

## Legal Migration Time for Europe to Play Its Hand

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### Abstract

The European Commission has recently rekindled the debate about a possible future ruling on economic immigration, including the conditions and procedures for entry and residence, the principle of Community preference and the rights of third-country workers.

The purpose of this paper is to recapitulate the main phases of Community action in the area of legal migration for economic reasons, starting with the political mandate given to the European Commission by the Tampere European Council. It moves on to outline the EU's current legislative programme to introduce policy instruments in 2007–09 for regulating the migration of specific categories of workers, some of which are aimed at easing the entry of highly skilled workers. It underscores the case for cohesive EU action in this controversial area in view of the need to improve the economic competitiveness of the EU and the risks posed by its ageing population.

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# LEGAL IMMIGRATION

## TIME FOR EUROPE TO PLAY ITS HAND

STEFANO BERTOZZI\*

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### Introduction

The Treaty of Amsterdam, which was signed on 2 October 1997 and entered into force on 1 May 1999, was a further step towards greater protection of the rights and interests of EU citizens; it consolidated the cooperation on justice and home affairs<sup>1</sup> that had begun with the Treaty of Maastricht.<sup>2</sup> Thanks to the provisions of the Treaty of Amsterdam, many of the cooperative initiatives in the sectors of justice, freedom and security are now subject to Community rules. These include visa policy, conditions for issuing residence permits to immigrants, asylum procedures and even judicial cooperation in civil matters. And, in addition to establishing Community jurisdiction in matters of asylum and immigration for the first time, the Treaty of Amsterdam also strengthened each of the three ‘pillars’ on which the European Union bases its action: the European Communities (first pillar), common foreign and security policy (second pillar) and cooperation in the fields of justice and home affairs (third pillar). Despite its limitations, this three-pillar structure has allowed the European Union gradually to achieve its objectives and to be dynamic in what it does. The Treaty establishing a Constitution for Europe<sup>3</sup> provides for these three pillars to merge, while retaining the specific procedures for common foreign and security policy and for defence policy.

The purpose of this paper is to recapitulate the principle phases of Community action in the area of legal migration for economic reasons, starting with the political mandate given to the European Commission by the Tampere European Council,<sup>4</sup> which mapped out the political contours of asylum and immigration. This paper also deals with the problem of the scarcity of

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<sup>1</sup> The Directorate-General for Justice and Home Affairs changed its name to Justice, Freedom and Security on 22 November 2004.

<sup>2</sup> The Treaty of Maastricht (known as the Treaty on European Union) was signed on 7 February 1992 and entered into force on 1 November 1993. It heralded the creation of the European Union, extended the Community’s powers, changed its name from European Economic Community to European Community and introduced new forms of cooperation in the sectors concerning foreign and security policy and justice and home affairs – the so-called ‘second’ and ‘third pillars’ of the European Union, the Community being the first.

<sup>3</sup> The Constitutional Treaty was signed by the heads of state and government in Rome on 29 October 2004. Following the negative referendums in France (29 May 2005 – 54.87% against) and in the Netherlands (1 June 2005 – 63% against), the initial ratification agenda came to a halt.

<sup>4</sup> The Tampere European Council on 15 and 16 October 1999 decided to establish a common area of freedom, security and justice in the European Union, together with a work programme that built on the plan of action approved by the Vienna Council in 1998. This programme was made operational by a Scoreboard to review progress on the creation of an area of freedom, security and justice in the European Union (see the European Commission’s related Communication, COM(2000) 167 final, Brussels, 2000). The Tampere programme provided for a four-pronged common migration policy: a European system of asylum, a policy of legal migration and integration for the citizens of non-EU countries, the fight against illegal immigration and cooperation with countries of origin and transit.

comparable and up-to-date statistical data, which are indispensable not only for assessing the progress made in the area of migration but also for a better understanding of the challenges that lie ahead.

As regards the management of migration flows in particular, the Tampere European Council, in its Presidency Conclusions,

stresses the need for more efficient management of migration flows at all their stages. It calls for the development, in close cooperation with countries of origin and transit, of information campaigns on the actual possibilities for legal immigration, and for the prevention of all forms of trafficking in human beings. A common active policy on visas and false documents should be further developed, including closer cooperation between EU consulates in third countries and, where necessary, the establishment of common EU visa issuing offices.<sup>5</sup>

The legal basis in the field of legal immigration policy is provided by Art. 63(3) (ex-Art. 73k(3))<sup>6</sup> of the Treaty establishing the European Community.

As decided at the Tampere summit,<sup>7</sup> therefore, a common immigration policy should be developed along four lines:

- 1) more efficient management of migration flows;
- 2) fair treatment of third-country nationals, guaranteeing them rights that are comparable with the rights and obligations of citizens in the member states in which they reside;
- 3) partnership with countries of origin to help promote joint development;<sup>8</sup> and
- 4) the development of a common European asylum system.

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<sup>5</sup> See European Council, Presidency Conclusions of the Tampere European Council of 15-16 October 1999, SN 200/99, Brussels (1999).

<sup>6</sup> For a more thorough examination of Art. 63, see Tizzano (2004). Art. 63(3) and (4) (ex-Art. 73k) states:

The Council, acting in accordance with the procedure referred to in Article 67, shall, within a period of five years after the entry into force of the Treaty of Amsterdam, adopt measures on asylum, in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and other relevant treaties, within the following areas:

**3. measures on immigration policy within the following areas:**

(a) conditions of entry and residence, and standards on procedures for the issue by Member States of long-term visas and residence permits, including those for the purpose of family reunion,

(b) illegal immigration and illegal residence, including repatriation of illegal residents;

**4. measures defining the rights and conditions under which nationals of third countries who are legally resident in a Member State may reside in other Member States.**

Measures adopted by the Council pursuant to points 3 and 4 shall not prevent any Member State from maintaining or introducing in the areas concerned national provisions which are compatible with this Treaty and with international agreements. Measures to be adopted pursuant to points 2(b), 3(a) and 4 shall not be subject to the five-year period referred to above” (emphasis added).

<sup>7</sup> See the Presidency Conclusions of the Tampere European Council (European Council, 1999) op. cit., para. 20.

<sup>8</sup> Refer to European Commission, Communication, Priority Actions for Responding to the Challenges of Migration: First Follow-up to Hampton Court, COM(2005) 621 final, Brussels, 30.11.2005.

The last item in this list is not dealt with in the scope of this paper.<sup>9</sup> Integration, while being a crucial aspect of the Community's migration policy, is not dealt with in this paper either.

