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SEMDOC
Statewatch European Documentation &
Monitoring Centre on justice and home
affairs in the European Union
PO Box 1516, London N16 0EW, UK
tel: 0181 802 1882 (00 44 181 802 1882)
fax: 0181 880 1727 (00 44 181 880 1727)

NOTE

from :	Presidency
to :	Migration Working Party (Admission)
Subject :	Strategy on migration and asylum policy

Part 1 (sections 41 to 79)

On 21 January 1999 the K.4 Committee agreed to a suggestion from the Presidency (5337/99 CK4 4 ASIM 3) that selected passages of the strategy paper on migration and asylum policy (9809/2/98 CK4 27 ASIM 170 REV 2) be discussed by the relevant Council Working Parties. To implement this decision in the Migration Working Party (Admission), the Presidency is drafting documents to serve as a basis for discussion. Once these documents have been discussed at forthcoming Working Party meetings, the next step will be to decide what proposals to place before the European Council as a basis for the discussions at its meeting in Tampere on 15 and 16 October 1999.

The draft position on the strategy paper on migration and asylum policy is to be split into two parts. The present document concerns sections 41 to 46, 53, 74 and 77 to 79. Section 62 is also dealt with. The Presidency will subsequently be submitting a document on the other sections to be discussed by the Migration Working Party (Admission), i.e. sections 80 to 85, 93, 94, 98 to 100 and 114 to 116.

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Introduction:

A discussion paper on migration for the Heads of State or Government of the Member States at the European Council in Tampere on 15 and 16 October 1999 must duly reflect all relevant points of view and the support which they command. It is therefore essential that emphasis also be placed on the positive aspects of migration to Europe. Furthermore, the importance of integrating third-country nationals lawfully residing on a long-term basis in the Member States must be given particular prominence. This is the only way to avoid one-sided concentration on the aspects of restricting entry, combating organised illegal immigration and repatriation.

Sections 41 to 43 : **[European migration strategy]**

1. The European Council, meeting in Vienna on 11 and 12 December 1998, called for particular attention to be paid to the development of an overall migration strategy. Section 34 of the Council and Commission action plan approved in Vienna on how best to implement the provisions of the Treaty of Amsterdam establishing an area of freedom, security and justice (13844/98 JAI 41) also calls for the establishment of an overall migration strategy. Section 38 of the action plan stipulates that the measures listed in the European migration strategy are to be identified and implemented within five years of the entry into force of the Treaty.

We now need to discuss what measures are to form the basis of the European migration strategy, what elements are to be included and how the interests of those concerned are to be catered for. The starting point for discussion must of course be the rules of the Amsterdam Treaty and the related Protocols and declarations, as well as the principle of subsidiarity enshrined in the Treaty. Migration policy and the policy of promoting integration have been partially communitarised by the Treaty, and special Community powers have been created in this connection, such as the authority conferred on the Council by Article 13 of the EC Treaty to take appropriate action to combat discrimination within the limits of Community powers.

The Council and Commission action plan on how best to implement the provisions of the Treaty of Amsterdam gives specific indications regarding priorities and content that must be taken into account in formulating a European migration strategy.

3. Given the Member States' international law obligations, arising in particular from the Geneva Convention on Refugees and the European Convention on Human Rights, the Presidency considers that the basic premises of a European migration strategy should be:
 - the major importance of integrating third-country nationals lawfully residing in the Member States on a long-term basis,
 - restriction of entry to Member States by third-country nationals to persons who meet specific, narrowly defined criteria,

4. Accordingly, the criteria to be met by a European migration strategy should include the following. It should:
- be comprehensive, i.e. cover all aspects of migration. In the field covered by the Migration Working Party (Admission) the points addressed should include reducing migratory pressure, the possibilities for entry of third-country nationals and the status of third-country nationals lawfully residing in the Member States on a long-term basis;
 - be concrete, so that it can be seen to be a uniform European strategy in an important internal policy matter;
 - be flexible. The Member States must retain adequate legal and practical powers for dealing with specific national situations on their own responsibility, within the framework of the European migration strategy. This is the only way of taking account of differing immigration situations and the differing extents to which Member States are affected by sudden influxes of immigrants;
 - be open, so that it can respond to demographic trends and labour market requirements;
 - be cross-policy. Along with measures in the field of Justice and Home Affairs (e.g. asylum, migration and repatriation policies, combating organised illegal immigration), foreign, external trade and development policy measures are also needed;
 - be founded on democratic legitimacy and transparent decision-making procedures, if it is to gain the necessary public acceptance in the Member States.

