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**Third annual report on the development of a common policy on illegal immigration,  
smuggling and trafficking of human beings, external borders, and the return of illegal  
residents**

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## 1. INTRODUCTION

The third annual report provides an overview of the main developments between mid-2006 and the end of 2008 in key areas to curb illegal immigration, as also highlighted in the *Commission's Communication on a Common Immigration Policy for Europe*<sup>1</sup> as well as in the European Pact on Immigration and Asylum. The Commission hereby also fulfils its obligation to report to the Council on progress made in implementing the measures announced in the July 2006 *Communication on Policy priorities in the fight against illegal immigration of third-country nationals*<sup>2</sup>.

In this context it must be borne in mind that the Commission's legislative proposals in this field have to be compatible with the Charter of Fundamental Rights of the European Union and subject to an in-depth impact assessment on fundamental rights.<sup>3</sup> Any limitation must be in compliance with the Charter of Fundamental Rights and the European Convention on Human Rights and Fundamental Freedoms, and thus be in accordance with the law and necessary in a democratic society. Finally, Member States must respect fundamental rights when implementing Community obligations.

The structure of this report follows that of the previous reports presented on 25 October 2004<sup>4</sup> and 19 July 2006<sup>5</sup>.

## 2. EXTERNAL BORDERS

### Integrated management of External Borders - FRONTEX

The *European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX)*, which became operational in October 2005, coordinated *50 joint operations and 23 pilot projects* during the reporting period (6 joint operations and 7 pilot projects in the second half of 2006; 22 joint operations and 10 pilot projects in 2007; 22 joint operations and 6 pilot projects in 2008). The joint operations have helped Member States to curb illegal immigration effectively and have led in many instances to a decrease in the pressure caused by illegal migratory movements. In 2008, FRONTEX and the Member States set about launching a number of joint operations at the external border areas that are the most exposed to illegal migration, notably at the southern maritime borders. The ongoing and foreseen joint operations will be implemented for a longer period of time and will benefit from a significantly increased budget compared to previous years.

In addition, FRONTEX has been carrying out *risk analyses* aiming at producing accurate and timely intelligence products (reports, threat and risk assessments) which provide the foundation for the Agency's operational activities as well as keeping Member States and the relevant Institutions (Council, European Parliament and Commission) informed of the current situation with regard to illegal immigration at the external borders. The Agency has issued *Annual Risk Assessments* concerning illegal immigration at the external borders of the

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<sup>1</sup> COM(2008) 359 final, 17.6.2008.

<sup>2</sup> COM(2006) 402 final, 19.7.2006.

<sup>3</sup> COM(2005) 172 final, 27.4.2005.

<sup>4</sup> SEC(2004) 1349, 25.10.2004.

<sup>5</sup> SEC(2006) 1010, 19.7.2006.

European Union as well as several tailored risk analyses focusing on topics of current concern (i.e. illegal immigration from China, Asian migration through Africa, and high risk routes of illegal migration via the Western Balkans – joint analysis with Europol).

At its meeting on 15 and 16 December 2005, the European Council adopted the Global Approach to Migration and called on FRONTEX to launch a *feasibility study on reinforcing monitoring and surveillance of the southern maritime borders* of the EU, namely in the Mediterranean Sea, and on a Mediterranean *Coastal Patrol Network* involving EU Member States and North African countries, as early as possible in 2006. FRONTEX presented the "*MEDSEA*" study on 24 July 2006.

On 30 November 2006, the Commission tabled a *Communication on "Reinforcing the management of the European Union's Southern Maritime Borders"*<sup>6</sup> suggesting a number of measures to cope with the increasing migration pressure. On the basis of the recommendations in the MEDSEA study, a permanent Coastal Patrol Network along the southern maritime borders of the European Union should be established and managed by FRONTEX together with the Member States of the region as soon as possible. The European Council endorsed this suggestion in its Conclusions adopted on 14 and 15 December 2006.

In order to establish a *European Patrol Network (EPN)*, a regional approach has been chosen as first step, on the basis of bilateral cooperation between neighbouring Member States. FRONTEX and the Member States concerned (Portugal, Spain, France, Italy, Slovenia, Malta, Greece and Cyprus) are carrying out joint and/or coordinated patrols in border regions – initially in their respective territorial waters – between each pair of neighbouring Member States (Portugal/Spain, Spain/France, etc.). The EPN brings together, to a large extent, the existing patrolling activities of Member States. This, together with a regular exchange of information, should lead to more efficient control of the maritime borders and reduce the related costs according to the principle of burden sharing. As from February 2008, the EPN has been extended to Bulgaria and Romania.

In accordance with Article 7 of Regulation (EC) No 2007/2004 of 26 October 2004 establishing FRONTEX, a *Central Record of Available Technical Equipment ("CRATE")* was set up in the course of 2007. CRATE is managed by FRONTEX, and for it 25 Member States have offered 22 fixed wing aircraft, 25 helicopters, 113 patrol vessels, three mobile radar units, 195 other items of border surveillance technical equipment and 136 items of technical equipment for border checks<sup>7</sup>. Equipment in CRATE remains the property of the contributing Member State and can be put at the disposal of a requesting Member State for a temporary period following a needs and risks analysis carried out by FRONTEX. Up to now no such request has been made. Equipment listed in CRATE can also be used for the purpose of FRONTEX-coordinated activities.

The European Parliament and Council adopted, in June 2007, Regulation (EC) No 863/2007 establishing a mechanism for the creation of *Rapid Border Intervention Teams (RABITs)* and amending Council Regulation (EC) No 2007/2004 (FRONTEX Regulation) as regards that mechanism and regulating the tasks and powers of guest officers. The Regulation entered into force on 20 August 2007. The RABIT mechanism aims to provide rapid operational

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<sup>6</sup> COM(2006) 733 final, 30.11.2006.

<sup>7</sup> As of 31 December 2008.

assistance for a limited period of time to a requesting Member State facing a situation of urgent and exceptional pressure at points of the external borders when large numbers of third-country nationals are trying to enter illegally the territory of the Member State. This Regulation provides that Member States should contribute to a pool of border guards. The total target number for the pool and the required profiles are defined by the Management Board of FRONTEX. The total number of border guards amounts to around 600. No Member State has as yet required the deployment of a RABIT.

## **Law of the sea**

In 2007 the Commission issued a *Study on the international law instruments in relation to illegal immigration by sea*<sup>8</sup>. The study analyses the current legal framework for the exercise of control and surveillance powers at the maritime external border, as well as the main obstacles to effective exercise of that surveillance, and suggests solutions that could involve, if necessary, the adoption of instruments amending or complementing the existing legal framework.

The Commission organised several meetings with experts from Member States, from FRONTEX and from relevant international organisations (UNHCR, IOM, and International Maritime Organisation) with a view to the preparation of practical guidelines for FRONTEX joint operations. Such guidelines should, inter alia, define more precisely the correct *modus operandi* for the interception of ships in the context of such operations, and define criteria for the sharing of responsibilities between Member States, for example with regard to identification of the place of disembarkation following rescue at sea or interception and to the protection of refugees.

## **Border Package**

On 13 February 2008 the Commission presented a "Border Package" consisting of three Communications, accompanied by impact assessments, setting out a short- to medium-term vision for the development of integrated border management in the European Union.

As a follow-up to the December 2006 Conclusions of the European Council, FRONTEX presented on 12 January 2007 a *technical feasibility study on establishing a surveillance system (BORTEC)* covering the whole southern maritime border of the European Union and the Mediterranean Sea with the aim of saving lives at sea and tackling illegal immigration. The results of this study have been taken into account in the *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Examining the creation of a European Border Surveillance System (EUROSUR)*<sup>9</sup>.

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<sup>8</sup> SEC(2007) 691, 15.5.2007.

<sup>9</sup> COM(2008) 68 final, 13.2.2008.

As requested in the Hague Programme, the Commission carried out an evaluation of FRONTEX taking into account the period during which the Agency has been operational. The *"Report on the evaluation and future development of the FRONTEX Agency"*<sup>10</sup> makes recommendations for measures that can be taken in the short term, within the limits of the Agency's current mandate, and outlines a long-term vision for its future development.

In March 2007 the Commission launched a *preparatory study on the creation of an automated entry/exit system at the external borders and the introduction of a registered traveller programme*. The purposes of this study were to identify and develop policy options available on the basis of a preliminary and integrated assessment of the direct and indirect social, economic and environmental impacts of the implementation of such systems at the external borders of the European Union. In order to assess from a technical perspective the feasibility as well as the costs of the options selected from the preliminary study and to propose the best technical solutions, a technical feasibility study was also launched in July 2007. The results of both studies were used in preparing a Communication, presented by the Commission on 13 February 2008<sup>11</sup>, and in preparing a consultation paper adopted by the Commission on the technical options associated with setting up an entry/exit system at the external borders of the European Union and facilitating border crossing for bona fide travellers.

On the basis of the above-mentioned Commission Communications of 13 February 2008 ("Border Package"), the Council adopted a series of Conclusions on 5 June 2008 with regard to the future development of FRONTEX, EUROSUR and the coming challenges of EU External Border Management<sup>12</sup>, largely endorsing the content of the package and calling upon the Commission to take a number of follow-up measures including the presentation of legislative proposals. The main thrust of these conclusions was reflected in the European Pact on Immigration and Asylum.

## **Funding**

The *External Borders Fund was established by Decision No 574/2007/EC of the European Parliament and of the Council of 23 May 2007*<sup>13</sup>. This Fund forms part of the General Programme for "Solidarity and Management of Migration Flows". It has a financial envelope of 1.820 million euro for the period 2007 – 2013. The general objective of the Fund is to contribute to the development of a European common integrated border management system, including support for the immigration liaison officers' networks and the common visa policy. The Fund will be implemented mainly through national programmes (shared management) and up to 6% of the total allocation will be used for Community actions to be implemented directly by the Commission. Moreover, each year the Commission shall establish a list of specific actions aimed at addressing weaknesses at strategic border crossing points identified in a risk analysis carried out by FRONTEX .

Throughout 2008 Member States submitted their programme documents and the description of management and control systems necessary to implement the programmes. Thanks to the efforts of Member States, in dialogue with the Commission, all 2007 and nearly all 2008 annual programmes were launched for approval by the Commission by mid-November 2008.

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<sup>10</sup> COM(2008) 67 final, 13.2.2008.

<sup>11</sup> COM(2008) 69 final, 13.2.2008.

<sup>12</sup> Council doc. 9873/08.

<sup>13</sup> OJ L 144, 6.6.2007, p. 22.