The European Council of 4–5 November 2004 approved The Hague Programme,<sup>10</sup> the 'logical' continuation to the work programme agreed in Tampere, which laid the foundations for a common migration and asylum policy. This fresh political mandate introduced new objectives and priorities and opened a new chapter of multi-annual planning through to 2009. It represented a politically relevant choice making the development of an area of freedom, security and justice one of the main priorities of the member states of the European Union, in responding as it does to

a central concern of the peoples of the States brought together in the Union...the citizens of Europe rightly expect the European Union, while guaranteeing respect for fundamental freedoms and rights, to take a more effective, joint approach to cross-border problems such as illegal migration, trafficking in and smuggling of human beings, terrorism and organised crime, as well as the prevention thereof.<sup>11</sup>

This programme also provides for a mid-term review to take stock of the progress made and results achieved and whether or not changes or adjustments need to be made to the programme.

### **New approach to immigration**

Following a study carried out by the Commission in June 2000, a Communication was presented on 22 November 2000 on a Community immigration policy.<sup>12</sup> This document proposed a new approach to immigration, the main aspects being cooperation with the countries of origin and transit of immigrants, the regulation of migration flows and a common legal framework for the admission of third-country nationals designed to recognise similar rights and obligations for these persons who are legally resident in the territory of the member states. In other words, this instrument brought the legal status of third-country nationals closer to that of the citizens of the member states. This Communication also provided for a series of proposals to combat discrimination along with other legal instruments, on the basis of an analysis of the economic and demographic context of the European Union. The introduction contains a clear reference to "channels of legal immigration", despite the fact that views differ appreciably from one member state to another. The Communication further explains why the Commission proposed a new approach, as agreed in Tampere, to immigration. It also highlights the close link between migration dynamics and the integration of third-country nationals into the social fabric of Europe, which presupposes fair treatment and "the promotion of diversity". Reference should also be made in this context to Directive 2000/43/EC, which confirms unequivocally the principle of equal treatment between persons irrespective of racial or ethnic origin. Under this legal instrument there should not be any form of discrimination as regards employment and working conditions. It also applies to education, social protection and access to goods and services, including housing, and is still one of the underlying principles to be guaranteed

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<sup>9</sup> See S. Bertozzi, with F. Pastore (2006), *Towards a Common European Asylum Policy*, EPC Issue Paper No. 49, European Policy Centre, Brussels, October 2006.

<sup>10</sup> See Annex I of Presidency Conclusions adopted by the Brussels European Council, The Hague Programme: Strengthening Freedom, Security and Justice in the European Union, 14292/04, Brussels, 8.12.2004 (published in the *Official Journal* as European Council, The Hague Programme: Strengthening Freedom, Security and Justice in the European Union, OJ C 2005/C 53/01, 3.3.2005).

<sup>11</sup> *Ibid.*

<sup>12</sup> See European Commission, Communication, Challenges for the European Information Society beyond 2005, COM(2000) 757 final, Brussels, 22.11.2000.

throughout the Union.<sup>13</sup> This ban on discrimination is also contained in Art. 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms<sup>14</sup> and Art. 21 of the Charter of Fundamental Rights of the European Union.<sup>15</sup> As regards equal treatment in terms of employment and working conditions, Directive 2000/78/EC defines a general reference framework and lays down minimum requirements to eliminate the inequalities and discrimination often encountered in the workplace, particularly among women.<sup>16</sup> It is worth noting that the scope of neither Directive 2000/78/EC nor Directive 2000/43/EC, as defined in Art. 3(2) of the latter, covers “difference of treatment based on nationality and is without prejudice to provisions and conditions relating to the entry into and residence of third-country nationals and stateless persons on the territory of Member States, and to any treatment which arises from the legal status of the third-country nationals and stateless persons concerned”.

Member states are obviously free to introduce rules and provisions that are more favourable than provided for by the Directive. The field of application embraces both the public and the private sector, including bodies governed by public law. The aim of Directive 2000/78/EC is to combat discrimination based on age, personal or religious convictions or sexual tendencies.<sup>17</sup> The Directive also sets out specific measures, called “reasonable measures”, which need to be taken to facilitate access for persons with disabilities, for example adapting premises and equipment. To make the fight against discrimination effective, a provision is also included to guarantee adequate legal protection to uphold the principle of equal treatment.<sup>18</sup>

### **Decision-making process: A hindrance to legal migration policy**

The Treaty of Amsterdam incorporated a Title in the EC Treaty on visas, asylum, immigration and other policies connected with the free movement of persons. Adoption of these provisions forms part of the more general objective of the contracting parties “to facilitate the free

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<sup>13</sup> Art. 3 of European Council Directive 2000/43/EC of 29 June 2000 lays down the principle of equal treatment between persons irrespective of racial or ethnic origin, OJ L 180/22, 19.7.2000. The deadline for the transposition of the Directive expired on 19 July 2003. As of 31 October 2006, only Cyprus had not yet incorporated this Directive into national law.

<sup>14</sup> The Convention was signed in Rome on 4 November 1950. It is legally binding on all 46 Member States of the Council of Europe, with the sole exception of Belarus.

<sup>15</sup> In June 1999, the European Council meeting in Cologne decided to draw up the Charter of Fundamental Rights of the European Union. The Nice European Council on 7–9 December 2000 proclaimed this charter, which, to date, is not yet legally binding (OJ C 364/1 of 18.12.2000). It should be noted in this context that since 1969 (see the judgment of 12 November 1969 in Case 29/69, *Stauder*) the European Court of Justice in Luxembourg has taken on the task of monitoring respect for fundamental rights under Community rather than exclusively domestic law. Under Art. 234 EC, the Court has jurisdiction to interpret the articles of the Treaty, Community acts and national acts implementing Community law. Stating in the new Art. 6(1) that the European Union “is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States”, the Treaty of Maastricht establishes the jurisdiction of the Court to monitor the compatibility of Community acts with respect for fundamental rights.

<sup>16</sup> See European Council, Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, OJ L 303 of 2.12.2000.

<sup>17</sup> Art. 3 of European Council Directive 2000/78/EC provides that “Member States may provide that this Directive, in so far as it relates to discrimination on the grounds of disability and age, shall not apply to the armed forces”.

<sup>18</sup> See Art. 11, *ibid*.

movement of persons, while ensuring the safety and security of their peoples, by establishing an area of freedom, security and justice”.<sup>19</sup>

Art. 73k of the EC Treaty (which subsequently became Art. 63 EC) sets out Community powers and forms of action in matters of immigration policy, and lays down a transitional period of five years from the entry into force of the Treaty of Amsterdam during which the Council acts unanimously after consulting the European Parliament. This five-year period, however, does not apply to “conditions of entry and residence, and standards on procedures for the issue by Member States of long-term visas and residence permits, including those for the purpose of family reunion” (Art. 63(3)(a)). Nor does it apply to “measures defining the rights and conditions under which nationals of third countries who are legally resident in a Member State may reside in other Member States” (Art. 63(4)).