Section 44: **[Priorities of the European migration strategy]**

The action plan on implementing the provisions of the Amsterdam Treaty establishing an area of freedom, security and justice sets priorities for implementing the prescribed measures; in the field covered by the Migration Working Party (Admission) the first steps are to be to:

- assess countries of origin in order to formulate a country-specific integrated approach,
- regulate the status of legal immigrants,
- combat illegal immigration through, inter alia, information campaigns in transit countries and countries of origin.

Section 45: **[Seeking expert advice and the views of non-governmental organisations]**

Given the complexity of the subject and the number of policy areas affected, drawing up and implementing a European migration strategy is unlikely to be a rapid process. Proper consideration of advice from experts and the views of international organisations such as the UNHCR, the social partners and non-governmental organisations as part of the European Union procedure ought to be helpful here.

Section 46:**[Need to catch up on Europe-wide harmonisation]**

1. A start has already been made on harmonising national legislation on migration. Between 1993 and 1995 the Justice and Home Affairs Ministers adopted a series of Resolutions on the admission and status of third-country nationals. These form the EU acquis on that subject. The degree of harmonisation attained by these Resolutions should, not, however, be overestimated. They have no direct legal consequences for the Member States, being merely a statement of political intent to adapt national legislation. The harmonising effect of the Resolutions is further attenuated by the fact that Member States may very largely retain their own rules.
2. A move has already been made towards legally binding harmonisation of the conditions of admission and the status of third-country nationals residing in the Member States on a long-term basis. The Commission made substantive proposals for further harmonisation of laws on the admission and status of third-country nationals in its proposed draft Convention on rules for the admission of third-country nationals (10994/97 ASIM 185). The first reading of the Commission's draft has been completed and the findings have been placed before the K.4 Committee. During discussion of the draft it became clear that many Member States wish to retain national rules to a large extent. Discussion will be resumed when the Commission carries out its stated intention of submitting a revised draft, in the form of a Directive, once the Amsterdam Treaty has entered into force. This project will have to play a central role in a European migration strategy.

Section 53: **[Coordinated policy on reducing migratory pressure]**

3. Reducing migratory pressure from States of origin is an essential aspect of a European migration strategy. It can be achieved if measures are taken at European level to help offer people prospects in their own States of origin. This is no mean task, for it involves bringing together a whole series of policy areas (an "integral approach"). Besides internal policy measures (e.g. migration and repatriation policies, combating organised illegal immigration), foreign, external trade and development policy measures also need to be introduced and coordinated. The need for such coordination by the Community and the Member States has already been established in the declaration on principles governing external aspects of migration policy adopted by the European Council in Edinburgh on 12 December 1992.
4. The setting up by the General Affairs Council on 7 December 1998 of the High Level Working Group on Asylum and Migration was the first practical step towards implementing an integral approach. The Group's task is to establish a common, integrated, cross-pillar approach to managing asylum and migration problems. The Group's terms of reference , adopted by the General Affairs Council on 25 January 1999 (5264/99 JAI 1 AG 1), clearly reflect its cross-policy approach. With due regard for the human rights situation, it is to address the causes of mass flight and migration. Country-by-country action plans are to be drafted for short and long-term measures for closer cooperation between the European Union and the countries concerned. Political, development-policy, economic and humanitarian cooperation, conflict prevention and cooperation on combating illegal immigration and organised crime will all be covered. Cooperation with the UNHCR, the IOM and non-governmental organisations is also part of the Group's brief.

5. The following regions and countries have been chosen for the first, prototype action plans: Afghanistan/Pakistan, Albania and the neighbouring region, Morocco, Somalia and Sri Lanka. The EU Action Plan of 26 January 1998 on the influx of migrants from Iraq and the neighbouring regions is to continue. This Group's findings will influence the future development of a cross-policy approach, including reducing migratory flows and protecting refugees.
6. Of particular interest to the Migration Working Party (Admission) is the fact that the terms of reference of the High-Level Group also include conducting information campaigns in the selected regions and countries of origin.

