

IMMIGRATION POLICY

A forward-looking and comprehensive European immigration policy, based on solidarity, is a key objective for the European Union. Immigration policy is intended to establish a balanced approach to dealing with both regular and irregular immigration.

LEGAL BASIS

Articles 79 and 80 of the [Treaty on the Functioning of the European Union](#) (TFEU).

COMPETENCES

Regular immigration: The EU has the authority to establish the conditions for entry and legal residence in a Member State, including for family-reunification purposes, applicable to nationals of non-EU countries. Member States retain the right to set quotas for admitting individuals from non-EU countries seeking employment.

Integration: The EU may provide incentives and support for measures taken by Member States to promote the integration of legally resident non-EU nationals; EU law makes no provision for the harmonisation of national laws and regulations, however.

Combating irregular immigration: The European Union is required to prevent and reduce irregular immigration, in particular by means of an effective returns policy, in a manner consistent with fundamental rights.

Readmission agreements: The European Union is competent to reach agreements with countries outside the EU for the readmission to their country of origin or provenance of non-EU nationals who do not fulfil or no longer fulfil the conditions for entry into, or presence or residence in, a Member State.

OBJECTIVES

Defining a balanced approach to immigration: The EU aims to establish a balanced approach to managing regular immigration and combating irregular immigration. Proper management of migration flows entails ensuring fair treatment of non-EU nationals residing legally in Member States, enhancing measures to combat irregular immigration, including trafficking and smuggling, and promoting closer cooperation with non-member countries in all fields. It is the EU's aim to establish a uniform level of rights and obligations for regular immigrants, comparable to that for EU citizens.

Principle of solidarity: under the Treaty of Lisbon, immigration policies are to be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States (Article 80 TFEU).

ACHIEVEMENTS

A. Institutional developments brought about by the Treaty of Lisbon

The Treaty of Lisbon, which entered into force in December 2009 ([1.1.5](#)), introduced qualified majority voting on regular immigration and a new legal basis for integration measures. The ordinary legislative procedure now applies to policies on both irregular and regular immigration, making Parliament a co-legislator on an equal footing with the Council. The provisional measures to be taken in the event of a sudden inflow of third-country nationals are adopted by the Council alone, however, after consulting Parliament (Article 78(3) TFEU).

The Treaty of Lisbon also made it clear that the EU shares competence in this field with the Member States, in particular as regards the number of migrants allowed to enter a Member State to seek work (Article 79(5) TFEU). Finally, the Court of Justice now has full jurisdiction in the field of immigration and asylum.

B. Policy developments

1. The 'Global Approach to Migration and Mobility'

The 'Global Approach to Migration and Mobility' ([GAMM](#)) adopted by the Commission in 2011 establishes a general framework for the EU's relations with third countries in the field of migration. It is based on four pillars: regular immigration and mobility, irregular immigration and trafficking in human beings, international protection and asylum policy, and maximising the impact of migration and mobility on development. Migrants' human rights are a cross-cutting issue in the context of this approach.

2. The June 2014 strategic guidelines

The Stockholm Programme for the area of freedom, security and justice (AFSJ), adopted in December 2009, expired in December 2014 ([4.2.1](#)). In March 2014, the Commission published a new communication setting out its vision on the future agenda for the AFSJ, entitled '[An open and secure Europe: making it happen](#)'. In accordance with Article 68 TFEU, in its conclusions of 26 and 27 June 2014 the European Council then defined the '[strategic guidelines](#) for legislative and operational planning within the area of freedom, security and justice' for the 2014-2020 period. These no longer constitute a programme, but rather guidelines focusing on the objective of transposing, implementing and consolidating the existing legal instruments and measures. The guidelines stress the need to adopt a holistic approach to migration, making the best possible use of regular migration, affording protection to those who need it, combating irregular migration and managing borders effectively. The adoption of new strategic guidelines is still pending.

3. European Agenda on Migration

In May 2015, the Commission published the [European Agenda on Migration](#). The Agenda proposed immediate measures to cope with the crisis in the Mediterranean and measures to be taken over the next few years to manage all aspects of immigration more effectively.

On the basis of this agenda, in April 2016 the Commission published its guidelines on regular migration, as well as on asylum, in a [communication](#). There are four main

strands to the guidelines as regards regular migration policies: revising the Blue Card Directive, attracting innovative entrepreneurs to the EU, developing a more coherent and effective model for regular immigration in the EU by assessing the existing framework, and strengthening cooperation with the key countries of origin, with a view to ensuring legal pathways to the EU while at the same time improving returns of those not entitled to stay.