By the end of the year, only five 2008 annual programmes remained to be adopted. They will be adopted by March 2009 at the latest.

In the light of the late entry into force of the Decision and the absorption capacity of the Member States as regards implementation of the Fund, no specific actions were budgeted for 2007. Following the two calls for proposals for the Community Actions 2007, around 10 projects on cooperation between Member States on immigration liaison officers in third countries and setting up common application centres were selected.

The 2008 annual work programme for Community actions and Specific actions was adopted in December 2008. There will be a call for proposals for pilot projects on the use of the VIS and for additional projects on immigration liaison officers and common application centres, to be launched by February 2009. The Commission will also use the available resources to fund a study on interagency cooperation in Member States between authorities involved in border control matters and customs services as proposed in the Report on the evaluation and future development of FRONTEX, and a feasibility study on ESTA as proposed in the Communication preparing the next steps in border management in the European Union.

## **Second generation Schengen Information System (SIS II)**

During the second half of 2006 the detailed design phase of the SIS II project was completed and the technical specifications necessary to fully describe the SIS II, from a technical perspective, were delivered. *Council Regulation (EC) No 1988/2006 amending Regulation (EC) No 2424/2001*<sup>14</sup> and *Council Decision 2006/1007/JHA amending Decision 2001/886/JHA*<sup>15</sup> on the development of the second generation Schengen Information System (SIS II) were adopted in order to extend the duration of the Commission's mandate for developing SIS II until 31 December 2008. During the reporting period covered by this working document the Commission submitted every six months a progress report to the Council and the European Parliament concerning the development of SIS II<sup>16</sup>, highlighting, *inter alia*, difficulties encountered during the testing of the system. Between November and December 2008 the principal contractor for SIS II carried out the latest series of tests on the system. The test results did not meet the standard contractually required by the Commission. The Commission, together with Member States' experts and two external IT consultancies, carried out an in-depth analysis of the current technical solution. The outcome of the analysis demonstrated that: the technical architecture of SIS II is viable and the problems repairable; the test methodology should be reconsidered; a number of changes to the organisation of the

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<sup>14</sup> OJ L 411, 30.12.2006, p. 1.

<sup>15</sup> OJ L 411, 30.12.2006, p. 78.

<sup>16</sup> Report from the Commission to the Council and the European Parliament on the Development of the Second Generation Schengen Information System (SIS II) - Progress Report January 2008 – June 2008 (COM/2008/0710 final),

Report from the Commission to the Council and the European Parliament on the development of the second generation Schengen Information System (SIS II) - Progress Report July – December 2007 (SEC/2008/552) (COM/2008/0239 final),

Commission staff working document - Annex to the Report from the Commission to the Council and the European Parliament on the development of the second generation Schengen Information System (SIS II) - Progress Report July – December 2007 (COM(2008)239 final) (SEC/2008/0552 final),

Commission staff working document on the development of the second generation Schengen Information System (SIS II) - Progress Report January - June 2007 (SEC/2008/0035 final),

Commission staff working document on the development of the second generation Schengen Information System (SIS II) - Progress Report January - December 2006 (SEC/2007/408).



management of the project should be considered. It was agreed to report these issues to the first informal JHA Council of 2009.

Similarly, Regulation (EC) No 1987/2006 of the European Parliament and of the Council on the establishment, operation and use of the second generation Schengen Information System (SIS II)<sup>17</sup>, providing a legal base for first-pillar aspects of the SIS II, as well as Regulation (EC) No 1986/2006 of the European Parliament and of the Council regarding access to the second generation Schengen Information System (SIS II) by the services in the Member States responsible for issuing vehicle registration certificates<sup>18</sup> were adopted at the end of 2006. The legal instruments governing SIS II were completed by the adoption of Council Decision 2007/533/JHA on the establishment, operation and use of the second generation Schengen Information System (SIS II)<sup>19</sup> in June 2007, dealing with the third-pillar aspects of SIS II, and Commission Decisions 2008/333/EC<sup>20</sup> and 2008/334/JHA<sup>21</sup> adopting the SIRENE Manual and other implementing measures for the second generation Schengen Information System (SIS II) in March 2008.

Council Regulation (EC) No 189/2008<sup>22</sup> and Council Decision 2008/173/JHA on the tests of the second generation Schengen Information System (SIS II)<sup>23</sup>, both adopted in February 2008, set out the scope, objectives, requirements and the process of certain SIS II tests. Additionally, Council Regulation (EC) No 1104/2008<sup>24</sup> and Council Decision 2008/839/JHA on migration from the Schengen Information System (SIS I+) to the second generation Schengen Information System (SIS II)<sup>25</sup> were adopted in November 2008.

Following the green light given by the Council in December 2006, a project was implemented to allow nine new Member States to connect to the SIS 1+ system. The successful completion of this project in 2007, in conjunction with the completion of the Schengen evaluations<sup>26</sup>, led to the lifting of internal border controls with these Member States as from the end of 2007. In its meeting of February 2008 the Council confirmed that development of SIS II continues to be an absolute priority. Migration to SIS II will take place after completion of all the technical steps necessary, including further testing with the Member States.

### 3. VISA POLICY AND SECURE TRAVEL AND ID DOCUMENTS

#### Visa Policy

Regulation (EC) No 1932/2006, adopted by the Council on 21 December 2006, amended Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders of the European Union (negative list), and those whose nationals are exempt from that requirement (positive list)<sup>27</sup>. With the illegal immigration situation constituting one of the main considerations, Bolivia was transferred

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<sup>17</sup> OJ L 381, 28.12.2006, p. 4.

<sup>18</sup> OJ L 381, 28.12.2006, p. 1.

<sup>19</sup> OJ L 205, 7.8.2007, p. 63.

<sup>20</sup> OJ L 123, 8.5.2008, p. 1.

<sup>21</sup> OJ L 123, 8.5.2008, p. 39.

<sup>22</sup> OJ L 57, 1.3.2008, p. 1.

<sup>23</sup> OJ L 57, 1.3.2008, p. 14.

<sup>24</sup> OJ L 299, 8.11.2008, p. 1.

<sup>25</sup> OJ L 299, 8.11.2008, p. 43

<sup>26</sup> See in this respect also Council Decision 2007/801/EC of 6 December 2007 on the full application of the provisions of the Schengen acquis.

<sup>27</sup> OJ L 405, 30.12.2006, p. 23.

from the positive to the negative list; Antigua and Barbuda, the Bahamas, Barbados, Mauritius, Saint Kitts and Nevis and the Seychelles were transferred from the negative to the positive list. According to the Regulation, the visa waiver for the nationals of these six countries will start to apply as from the date of entry into force of the agreements on visa exemption to be concluded with the European Community. The negotiations on visa waiver have been completed with all the six countries and the agreements were initialled in November 2008. Entry into force is foreseen for spring 2009, following the ratification procedures.

The proposal for a *Regulation of the European Parliament and of the Council amending the Common Consular Instructions on visas for diplomatic missions and consular posts in relation to the introduction of biometrics including provisions on the organisation of the reception and processing of visa applications* was adopted by the Commission on 31 May 2006<sup>28</sup>. This proposal covers on the one hand certain aspects which are not covered by the VIS Regulation, such as the obligation to capture biometric identifiers (i.e. 10 fingerprints and a facial image) from each visa applicant and the definition of categories of visa applicants exempted from this obligation; on the other hand it introduces a legal framework for cooperation between Member States in the organisation of consular services taking into account the introduction of biometrics. The proposal has been under negotiation within the Council and the European Parliament. A compromise text was found at the end of December 2008 so that adoption in early second reading ("position commune négociée") will be possible in the first quarter of 2009.

The proposal for a *Regulation of the European Parliament and of the Council establishing a Community Code on Visas* was adopted by the Commission on 28 July 2006<sup>29</sup>. The purpose of the proposal is to recast all legal instruments governing all decisions in relation to visas and to incorporate them into one Code on Visas, enhancing transparency and clarifying existing rules, introducing measures intended to increase the harmonisation of procedures, and strengthen legal certainty and procedural guarantees; thus, a full common policy with equal treatment of visa applicants is ensured. The proposal also develops certain parts of the current legislation in order to take account of recent developments and new aspects of the visa issuance process and to fill in existing gaps. The proposal is still under negotiation within the Council and the European Parliament.

## Visa Information System

On 9 July 2008 *Regulation (EC) No 767/2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation)*<sup>30</sup> was adopted by the European Parliament and the Council, and on 23 June 2008 a Council *Decision concerning access for consultation of the Visa Information System (VIS) by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences*<sup>31</sup> was adopted. As part of the general drive to improve the administration of the common visa policy, consular cooperation and consultation between central consular authorities, the VIS will be an important tool to curb illegal immigration by facilitating the exchange of data between Member States on visa applications and on the decisions relating thereto. With the

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<sup>28</sup> COM(2006) 269 final.

<sup>29</sup> COM(2006) 403 final/2.

<sup>30</sup> OJ L 218, 13.8.2008, p. 60.

<sup>31</sup> OJ L 218, 13.8.2008, p. 129.

use of biometrics, the VIS will allow more accurate checks at external border crossing points and within the territory of the Member States. Furthermore it will assist in the identification of any person who may not, or may no longer, fulfil the conditions for entry to and short stay on the territory of the Member States.

During the reporting period covered by this working document the Commission submitted annual progress reports to the Council and the European Parliament regarding the development of VIS.<sup>32</sup>

The VIS detailed technical specifications were finalised in the first quarter of 2008 and the development of the system started immediately afterwards. The first wave of tests (Factory Acceptance Tests) took place between June and August 2008 and was successful; preparations were made for the second wave of tests on the central system (System Solution Tests) and the first tests of the national systems (Compliance Tests), which started in October and December 2008 respectively. The roll-out of a wide area communications network between the National Interface in each Member State and the Central VIS was completed according to schedule before 30 June 2008, to allow the communication of VIS with the national visa systems. In only a few cases, Member States have requested postponement of the network installation due to preparatory work at national level. In this context Commission Decision 2008/602/EC laying down the physical architecture and requirements of the National Interfaces and of the communication infrastructure between the Central VIS and the National Interfaces for the development phase was adopted on 17 June 2008<sup>33</sup>. The network connections between the central and back-up sites were installed in April 2008. Installation of the biometrics component of the system started in mid-2008 and is being extensively tested. In the latter part of 2008, Member States requested new orientations for VIS, adding six months to the VIS planning timetable and pushing the readiness of the system back to December 2009.