Section 62: ["Model of concentric circles of migration policy"]

The "model of concentric circles of migration policy" is not suitable where it is a matter of defining a balanced migration strategy for the Member States vis-à-vis third countries. The "integral" approach already chosen in the declaration on principles governing external aspects of migration policy adopted by the European Council in Edinburgh on 12 December 1992, which also covers human rights policy, conflict prevention and development aid, is far more promising.

Section 74: [Improved collection and analysis of accurate migration data]

If a European migration strategy is to be drawn up and implemented, all the necessary data must be available centrally in order to serve as a basis for the decisions to be taken. CIREA and CIREFI already collect considerable amounts of data, and CIREA data capture in the framework of the action plan on the influx of migrants from Iraq and the neighbouring regions (5573/98 ASIM 13) was recently improved. Discussion is currently under way in CIREFI on an early warning system designed to make up-to-the-minute information available in crisis situations. Consideration is also being given to the possibility of EUROSTAT involvement in migration matters.

For the purposes of effective control of migratory movements, further extension of the collection of migration data may nevertheless prove necessary. For example, EUROSTAT or a European institute could be asked to produce realistic estimates of migration potential in major countries of origin and to investigate migratory behaviour within the EU. Such extension must not, however, be an end in itself; it should therefore be established beforehand whether in practice it would make for greater efficiency. The possibility of obtaining the additional data required from other bodies such as the IOM or the IGC should also be explored.

1. Lastly, it has to be borne in mind that many areas of migration do not lend themselves to the production of accurate data, so that there are, for example, no reliable figures on illegally resident third-country nationals or persons refused asylum who nevertheless remain in the country. The same applies to data on the migration potential in countries of transit and origin. Here, however, it is possible to work with estimates, although the greatest caution is required since estimated figures, unverifiable as they are, could easily be misused for various political ends.

Sections 77 to 79: **[Quotas]**

1. Most Member States do not have quotas laid down by law for the admission of third-country nationals.
2. Two Member States (Austria and Italy) have recently introduced annual quotas for such entries – a first in terms of immigration control in the European Union. In both countries the number of refugees and their relatives admitted is taken into account in setting quotas, an approach rejected by several Member States.

3. The experience of these Member States in applying that system so far could therefore be discussed, along with the extent to which quota systems are compatible with international and constitutional law and with the EU acquis (e.g. with the Resolutions on admission). There seems little point in setting quotas for the admission of students, businessmen and executives, since Member States have a particular interest in admitting such groups; the same applies to admission for the purposes of exchanges of researchers and scientists.
4. In any case, it must be ensured that quotas and other systems used by Member States to limit or manage immigration are mutually compatible.



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from :	Presidency
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Part 2 (sections 80 to 116)

Sections 80 and 81: [Family reunification]

1. Family reunification is a major feature of immigration into the Member States of the European Union. In the past, a number of Member States used to practise a policy of recruiting immigrant workers, with the result that many of these workers' relatives followed them to the Member States (spouses and unmarried children in particular). Nowadays the number of relatives joining immigrant workers is fairly small. In some cases, the offspring of these workers also bring in spouses from their home countries.

2. In their Resolution on the harmonisation of national policies on family reunification of 1 and 2 June 1993, the Justice and Home Affairs Ministers of the Member States agreed on some common principles. The Resolution points out that arrangements on family reunification have to comply with Member States' constitutional requirements and with the international agreements they have ratified. Chapter VII of the draft Convention on the admission of third-country nationals, which the Commission submitted in September 1997, also contains rules on family reunification.
3. Appropriate harmonisation of the rules on family reunification is an essential part of a European migration strategy. The high priority placed on protection of the family has to be borne in mind here. It will not be possible to settle the difficult issues surrounding family reunification finally until the Commission has submitted the new draft it has announced for a legal act on rules for the admission of third-country nationals. The outcome of the discussions on this legal act is likely to be more substantial in nature than the rules in the Resolution of 1 and 2 June 1993.

Sections 82 to 85: [Support payments to immigrants]

One aspect of a European migration policy vis-à-vis third-country nationals should be to curb any secondary migration that is primarily due to differing levels of support payments. In the long-term, therefore, Member States should aim to achieve broad similarity in the level of support payments to those immigrants who are not likely to remain permanently. Within the sphere of Community competence, bringing support payments to asylum seekers more into line should be a priority aim.

