Basic information

2003/2156(INI) INI - Own-initiative procedure	Procedure completed
Control of external borders: development of a common policy, Thessaloniki Council **Subject** 7.10.04 External borders crossing and controls, visas 7.10.08 Migration policy 7.30.30 Action to combat crime	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Citizens' Freedoms and Rights, Justice and Home Affairs	PIRKER Hubert (PPE-DE)	10/07/2003

Committee for opinion	Rapporteur for opinion	Appointed
AFET Foreign Affairs, Human Rights, Common Security, Defense	The committee decided not to give an opinion.	
DEVE Development and Cooperation	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
General Affairs	2552	2003-12-08
Economic and Financial Affairs ECOFIN	2537	2003-11-04
Justice and Home Affairs (JHA)	2514	2003-06-05

European Commission

Commission DG	Commissioner
Justice and Consumers	

Key events

Date	Event	Reference	Summary
03/06/2003	Non-legislative basic document published	COM(2003)0323	Summary
05/06/2003	Debate in Council		

04/09/2003	Committee referral announced in Parliament		
04/11/2003	Resolution/conclusions adopted by Council		
25/11/2003	Vote in committee		Summary
25/11/2003	Committee report tabled for plenary	A5-0419/2003	
08/12/2003	Resolution/conclusions adopted by Council		
14/01/2004	Debate in Parliament		
15/01/2004	Decision by Parliament	T5-0029/2004	Summary
15/01/2004	End of procedure in Parliament		

Technical information	
Procedure reference	2003/2156(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 55
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/5/19863

Control of external borders: development of a common policy, Thessaloniki Council

2003/2156(INI) - 25/10/2004 - Follow-up document

PURPOSE: First Annual Report on development of common policy regarding illegal immigration, smuggling and trafficking of human beings, external borders and the return of illegal immigrants.

CONTENT: This report is an essential part of the regular political monitoring process in the field of the development of a common policy on illegal immigration, smuggling and trafficking of human beings, external borders and the return of illegal residents. It was prepared as a contribution to the November 2004 European Council by providing an overview of progress made in the implementation of the three action plans on illegal immigration, external borders and return in the past year. The report, however, also covers some earlier measures indicated in the three action plans adopted in 2002 with special attention to those which have not been fully implemented or simply did not correspond to the initial expectations of the Council.

This report which is addressed to the Council and the European Parliament records a high number of measures that, because of their nature and the areas touched upon (e.g. external borders, visas, return, etc), are of interest to a wider public including the third country nationals themselves. Therefore this annual report also intends to respond to an increasing transparency requirement of civil society in these sensitive policy areas.

The report shows that all actors, Community institutions and Member States, have actively pursued the objectives laid down in the relevant Communications and Council action plans and conclusions. There are, however, different degrees of progress in the fields covered by the report.

The field of external borders has been the most prolific during the last year. The legislative instruments proposed by the Commission for the revision of the Schengen Acquis on the control of external borders are intended to consolidate and make more coherent the existing legal framework. This process, which will result in clearer rules and better implementation, also presents the advantage of associating for the first time fully the European Parliament with the development of this important part of the Schengen acquis that had its origin in a purely intergovernmental framework. The operational cooperation channelled through the numerous specialised centres, joint operations and pilot projects, is aimed at promoting mutual understanding and trust, and the exchange of good practices and information between national services. This cooperation is also raising the awareness about the risks and threats at the common external borders of the EU. It must be noted that the results of these activities are sometimes not as positive as expected; however, they constitute a first step in view of a much more effective common action under the single roof of the future external borders' Agency. This Agency will ensure the operational coordination and effective control of the activities that are currently lacking.

In the field of return of third country nationals there is still much work to be done. Thus, there are no harmonised conditions and procedures for the return of people staying illegally in the EU. This lack of common rules necessarily has a negative impact on the possibilities of cooperation and funding at Community level. The priority must therefore be that the EU equips itself with common rules that will also increase the mutual trust and facilitate the recognition of other Member States' return decisions. Another condition sine qua non for making possible the mutual recognition and an effective

cooperation among Member States is a systematic exchange of information regarding expulsion and removal decisions. The future Commission's proposals on return and SIS II will take into account these requirements and examine the possibility of creating new categories of alerts or use the existing categories for new purposes.

However, the success of the return policy also depends heavily on the cooperation of third countries, which is directly reflected in the progress of the readmission agreements. The readmission agreements, as well as the entire migration dialogue with third countries is characterised by the need for strong coordination of the different EU policies and institutional actors that contribute to the shaping of the external relations of the EU. Such coordination leads to the necessary bundling of forces and render the EU action vis-à-vis the third countries more coherent and efficient. Thus, important progress was made in the establishment of a dialogue with third countries (neighbours and a number of countries of origin) when it comes to legal and illegal migration, also providing support for many projects aimed at better managing of migration by and in these countries. The recent Communications on readmission and links between legal and illegal immigration indicated some new actions that could be explored in this field.

The coordination of different policies is key to making progress regarding the problem of undeclared work that requires a mix of policies in the socio-economic field. The existing studies in the field and future national reports (NAPs) will help to assess the need for further action concerning undeclared work carried out by third country nationals staying illegally in the EU.