## Secure Travel and ID Documents

Concerning the introduction of biometrics in residence permits for third-country nationals, amendments to Regulation (EC) No 1030/2002 laying down a uniform format for residence permits were adopted on 18 April 2008 (Regulation (EC) No 380/2008)<sup>34</sup>. The adoption of the technical specifications by the Commission is ongoing. The facial image will be implemented at the latest two years after adoption of the technical specifications and fingerprints at the latest three years after adoption of the relevant technical specifications.

Regulation (EC) No 2252/2004 on standards for security features and biometrics in passports and travel documents issued by Member States was adopted on 13 December 2004. In accordance with its Article 6, Member States were required to apply the Regulation as regards the facial image by 28 August 2007 at the latest and, as regards fingerprints, must do so by 28 June 2009 at the latest. A proposal amending the basic Regulation was presented by the Commission on 18 October 2007 in order to exempt children and persons physically unable to

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<sup>32</sup> Report from the Commission to the Council and the European Parliament on the development of the Visa Information System (VIS) in 2007 (submitted in response to the obligation under Article 6 of Council Decision 2004/512/EC of 8 June 2004) (COM(2008) 714 final), Commission staff working document on the development of the Visa Information System (VIS) - 2006 Progress Report (SEC(2007) 833).

<sup>33</sup> OJ L 194, 23.7.2008, p. 3

<sup>34</sup> OJ L 115, 29.4.2008, p. 1.

give fingerprints from this requirement. This proposal was negotiated under the co-decision procedure. As a compromise on the text was reached at the end of December 2008, adoption in first reading will be possible in the first quarter of 2009.

#### 4. RETURN POLICY

After three years of intensive negotiations, the European Parliament and the Council agreed in first reading on the *Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals* ("Return Directive")<sup>35</sup>. The Directive entered into force on 13 January 2009 with a transposition deadline for Member States of two years. It provides for clear, transparent and fair common rules concerning return, removal, use of coercive measures, detention and re-entry, which take fully into account the need to respect the human rights and fundamental freedoms of the persons concerned. The Return Directive creates a common understanding amongst Member States of the most important elements of return and limits Member States' discretion to follow different national approaches on each of these issues. With the Directive's adoption the Community control mechanisms available to ensure compliance with the *acquis* (infringement procedures, competence of the European Court of Justice, Commission reporting, EP monitoring) will become applicable and the Commission will thus be able to control and monitor much more closely Member States' practice in the field of return. In the long term these standards may form the basis for more complete harmonisation and provide the justification for dignified treatment of illegally staying third-country nationals, regardless of the Member State which carries out the return procedure.

The Commission has been continuing negotiations for *Community readmission agreements*. The readmission agreement with Ukraine was signed in June 2007. The readmission agreements with the former Yugoslav Republic of Macedonia, Serbia, Bosnia and Herzegovina and Montenegro were signed in September 2007. The agreement with the Republic of Moldova was signed in October 2007. These six agreements all entered into force on 1 January 2008. The readmission agreement with the Russian Federation entered into force on 1 June 2007. Following this, four meetings of the Joint Readmission Committee with Russia took place (in July 2007, November 2007, and in May and November 2008). The negotiations with Pakistan have been completed and the agreement has been initialled. Informal discussions with China will continue with a view to launching formal negotiations as soon as possible. Negotiations with Morocco are continuing and are in their final phase. Negotiations with Turkey have been blocked since December 2006. Negotiations with Algeria should start in 2009. Following the authorisation to negotiate a readmission agreement with Georgia granted by the Council to the Commission in November 2008, the formal negotiations with this country should be opened in 2009.

To further strengthen practical cooperation among Member States, *Council Conclusions on the improvement of cooperation between Member States, the Commission and FRONTEX in the field of return* were adopted in June 2007. They call on Member States to step up their practical cooperation and collaboration and on FRONTEX to assist Member States' authorities with return. In this context the Agency has provided assistance for the organisation of 29 joint return operations, involving a total of around 1 240 returnees in the reporting period. A further five projects have been taken forward by Member States in cooperation with

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<sup>35</sup> OJ L 348, 24.12.2008, p. 98.

FRONTEX on issues such as best practices for the acquisition of travel documents and in order to identify on a regular basis common needs for joint return operations.

## Funding

The *European Return Fund* was established by Decision No 575/2007/EC of the European Parliament and of the Council of 23 May 2007<sup>36</sup>. This Fund forms part of the General Programme "Solidarity and Management of Migration Flows" and has a financial envelope of 676 million euro for the period 2008 – 2013. The general objective of the Fund is to support the efforts made by Member States to improve the management of return in all its dimensions. The Fund will be implemented mainly through national programmes (shared management) and up to 7% of the total allocation will be used for Community actions to be implemented directly by the Commission. During the budgetary procedure for 2008 the European Parliament put the credits for the Return Fund for 2008 in the reserve with the condition that the amount would be released upon approval of the Directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals. Following the Directive's approval by the European Parliament in June 2008 the reserve was lifted in November 2008. Meanwhile, during the second half of 2008 the Commission, together with the Member States, made progress in preparing the programming documents necessary for the implementation of the Fund. By the end of 2008, 16 annual programmes remained to be adopted. They will be adopted by March 2009 at the latest.

The launching of *Return Preparatory Actions 2005*<sup>37</sup> and *2006*<sup>38</sup> preceded the entry into force of the Return Fund. The projects selected for co-financing under the Return Preparatory Actions 2005 amount to almost 15 million euro, the available grant for 2005. Twenty projects were selected for co-financing but two were withdrawn by the beneficiaries. A number of these projects have been finalised while others are still ongoing.

Under the call for proposals concerning the Return Preparatory Actions 2006, a total of 31 projects were submitted, from which 20 were selected for co-financing for a total amount of around 12 million euro. The projects selected deal with various aspects of return, including practical cooperation between Member States in the area of voluntary return and in the field of joint return flights. These projects are currently under implementation.

A new budget line (18 03 12) was created in December 2006 on the initiative of the European Parliament entitled "*Preparatory Action: Migration management – Solidarity in Action*". One component of this Preparatory Action is dealing with return, social and professional reintegration for returnees and the preparation of an information campaign on illegal immigration. Out of 17 projects submitted, eight were selected for EC co-financing. The Commission has signed all grant agreements with the beneficiaries for a total amount of nearly 4.4 million euro. The projects are ongoing.

A final evaluation of the preparatory financial instruments, which started at the beginning of 2008 and will be finalised by early 2009, will serve the purpose of focusing the programming of the Return Fund, in particular the Community Actions.

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<sup>36</sup> OJ L 144, 6.6.2007, p. 45.

<sup>37</sup> Commission Decision (2005) 2922 of 2.8.2005 on a Framework for Return Preparatory Actions 2005.

<sup>38</sup> Commission Decision (2006) 3623 of 14.08.2006 on a Framework for Return Preparatory Actions 2006.

## 5. TRAFFICKING IN HUMAN BEINGS

In 2006 and 2007 the Commission continued to support Member States` activities in implementing the *EU Plan on best practices, standards and procedures for combating and preventing Trafficking in Human Beings* adopted by the Council in December 2005<sup>39</sup>.

The *EU Anti-Trafficking Day* is observed on 18 October every year. On 18 October 2007, in compliance with a specific action envisaged by the EU Action Plan, the Commission presented *Recommendations on the identification and referral to services of victims of trafficking in human beings*<sup>40</sup>. These recommendations call for the establishment of a national mechanism providing for early identification and assistance to victims, based on close cooperation between governments and civil society organisations. The *Council conclusions on trafficking in human beings* adopted by the JHA Council on 8-9 November 2007 take note of the recommendations.

On Anti-Trafficking Day 2007 an *Assessment Manual on Measuring responses to THB* was also presented by the Commission. This Manual is the result of a specific study funded by the Commission and carried out by a consultant under the supervision of the European Commission Experts Group on trafficking. The Assessment Manual can be used by Member States to self-assess their anti-trafficking policy on the basis of comparable criteria.

In the framework of the recently established experts group on criminal statistics, a sub-group is now working on criteria for data collection and assessment on trafficking. For this purpose, in cooperation with ILO the DELPHI method was launched, in order to achieve consensus among a large number of experts about indicators for data collection. The final goal is the issuing of Guidelines for data collection by the Commission, in compliance with the EU Action Plan.

A questionnaire was disseminated during the Finnish Presidency to map services available to victims. A list of service providers with relevant contact points is now available<sup>41</sup>. Under the German Presidency an agreement was reached to publish the relevant links on the JLS website.

The Commission established a new *Group of Experts on Trafficking in Human Beings*<sup>42</sup> in October 2007. The Decision setting up the Group of Experts takes into account the necessary changes deriving from enlargement, and the need to ensure specific expertise especially in the field of trafficking for the purpose of labour exploitation.

Trafficking is a priority in the financial programmes for 2007 and 2008 on "Prevention and fight against crime" (ISEC) and in the Thematic Programme on Migration. Nine projects directly related to trafficking in human beings have been selected for funding under the 2007 programme, and another three projects concern connected issues. The total amount of allocated funds was around 3.1 million euro.

A Commission Working Document entitled "Evaluation and monitoring of the implementation of the EU Action Plan on best practices, standards and procedures for

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<sup>39</sup> OJ C 311, 9.12.2005, p.1.

<sup>40</sup> The Recommendations are available on the JLS website.

<sup>41</sup> 18 December 2007, 13124/07 REV 1, – CRIMORG 139.

<sup>42</sup> Commission Decision of 17 October 2007 (2007/675/EC).

combating and preventing trafficking in human beings" was adopted on the occasion of the second EU Anti-Trafficking Day<sup>43</sup>. The document, which is based on 24 replies to a questionnaire circulated in December 2007, highlights serious gaps relating to the implementation of anti-trafficking policy and suggests concentrating efforts on a few key actions to be implemented by the end of 2009.

## **6. TACKLING THE EMPLOYMENT PULL FACTOR**

The possibility of finding undeclared work is a key pull factor encouraging illegal immigration. To reduce this pull factor, the Commission adopted in May 2007 a proposal for a *Directive of the European Parliament and of the Council providing for sanctions against employers of illegally staying third-country nationals*<sup>44</sup>. The aim is to ensure that all Member States introduce similar penalties for employers of such third-country nationals and enforce them effectively. The Directive would require employers to undertake checks before recruiting a third-country national and Member States to conduct inspections.

The Directive aims at reducing the current differences between national preventive measures, sanctions and enforcement. This will bring added value by improving enforcement, creating a more level playing field for businesses, and sending a clearer message to employers and third countries of EU-wide action against illegal employment.