Section 93: [Administrative procedures]

Administrative procedures or appeals against expulsion which last longer than necessary may be instrumental in making illegal residence economically attractive to third-country nationals who are required to leave the country. To counter this, procedures should be extensively simplified and streamlined, as far as consistent with Member States' relevant constitutional requirements, where this has not been done already.

Section 94: [Integration]

1. Member States consider the integration of legally resident third-country nationals to be a major part of migration policy. Promoting integration, within the scope of the Community competence, must therefore also be a priority for a European migration strategy. In its communication on immigration and asylum policies of 23 February 1994 the Commission stated that the promotion of integration was "at the very heart of the political debate".
2. The aim of integration policy must be to see that legally resident third-country nationals are as well integrated as possible into the societies of the Member States, by according them, as far as possible, the same treatment as nationals, both in legal terms and in practice. The aim

is to help them to live together in society on equal terms, by compensating for any disadvantages to which they are subject. This means taking action on a broad range of areas, for example, granting guaranteed permanent residence rights and thus access to the labour market, promoting access to employment and promoting equal treatment, inter alia in education, housing, health care and working conditions.

3. Member States should be aware that laws on nationality play an important role in the integration of third-country nationals. For long-term legal residents of a Member State, the focus of their lives lies in that Member State. It is therefore in the public interest that these persons should acquire the nationality of the host State.
4. A European migration strategy must take account of the powers conferred on the European Community by the Treaty of Amsterdam. The Amsterdam Treaty sets out responsibilities for harmonising the legal status of nationals of third countries who are resident in the Member States on a long-term basis (Article 63 (new) of the EC Treaty) and for adopting measures, within the limits of the powers conferred on the Community, to combat discrimination (Article 13 (new) of the EC Treaty), which are relevant to integration policy.

Sections 98 to 100: [Legal status of third-country nationals]

1. Regulating the legal status of third-country nationals who are resident in the Member States on a long-term basis is an important aspect of promoting integration. The Member States reached a basic consensus on the issues involved with the adoption, on 4 March 1996, of their Resolution on the status of third-country nationals. The Amsterdam Treaty has now brought the regulation of residence conditions for third-country nationals within the Community sphere. The same goes for the definition of the rights and conditions under which nationals of third countries who are legally resident in a Member State may reside in other Member States.
2. Both issues are covered in the Commission's 1997 proposal for a Convention on rules for the admission of third-country nationals to the Member States. During initial discussion of the draft, some Member States stated that they had difficulties with harmonisation in this area.

Section 110: [Working together with countries of origin to conduct information campaigns]

1. Organising information campaigns is one way for the Community to work together with the main countries of origin to prevent illegal immigration. The purpose of these campaigns is to persuade third-country nationals who have little or no prospect of obtaining a residence permit for an EU Member State not to leave their home countries in the first place. One of the pre-conditions for a successful information campaign is close cooperation with the country of origin in which it is carried out.
2. Pursuant to the terms of reference of the High-Level Working Group on Asylum and Migration, information campaigns are among the measures which can be included in its action plans for specific countries. In addition, the Migration Working Party (Admission) is dealing with information campaigns in countries of origin on the basis of a Danish initiative. It should perhaps be borne in mind that an information campaign will be more likely to succeed if it is backed up by measures designed to improve living conditions for people in the countries of origin. Since such measures are provided for in the action plans to be drawn up by the High-Level Group, it might be an idea to run information campaigns mainly in the countries which the High-Level Group is focusing on (Afghanistan/Pakistan, Albania and neighbouring region, Morocco, Sri Lanka and Somalia).

Sections 114-116: [Outlook]

1. The European Council in Vienna gave instructions for the development of a European migration strategy. It should be borne in mind that enlargement of the EU to include a number of countries to the east and south, a development which all Member States wish to see, is now on the horizon. At present, it is impossible to say whether the potential for migration that will come with freedom of movement for persons and workers will actually result in so much internal migration as to have an impact on the EU's migration policy towards third-country nationals. In the area of migration policy, enlargement could confront the EU with new challenges. In any event, migration strategy towards third-country nationals should be made flexible enough to cope with potential increases in internal migration within the EU.

2. Determined efforts to combat racism and xenophobia are also of essential importance for a European migration strategy.