Point 2.1 of The Hague Programme refers to its political mandate and, more specifically, to the request from the European Parliament to ‘improve’ the decision-making process in the sectors covered by Title IV of the Treaty of Amsterdam. It states,

The Commission’s evaluation of the Tampere Programme of 2 June 2004 and the Recommendation adopted by the European Parliament on 14 October 2004 have been taken into account in the Hague Programme, in particular in connection with the introduction of the procedure under Article 251 TEC (co-decision procedure) for areas of Title IV TEC.<sup>20</sup>

Under the political impetus from the European Council of 22 December 2004, the Council was able to adopt a decision applying **co-decision and qualified majority** voting to all Title IV measures, *with the exception of legal immigration*, as of 1 January 2005. This change was the first achievement of The Hague Programme. Not only does the bigger, more inclusive role of the European Parliament increase democratic legitimacy, abandoning unanimous voting also speeds up the legislative work process.

On 28 June 2006, the Commission adopted a package of horizontal communications on the functioning of the European area of freedom, security and justice, with a view to the work to be carried out in the second half of the year under the Finnish Presidency of the EU Council of Ministers. One such document was the Communication entitled “Implementing The Hague Programme: The way forward”,<sup>21</sup> which looked at a number of areas of primary importance for improving the decision-making process in matters of freedom, security and justice. As far as legal immigration is concerned, the Commission took the view that unanimous voting does not lend itself to rapid decision-making. The example was given of the discussions on the proposal for a directive submitted by the Commission in 2001 on entry and residence of third-country nationals for employment purposes, which were unsuccessful owing to the unanimity rule.<sup>22</sup> As a result, the Commission invoked the bridging clause provided for by Art. 67(2), second indent, of the EC Treaty, which allows the Council, acting unanimously after consulting the European Parliament, to decide that **legal immigration** should be subject to the **co-decision procedure**, thereby guaranteeing sufficient democratic control by the European Parliament. This approach is now being discussed, but it is impossible to say at this point in time whether this clause can be invoked.

<sup>19</sup> See point 10 of the Preamble to the Treaty on European Union.

<sup>20</sup> See The Hague Programme, European Council (2004), *op. cit.*

<sup>21</sup> See European Commission, Communication on Implementing The Hague Programme: The Way Forward, COM(2006) 331 final, Brussels, 28.6.2006, pp. 12-14.

<sup>22</sup> The Commission recently relaunched the matter, in December 2005, with a Green Paper and an action plan, but as things stand it is difficult to predict the outcome if the unanimity rule continues to be applied.

## The first proposal for a directive on economic migration: Common procedures for entry and residence

Following its Communication of November 2000, the European Commission put forward a proposal for a directive on the conditions of entry and residence of immigrants for economic purposes (2001/C 332 E/08),<sup>23</sup> which was presented to the Council by Commissioner António Vitorino in November 2001. This initiative was the first to set out to regulate the channels through which immigrants could be admitted entry to the member states for economic purposes, together with the respective conditions of residence. Tying in with the Tampere programme, the proposal responded to two needs: i) to find human resources quickly for the labour markets of member states with perceived shortages in terms of quantity and quality; and ii) to harmonise the ‘rules of entry’ and residence throughout Europe, which remain very disparate to this day. The lack of a European legal framework on immigration for reasons of work will obviously render the Community’s policy on legal migration less effective.

Although studied in minute detail,<sup>24</sup> this proposal was not particularly well received by the Council. Every member state, in fact, started to raise concerns about the enacting terms of the proposal, which they felt were too ambitious and barely met the real demands of the member states, being as they were overly protective of their national prerogatives. Despite the strong political support for this Commission proposal from the European Parliament, the Economic and Social Committee and the Committee of the Regions, some member states even objected to the legal basis for a Community initiative on economic immigration. The member states saw no ‘added value’ in developing common rules at the European level and thus did not want Europe to lay down entry procedures and residence conditions for third-country nationals to take up employment.<sup>25</sup> The most serious doubts centred around the fact that the directive proposed common rules for practically all categories of workers, be they highly qualified, seasonal workers, employed or self-employed. While having the merit of trying to establish rules for entry and residence in the European Union – thereby reducing the administrative burden both for the member states and for third-country nationals – this proposal was for a ‘one size fits all’ procedure that would have been the same regardless of the type of worker. If the member states had accepted this first draft, there would have been no way for them to offer ‘facilitated’ employment channels in the event that their employment markets signalled shortages in certain professions.<sup>26</sup> Either way, the proposal ground to a halt after the first examination by the Council, which led to a prolonged assessment as to whether to continue and press on with a Community policy in the field of migration for economic purposes. It should be remembered that any change in immigration policy at the European level, which is an ‘invasion’ of one of the most sacred areas of national jurisdiction, has to be carefully balanced to achieve a result that

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23 Refer to European Commission, Proposal for a Council Directive on the conditions of entry and residence for the purpose of paid employment and self-employment activities, COM(2001) 0386 final, Brussels, 11.07.2001. See also S. Carrera and M. Formisano (2005), *An EU approach to labour migration: What is the added value and the way ahead?*, CEPS Working Document No. 232, Centre for European Policy Studies, Brussels, October 2005, and R. Holzmann and R. Münz, *Challenges and Opportunities of International Migration for the EU, its Member States, Neighbouring Countries and Regions: A policy note*, Institute for Futures Studies, Stockholm, 11-12 June 2004.

<sup>24</sup> This proposal for a directive was based on a thorough feasibility study carried out by the Commission, which highlighted the problems European firms had in employing third-country nationals, who in turn complained about the complex and disparate conditions to which they and their compatriots who wanted to work in Europe were subject.

<sup>25</sup> Art. 1(b) also referred to the procedures for the issue of entry permits.

<sup>26</sup> Exceptions were provided for.



meets the demands of a world that is more and more economically interdependent and links with aims pursued at the national level.

