility, third-country labour migrants and irregular immigration does not paint a positive picture. It is with these issues in mind that the European Movement adopted its resolution in April 2014; it is also with these issues in mind that Jean-Claude Juncker included migration policy in his priorities for the new European Commission. It is encouraging that a comprehensive migration policy is a priority of the European Commission for the coming years, but in light of the pressing problems, Commissioner for Migration and Home Affairs Dimitris Avramopoulos will have to prove his commitment to developing a comprehensive migration policy right away.