A Commission Staff Working Paper accompanying the proposal sets out further non-legislative measures to improve enforcement<sup>45</sup>. Member States should consider e.g. exchanges of good practice, awareness-raising campaigns, better inter-agency coordination and alliances involving employers and unions.

The European Council, in its June 2007 conclusions, confirmed that illegal employment is a major pull factor driving illegal immigration and underlined the importance of the proposal for a Directive. As a compromise on the text was reached at the end of December 2008, adoption in first reading will be possible in the first quarter of 2009.

Furthermore, in October 2007 the Commission adopted a Communication<sup>46</sup> confirming that employment of illegally staying immigrants is part of the much broader issue of undeclared work while underlining the importance of promoting mutual learning about successful practices.

## **7. RELATIONS WITH THIRD COUNTRIES**

### **Global Approach to Migration and follow-up**

Following the Conclusions of the European Council in December 2005 on the *Global Approach to Migration: Priority Actions Focusing on Africa and the Mediterranean*, the implementation of the priority actions began in 2006, engaging various services of the Commission, the Member States, Frontex, Europol, and international organisations – such as

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<sup>43</sup> COM(2008) 657 final, 17.10.2008.

<sup>44</sup> COM(2007) 249 final, 16.5.2007.

<sup>45</sup> SEC(2007) 596, 16.5.2007.

<sup>46</sup> COM(2007) 628, 24.10.2007.



UNHCR, IOM, and ILO. The results of that first phase were reported on 30 November 2006, in the Communication entitled "*The Global approach to migration one year on: Towards a comprehensive European migration policy*"<sup>47</sup>. The Communication also suggested how similar measures could be extended, where relevant, to other regions, and what new instruments could be used.

An interim report assessing the implementation of the Global Approach to migration was issued on 5 December 2007<sup>48</sup>.

On the basis of discussions launched on this interim report the Commission adopted, on 8 October 2008, a Communication on *Strengthening the Global Approach to migration: increasing coordination, coherence and synergies*. The proposals contained therein build on the principles set out in the Communication on a Common Immigration Policy for Europe (June 2008) and are also reflected in the European Pact on Immigration and Asylum adopted by the European Council in October 2008.

The Commission proposed a more differentiated strategy in terms of the geographic scope and asked to consolidate ongoing work within the three equally important themes of the Global Approach: management of legal migration, the efforts against illegal immigration, and migration and development. It also put forward suggestions for improved coherence and synergies through upgrading migration management capacities in the EU as well as capacity-building measures in selected source and transit countries.

Regarding the efforts against illegal immigration, proposals concerned in particular the use of information on changes in migratory routes, new technologies such as the electronic mapping system, assistance to key third countries to strengthen their migration management, e.g. training of border guards, and to adopt and implement National Integrated Border Management Strategies.

*Council Conclusions adopted in December 2008* gave broad support to most of the Commission's proposals and also called for further progress focusing on the need to improve coordination and consistency with overall EU external relations and asked to further improve coordination between the competent administrations on both sides.

## **Africa**

Migration was one of the key themes addressed at the *EU-Africa Summit* held in Lisbon in December 2007. The Partnership on Migration, Mobility and Employment adopted as part of the Action Plan accompanying the EU-Africa Strategy addresses, among others, issues related to illegal immigration and its push factors, and trafficking in human beings.

The second *Ministerial Conference on Migration and Development*, dedicated to cooperation on migration issues along the Western migratory route, was held in Paris in November 2008. The final text of this conference in the form of a three-year cooperation programme (2009-2010) provides a basis for the actions of the participating States and the European Commission on managing legal migration, contributing to synergies between migration and development, and curbing illegal migration.

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<sup>47</sup> COM(2006) 735 final, 30.11.2006.

<sup>48</sup> SEC(2007) 1632, 5.12.2007.

The fight against illegal immigration is one of the topics of the *Dialogue on the basis of Article 13 of the Cotonou Agreement*. In the framework of this dialogue missions have been organised to Cape Verde, Ghana, Mauritania, Senegal, Ethiopia, Nigeria and South Africa. These missions have helped, inter alia, to identify a number of priorities to increase cooperation with these countries in dealing with irregular migratory flows and the management of borders.

In Ethiopia, a *cooperation platform* has been set up. Its first meeting addressed, among other matters, the issues of border management capacity-building and migrant identification.

A joint declaration on a *Mobility Partnership* between the EU and Cape Verde was signed on 5 June 2008, and the Council invited the Commission, in close liaison with Member States and the Presidency, to carry out exploratory talks with Senegal on the possibility of launching a Mobility Partnership. The Mobility Partnerships, which are at the moment still in a pilot phase, are intended to provide a tailor-made framework for actions covering all dimensions of the global approach to migration, i.e. legal migration, links between migration and development, and the fight against illegal immigration. In the latter area, they offer a structure for dialogue enhancing the efforts against illegal immigration and trafficking in human beings, strengthening border management capacities and cross-border cooperation, improving the security of travel documents, identity documents and residence permits, and cooperating fully on return and readmission.

A *Centre for Information and Migration Management (CIGEM)* opened in October 2008 in Bamako, Mali, the objective being to assist Mali in better managing migratory questions by coordinating, conducting and planning actions linking migration, professional training and access to the labour market. The centre will also provide information on the risks and realities of illegal migration.

In the framework of the *Immigration Liaison Officers (ILOs) network*, four *key migration routes* from the African continent to Europe were identified during 2006. Spain, France, Italy and the United Kingdom each agreed to take the lead for one of the routes. Regional meetings were convened in Spain and Italy where the respective leading countries started the preparatory work to further develop cooperation among ILOs. During 2007 and 2008 the work continued along the migratory routes and progress was made with regard to the organisation of periodical ILO regional meetings which included a seminar on the use of the ICONet. Enhanced cooperation between EUROPOL and Member States, with the active involvement of the ILOs located along the North and Western African migratory routes, was launched by Spain. A new Analytical Work File (AWF) has been established by Europol, called 'EBANO'. It focuses on illegal immigration from Africa, in respect of which ILOs could submit relevant information via their national Europol liaison officers. FRONTEX, in the framework of the Frontex Risk Analysis Network (FRAN), organised a meeting in Lisbon in December 2007 attended by ILOs located in Africa to improve practical cooperation with ILOs.

As regards the *Western and Central African Migration Routes*, several AENEAS-funded projects are supporting the countries concerned to strengthen border management capacities and cooperation among law enforcement agencies in the prevention of illegal migration by sea along the coasts of West Africa, to build capacity in migration management, counter-trafficking and border control, and to promote cooperation in border management. Furthermore, the Commission supported, through AENEAS, information campaigns in several countries of the Western and Central Africa region (for instance: Cameroon, Nigeria,

Ghana, Senegal, Mali) aimed at informing potential migrants about the risks and realities of illegal immigration.

In October 2007 ICMPD presented a gap and needs analysis on the *East African Migration Route* that will be followed up through visits to key countries in the region in order to formulate operational recommendations that could be used to implement the East Africa Migration Routes Programme, which will be co-funded by AENEAS. This initiative aims to help enhance cooperation between the EU and East African countries and improve migration management.

As regards *smuggling of and trafficking in human beings*, the first Regional Anti-Human Trafficking Conference in Eastern Africa was organised in June 2007 in Kampala, by UNODC (United Nations Office on Drugs and Crime) and Interpol, where the *Ouagadougou Action Plan* to Combat Trafficking in Human Beings, Especially Women and Children, adopted by the Tripoli Ministerial Conference on Migration and Development, was a reference.

### **Dialogue with the Mediterranean Countries**

*Dialogue with Mediterranean countries* has progressed, including in the meetings of the working groups on migration and social affairs with Morocco, Tunisia and Egypt and the sub-committees on justice, freedom and security with Jordan, Lebanon and Algeria. Progress is being made on practical cooperation, including on issues related to illegal migration. A FRONTEX-led mission to Libya took place in May-June 2007, with the aim of evaluating the current migration situation in Libya, the capabilities of the Libyan authorities to control migration flows, and ways in which the EU could help Libya to manage migration flows to the EU more effectively. Following the resolution of the Benghazi case, the EU re-launched relations with Libya and negotiations on a framework agreement, which should cover migration issues, have been opened. Both parties are also seeking to gear up dialogue and cooperation, inter alia on migration and related issues, in order to establish practical cooperation as soon as possible.

Following a series of meetings of senior officials, a *ministerial conference on migration* was held in the framework of *EUROMED* on 19 November 2007. Ministers adopted a political declaration containing a shared understanding of the need for a comprehensive approach to migration and a series of short-term operational objectives organised around three key topics, including illegal migration.

ICMPD (International Centre for Migration Policy Development) organised expert meetings in 2007 in the framework of the *Dialogue on Mediterranean Transit Migration (MTM)*, a joint project by ICMPD, FRONTEX and EUROPOL, with contributions from UNHCR. They covered the management of reception and detention for mixed migration flows, management of return and readmission, combating smuggling and trafficking networks, including protection of victims of trafficking in human beings, and interception and apprehension of irregular migrants. In this context an "Interactive Map (I-Map) on irregular migration routes in Africa and the Mediterranean" was developed with the support of the third countries concerned which will now be expanded to the eastern regions neighbouring the EU.

### **Extension of the Global Approach to East and South-East regions neighbouring Europe**

Given the success of the Global Approach in facilitating cooperation with partners to the south of the EU, the Commission proposed to extend the Global Approach. On 16 May 2007 the Commission issued a Communication on *Applying the Global Approach to Migration to the Eastern and South-Eastern Regions Neighbouring the European Union*<sup>49</sup>. The geographical scope covered in particular Eastern Europe, Western Balkans and Turkey, Black Sea region, Middle East, Central Asia and origin countries in Eastern and Southern Asia. Council Conclusions of June 2008 identified a list of priority actions to be developed in these regions, including the fight against illegal migration, trafficking in human beings and support for migration management in third countries. Collaboration with the third countries concerned was again the key element of all the actions. To allow swift implementation of these priority actions the Commission organised a series of expert meetings focusing on different geographical areas in the eastern and south-eastern regions neighbouring the EU.

### **Enlargement and Western Balkans**

As a first step to promote people-to-people contacts between the Western Balkan countries and the EU and to gradually advance towards visa-free travel, the European Community concluded *Visa Facilitation Agreements* with the Western Balkan countries (Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Serbia, Montenegro). These agreements were signed in September 2007 and entered into force on 1 January 2008. They substantially improve the conditions for obtaining visas for travel to the European Union: for example, they establish a reduced fee for obtaining a visa and exempt broad categories of persons from these fees. They set time limits for issuing a visa and simplify the procedures. Joint committees have been established with each country to monitor the implementation of these agreements; their first and second meetings took place in spring and in December 2008 respectively.