### The choice of a Green Paper

At the beginning of his mandate, the Vice President of the European Commission, Franco Frattini, found himself having to take a delicate political decision that was to signpost the legal route of Community proposals on legal migration. Within the space of a few weeks, the Commission, acting on the Vice President's political guidance, opted to reopen the public debate on the submission of a Green Paper,<sup>27</sup> which would involve not only the member states, but also employers' organisations, trade unions, non-governmental organisations, universities and civil society. The point of departure was to guarantee migrant workers the same legal status, as far as possible, as that enjoyed by all EU citizens.<sup>28</sup>

The aim of the Green Paper was to kindle a debate on the central and most controversial points of a possible future ruling on economic immigration, including the conditions and procedures for entry and residence, the principle of Community preference and the rights of third-country workers.<sup>29</sup> Many of the points in the Green Paper included key elements contained in the 2001 proposal – such as the rights of third-country workers and the principle of Community preference – but for political reasons, no explicit reference was made to that proposal.<sup>30</sup>

The Green Paper raised the problems connected with demographic trends in the member states<sup>31</sup> and highlighted the international obligations of the European Union. Also, there was a clear reference to the fact that “the main world regions are already competing to attract migrants to meet the needs of their economies”.<sup>32</sup> The main questions tried to establish how far, particularly in the member states, any such future Community legislation should go, what were the preferred working methods, what the entry systems should be, whether a single permit should be issued to replace the residence and work permits, and whether the holders of work permits should have the possibility of changing employer.

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<sup>27</sup> Refer to European Commission, Green Paper on an EU approach to managing economic migration, COM(2004) 811 final, Brussels, 1.11.2005.

<sup>28</sup> It should be noted that Community legislation already included certain rights provided by Directive 2003/109/EC (on long-term residents – as discussed), Regulation (EEC) No. 1408/71 (application of social security schemes), Directive 2000/43/EC (principle of equal treatment) and Directive 2000/78/EC (equal treatment in employment and occupation). As regards the right to health and safety, the existing Community legislation applies to all workers, regardless of nationality. See also R. Sussmuth and W. Weidenfeld, *The EU's responsibilities towards immigrants*, Bertelsmann Foundation and Migration Policy Institute, Gütersloh and Washington, D.C., 2005.

<sup>29</sup> In reality, the Green Paper gave a public airing once more to most of the concerns raised by the Council on examination of the first proposal for a directive.

<sup>30</sup> Vice President Frattini did not want to give the impression that the member states were being cited as the sole cause for the slow progress being made by the Community in the field of legal migration.

<sup>31</sup> Between 2010 and 2030, “the decline in the EU-25's working age population will entail a fall in the number of employed people of some 20 million”. Recent analyses by Eurostat, contained in a press release of 29 September 2006, indicate that, by 2050, 3 persons in 10 will be over 65, i.e. 17% of the total population.

<sup>32</sup> See L. Lowell, *Skilled labour migration from developing countries: Annotated bibliography*, International Migration Papers No. 56, International Labour Office, Geneva, 2002; and J-C Dumont and G. Lemaitre, *Counting immigrants and expatriates in OECD countries: A new perspective*, Directorate for Employment, Labour and Social Affairs, OECD, Paris, 22 June 2005.

An analysis of the contributions to this debate,<sup>33</sup> which concluded with a major conference in June 2005, showed that there was general consensus in favour of a common European policy on economic immigration, albeit with considerable differences as to what approach to adopt. This extensive and thought-provoking participation confirmed that the political path embarked on by Vice President Frattini was the right one and that the member states and stakeholders in the sector were ready to go along with the Commission, which had changed its approach from ‘top-down’ to ‘bottom-up’.<sup>34</sup>

Particular consideration should be given to the issue of the EU’s ageing population. A recent study of the world population carried out by the Population Division of the United Nations Department of Economic and Social Affairs indicates that, between 2006 and 2050, the number of EU citizens over 60 years of age will have increased by 52%, or around 72 million. In other words, the total number of persons aged 60 and over will rise from 136 million to 208 million<sup>35</sup> (Table 1). According to the estimated projections, the biggest percentage increases will be registered in Ireland, Cyprus, Luxembourg and Slovakia respectively.

*Table 1. Increase in the population of the EU-27 aged 60 and older, 2006 and 2050*

<b>Countries</b>	<b>2006</b>	<b>2050</b>	<b>% increase</b>
1. Austria	1,886,000	3,003,000	59.23
2. Belgium	2,362,000	3,433,000	45.34
3. Bulgaria	1,738,000	1,963,000	12.95
4. Cyprus	144,000	349,000	<b>142.36</b>
5. Czech Republic	2,100,000	3,325,000	58.33
6. Denmark	1,169,000	1,648,000	40.98
7. Estonia	287,000	376,000	31.01
8. Finland	1,153,000	1,740,000	50.91
9. France	13,031,000	20,840,000	59.93
10. Germany	20,864,000	27,572,000	32.15
11. Greece	2,584,000	3,948,000	52.79
12. Hungary	2,119,000	2,989,000	41.06
13. Ireland	641,000	1,859,000	<b>190.02</b>
14. Italy	15,109,000	21,051,000	39.33
15. Latvia	520,000	642,000	23.46
16. Lithuania	710,000	972,000	36.90
17. Luxembourg	86,000	97,000	<b>129.07</b>
18. Malta	78,000	151,000	93.59
19. Netherlands	3,214,000	5,370,000	67.08
20. Poland	6,579,000	12,083,000	83.66
21. Portugal	2,376,000	3,895,000	63.93
22. Romania	4,185,000	6,296,000	50.44
23. Slovakia	889,000	1,781,000	<b>100.34</b>
24. Slovenia	409,000	655,000	60.15

<sup>33</sup> The Commission received more than 130 written submissions.

<sup>34</sup> In other words, before submitting a concrete legislative proposal, Vice President Frattini had decided to listen to the views and concerns of the member states and stakeholders in the sector. He wanted this to be in line with the requirements of the labour market and with the rigid dictates of public security.

<sup>35</sup> For more information, see the Internet website “Population ageing 2006” (retrieved from <http://www.un.org/esa/population/publications/ageing/ageing2006.htm>).

25. Spain	9,339,000	16,876,000	80.70
26. Sweden	2,151,000	3,106,000	44.40
27. United Kingdom	12,837,000	19,741,000	53.78
<b>Total EU</b>	<b>136,385,000</b>	<b>208,449,000 (+ 72,064,000)</b>	<b>52.83</b>

Source: UN Population Division, United Nations.

