Ongoing work on the EU’s common Asylum and Immigration Policy

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Let me start first with an apology from our Directorate of Justice and Home Affairs. They would very much have liked to be with you. This particular portfolio, however, is a priority for our Greek Presidency and pressure of work has precluded them taking part. I must also apologise for our Ambassador who was to have given this presentation but who is held up in Canberra. I would like to give you an outline of the work that the European Commission is doing in the field of Integration, Immigration and Asylum. It is appropriate that this conference is in Sydney – the most culturally diverse city in Australia because it is with the issue of cities that I wish to start. Given the uncertainties which face our societies today and the insecurity which many of the citizens of Europe now feel, the integration of migrants is perhaps the greatest challenge of the common policy on asylum and migration which we are now developing within the Union. It was recognised as such by the European Council in Tampere in October 1999 when they set out the principles on which the common EU policy should be based. This challenge has mainly to be taken up by civil society – employers, members of trade unions, representatives of local and regional authorities and other organisations. But cities - and in particular capital cities - where so many migrants live - are the places where integration policies are really tested.

Cities have always been places confronted with diversity - with class divisions, religious, cultural and language minorities. Many have a long experience of managing diverse population groups – and of dealing with the successive arrival of newcomers and of settling them into the existing population. For some, particularly in Central and Eastern Europe, this is a relatively new phenomenon but one which is set to grow after they accede to the Union. Europe has become a major destination for migrants, although the numbers are lower than those for some of the major ‘traditional’ immigration countries such as the United States, and Canada.

Migration, however, is changing. New migration trends and patterns have emerged and migration flows to Europe are now very mixed, comprising many different kinds of people. The flows have become more flexible and dynamic - short-term and cross-border movements in particular have increased particularly between the accession countries and the existing 15 Member States. There are also large numbers of illegal migrants in the EU and smuggling and trafficking have increased. These phenomena are well established in many of the countries of the EU but they are now developing in the countries of Central Europe as these too begin to attract growing numbers of permanent migrants in addition to transit migrants and refugees.

There are many reasons why migrants leave their country of origin but economic and social reasons are a major factor. The existence of opportunities for work in the European labour market - even if they are in the non-declared sector – will continue to make the Member States of the Union very attractive for large numbers of people from third countries.
One of the explanations of this demand for manpower lies in the demographic situation of the Union, and two tendencies in particular: a decline in growth, and a marked ageing of the population. The age structure of the population of the 15 Member States will change dramatically and the share of older people (60 years and over) will pass from 22% (today) to 27% in 2020 on average. This phenomenon will be accompanied by an overall reduction in the working age population which will decline sharply from 2010 and which is already becoming evident. The general tendency in all the Central and Eastern European countries is similar. We are developing new strategies at the European level to deal with these changes, particularly in the economic and social field. We recognise, however, that immigration will have a contribution to make to the success of these strategies.

The common policy which we are now developing and which the accession countries will be adopting when they join the Union is based on a number of principles agreed by the Heads of State and Government at the European Council meeting in Tampere. The European Union is committed to developing a common policy on migration and asylum with a view to ensuring more effective management of migration flows to the EU. In the initial phase the emphasis is on convergence of legislation, policy and practice. The Principles are:

- A comprehensive approach which acknowledges the necessity of developing measures to deal – simultaneously - with all the different aspects of migration and which tries to find a balance between humanitarian and economic admission. The Seville Council last year underlined the need for a balanced approach to migration management, which combines measures on legal immigration and integration hand in hand with the reinforcement of action to combat illegal immigration and respect for the rights of asylum seekers and refugees;
- fair treatment for third country nationals, aiming to give them comparable rights and obligations to those of nationals of the Member State in which they live;
- the development of partnerships with countries of origin and of transit, including policies of co-development, as an important element in migration management strategies;
- and a separate common policy for asylum which fully respects the terms of the Geneva Convention and Member States’ obligations under international treaties.

The first phase comprises:

1. the establishment of a basic common legislative framework of European Directives which set minimum standards in a number of key areas and establish common procedures for legal admission and
2. an open coordination mechanism to encourage discussion of migration issues so as to promote the progressive convergence of national policies and practices and in the longer term, the development of common objectives and standards.

In the Common Asylum Policy all the legislation called for by the Treaty has been drafted, some of it has been adopted but most is still under discussion in the Council. In this first phase the legislation is
aimed at establishing basic minimum standards and definitions covering the status and definition of refugees, asylum procedures and reception conditions for asylum seekers. There is also legislation on dealing with mass influxes of people needing temporary protection, on establishing which Member State should deal with an asylum application, and connected with the setting up of the Eurodac system to compare fingerprints of asylum seekers.