Furthermore, in order to fully and effectively support the European perspective of the Western Balkan countries, in line with the Thessaloniki agenda of 2003, the Commission officially launched a *structural dialogue on visa liberalisation* with Serbia, the former Yugoslav Republic of Macedonia, Montenegro, Albania and Bosnia and Herzegovina in early 2008. This was a decisive step to enhance in future the mobility of Western Balkans citizens. In May and June 2008, the Commission communicated to these countries detailed roadmaps setting clear benchmarks (on document security, illegal migration, public order and security and external relations) to be met for lifting the visa requirement. The Commission closely monitors progress in implementing the relevant reforms. From early 2009 on, expert missions and meetings will take place to verify the correct implementation of the roadmap. The progress of each country towards the visa liberalisation objective is performance-driven, depending on its individual merits and success in putting in place the necessary reforms to fulfil the requirements of the roadmap. Once the conditions for a country are fulfilled, the Commission may propose to the Council, on a country-by-country basis, the lifting of the respective visa obligation, by amending Council Regulation 539/2001.

### **Eastern European Countries**

A number of Member States agreed on an initiative and concept note to establish a *Cooperation Platform* in the field of migration and development in the Black Sea region, under the leadership of Romania.

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<sup>49</sup> COM(2007) 247 final, 16.5.2007.

On 3 December 2008 the Commission presented a *Communication on "Eastern Partnership"*<sup>50</sup> aiming at enhancing cooperation with eastern partners, inter alia by offering "Mobility and Security Pacts" to promote legal movement of people to the EU while at the same time ensuring a secure environment at the EU's eastern borders by stepping up efforts to combat organised crime and illegal migration.

A joint declaration on a *Mobility Partnership* between the EU and the Republic of Moldova was signed on 5 June 2008, and the Council invited the Commission, in close liaison with Member States and the Presidency, to open a dialogue with Georgia with a view to launching an additional Mobility Partnership.

As regards Georgia, the Extraordinary European Council held in Brussels on 1 September 2008 decided "to step up relations with Georgia, including visa facilitation measures (...)". Following the authorisation to negotiate a visa facilitation agreement with Georgia granted by the Council to the Commission in November 2008, formal negotiations should be opened in 2009. The Commission's attitude towards these negotiations is not just aimed at ending any discrepancy in the treatment of Russian and Georgian passport holders, as raised by Georgia since the entry into force of the EU-Russia visa facilitation agreement in June 2007. The Commission will seek to discuss Georgia's needs and wishes arising from such agreements, based on its own merits.

The successful implementation of the agreements on visa facilitation and readmission, in force since January 2008, led to the opening of the visa dialogue with Ukraine in October 2008. The visa dialogue will focus on four thematic 'blocks': document security including biometrics, illegal immigration including readmission, public order and security, and external relations.

## **Russia**

The EC-Russia Visa Facilitation Agreement entered into force on 1 June 2007, together with the Readmission Agreement, and its implementation is being monitored by the Joint Committee which has convened four times (July 2007, September 2007, January 2008 and June 2008). In addition, the Common Implementing Guidelines adopted in 2008 are designed to ensure harmonised implementation of the Agreement's provisions by diplomatic missions and consular posts of the Member States and Russia.

The procedure for an EU-Russia visa dialogue to examine the conditions for visa-free travel from a long-term perspective was agreed in April 2007 by the EU-Russia Permanent Partnership Council (Justice and Home Affairs). The first technical meetings discussed document security including biometrics, illegal migration including readmission, and public order and security in December 2007, February 2008 and April 2008 respectively. Preparations for a fourth meeting, which will be on relevant aspects of external relations, are ongoing.

## **Latin America and the Caribbean**

The EU - Latin America and the Caribbean Summit held in Lima on 16 May 2008 reiterated the intention of both regions to further develop a structured and comprehensive dialogue on migration as well as intensify practical cooperation.

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<sup>50</sup> COM(2008) 2974 final, 3.12.2008.

In order to ensure a follow-up to the Lima Declaration, and taking into account the growing importance of migration issues in the relations between Latin America and the EU, as well as the concerns expressed in Latin America as regards the Directive on common standards and procedures in Member States for returning illegally staying third-country nationals, the Commission undertook a number of initiatives with respect to the region. Thus, in its Communication adopted on 8 October 2008 on strengthening the Global Approach to migration, the Commission proposed to strengthen the existing collaboration by putting in place an agreed framework for enhanced cooperation and partnership between the European Union and Latin America and the Caribbean on migration and mobility policies.

Also in its Conclusions on the Global Approach to Migration of December 2008 the Council called for examining the modalities for establishing a structured and comprehensive dialogue with Latin America and the Caribbean as soon as possible. Discussions of the future framework structure and content of the Structured Dialogue on Migration EU/LAC are currently underway.

Negotiations between the EU and the countries of Central America started in 2007 in view of concluding a bi-regional Association Agreement. The draft Agreement, which is still under negotiation, includes detailed provisions on migration, establishing a dialogue and cooperation on regular and irregular migration and on migration and development, and containing a readmission clause.

The EU-Brazil Summit endorsed on 22 December 2008 a "Joint Action Plan" which will serve as the framework for practical action in the next three years. The Joint Action Plan includes a chapter on migration and visa issues, addressing regular and irregular migration, smuggling of persons and trafficking in human beings.

### **FRONTEX working arrangements**

In accordance with Article 14 of the *FRONTEX* Regulation, the Agency may cooperate with the competent authorities of third countries in the framework of *working arrangements*. In order to negotiate and conclude such arrangements, the Agency needs to be given a mandate by its Management Board.

Currently such cooperation is formalised with the competent authorities of the Russian Federation, Ukraine, Croatia, the Republic of Moldova, Georgia, Albania, Serbia and the former Yugoslav Republic of Macedonia.

The negotiation process is well advanced with Turkey, Bosnia and Herzegovina, Senegal and Cape Verde. The negotiation with the United States of America is also in its final stages. In addition, FRONTEX has received the mandate to negotiate working arrangements with Montenegro, Libya, Egypt, Morocco, Mauritania and Brazil.

FRONTEX is aiming at the gradual development of a sustainable partnership with the third countries concerned. In general terms, the working arrangements provide the framework for cooperation in the different fields of activities covered by FRONTEX, from exchange of information and risk analysis, to training, research and development and/or operational cooperation.

### **Funding**

The priorities of the Global Approach and especially the fight against illegal immigration and trafficking in human beings were further supported by the existing financial instruments.

The most widely used instrument in relations with third countries has been the *Programme for financial and technical assistance to third countries in the area of migration and asylum (AENEAS)*, whose multiannual programme for the years 2004, 2005 and 2006 provides for overall expenditure of 120 million euro. In the reporting period, out of budgets 2005 and 2006 of this programme, the Commission contracted 27 new projects aimed at supporting third countries in the prevention or in the management of irregular migration, of smuggling and of trafficking in human beings. These new projects were subsequently implemented in Bosnia and Herzegovina, Serbia, Montenegro, the Former Yugoslav Republic of Macedonia, Albania, Ukraine, Republic of Moldova, Russian Federation, Morocco, Egypt, Tunisia, Libya, Lebanon, Jordan, Mauritania, Senegal, Cape Verde, Mali, Niger, Benin, Burkina Faso, Ivory Coast, Gambia, Guinea, Guinea Bissau, Liberia, Nigeria, Sierra Leone, Togo, Ghana, Democratic Republic of Congo, Ethiopia, Kenya, China, Pakistan, Myanmar, Cambodia, Indonesia, Malaysia, Bolivia and Colombia.

As of 2007, AENEAS was replaced by the *Thematic Programme on cooperation with Third Countries in the areas of Migration and Asylum* set up by Regulation (EC) No 1905/2006 within the EU 2007-2013 financial framework, with an overall endowment of 384 million euro. As part of the implementation of the 2007 and 2008 Annual Action programmes of this new Thematic Programme, in 2008 the European Commission decided to fund 20 new projects aimed at supporting third countries in the prevention or in the management of irregular migration, of smuggling and of trafficking in human beings. These new projects, which are due to start early in 2009, will be implemented in Ukraine, Republic of Moldova, Armenia, Georgia, Azerbaijan, Algeria, Morocco, Tunisia, Libya, Egypt, Israel, Lebanon, Senegal, Nigeria, Cape Verde, South African Republic, Ethiopia, Bangladesh, India, Nepal, Thailand, Philippines, Colombia, Ecuador, Peru, Bolivia and Brazil.

Furthermore, as part of the implementation of the 2008 budgetary allocation of the Thematic Programme, in December 2008 two targeted projects (each covered by an approximate amount of 3 million euro) with the UNODC and with the ICMPD were signed by the European Commission. The ICMPD project entitled "Migration EU Expertise (MIEUX)" aims to support third countries by providing flexible short-term expertise through Member States' national experts, in order to develop their national legislation and cooperation. This project gives priority to the regions not covered by the *TAIEX Programme*. The project implemented by UNODC supports third-countries in the fight against smuggling of and trafficking in human beings.

In addition to the AENEAS programme and the Thematic Programme, the European Commission has, during the reporting period, placed a special focus on the prevention and management of illegal migration, and on the fight against smuggling of and trafficking in human beings, in the planning and implementation of the different *financial geographic instruments* relevant for the regions addressed by the EU Global Approach to Migration.

Within this context, during the reporting period, the *MEDA programme* provided huge assistance (67 million euro) to Morocco with the aim of enhancing the capacity of its law enforcement agencies to prevent irregular migration flows across the borders of the country. In contrast, a similar, though smaller (10 million euro) package of assistance offered to Algeria went unspent. Furthermore, the MEDA programme is also financing a new regional project (EUROMED Migration II), which started in mid-2008, and which aims at developing



the dialogue and cooperation on migration among the EUROMED countries, and at raising awareness about the EU and the international standards in this area. One out of the four working groups established under the project is dedicated in particular to discussing issues related to the prevention of and fight against irregular migration.

Furthermore, a number of projects have been financed under both the *6<sup>th</sup> and 7<sup>th</sup> Research Framework Programmes*<sup>51</sup> on the causes, characteristics and impact of migratory flows like MAFE, IDEA, CLANDESTINO, UWT.