## The Policy Plan on legal immigration

The Hague Programme<sup>36</sup> stressed the importance of developing “a policy plan on legal migration, including admission procedures capable of responding promptly to fluctuating demands for migrant labour in the labour market”.<sup>37</sup> In addition, the strategic objectives of the Barroso Commission<sup>38</sup> make explicit reference to the development of a partnership to underpin the area of freedom, security and justice. To give substance to this clear political direction, and taking its lead from The Hague Programme, the Commission subsequently adopted 10 essential priorities. The fourth priority concerned migration management and called for “a balanced approach to migration management by developing a common immigration policy which addresses legal migration at Union level, while further strengthening the fight against illegal migration, smuggling and trafficking in human beings, in particular women and children”.<sup>39</sup>

On the strength of these political mandates, in December 2005, the Commission then presented a Policy Plan on Legal Migration,<sup>40</sup> a road map for legal migration to enable the European Union to meet its economic and demographic challenges and manage the phenomenon of immigration. The Policy Plan, which covers the period 2006–09, identifies a set of legislative and non-legislative initiatives designed to tackle this question of economic migration in the European Union. This plan was drawn up on the back of a comprehensive debate launched by the Commission to identify both the most suitable Community procedures for the admission of migrants for economic purposes and the added value of such measures.<sup>41</sup> The significance of this programme stems from the fact that this was the first time a proposal had been made to give a global response to the phenomenon of migration, with a four-point plan of attack.

The Policy Plan provides for

- 1) legislative instruments for the entry and residence of third-country nationals for employment purposes;
- 2) actions and policies designed to promote the acquisition of skills and the exchange of information in the immigration sector;

<sup>36</sup> See European Commission, Communication, The Hague Programme: Ten priorities for the next five years, The Partnership for European renewal in the field of Freedom, Security and Justice, COM(2005) 184 final, Brussels, 10.05.2005. As previously noted, The Hague Programme was approved by the European Council of 4–5 November 2004 – see European Council (2004), Annex I, op. cit.

<sup>37</sup> See the Presidency Conclusions of the Brussels European Council of 4-5 November 2004 (European Council, 2004), *supra*, “III. Specific Orientations”, point 1.4.

<sup>38</sup> Refer to European Commission, Strategic Objectives 2005–2009 – Europe 2010: A Partnership for European Renewal – Prosperity, Solidarity and Security, COM(2005) 12 final, Brussels, 26.01.2005.

<sup>39</sup> See the European Commission’s Communication on The Hague Programme (COM(2005) 184 final), European Commission (2004), op. cit.

<sup>40</sup> See European Commission, Communication, Policy Plan on Legal Migration, COM(2005) 669, Brussels, 21.12.2005.

<sup>41</sup> See the European Commission’s proposal (COM(2001) 386 final), European Commission (2001), op. cit.

- 3) policies and funding in support of the integration of migrants and their families in the employment market and society of the host country; and
- 4) measures to ensure more efficient management of international migrant flows, in close cooperation with the migrants' countries of origin.

The Policy Plan is thus a solid working basis for giving the Community's immigration policy fresh impetus, placing the emphasis on immigration for employment purposes and drawing on the legal instruments adopted so far at the European level. There is no longer any doubt that proposals and measures need to be put forward to achieve a dual objective: i) giving member states clear and flexible entry procedures<sup>42</sup> for third-country workers, and ii) providing these third-country workers with a credible and less bureaucratic entry route to the European labour market.

Mindful of the difficulties a single legal instrument could have in the Council and of what emerged from the public consultation, Vice President Frattini decided to propose four different legal instruments in an effort to meet the requirements of the member states and third-country nationals,<sup>43</sup> bearing in mind the disparate socio-economic structure of the European Union. These proposals for directives, which will be underpinned by a common legal framework for all workers legally allowed access to the labour market, will cover:

- the conditions of entry and residence of highly qualified workers,<sup>44</sup> including the proposal for a possible European Green Card, which would allow these third-country workers, once permitted entry to a member state, to change country for employment reasons without any further bureaucratic procedures;
- the conditions of entry and residence of seasonal workers;
- the procedures governing entry, temporary residence and permanent residence of workers relocating within multinational companies;<sup>45</sup> and
- the conditions of entry and residence of paid trainees.

The timeframe for the first proposal for a directive will be the second half of 2007, whereas it will be 2008 or even 2009 before the other three proposals for directives (seasonal workers, workers relocating within multinational companies and paid trainees) are drawn up. This is a very ambitious and well-structured work programme, which will have to be endorsed by the Council.

The Commission has therefore proposed a framework directive, which will be put forward in the second half of 2007 and will contain precise rules for all workers. These in turn will help to avert situations where third-country nationals who have not yet obtained the status of long-term resident are not granted certain fundamental rights. The Commission plans to use this legal instrument to draw up four sectoral directives to meet the specific needs of the respective labour markets in the member states. These are thus legislative measures that highlight that something extra at the European level *vis-à-vis* national management of migration and are a first brave and far-sighted response to the challenges that all of European society will be called upon to face in the years ahead.

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<sup>42</sup> As a general rule, new immigrants must have a work contract to be allowed entry.

<sup>43</sup> Unlike the proposal for a directive in 2001, the legal instruments proposed by Vice President Frattini apply exclusively to the entry conditions of specific categories of workers.

<sup>44</sup> Researchers are obviously not included.

<sup>45</sup> This aspect would apply for instance to a Japanese engineer from Toyota transferring to the Greek branch of Toyota.

The Policy Plan, it must be stressed, is not limited to proposing legislative measures. Before 2007 is out, for example, the Commission intends to open an EU immigration portal that will help to disseminate specific items on European policy and legislation. This new portal will be connected to the EURES network<sup>46</sup> and will make for better management of the economic immigration of third-country nationals.

As part of cooperation with the countries of origin, information campaigns will be run in those countries, targeting anyone who wants to know more about the conditions to be met to gain legal access to the European labour market. These campaigns will also raise awareness among third-country nationals of the risks inherent in illegal immigration. The Commission additionally plans to set up vocational training and language courses in the countries of origin. These preparatory courses should help immigrants more specifically to acquire new professional skills and to set in motion an 'adaptation' process before departing for the host member state.

### The statistical problem

The proposed regulation on Community statistics on migration and international protection<sup>47</sup> was drawn up to offset the current lack of reliable, comparable and updated European statistics increasingly needed to develop Community policies and rules.<sup>48</sup> In its resolution of 6 November 2003, the European Parliament also highlighted the need for detailed statistics on which to base future European legislation and policy. The regulation is currently before the Council and the European Parliament, but it is impossible to predict when it will work its way through the Community's laborious decision-making process and finally be adopted. On the one hand, some member states claim it is difficult to provide the data requested by the proposed Community regulation, while on the other hand the European Parliament is trying to establish what data the member states have in order to pinpoint possible shortcomings in the respective national statistics institutes. Unfortunately, it will be very difficult for the European Union to have reliable, updated statistics before 2008, which seems to be the year established by the Council and the European Parliament to start collecting data on migration and asylum.