In October 2019, the Commission published its last progress report on the implementation of the European Agenda on Migration, which examines progress made and shortcomings in the implementation of the Agenda. In September 2021, a year after adopting the New Pact on Migration and Asylum, the Commission adopted its first [report on migration and asylum](#), covering all aspects of migration management and taking stock of the key developments in migration and asylum policy over the previous period of one year and a half. The [second report on migration and asylum](#) was published on 6 October 2022.

All policy developments are closely monitored by the [European Migration Network](#), established in 2008 as an EU network of migration and asylum experts from all Member States, who work together to provide objective, comparable and policy-relevant information.

4. The New Pact on Migration and Asylum

As announced in its 2020 work programme, the Commission published its New Pact in September 2020. This aims to integrate the asylum procedure in overall migration management, linking it to pre-screening and returns, while also covering the management of external borders, stronger foresight, crisis preparedness and response coupled with a solidarity mechanism, as well as external relations with key origin and transit countries outside the EU (4.2.2). The latter includes a [Commission recommendation](#) to develop complementary legal pathways to protection, such as resettlement and other forms of humanitarian admission such as community sponsorship programmes, but also pathways linked to education and work.

On 15 November 2023, the Commission proposed the [Skills and Talent Mobility package](#), which includes a proposal for the creation of an EU Talent Pool, along with measures simplifying the recognition procedures for qualifications to promote student and labour market mobility.

C. Legislative developments

Since 2008, a number of significant directives on immigration have been adopted and several have already been revised.

1. Regular immigration

Following the difficulties encountered in adopting a general provision covering all labour immigration into the EU, the current approach consists of adopting sectoral legislation, by category of migrants, in order to establish a regular immigration policy at EU level.

[Directive 2009/50/EC](#) on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment created the 'EU blue card', a fast-track procedure for issuing a special residence and work permit, on more attractive terms, to enable third-country workers to take up highly qualified

employment in the Member States. In June 2016, the Commission proposed a revision of the system, including less stringent admissions criteria, a lower salary threshold/ minimum length of the work contract required, better family reunification provisions, and the abolition of parallel national schemes, which Member States opposed. After the New Pact was published, Parliament and the Council again took up work on this revision, and on 15 September 2021 Parliament validated the agreement that had been reached with the Council. The new rules provide for more flexible admission criteria (a valid work contract or a binding six-month job offer is sufficient), while lowering the minimum wage threshold that applicants must earn to be eligible for the Blue Card and making it easier for Blue Card holders to travel between EU countries and reunite with their families. [Directive \(EU\) 2021/1883](#) entered into force on 27 November 2021 and the deadline for its transposition was 18 November 2023.

The [Single Permit Directive 2011/98/EU](#) sets out a common, simplified procedure for third-country nationals applying for a residence and work permit in a Member State, as well as a common set of rights to be granted to regular immigrants. The [implementation report](#), adopted in March 2019, found that non-EU nationals' lack of information about their rights hampers the directive's objective of promoting their integration and non-discrimination. In April 2022, the Commission proposed to recast the directive in order to simplify and clarify its scope. The Parliament and Council reached a political agreement in December 2023. Directive (EU) 2024/1233 was published in the official Journal on 30 April 2024. It streamlines the process of obtaining a single work and residence permit for applicants and employers and introduces new measures aimed at strengthening the protection of third-country workers against exploitation.

[Directive 2014/36/EU](#), adopted in February 2014, regulates the conditions of entry and residence of third-country nationals for the purpose of employment as seasonal workers. Migrant seasonal workers are allowed to stay legally and temporarily in the EU for a maximum period of between five and nine months (depending on the Member State) to perform work that is related to the season or time of year, while retaining their principal place of residence outside the EU. The directive also clarifies the set of rights to which such migrant workers are entitled. In July 2020, the Commission issued [guidelines on seasonal workers in the context of the COVID-19 outbreak](#), where it also announced the first implementation report for 2021. However, the implementation report has been delayed and is now planned for the first half of 2024.

[Directive 2014/66/EU](#) on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer was adopted on 15 May 2014. The directive makes it easier for businesses and multinational corporations to temporarily relocate their managers, specialists and trainee employees to their branches or subsidiaries located in the European Union. The first implementation report was due by November 2019.