As regards the eastern regions neighbouring the EU, the *TACIS programme* was mobilised to finance projects which targeted, on the one hand, Belarus, Ukraine and the Republic of Moldova, with special emphasis placed on the EUBAM initiative taking place on the common border of the last two countries and, on the other hand, the five Central Asia Republics, mostly through the BOMCA initiative. Continuation and expansion of this approach will be ensured by the *European Neighbourhood Policy Instrument (ENPI)*, which has replaced the TACIS and MEDA programmes as of 2007, and through which, for instance, during the reporting period, the European Commission decided to finance a new regional border support programme for the three Southern Caucasus countries, and to help Ukraine to substantially upgrade its capacity to accommodate apprehended irregular migrants in accordance with international standards.

Finally, on the south-eastern regions neighbouring the EU, finally, it should be noted that several projects, within the framework of *Community assistance for reconstruction, development and stabilisation (CARDS)* and the *EU Instrument for Pre-Accession (IPA)*, were implemented in the Western Balkans and Turkey. Regional programmes for the Western Balkans included the strengthening of police capacities and cooperation to curb illegal migration. A number of national programmes in Western Balkan countries addressed in particular the strengthening of border management capacities. Projects in Turkey sought primarily to contribute to improving the capacity of the relevant authorities of this country to prevent irregular migration flows across its borders, to accommodate apprehended irregular migrants in accordance with international standards, to prosecute traffickers of human beings, and to provide assistance to their victims.

## **8. SUPPORTING MEASURES**

The *web-based Information and Coordination Network for Member States' Migration Management Services (ICONet)*<sup>52</sup>, established in March 2005, has been used increasingly and is of proven value in particular in the field of return and in border-related issues. The Commission has provided training in several Member States at their request. A Memorandum of Understanding between the Commission and FRONTEX concerning the development of ICONet was signed in February 2007, allowing FRONTEX to use the network in order to perform its tasks. A similar Memorandum of Understanding between the Commission and Europol was signed in January 2008. Two workshops dedicated to improvement of the ICONet were organised in 2008.

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<sup>51</sup> See also [http://ec.europa.eu/research/social-sciences/library\\_en.html](http://ec.europa.eu/research/social-sciences/library_en.html).

<sup>52</sup> Council Decision 2005/267/EC of 16 March 2005, OJ L 83, 1.4.2005, p. 48.



The *Immigration Liaison Officers (ILOs) network* and its legal basis<sup>53</sup> were evaluated in 2008. Possible amendments to the Regulation concerning the semi-annual reporting obligation, the involvement of FRONTEX and the use of the ICONet were discussed in the relevant Committees chaired by the Commission. On the basis of these discussions the Commission will come up with a legal proposal probably in the first half of 2009. In addition, funding (2 million euro) has been made available under the Community Actions of the External Borders Fund with a view to promoting the establishment and further development of ILO activities and networks, in Africa and in the eastern and south-eastern EU neighbouring regions.

The Council Working Party *CIREFI (Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration)* continued assisting Member States in the exchange of information on illegal immigration and unlawful residence, combating smuggling of human beings and improving practical return policies. Special meetings were devoted to cooperation with Canada and the United States, the Candidate Countries (Croatia, the former Yugoslav Republic of Macedonia and Turkey) and the countries of the Western Balkans. Thematic discussions on specific issues and phenomena of illegal immigration have been enriched by the participation of Europol and FRONTEX.

In response to recent events in Member States, including regularisation measures, the Commission had proposed the adoption of a *Council decision on the establishment of a mutual information system (MIM)*<sup>54</sup>, which requires Member States to communicate to the Commission and the other Member States information on measures which they intend to take, or have recently taken, in the area of asylum and immigration, where these measures are likely to have a significant impact on several Member States or on the European Union as a whole. In the first 18 months after the system became operational, 17 Member States supplied information about recent developments. Three workshops aiming at further improvement in the use of the mechanism were organised by the Commission in 2007/2008.

In addition, as announced in the July 2006 Communication, a *"Study on practices in the area of regularisation of illegally staying third-country nationals in the Member States of the EU"* was launched in order to address the lack of sound evidence and up-to-date information on regularisations carried out in Member States. This study, which was finalised in October 2008, looks into current practices, effects and impacts of regularisation measures in Member States. It constitutes a basis for future discussions on this topic at EU level.

An essential element for improving statistical knowledge is the *Regulation on Community statistics on migration and international protection*<sup>55</sup> which entered into force in August 2007. The data categories which must be compiled under Articles 5 and 7 of the Regulation are closely linked to illegal immigration: data on refusals at the border, apprehensions of illegally staying third-country nationals, return decisions and effected returns. The first reference year under this Regulation is 2008, which means that Eurostat will receive the first data in accordance with the requirements of the Regulation in the first months of 2009 (see Annex).

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<sup>53</sup> Council Regulation (EC) No 377/2004 of 19 February 2004, OJ L 64, 2.3.2004, p. 1.

<sup>54</sup> Council Decision 2006/688/EC of 5 October 2006.

<sup>55</sup> OJ L 199, 31.7.2007, p. 23.

## Trends on illegal immigration in the European Union: compilation and brief analysis of data on enforcement actions against illegal immigration

### 1. SOURCE OF THE DATA

The main source of the data used for this note is the so-called CIREFI data collection managed by Eurostat. Under this data collection, Member States provide Eurostat with data on refusals of entry at the border (category M1), apprehensions of irregular migrants in the territory (M2), apprehended facilitators (M3), apprehended facilitated aliens (M4), and removed aliens (M5). This annex refers only to categories M 1, M 2 and M 5.

The CIREFI data collection is fairly comprehensive as most Member States provide data. Only Ireland, Luxembourg and the United Kingdom have failed to provide data in recent years<sup>56</sup>. The CIREFI data collection was based on 'gentlemen's agreements' between Eurostat and the national data providers. These informal arrangements have now been formalised in the EP and Council Regulation 862/2007<sup>57</sup> on Community statistics on migration and international protection (the 'Statistics Regulation').

In order to provide a more accurate picture of the phenomenon of illegal immigration in the EU, other sources have also been used:

- Data on return decisions provided by the Member States in connection with calculation of the national allocations of the European Return Fund (such data are not included in the CIREFI data collection but are covered under the Statistics Regulation);
- Data on maritime arrivals provided by the Member States.

Although the CIREFI data are today the key source on the above-mentioned phenomena, they are far from perfect and therefore any conclusions made on the basis of the data must be treated with caution. Notwithstanding their shortcomings, these data can still provide useful information on general trends, main third countries of origin, etc. Such information will be presented in the following sections.

### 2. GENERAL TRENDS

Concerning **refusals at the border** it should be noted that about 70% of all the recorded refusals of entry happen at the border between the Spanish cities of Ceuta and Melilla and Morocco, and that for this reason Moroccan citizens head the citizenship list. In any case, the total number of refusals has substantially decreased from 1 383 294 in 2002 to 803 069 in 2007 (-42%); if the refusals recorded by the Spanish authorities are not considered, the figures decrease even more from 364 379 in 2002 to 158 080 in 2007 (-57%). The main cause of this decrease may well be the accession of new Member States. After accession, citizens of the newly acceded Member States stopped being counted in the CIREFI data collection as they were not third-country nationals any more. This explains for instance the big drop between 2006 (285 555 refusals, excluding Spain) and 2007 (158 080 refusals, excl. Spain).

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<sup>56</sup> These three countries are therefore not included in the analysis, except for the parts on return decisions/removal orders in section 2, where data from the European Return Fund have been used, instead of the CIREFI data.

<sup>57</sup> OJ L 199, 31.7.2007, p. 23.

Refused aliens, total (M 1)				
	2004	2005	2006	2007
Belgium	2.030	1.661	1.868	918
Bulgaria	6.395	6.561	5.765	8.528
Czech Republic	37.534	6.486	3.067	1.136
Denmark	367	333	210	114
Germany	30.155	15.012	19.857	11.697
Estonia	2.308	1.924	2.655	3.091
Ireland	4.763	4.807	5.833	6.272
Greece	14.338	11.399	10.729	3.416
Spain	602.262	598.510	630.305	644.989
France	32.865	35.049	34.308	26.593
Italy	24.003	19.336	20.266	9.394
Cyprus	2.540	2.018	1.825	1.141
Latvia	2.267	777	1.017	1.610
Lithuania	4.690	3.886	3.332	3.051
Luxembourg	:	:	:	:
Hungary	23.823	21.159	23.015	11.198
Malta	607	262	264	225
The Netherlands	7.331	6.622	4.126	3.177
Austria	24.803	23.295	27.682	5.636
Poland	65.403	41.296	39.812	32.188
Portugal	4.327	4.146	3.598	3.963
Romania	61.818	51.082	48.210	9.753
Slovenia	28.410	28.401	23.518	11.497
Slovakia	19.896	7.203	2.897	1.832
Finland	1.533	951	1.033	1.419
Sweden	557	813	668	231
United Kingdom	:	:	:	:
<b>EU 27 TOTAL</b>	<b>1.005.025</b>	<b>892.989</b>	<b>915.860</b>	<b>803.069</b>

Data on **apprehensions** are not influenced by a specific national situation in the same way as the data on refusals are (i.e. the Ceuta/Melilla issue). Moreover, apprehensions data would seem to be a better proxy indicator for the composition (citizenships) of the stock of illegally staying migrants<sup>58</sup>. The number of apprehensions in the period 2002-2007 has remained relatively stable around an average of 450 000 apprehensions per year, with the lowest number recorded in 2004 (395 701) and the highest in 2006 (516 195). The stability of the global data for the EU hides significant increases/decreases in certain Member States. Cyprus saw an increase of +1071% and Greece +256% between 2002 and 2007, while in the same period the Czech Republic experienced a decrease of -77.5% and Austria -71%. Attention must be paid to the fact that the 'apprehensions' category does **not** give the number of illegally staying migrants in a Member State during a given year; it just provides the number of third-country nationals who came into contact with the authorities and who were recorded by them as illegally staying.