A first step towards creating a body responsible for collecting statistics on migration was the establishment of the Euro-Mediterranean Consortium for Applied Research on International Migration (CARIM), which was approved in February 1994 as part of the MEDA programme.<sup>49</sup> This Consortium is well run and produces high quality studies in particular on the phenomenon of migration from the Middle East and North Africa<sup>50</sup> to European countries.

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<sup>46</sup> The EURES network was established in 1993. Its purpose is to provide services to workers, employers and anybody else wishing to take advantage of the principle of the free movement of persons. The services provided are three-fold: information, consultancy and recruitment/placement.

<sup>47</sup> See European Commission, *Proposal for a Regulation of the European Parliament and of the Council on Community statistics on migration and international protection* COM(2005) 375 final, Brussels, 14.09.2005.

<sup>48</sup> In actual fact, Eurostat has been compiling statistics on immigration and asylum for some years now. This data is collected by way of an informal process, however, which is why it was necessary to establish an appropriate legal basis, in the shape of the regulation.

<sup>49</sup> MEDA, which is the EU's principal financial instrument for Euro-Mediterranean partnerships, provides funding and technical assistance designed to promote the reform of the economic and social structures of Mediterranean countries.

<sup>50</sup> For more information, see A. Latreche, *Les caractéristiques de la population active immigrés originaires d'Afrique du Nord et du Moyen Orient à travers le monde*, CARIM-AS 2006/02, Euro-Mediterranean Consortium for Applied Research on International Migration, 2006; and P. Fargues, *How*

Another building block in the construction of a European statistical base was the establishment of the European Migration Network (EMN), which consists of 14 national contact points. This network was established in 2002, when there was already a perceived need for better and more consistent data and information exchange to formulate the respective policies on migration and asylum. It is worth remembering that the EMN was created under the political impulse of the Laeken European Council<sup>51</sup> and was preceded by a feasibility study conducted in 1996.<sup>52</sup> The Hague Programme also established that European policy on migration and asylum should be based on a detailed analysis of updated statistics on migration flows within the member states. In other words, Europe has to have a ‘data collection’ mechanism that shows the situation regarding migration in all its member states.

This initial structure, which is expected to “provide the Community, its Member States, and in the longer term the public with objective, reliable and comparable information on the migration and asylum situation at European and national levels”,<sup>53</sup> needs to find a more stable and suitable platform in order to meet its objectives. Vice President Frattini therefore decided on 28 November 2005 to launch a Green Paper to canvas the views of the member states, of operators in the sector and of everyone directly involved in the collection and processing of statistics. The consultation was concluded at the end of January 2006 and the results were very encouraging, so much so that the Commission is now thinking of submitting a proposal to give the EMN a legal basis to allow it to continue its work, given that its own mandate terminated on 31 December 2006.

It is also worth noting that, for the period 2007–13, the European Parliament agreed to allocate almost €60 million to ensure the smooth functioning of the EMN. As of 1 January 2007, the EMN is to be composed of 26 national contact points (Denmark does not participate) and its tasks will be expanded. There will be a stronger focus on research and on reinforcing the links with academia, and the work of the EMN will be made available to policy-makers and the public at large through a specific website.

### **Boosting the ‘appeal’ of Europe in terms of economic migration**

Why are updated and comparable statistics needed to formulate careful and balanced policy proposals, or to measure the appeal of the European Union? We can try to answer this question by way of a number of examples. From statistics we know that ‘qualified and highly qualified’ migrants prefer to go to Australia, Canada and the US, whereas ‘less qualified’ migrants tend to choose Europe as their final destination.<sup>54</sup> This problem is a very serious one for the European Union, which cannot be underestimated. Equally true is that, since Europe has a rather disparate socio-economic structure, this phenomenon is more accentuated in some European countries than it is in others. A way therefore has to be found of attracting young talent to Europe. Europe is in competition with countries that currently act as a ‘magnet’ for highly qualified personnel. This objective clearly has to be pursued by means of careful and balanced policy proposals that

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*many migrants from, and to, Mediterranean countries of the Middle East and North Africa?*, CARIM-AS 2005/16, Euro-Mediterranean Consortium for Applied Research on International Migration, 2005.

<sup>51</sup> See European Council, Presidency Conclusions of the Laeken European Council of 14 and 15 December, SN 300/1/01, Brussels (2001), point IV, p. 11.

<sup>52</sup> See the *Feasibility study for a European Migration Observatory* (Salt et al., 1996).

<sup>53</sup> Refer to European Commission, Green Paper on the future of the European migration network, COM(2005) 606 final, Brussels, 28.11.2005.

<sup>54</sup> According to Fargues (op. cit., p. 21), 54% of immigrant workers from North Africa with a university degree chose to move to Canada and the US, whereas 87% of migrants with elementary or even less education live in the European Union.

will not lead to the “brain drain” highlighted in the Commission’s Communication on Migration and Development: Some concrete orientations.<sup>55</sup> In point 2.4, “The Commission encourages Member States to develop mechanisms such as codes of conduct to limit active recruitment in cases where it would have significantly negative repercussions for targeted developing countries, especially in the healthcare sector, and to coordinate their respective efforts in this area”. It is absolutely essential, therefore, to provide mechanisms that, while promoting the recruitment of highly qualified personnel, do not lead to any brain drain, which is detrimental both to European countries and, to an even greater extent, to less economically developed countries.

While the Australian model has to be adapted to Europe’s needs, a number of guidelines could be used as a source of inspiration. Australia has a specific programme called “Skill Stream”,<sup>56</sup> which divides highly qualified migrants into five categories and accounts for a very high percentage of the total number of visas issued for economic purposes. According to the latest statistics,<sup>57</sup> the total number of immigrants to arrive through the Skill Stream programme increased from 71,240 between 2003 and 2004 to 77,880 between 2004 and 2005, and to 97,000 in 2006. In other words, between 2003 and 2006, the percentage of highly qualified migrants rose from 62.3% of the total number of migrants arriving in Australia to 67.8%: a very marked increase given that the gross domestic product of Australia is a quarter of Germany’s<sup>58</sup> and barely 60% of Spain’s (OECD, 2006). In 2002, the Australian government set a target of 100,000 new entries a year up to 2006, but has had to change this initial figure and granted 143,000 permits in 2006 to meet the growing demand from companies wanting to recruit highly qualified workers.<sup>59</sup> Among the factors guiding the Australian government’s selection are knowledge of the language and consolidated work experience, in conjunction with study courses.