In the field of **Transparency for legal admission** the Commission has put forward four legislative instruments to create the basic legal framework for the admission and residence of third country nationals in the EU, designed to harmonise existing national legislation. These concern the admission of family members, of people seeking employment, of students and volunteers, together with proposals to create a common status for long-term resident third country nationals. Proposals for a directive concerning the admission of researchers are also in preparation.

In the field of Illegal Migration and Security issues, the Commission published in November 2001, a Communication on a common policy on illegal migration which sets out an overall action plan to reinforce the EU’s efforts to combat these flows. It proposed action in the areas of visa policy; information exchange, co-operation between and co-ordination of the activities of Member States’ enforcement authorities; border management; police co-operation; aliens law and criminal law and return and admission policy. Last year, the Council adopted a comprehensive plan to combat illegal immigration and trafficking of human beings in the EU which is now being implemented.

This plan contains a section on readmission and return policy and in order to open discussion on this very sensitive issue the Commission issued a Green Paper on a Community Return Policy on Illegal Residents. As part of the continued efforts to combat smuggling and trafficking, the Commission has also made a proposal for a Council Directive on “the issuing of short-term residence permits to victims of action which facilitates illegal immigration or trafficking who cooperate with the authorities”. This is aimed at trying to prevent such actions and to dismantle the networks involved.

Following the events of 11 September 2001, the Council asked the Commission to examine the issue of security and asylum and migration policy. Accordingly a Commission working document on safeguarding internal security while complying with **international protection obligations and instruments** was issued on 5 December 2001.

Improved dialogue with third countries is a major element of Community migration policy not only to facilitate orderly migration flows but also to fight illegal immigration more effectively and to develop new policies to manage labour migration and to mitigate the negative effects of migration on countries of origin. The Commission includes migration matters in the Country Strategy Papers which it is preparing progressively for all third countries. In developing the common policy we also work closely with other countries including Australia exchanging information and views.
A specific article on migration issues was already included in the Cotonou Agreement with the ACP countries two years ago and a formal dialogue with China on illegal migration is now well established. A Communication on migration and development was published on 3 December 2002 covering the interaction between migration and relations with third countries.

Obviously the strongest way in which the EU develops and co-ordinates policy is by enacting European legislation. But in the asylum and immigration field where a lot of issues remain the competence of the individual Member States, the Commission has proposed an additional mechanism which has already proved useful in other fields such as in developing the European employment strategy. In July 2001 the Commission adopted a Communication on the establishment of an open co-ordination method for the Community immigration policy. This suggested ways in which greater convergence in the implementation of migration policy in the EU could be obtained as a complement to the legal framework. A similar method was also put forward in November 2001 for asylum policy. There are also a series of accompanying measures including the setting up of the European Migration Observatory.

I think I have covered most of the major action in the field of immigration and asylum and I would now to spend just a few more minutes of your time on the other theme of this conference, the Integration of Migrants.

Apart from setting a common legal framework which includes basic rights, the Commission has no direct competence in this area – it remains primarily a concern of each Member State. However it is clear that no migration policy will be successful unless it is accompanied by a comprehensive integration strategy for the migrants admitted. Integration is a very emotional issue and is very difficult to define since it means different things to different people. Given this lack of clarity, designing policies to promote integration are a special challenge to policy makers. We cannot create a feeling of belonging within a person. What we can do is to facilitate the process by developing integration policies that enable the individual to become a part of social and political life as well as the labour market in our countries.

Employment and labour market relations, social integration policies and political rights and citizenship are three of the main areas which we are addressing at the European level.

We recognise our responsibilities towards asylum seekers and those needing protection. As I mentioned earlier, the population in Europe is declining and growing older and we recognize that we need legal immigration. There are already significant sectoral and regional shortages of manpower in the European Union. In some Member States there is a high demand for qualified people in areas such as the new technologies and the health sector. In other Member States there are recruitment difficulties in lower skilled sectors.
It is significant I think that some Member States have stated that they do not intend to implement the full transition periods for the free movement of people when enlargement becomes reality. It is also true that in some Member States there is a high unemployment rate among ethnic minorities and second generation immigrants. Access to the labour market is a key element for successful integration.

Unemployment and exclusion of ethnic minorities from the labour market coexist with labour shortages in certain sectors, occupations and regions. In this context immigration has an influence on the labour market in the European Union and therefore must be managed accordingly. The European Social Funds and the Equal programme in particular tries to address some of these issues. Discussions are currently underway on the development of new Employment guidelines. As mentioned earlier, the Commission has put forward a proposal for a directive on admission for employment which, while setting a common European framework, leaves Member States responsible for deciding on the numbers of migrants to be admitted – when they are needed – for identifying the sectors where there are shortages and for the selection of appropriately qualified migrants.