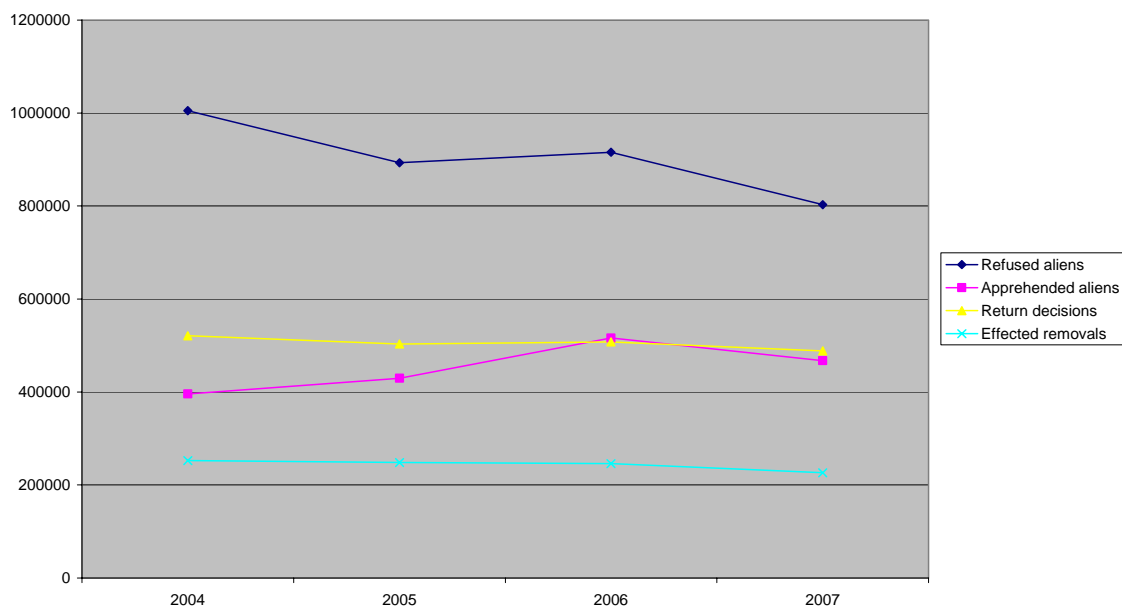
Apprehended aliens illegally present, total (M 2)				
	2004	2005	2006	2007
Belgium	20.606	18.400	15.670	11.642
Bulgaria	877	1.190	1.238	2.114
Czech Republic	18.675	11.606	7.536	5.090
Denmark	1.414	1.064	867	860
Germany	22.558	20.270	21.635	19.454
Estonia	1.549	2.703	2.069	1.461
Ireland	:	:	:	:
Greece	42.834	58.836	77.030	112.364
Spain	52.798	41.939	95.765	72.559
France	55.283	62.468	67.134	69.879
Italy	61.024	83.809	92.029	54.140
Cyprus	2.535	1.281	631	7.770
Latvia	366	254	247	248
Lithuania	406	863	1.156	1.249
Luxembourg	:	:	:	:
Hungary	488	17.373	15.622	8.696
Malta	1.723	2.416	2.185	2.033
The Netherlands	10.883	10.803	11.939	9.219
Austria	36.879	37.934	37.692	13.594

<sup>58</sup> 'Refusal at the border' data count persons who have not been allowed to enter, while 'apprehensions' data include those who are detected in the territory.

Poland	8.191	7.045	6.396	4.544
Portugal	16.020	17.223	23.564	22.111
Romania	4.981	4.940	4.809	4.920
Slovenia	4.214	4.971	4.331	2.435
Slovakia	8.571	4.916	4.035	6.302
Finland	2.949	2.757	1.689	1.966
Sweden	19.877	14.447	20.926	32.851
United Kingdom	:	:	:	:
<b>EU 27 TOTAL</b>	<b>395.701</b>	<b>429.508</b>	<b>516.195</b>	<b>467.501</b>

Available information on **return decisions and effected removals** also shows that there is a certain degree of stability, although a decreasing trend can be identified. The number of return decisions issued fell only slightly from 521 244 in 2004 to 488 475 in 2007<sup>59</sup> (-6.3%), while the number of effected removals went down from 252 391 to 226 179 (-10.4%).

Overview of enforcement actions against irregular migration 2004-2007



<sup>59</sup>

For return decisions and effected removals the data used come from the calculations for the allocations of resources of the Return Fund and not from CIREFI, which explains why the first year for which data are available is 2004 and not 2002 as for refusals and apprehensions.

### 3. MAIN COUNTRIES OF ORIGIN OF ILLEGAL IMMIGRATION

For the period 2005-2007, both Morocco and Ukraine appear in the top 5 of third-country citizenships for the three main CIREFI categories (refusals, apprehensions and removals). Serbia-Montenegro<sup>60</sup> appears in the top 5 for two categories (refusals and removals) as does Albania (apprehensions and removals). Other countries appearing in the top 5 are the Republic of Moldova and Belarus (refusals), Iraq and Brazil (apprehensions), and Turkey (removals).

Looking more closely at the data on **refusals**, the most prominent country is Morocco. This is mainly due to the refusals at the Ceuta/Melilla borders. The next five countries in the top 10 are Balkan or Eastern European countries: Ukraine, Republic of Moldova, Serbia-Montenegro, Belarus and the Russian Federation. The remaining four countries of the top 10 are Turkey, Brazil, China and Bolivia.

#### Refused aliens (M1)

#### Refused aliens by ten main groups of citizens, 2004 - 2007

	Refused aliens in EU27			
	2004	2005	2006	2007
Morocco	598.006	591.623	619.185	627.914
Romania	30.171	34.639	48.801	
Ukraine	36.896	40.204	35.829	24.915
Republic of Moldova	20.229	37.904	40.199	12.326
ex-Yugoslavia (*)	30.194			
Bulgaria	22.042	23.087	18.110	
Phippines	19.800			
Hungary	19.250			
Russia	18.704	11.834	9.622	10.562
Turkey	16.436	10.531	8.753	9.345
Serbia & Montenegro (*)		12.033	13.439	10.113
Belarus		12.153	12.097	10.882
China		9.035		5.675
Bolivia			8.827	5.108
Brazil				9.526

<sup>60</sup> The data cover years before the country split in two.

Others	193.297	109.946	100.998	76.703
<b>TOTAL</b>	<b>1.005.025</b>	<b>892.989</b>	<b>915.860</b>	<b>803.069</b>
<b>Top 10 total</b>	<b>811.728</b>	<b>783.043</b>	<b>814.862</b>	<b>726.366</b>
<i>% of TOTAL</i>	<i>80,77</i>	<i>87,69</i>	<i>88,97</i>	<i>90,45</i>

\*) Since February 2003 name changed to "Serbia & Montenegro", since June 2006 Montenegro is an independent state.

Missing data for the period 2004 - 2007:

M1: Luxembourg and United Kingdom

Data on **apprehensions** show that the third-country nationals most likely to be found illegally staying in the Member States are Albanian citizens (15% of all apprehensions in the period 2005-2007, i.e. 183 389 apprehended persons) followed by citizens from Morocco (9%, 111 090 apprehensions), Iraq (6.6%, 81 489), Ukraine (5.3%, 65 523) and Brazil (4.1%, 50 969). Next countries of origin of apprehended persons on the list are Algeria, Serbia-Montenegro, Pakistan, China and the Russian Federation.

#### Apprehended aliens illegally present (M2)

#### Apprehended aliens by ten main groups of citizens, 2004 - 2007

	Apprehended aliens in EU27			
	2004	2005	2006	2007
Romania	43.839	63.172	84.009	
Albania	37.025	52.461	58.738	72.644
Morocco	33.942	34.092	40.920	36.086
Ukraine	29.289	26.964	22.025	16.537
Iraq		14.351	22.527	44.717
Senegal			19.775	
Brazil		12.009	17.594	21.377
Russia	17.346	13.937		
Afghanistan				17.162
Algeria	14.634		14.019	13.564
Pakistan			13.654	13.274
Serbia & Montenegro		13.101	11.860	12.317

Republic of Moldova	11.989	12.712		
Bulgaria	11.914	11.412		
India				11.810
Turkey	11.185			
China	11.019			
Bolivia				
Others	173.799	175.297	211.074	208.013
<b>TOTAL</b>	<b>395.981</b>	<b>429.508</b>	<b>516.195</b>	<b>467.501</b>
<b>Top 10 total</b>	<b>222.182</b>	<b>254.211</b>	<b>305.121</b>	<b>259.488</b>
<i>% of TOTAL</i>	<i>56,11</i>	<i>59,19</i>	<i>59,11</i>	<i>55,51</i>

Missing data for the period 2004 - 2007:

M2: Ireland, Luxembourg and United Kingdom

Albanian citizens also top the list concerning **removals**. In the period 2005-2007, 172 602 Albanians were removed, i.e. 34% of all effected removals. In second place come Moroccans (59 703, i.e. 12%) and in third Ukrainians (35 666, i.e. 7%). The next countries in the top 10 are Turkey (4%), Serbia-Montenegro (3.8%), Algeria (3.3%), Brazil (2.8%), Russian Federation (2.4%), Republic of Moldova (2.3%) and Senegal (2%).



## Removed aliens by ten main groups of citizenship

Removed aliens by the ten main groups of citizens, 2004 – 2007  
(M 5)

	Removed aliens from EU27			
	2004	2005	2006	2007
Albania	35.258	49.979	54.420	68.217
Romania	26.472	26.402	23.864	
Morocco	21.049	21.324	20.116	18.271
Ukraine	13.156	11.314	12.859	11.518
Turkey	10.884	8.582	6.632	5.008
Bulgaria	9.343	7.933	7.040	
Serbia & Montenegro	6.532	7.560	5.844	4.197
Russia	6.972	5.203	3.875	
Brazil		6.003		4.166
Senegal			5.839	3.407
Algeria	5.619	5.219	5.637	5.750
Republic of Moldova	4.671			3.536
Others	75.205	56.890	55.744	46.856
<b>TOTAL</b>	<b>215.161</b>	<b>206.409</b>	<b>201.870</b>	<b>174.265</b>
<b>Top 10 total</b>	<b>139.956</b>	<b>149.519</b>	<b>146.126</b>	<b>127.409</b>
<i>% of TOTAL</i>	<i>65,05</i>	<i>72,44</i>	<i>72,39</i>	<i>73,11</i>

Missing data for the period 2004 - 2007:

M5: Ireland, Luxembourg and United Kingdom

Missing data for 2007: M5 Netherlands

#### 4. MAIN COUNTRIES OF DESTINATION IN THE EU

To investigate which are the Member States of the EU that attract more illegally staying migrants, the most useful category to consider is 'apprehended aliens'<sup>61</sup>. In 2004, the five Member States where most apprehensions took place were Italy (61 024), France (55 283), Spain (52 798), Greece (42 834) and Austria (36 879). In 2007, four out of these five countries were still on top, although the order had changed. Greece now came first with 112 364 apprehensions, followed by Spain (72 559), France (69 879), Italy (54 140) and Sweden (32 851). According to these data, Mediterranean countries would seem to be most affected by illegal immigration.