How can a country of average economic size be so appealing to highly educated and highly skilled people? Australia is a country that has embarked on bold structural changes to its economic system and has made migration one of the priorities of its foreign policy, starting with the recognition of the qualifications of highly skilled immigrants. This is a sore point at the Community level where there is still no agreement among the 27 countries on how to appraise degrees and diplomas awarded by third countries. Not only will this obstacle be difficult to overcome, it will prevent European countries from tapping the full potential of the immigrants to whom they play host. At present, each country operates a series of bilateral agreements with certain third countries and decides whether and how to recognise qualifications. In practice, this attitude amounts to a waste of skills, with negative spin-off not only for the economy of a country – immigrants do not contribute up to their capacity – but also for the process of

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<sup>55</sup> See European Commission, Communication, Migration and Development: Some concrete orientations COM(2005) 390 final, Brussels, 01.09.2005, p. 9.

<sup>56</sup> This programme specifically aims at recruiting highly qualified and highly skilled personnel. It is divided into five categories to help identify the skills needed to meet the needs of the Australian economy.

<sup>57</sup> See the Australian Department of Immigration and Multicultural Affairs (2006).

<sup>58</sup> According to the latest statistics of the Federal Authority for migration and asylum, 1,400 new workers arrived in 2005, 900 of them highly qualified. In the first six months of 2006, 22,000 German professionals left the country to look for work abroad. For more information on this point, see “Auf wiedersehen, Fatherland”, *The Economist*, 28 October 2006, p. 38. Against this, 284 highly skilled workers arrived in Germany in the first six months of 2006.

<sup>59</sup> This figure includes 20,000 permits more each year for the Skill Stream programme. For more details, see C. Shah and G. Burke, *Skilled migration: Australia*, Working Paper No. 63, Monash University, Victoria, December 2005.

integration. The workplace should be seen as the optimum vehicle for integrating new arrivals into the socio-economic fabric of the host country – as otherwise the immigrant feels isolated and exploited.

It is worth quoting a further report that deals with the problem of migration to the US. It was conducted by a working party consisting of various scholars<sup>60</sup> and highlights the limitations of the current US migration policy, stating quite clearly and cogently why the present strategy needs to be changed if America's leaders want their country to retain its pre-eminence in the field of science and research. To corroborate their arguments, the authors of this convincing report collected and processed a comprehensive series of statistics that spell out in no uncertain terms the inadequacies of the American administration's policy on immigration. To keep it short, we shall limit the discussion to just a few figures. Between 1990 and 2000, some 50% of the new workforce was made up of immigrants. This figure rose to 60% between 2000 and 2004. These generally low-skilled immigrants perform activities that, between 2004 and 2014, will register the highest growth in employment terms.<sup>61</sup> These are obviously jobs that American citizens themselves do not want to do. If we look at the figures regarding students, in 2004, the number of foreign students enrolled in engineering courses was 50% and in science courses 41%.<sup>62</sup> Despite the prestige of American universities,<sup>63</sup> the US produces only 7% of the world's engineers. Asia is now predominant in this area thanks to massive investment in their academic centres of excellence.<sup>64</sup> In this context, it is important to mention the excellent work conducted by George J. Borjas on the impact of the immigration of highly skilled persons on the US labour market (Borjas, 2006). Although the effect that immigration has on a given labour market is rather difficult to gauge with any degree of accuracy, in particular as regards wages, Borjas's analysis concluded, "a 10 per cent immigration-induced increase in the supply of doctorates lowers the wage of competing workers by about 3 to 4 per cent" (ibid., p. 4). Therefore, while it is essential for Western economies to continue to hire highly skilled immigrants, it is vital to bear in mind that this sort of recruitment may have adverse effects on the structure of wages in this category of workers, be they foreign-born or native.

These figures highlight, more than any other factor, the need for the US to improve for example the conditions for granting visas to foreign students, who, for the 2004–05 academic year alone, paid out some \$13.3 million. Once they have graduated, today's students could one day become eminent personalities in their own countries, as demonstrated by the careers of many leaders, including Zine El Abidine Ben Ali,<sup>65</sup> Tony Blair, Jacques Chirac, Aigars Kalvitis,<sup>66</sup> Hamid Karzai,<sup>67</sup> Emile Lahoud,<sup>68</sup> Mikhail Saakashvili<sup>69</sup> and Alejandro Toledo,<sup>70</sup> who all lived and

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60 See the Migration Policy Institute, Manhattan Institute for Policy Research and the Woodrow Wilson International Center for Scholars (2006), *Immigration and America's future: A new chapter*, Washington, D.C. and New York, NY, September 2006.

61 Ibid., Table 4, p. 7.

62 American students prefer business schools and courses on education.

63 Of the top 20 universities in the world, 17 are in the US. For more information, see the website: <http://ed.sjtu.edu.cn/rank/2006/ARWU2006TOP500list.htm>.

64 China already has a higher number of students with engineering, IT and science degrees. The region of Bangalore, India's Silicon Valley, has been financed to a large extent by remittances from Indians working abroad and each year takes on between 30,000 and 40,000 Indian engineers and computer scientists who have gained their qualifications in either India, the US or Europe. For more information, see Migration Policy Institute et al., op. cit., p. 9.

65 Zine El Abidine Ben Ali became President of Tunisia.

66 Aigars Kalvitis became Prime Minister of Latvia.

67 Hamid Karzai became President of Afghanistan.

68 Emile Lahoud became President of Lebanon.



studied in the US. Thus, hosting foreign students could also be an advantage in terms of foreign policy, not to mention the growing number of CEOs and founders of big American multinationals, such as Google and Intel, whose parents were immigrants.

The fact is that if the member states of the EU do not change their attitude to legal migration, the future competitiveness and living conditions of the old continent will be put at serious risk. Without immigrants, Europe will not be able to maintain the same standards of living to which we are all accustomed. We cannot continue to ignore a problem, which is really an opportunity, to which the solution is a policy strategy coupled with years of hard work in the right direction.