[Directive \(EU\) 2016/801](#) on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing was adopted on 11 May 2016, and was to be implemented in national law by 23 May 2018. It replaces the

previous instruments covering students and researchers, broadening their scope and simplifying their application.

Lastly, the status of non-EU nationals who are long-term residents in the European Union is still regulated by Council [Directive 2003/109/EC](#), as amended in 2011 to extend its scope to refugees and other beneficiaries of international protection. The March 2019 [implementation report](#) found that, rather than actively promote the European long-term residence status, Member States issue mainly national long-term resident permits instead; and only a few non-EU nationals use their right to move to other Member States. In April 2022, the Commission [proposed](#) a recast of the directive, with the objective of creating a true EU long-term resident status, in particular by strengthening the right of long-term residents to move to and work in other Member States. Parliament adopted its negotiating mandate in April 2023. The Council adopted its negotiating mandate in November 2023. On 30 November 2023, Parliament and the Council entered into interinstitutional negotiations with a view to concluding a final legal text.

2. Integration

Council [Directive 2003/86/EC](#) sets out provisions on the right to family reunification, going beyond the right to respect for private and family life of Article 8 of the European Convention on Human Rights. Given that the 2008 implementation report concluded that Directive 2003/86/EC had not been fully and correctly applied in the Member States, the Commission published a [communication](#) in April 2014 providing guidance to the Member States on how to apply it. The [second implementation report](#) (March 2019) concluded that, since 2008, the state of the directive's implementation had improved. This was partly due to the infringement proceedings launched by the Commission, the 2014 guidance document and the numerous judgments of the Court of Justice of the European Union.

The EU's competence in the field of integration is limited. In July 2011, the Commission adopted the [European Agenda for the Integration of Third-Country Nationals](#). More recently, in November 2020, the Commission put forward an [action plan](#) on integration and inclusion for 2021-2027, setting out a policy framework and practical steps to help Member States integrate and include the 34 million non-EU nationals who are legally resident in the EU in education, employment, healthcare and housing. The plan brings together monitoring measures and the use of new digital tools, and efforts to foster migrants' participation in society, increase opportunities for EU funding and build multi-stakeholder partnerships at various levels of governance. Existing instruments include the [European Migration Forum](#), the [European Website on Integration](#), the [European Integration Network](#) and the newly created Expert Group on the views of migrants in the field of migration, asylum and integration, which met for the [first time](#) in November 2020 and has held regular meetings ever since.

Specialised funding instruments to support national integration policies are based on the Asylum, Migration and Integration Fund ([AMIF](#)) and the European Social Fund ([ESF](#) [+](#)) under the new multiannual financial framework (MFF) 2021-2027.

3. Irregular immigration

The EU has adopted some major pieces of legislation to combat irregular immigration:

- The so-called ‘Facilitators Package’ comprises Council [Directive 2002/90/EC](#), setting out a common definition of the crime of facilitating unauthorised entry, transit and residence, and [Framework Decision 2002/946/JHA](#), establishing criminal sanctions for this conduct. The package is complemented by Council [Directive 2004/81/EC](#), which provides for the granting of a residence permit to trafficked or smuggled persons who cooperate with the competent authorities (on trafficking, see also the fact sheet on ‘Judicial cooperation in criminal matters’ [4.2.6](#)). In May 2015, the Commission adopted the [EU action plan against migrant smuggling \(2015-2020\)](#), and, in line with the action plan, the Commission conducted a [REFIT evaluation](#) on the application of the existing legal framework, preceded by a public consultation. The Commission found that, at that point in time, there was insufficient evidence of the criminalisation of individuals or organisations providing humanitarian assistance, and concluded that the EU legal framework addressing migrant smuggling remains necessary in the current context. Parliament’s [resolution](#) of 5 July 2018 called on the Commission to develop guidelines for Member States to prevent humanitarian assistance from being criminalised, and a [hearing](#) was held on the topic in September 2018. As part of its New Pact, the Commission issued a [communication](#) providing guidance on interpreting the Facilitation Directive, in which it stated that carrying out the legal obligation to rescue people in distress at sea could not be criminalised, but stopped short of calling for additional efforts, leaving search and rescue activities in the hands of NGOs and private vessels. After a [public consultation](#), in September 2021 the Commission adopted a renewed [EU action plan against migrant smuggling for 2021-2025](#). On 28 November 2023, the Commission presented a [proposal for a Regulation](#) on enhancing police cooperation in relation to the prevention, detection and investigation of migrant smuggling and trafficking in human beings, and on enhancing Europol’s support to preventing and combating such crimes. It also presented a [proposal for a Directive](#) laying down minimum rules to prevent and counter the facilitation of unauthorised entry, transit and stay in the Union, and replacing Council Directive 2002/90/EC and Council Framework Decision 2002/946 JHA.
- The [Returns Directive 2008/115/EC](#) sets out common EU standards and procedures for returning irregularly resident third-country nationals. The first report on its implementation was adopted in March 2014. In September 2015, the Commission published the [EU action plan on return](#), which was followed by the adoption, in October 2015, of the Council conclusions on the future of the return policy. In March 2017, the Commission supplemented the action plan with a [communication](#) on ‘a more effective return policy in the European Union – a renewed action plan’ and a [recommendation](#) on making returns more effective. In September 2017, it published its updated ‘[Return Handbook](#)’, providing guidance on the performance of duties by national authorities competent for carrying out return-related tasks. Additionally, in 2016, Parliament and the Council adopted [Regulation \(EU\) 2016/1953](#) on the establishment of a European travel document for the return of illegally staying third-country nationals. The recently revamped and strengthened [European Border and Coast Guard Agency](#) (Frontex) increasingly assists Member States in their return-related activities. In September 2018, the Commission proposed to recast the Returns Directive to