Comparing data on apprehensions for 2002 and 2007, big increases have taken place in, for instance, Hungary (+2141%), Cyprus (+1071%), Finland (+415%) and Greece (+256%), while in the same period the Czech Republic experienced a decrease of -77.5%, Austria -71% and Belgium -42%. This would seem to indicate that in recent years, Member States having land borders with third countries<sup>62</sup> have seen increases in the number of illegally staying third-country nationals, while Member States 'surrounded' by other Member States (as is the case for the three mentioned above) have seen lower levels of apprehensions.

Although in absolute terms some of the most affected Member States are also the largest (Spain, France, Italy), in relative terms (comparing number of apprehensions with resident population), the picture is different. Smaller Member States are much more affected in relative terms<sup>63</sup>: Cyprus and Greece come top with a ratio of 99 inhabitants per apprehended person, while in Malta the ratio would be 199, in Sweden 275 and in Portugal 478. Spain would come next with a ratio of 603. The less affected countries in relative terms would be Latvia (ratio of 9 254), Poland (8 379), Denmark (6 312), Romania (4 392) and Germany (4 238). Again, as when looking at absolute numbers, Mediterranean countries come top.

#### 5. THE SPECIFIC SITUATION CONCERNING ARRIVALS BY SEA TO THE MEDITERRANEAN MEMBER STATES

Nearly 30 000 boat people had arrived on Italian shores by the end of October 2008, compared to 19 900 during the whole of 2007. Nigeria, Somalia, Eritrea and Ghana are the main countries of origin of those travelling illegally by sea to Italy. At the same time, the number of people reported dead or missing at sea on their way to Italy or Malta in the first 10 months of 2008 (509) is already higher than the total for 2007 (471).

In Malta, close to 2 600 boat people arrived in the first nine months of 2008 from North Africa, compared to 1 800 in the whole of 2007. Most of the people going to Malta are from Somalia, Ethiopia, Nigeria, Sudan and Eritrea.

In the case of Greece, figures are available only for the first seven months of 2008, but they show the same trend as in Italy and Malta. An estimated 15 000 people arrived in the Greek

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<sup>61</sup> No data provided by Ireland, Luxembourg and the United Kingdom.

<sup>62</sup> The Green Line between the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control and the areas in which it does does not constitute an external border of the EU. As a consequence special rules concerning the crossing of goods, services and persons needed to be established, the prime responsibility for which belongs to the Republic of Cyprus. See Council Regulation (EC) No 866/2004 of 29 April 2004, OJ L 161, 30.4.2004, p. 128. Corrected by OJ L 206, 9.6.2004, p. 51.

<sup>63</sup> Data used for this comparison are from 2007.

mainland or islands in the Aegean between January and July of this year, compared with 19 900 during the whole of 2007. Main countries of origin are Afghanistan, Georgia, Iraq, Bangladesh and Pakistan

Arrivals in mainland Spain and the Canary Islands up to the end of October 2008 (10 700) are also higher than during the same period in the previous year (9 100 in the first 10 months of 2007), but still lower than during the whole of 2007 (18 000). Western African countries are the main countries of origin of those going to Spain.

The number of refugees in these mixed movements of people, which also include economic migrants, varies widely from country to country and at different times of the year. In the case of Italy, one third of those arriving by sea in 2007 applied for asylum (some 7 000 people). On average, almost half of all asylum applicants in Italy are recognised as refugees or granted some other form of protection.

In Malta, roughly 80 per cent of those arriving by sea apply for asylum and nearly 60 per cent of them, on average, are recognised as being in need of international protection. They receive either refugee status or another form of protection. In contrast to those reaching Italy or Malta, only around three per cent of boat people reaching Spanish shores apply for asylum, despite information and counselling being available to new arrivals.

## **6. COMPARISON BETWEEN APPREHENSION DATA, REMOVAL ORDER DATA AND EFFECTED REMOVALS DATA**

If the return policy is measured by comparing the number of effected removals to the number of return decisions, the 'effectiveness rate' was 48% in 2004 and 46% in 2007. However, if data for Greece were to be excluded from the calculation (as Greece expels a high number of third-country nationals without prior issuance of a return decision), the 'effectiveness rate' in 2004 would be the same (48%) but would in 2007 fall to just 33%. It could therefore be concluded that only between a third and half of the return decisions in the EU are effectively carried out and end in the removal of the third-country national concerned.

The table below looks more closely at the ratio between removals and return decisions in Member States in the period 2005-2007. Four groups of countries can be identified. A first group (Greece, Estonia and Bulgaria) would be composed of the Member States for which the number of effected removals is higher than the number of return decisions. This is exceptional but can be explained by the existence of readmission agreements with third countries whereby the issuance of a return decision is not a precondition for removal. The second group would be composed of Member States with a relatively high ratio of success in effecting removals, ranging from 90% (Slovakia) to 51% (Finland). A third group of countries show a moderate level of effectiveness, ranging from 49% (Sweden) to 29% (Italy). Finally, some Member States seem to have a lower level of effectiveness in returning illegally staying migrants (less than 25%). Among them are France, Belgium and the Czech Republic. No complete data were available for Denmark and Luxembourg.

	Return decisions (2005-2007)	Effectuated removals (2005-2007)	Ratio removals/return decisions
<b>Greece</b>	54608	141777	2,60
<b>Estonia</b>	183	252	1,38
<b>Bulgaria</b>	3310	4380	1,32
<b>Slovakia</b>	7360	6616	0,90
<b>Latvia</b>	613	537	0,88
<b>Cyprus</b>	10720	9219	0,86
<b>Slovenia</b>	12036	8938	0,74
<b>Spain</b>	125903	85958	0,68
<b>Portugal</b>	18719	10746	0,57
<b>Austria</b>	47850	26780	0,56
<b>Poland</b>	38571	20947	0,54
<b>Malta</b>	4602	2423	0,53
<b>UK</b>	250300	130323	0,52
<b>Finland</b>	11996	6085	0,51
<b>Sweden</b>	51063	25254	0,49
<b>Hungary</b>	23247	11385	0,49
<b>Netherlands</b>	81952	39368	0,48
<b>Germany</b>	135352	62202	0,46
<b>Italy</b>	236862	68000	0,29
<b>France</b>	226494	55063	0,24
<b>Belgium</b>	126589	29213	0,23
<b>Czech Republic</b>	31185	6607	0,21
<b>Lithuania</b>	3179	656	0,21
<b>Ireland</b>	11773	2110	0,18
<b>Romania</b>	14244	1957	0,14
<b>EU TOTAL</b>	<b>1528711</b>	<b>756796</b>	<b>0,50</b>

## 7. CONCLUSION

The data presented in this note do not support the idea that illegal immigration to the EU is increasing. In recent years, there have been fewer refusals at the border, and the level of apprehensions and removals has been stable. The overall figures for the EU, however, hide some key differences in trends in the Member States. Mediterranean Member States have generally seen increases in most of the categories for which data are available. The growing number of people arriving after dangerous maritime crossings is particularly worrying.

Some third countries are the source of large flows of illegal immigration into the EU. Morocco, Albania and Ukraine would be the three main ones, followed by Serbia, Turkey, Brazil, Belarus, the Republic of Moldova and Iraq. Nationals of Sub-Saharan countries do not feature prominently in the main categories but they make up most of the arrivals by sea in countries like Spain, Malta and Italy (but not in Greece where most migrants come from further east, rather than south). Concerning the return policies of the Member States, it appears that between a third and half of the return decisions are effectively carried out. Although a 1/1 ratio may be impossible to achieve, there is still room for improvement.

## **Definitions**

### **Refused aliens**

#### *Definition:*

"Persons not covered by Community law who are refused entry at the border owing to:

- a lack of, or counterfeit/falsified, border documents;
- an existing entry or residence prohibition;
- other grounds for refusal."

#### *Specification*

The purpose of this category is to record figures for third-country nationals who are formally refused permission to enter the territory of a Member State. For most Member States such data will be generated only at the external border but where Member States do not, or are not able to make a distinction, data should relate to refusals of entry at any border post where such a control is exercised. Figures submitted for this category should, where national arrangements allow, relate to the actual number of decisions taken to refuse entry irrespective of whether those decisions necessarily resulted in removals. Furthermore, where Member States have administrative procedures which allow a decision whether to give formal permission to enter to be taken some time after the arrival of the third-country national, such cases should be included in the figures for this category provided no more than three months have elapsed between arrival and the decision.

### **Apprehended aliens illegally present**

#### *Definition:*

"Persons other than those entitled under Community law who are officially found to be on the territory of a Member State having either entered:

- without being in possession of the requisite border documents (passport, residence permit, visa); or
- despite the fact that they were refused entry at the border; or
- despite the fact that they are subject to an entry or residence prohibition;

or, having been given permission to enter, have become liable to expulsion on the grounds of their remaining illegally."

#### *Specification*

The purpose of this category is to provide for the recording of data in relation to third-country nationals who are detected by Member States' authorities and have been determined to be illegally present. The category covers those who have been found to have entered illegally (whether this be by avoiding immigration controls altogether, by employing some sort of deception, such as the use of a fraudulent document, in order to gain entry or by failing to

comply with a decision to refuse or prohibit the subject's entry) and those who may have entered legitimately but have subsequently remained on an illegal basis (by, for example, overstaying their permission to remain or by taking unauthorised employment). It is a composite category in order to reflect the fact that not all Member States, for the purposes of collecting such data, distinguish illegal entry cases from other third-country nationals found to be illegally present. Where Member States are able to do so they should, in a separate column, provide figures relating specifically to illegal entry.

Figures submitted for this category should not relate to persons who are detected as having overstayed when they leave the territory of a Member State. The data should relate only to detections which have occurred during the reporting period.

As with data on refusals, the data on apprehensions should, where possible, be broken down to indicate whether the person found to be illegally present arrived via an air, land or sea border. Again, the provision of a separate return relating the data to specific external land borders is optional.

### **Removed aliens**

#### *Definition:*

"Persons other than those entitled under Community law who, having entered the country illegally, having resided in the country illegally or for other reasons, are returned to a third country."

#### *Specification*

The purpose of this category is to record figures for the number of third-country nationals who are actually removed to a third country. Removals to another Member State (for example, Dublin Convention cases) are not to be included. Figures should relate to those who are expelled having been found to be liable for removal within the meaning of category II. The definition does, however, include those removed 'for other reasons' in recognition that expulsion may take place for reasons (criminal activity, security reasons) not directly related to a person's immigration status. Figures for this category may include voluntary departure where such a departure takes place in order to comply with a formal order to leave. Statistics for removals may, where possible, be broken down according to whether removal took place by land, sea or air.