Migration policies are very much like monetary policies designed to combat the insidious phenomenon of inflation. As the central banks know only too well, it takes around two years before their change of monetary policy has an effect on a country's inflationary trends. The same goes for migration. It has to be recognised that there are no 'miracle cures' that can solve within a few weeks the most serious problems of migration, which is not, and is not going to be, a transitory phenomenon. What we need is a policy consisting of structural measures that can provide a lasting response to the various requirements, including the requirements of the labour market and the requirement of family reunification. The underlying principles of this new policy should be far-sightedness and courage. The foundations for this policy strategy were already laid by the Lisbon European Council, which set the European Union the strategic objective "to become the most competitive and dynamic knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion...The shift to a digital, knowledge-based economy, prompted by new goods and services, will be a powerful engine for growth, competitiveness and jobs."<sup>71</sup>

## Concluding remarks

Since the Tampere European Council back in 1999, the development of Europe's migration policy has certainly come up to the expectations of the member states, despite the major hitch along the way. Vice President Frattini has given renewed vigour to the Community's policy on legal migration, and shown that the European Commission is ready and willing to take on greater responsibility in this delicate legal area. At the Tripoli Conference in November 2006,<sup>72</sup> Vice President Frattini launched a new proposal that, if accepted, could become a good compromise between the need for member states to maintain a certain degree of jurisdiction over economic migration while increasing the role of Europe in this area. Vice President Frattini said that it would be a further step forward if the Commission could directly negotiate with third countries the national quotas set by member states on the basis of their labour market needs. To put it more simply, member states will continue to determine the number of jobs available in their respective labour markets by identifying which categories are in demand. The Commission will collect all these 'national figures' and use them when negotiating with the authorities of a given third country. This approach would give the Commission a further tool for use when discussing the broad spectrum of migration issues, including the fight against illegal

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<sup>69</sup> Mikhail Saakashvili became President of Georgia.

<sup>70</sup> Alejandro Toledo became President of Peru. For a full list, see Migration Policy Institute et al., *op. cit.*, p. 16.

<sup>71</sup> See European Council, Presidency Conclusions of the Extraordinary Lisbon European Council of 23 and 24 March, SN 100/1/00, Brussels (2000), Part I, points 5 and 8. For more information on a knowledge-based economy, see Foray (2006).

<sup>72</sup> This conference was a historic event. For the first time, the European Union and Africa as a whole came together to make a political commitment to working together, in partnership, on migration and its links with development.

immigration. For this proposal to be successful, it is also important to have common European admission procedures for the different categories of workers. The European Commission should be able to tell third-country nationals not only where they can find jobs in Europe but also what administrative procedures they need to go through to enter Europe's labour market legally.

As stated in point 1.2 of The Hague Programme, "international migration will continue",<sup>73</sup> but without a Community policy it will be increasingly difficult for any one country to successfully tackle this constantly evolving challenge on its own.

As outlined above, the advantages of having a European policy on immigration for work purposes, within a reasonably short timeframe, will be numerous.<sup>74</sup> The first would be a significant reduction in the 'administrative burden' both for the member states and for third-country nationals. This could speed up access for new workers while maintaining adequate security controls. The second concerns the labour market and the advantages linked to future imbalances in the public finances of many EU member states. Increasing the work force has positive effects on the socio-economic growth of a country. Doing so also means attracting young talent who can make a real contribution in key sectors and thus help to increase Europe's competitiveness on the world stage. The third advantage is human capital, which is one of the principle factors governing the productivity of a country and the quality of its research. Creating access channels for different categories will give the European Union a further instrument for cooperation with third countries calling for "facilitated" entry for their nationals with different professional and academic backgrounds.<sup>75</sup> As Adbelkader Latreche says in his report,<sup>76</sup> immigrants with the highest qualifications come from Jordan, Israel, Lebanon, Palestine and Syria and generally choose Canada and the US as their destinations, whereas Algeria, Morocco, Tunisia and Turkey provide EU member states with seasonal workers or immigrants with little or no qualifications.

In the last 10 years, Europe has recorded modest economic growth, certainly below its potential. In some European countries this slowdown has been accompanied by a gradual ageing of the active population and a worrying deterioration in public finances. This demographic decline in Europe will continue to progress and the need for new immigrants will become more and more acute. The Green Paper<sup>77</sup> sounds the alarm bell loud and clear on this point: "Between 2010 and 2030, at current immigration flows, the decline in the EU-25's working age population will entail a fall in the number of employed people of some 20 million".

As regards the labour market, immigrants have displayed a greater willingness to move for work purposes than their European counterparts, who generally prefer to look for work in their

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<sup>73</sup> See the Presidency Conclusions of the Brussels European Council of 4–5 November 2004, European Council (2004), op. cit., p. 16.

<sup>74</sup> For more information, see R. Münz, T. Straubhaar, F. Vadean and N. Vadean, *The costs and benefits of European immigration*, Hamburg Institute of International Economics, October 2006 and D. Papademetriou, *Europe and its immigrants in the 21st century*, Migration Policy Institute and Luso-American Foundation, Washington, D.C. and Dublin, CA., 2006.

<sup>75</sup> See Latreche, op. cit. As the author explains, more than 52% of immigrants from North Africa and the Middle East perform activities that do not require any specific qualifications. These are jobs that Europeans no longer want to do, despite the growing demand.

<sup>76</sup> Ibid.

<sup>77</sup> See the European Commission's Green Paper (COM(2004) 811 final), European Commission (2004), op. cit., p. 4.

countries of origin. A single figure illustrates this: in 2005, the total mobility of Europe's active population was 1%,<sup>78</sup> which is still higher than the figure recorded in 2000.<sup>79</sup>

The European Union wants to give greater coherence to its political action, which often finds itself hostage to two seemingly opposing demands. On the one hand, there is the need to take a firm stand against the phenomenon of illegal immigration, with the respect for human rights, the principle of admission and the capacity for integration. On the other hand, there is the need to create 'access channels' that make it less complicated for third-country workers to enter Europe's labour market. Bringing migration policy within the Community's remit will obviously not be the panacea to cure all of Europe's 'ills'. But what is certain is that not having a Community migration policy will certainly not help Europe to increase its rate of economic growth, competitiveness and productivity in the years to come. Today's Europe should take heed of a quote by Count Carlo Sforza, the Italian Minister for Foreign Affairs between February 1947 and July 1951, which went as follows: "History: a graveyard of people unable to foresee the future".

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78 For more information, see N. Diez Guardia and K. Pichelman, *Labour Migration Patterns in Europe: Recent Trends, Future Challenges*, Economic Papers, No. 256, European Commission, Brussels, September 2006. A further important publication of the European Commission, which provides a reliable compendium of statistics, is *Employment in Europe 2006*, pp. 210-44.

79 In 2000, the EU-15's internal mobility amounted to 470,000 persons, whereas in 2005 internal mobility concerned 610,000 Community workers. In 2005, the preferred destinations were the United Kingdom (27%), Germany (19%), Spain (14%) and France (11%). That same year, the 'least mobile' workers within the European market were the Italians and the Greeks. Finally, it is worth recording that in 2000 mobility only concerned highly qualified workers (44% of the total, i.e. 206,800 persons), whereas opportunities for workers with little or no qualifications were very limited. The statistics show, however, that for immigrants mobility is greater for activities for which no specific qualifications or previous work experience is required. This author nonetheless expects enlargement of the European Union to increase the internal mobility of European workers in the years ahead.

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