The Commission will be publishing a Communication on Immigration, Integration and Employment in April or May this year where we will be looking at the new importance of immigration in meeting the Lisbon goals ie developing the EU economy and the importance of ensuring that integration policies are strengthened in this context. (The Lisbon goals are for Europe to become the most competitive and dynamic knowledge based economy in the world by 2010 capable of sustainable economic growth with more and better jobs and greater social cohesion)

**Turning to social integration policies.** Integration policies entail both rights and obligations. Immigrants must be prepared to adapt - without having to lose their own cultural identity - to the lifestyle of their host society, understanding and respecting its norms and core constitutional values. For the EU these are enshrined in the European Charter of Human Rights.

The host society must on the other hand welcome and respect greater diversity and actively facilitate the integration process.

Family reunification is seen as a key element in a successful integration policy and therefore one of the directives which the Commission has put forward concerns arrangements for family reunification. Another powerful integration tool by way of a harmonizing directive is the proposal granting a catalogue of rights to third country citizens who have lived legally in a Member State for more than five years. This catalogue of rights grants them equal treatment to that of nationals in all fields of social and economic life. In particular access to work and the right to social security benefits. It also grants migrants the right to reside in another Member State after five years on similar conditions to those granted to Union citizens. It does not however grant political rights, which are important elements in the integration process. These two proposals are basic legal instruments for the improvement of social integration in Europe. The Commission has also proposed two directives, which are important in
relation to the integration of refugees. One directive lays down minimum standards on the reception of applicants for asylum in Member States by giving certain minimum rights for asylum seekers with regard to schooling and education of minors, access to employment and vocational training. The second proposed directive applies when the asylum applicant has been granted a status as refugee or a person in need of international protection. Within the framework of the European Refugee Fund the Commission has since 2000 been financially supporting projects promoting the integration of refugees and displaced persons in Member States.

Integration is much more than the right to reside within the European Union and to have basic social and political rights. Integration is also about cultural diversity, our youth, codes of conduct for businesses, access to the labour market and social dialogue - all areas where harmonizing legislation is not paramount.

These EC policy proposals are based on the belief that it is very important to make sure that the local actors - local, regional and city authorities, NGO’s, local associations and representatives of civil society including of course immigrants themselves – are involved in both the development of policies and in implementing activities. Integration happens at the workplace, in school, at the bus stop, in sports clubs – it happens in everyday life and that is why civil society plays such an important role in promoting integration.

Successful integration benefits immigrants and host societies. Unsuccessful integration, conversely, may lead to marginalisation, alienation, discrimination and ‘ghetto-isation’ particularly in large metropolitan areas. No one can possibly benefit from such a situation.

The third and very sensitive issue I mentioned earlier is that of political rights and citizenship. When talking about core rights for immigrants, we have to bear in mind the importance of the Charter of Fundamental Rights. Almost all rights conferred by the Charter are already valid for all persons regardless of their nationality.

The Commission does not currently have a legal basis which would enable it to take Community measures concerning political rights. Nevertheless, there are many who consider that - with regard to integration - it is important to grant the right to vote and to stand as a candidate at least in local elections to all residents. We hope that the proposed directive on the rights of long-term residents, although it cannot and does not deal with political rights, will promote the fair treatment of third country nationals also in this respect. Looking beyond that, the attribution of nationality is, of course, a powerful integration tool. This is not to say that the integration challenge stops the moment that migrants are given the nationality of the host country. At present, the European Union has no competence to regulate matters relating to nationality. These remain at the level of the Member States. The Commission has, in its Communication on a Community Immigration Policy, introduced the idea of civic citizenship, namely that independent of access to nationality of the host country, this would guarantee a set of rights and obligations to long-term residents. The civic citizenship approach follows
the logic of the Tampere conclusions according to which the legal status of third country nationals should be approximated to that of Member States nationals. We now have to identify those core rights and obligations, upon which we can agree at the European level.

Prospects for the future

The Commission issues a scoreboard every six months detailing the progress made on the implementation of the Tampere programme in the justice and home affairs area. Considerable progress has been made especially in the area of countering terrorism and coordinating efforts to reduce illegal immigration. In others progress has been slow especially with respect to legal migration. There are some obvious reasons for this:

The decision-making procedure is long and complex. The issues are sensitive and public perceptions impact on the political leaders making the decisions. This is a new policy so there is a difficulty of harmonising very different legislations of 15 Member States. But the need for such a policy is evident when you consider that immigration is an international phenomenon, that there are few border controls within the EU and that the policy of one country has an impact on the others.

I would like to leave you with three points to think about which our Commissioner for Justice and Home Affairs made earlier this month at a speech before the European Parliament. He said

- Asylum is a right, economic migration is an opportunity
- There is no public authority in the world which recognizes that immigration is a subjective right
- Immigration should take place when economic and demographic conditions call for it.

Migration is at the heart of the political debate in industrialised Countries. It is now a Major Strategic Priority for the European Union. Migration should not be viewed only as a problem but as an essentially positive phenomenon which is of all times and all places and which produces both opportunities and challenges.

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