accelerate procedures, including clearer procedures and rules to prevent abuses, efficient voluntary return programmes to be set up in Member States, and clearer rules on detention. A targeted [Parliament impact assessment](#) found that the proposal would entail substantial costs for Member States through increased detention. There was no clear evidence that the proposal would lead to more effective returns, but it was likely to result in breaches of the fundamental rights of irregular migrants. Parliament's resolution of 17 December 2020 on the [implementation of the Returns Directive](#) stressed that the effectiveness of the EU's returns policy must not only be measured in terms of return rates but must also take into consideration respect for fundamental rights and procedural guarantees. The rapporteur (Tineke Strik, Greens/EFA) published her [draft report](#) on 21 February 2020. Work on the [dossier](#) is ongoing. In its New Pact, the Commission moves towards a common EU system for returns, with more operational support for Member States, and Frontex as the operational arm of EU returns policy, together with the appointment of a return coordinator supported by a new High Level Network for Return. The first EU return coordinator, Mari Juritsch, was appointed in March 2022. The Commission has published its [strategy on voluntary return and reintegration](#) (April 2021), the policy document '[Towards an operational strategy for more effective returns](#)' (January 2023) and its [recommendation](#) on mutual recognition of returns decisions and expediting returns (March 2023).

- The **Employers Sanctions Directive 2009/52/EC** specifies sanctions and measures to be applied in Member States against employers of illegally resident non-EU nationals. The first report on the implementation of the directive was submitted on 22 May 2014. Following its announcement in the New Pact, the Commission adopted a [communication on the application of the directive](#) in September 2021, with the aim of strengthening implementation while protecting the rights of irregular migrants.
- Since 2001, Member States have mutually recognised their respective expulsion decisions ([Directive 2001/40](#)), whereby a decision by one Member State to expel a non-EU national present in another Member State is respected and complied with.

At the same time, the EU is negotiating and concluding [readmission agreements](#) with countries of origin and transit with a view to returning irregular migrants and cooperating in the fight against trafficking in human beings. These agreements provide for Joint Readmissions Committees to monitor their implementation. They are also linked to visa facilitation agreements, which aim to provide the necessary incentive for readmission negotiations in the third country concerned without increasing irregular migration.

The Commission has also concluded informal arrangements on returns and readmission, which have drawn heavy criticism from Parliament for falling outside of its scrutiny, and raised questions of accountability and transparency.

The Commission proposed EU Actions Plans for the [Central Mediterranean](#) (November 2022), for the [Western Balkan Route](#) (December 2022), for the [Western](#)

[Mediterranean and Atlantic routes](#) (June 2023) and for the [Eastern Mediterranean route](#) (October 2023).

ROLE OF THE EUROPEAN PARLIAMENT

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

Parliament has also adopted numerous own-initiative resolutions addressing migration. These include its [resolution of 12 April 2016](#) on the situation in the Mediterranean and the need for a holistic EU approach to migration, its [resolution of 20 May 2021](#) on new avenues for legal labour migration and its legislative own-initiative [resolution of 25 November 2021](#) with recommendations to the Commission on legal migration policy and law.

For more on this topic see:

- [The EU response to migration in Europe](#);
- [EU asylum policy](#).

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