The recent developments regarding visa policy, residence permits and passports have been strongly influenced by the EU security agenda, in particular the fight against terrorism. The same applies for technological developments such as the creation or revision of large-scale IT systems for exchanging personal data and the use of biometrics. The other important objectives such as effective management of travellers, asylum seekers or migrants' flows must also be highlighted. Ultimately the development and use of these powerful technologies for the collection and exchange of personal data must be compliant with fundamental rights including data protection rules. The concerns raised in this context by the European Parliament and other organisations representing civil society must be addressed by performing careful assessment of the proportionality of the measures envisaged, and establishing clear and solid legal frameworks in order to guarantee the data subjects' rights.

The exchange of information (no personal data) and statisticswill be supported by new instruments establishing a more formal framework. The objective is to increase the commitment of the Member States to deliver reliable and comparable data in a timely manner that should allow stakeholders to get a clearer picture of the illegal immigration in the EU.

In the fight against the smuggling of and trafficking in human beings the EU will continue to follow a multi-disciplinary approach covering the prevention of these crimes, the protection of the victims and the prosecution and punishment of the perpetrators. To that end the legislation adopted has to be properly implemented and evaluated. Law enforcement agencies and the judiciary should consider the crimes concerned as a priority and adequate personal and financial resources should be allocated. Specific attention must be paid to trafficking in children and related forms of exploitation.

The implementation of these policies and the cooperation between Member States should be guided by a solidarity principle that must be materialised in mechanisms that can guarantee fair burden sharing. The commitments made by the Commission in its Communication of June 2003 were respected and a total of EUR 94 millions are currently proposed or programmed until 2006 for the external borders, visa information system and return programme. Furthermore the Commission, in its July 2004 Communication on the new Financial Perspectives (2007-2013) has already referred to the management of external borders as one of the priority areas, and favours the idea of a framework programme that would also cover asylum and migration management including the fight against illegal immigration and return.

Control of external borders: development of a common policy, Thessaloniki Council

2003/2156(INI) - 15/01/2004 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution based on the own-initiative report drafted by Hubert PIRKER (EPP-ED, Austria) reiterating its support for the development of a European Corps of Border Guards, made up of special units, which would be financed by the Community. If necessary and at the request of the Member States, the Corps could be temporarily detached to help the national authorities monitor at-risk sections of the EU's external borders, without, however, usurping Member States' competences. Parliament also stated that the borders must remain open to people who are fleeing repression and applying for asylum in the Member States of the Union. Asylum policies should fully respect the Geneva Convention relating to the status of refugees. On illegal immigration, Parliament took the view that the ILO network should play a role, in view of its unique knowledge and connections, in successfully returning illegal immigrants to their countries of origin and reintegrating them.

Control of external borders: development of a common policy, Thessaloniki Council

2003/2156(INI) - 19/07/2006 - Follow-up document

PRUPOSE: second annual report on the development of a common policy on illegal immigration, smuggling and trafficking of human beings, external border controls and the return of illegal residents.

CONTENT: this report provides an overview of the main developments since mid-2004 in key areas linked to the fight against illegal immigration. It retains the same structure as that of the first annual report prepared in 2004.

It is accompanied by a statistical annex listing the migration flows in the EU-25, which provides information on both legal as well as illegal migration flows. Noteworthy is the scarcity of reliable statistical or other empirical data on illegal immigration. Where data does exist its coverage is limited. This

Report is, therefore, unable to give an *exact* figure on the current stock of irregular migrants in the EU. The Commission is aware of the need for comprehensive and reliable data in the field of immigration and asylum. The proposed Regulation *on Community statistics on migration and international protection*, if approved, should go some way to addressing this shortcoming. (For a summary of the proposed Regulation see COD/2005 /0156).

External Border Controls

On the matter of external border controls, the Report notes that EU policies are largely co-ordinated by the "Agency for the Management of Operational Co-operation at the External Borders" (FRONTEX), which formally took up responsibility in May 2005. Its tasks are many and varied. They include: the co-ordination of Member State co-operation on the control and surveillance of external borders; offering assistance in border-guard training; carrying out risk analyses; assisting the Member States during times of increased technical operational measures and providing Member States with support in organising joint return operations. As far as the legislative aspect of external border controls is concerned, the approval of Regulation 562/2006/EC *establishing a Community code on the rules governing the movement of persons across borders,* marked a significant departure for the EU's external policy programme. A further development is the proposed establishment of the External Borders Fund covering the period 2007-2013. Its main objective is to help support and spread the burden of responsibility for financing an integrated external border management scheme. It also establishes financial solidarity mechanisms for controls and surveillance at external borders.

For further information and a summary of these initiatives see:

- CNS/2003/0273: On the establishment of FRONTEX.

- COD/2004/0127: On the establishment of a Community code on the rules governing the movement of persons across borders.

- COD/2005/0047: Proposal for the establishment of the External Borders Fund.

Visa policy, secure travel and ID Documents

On the matter of visa policy, secure travel and ID Documents, the Report notes that the Commission, at the end of 2004, presented a proposal on the Visa Information System and the exchange of data between the Member States on short-stay visas. This Regulation, once approved, will determine the system's objectives, the types of data to be processed, the procedures to be followed and the conditions for exchanging alphanumeric, photographic and fingerprint data, on short-stay visas. The Commission will be given the right to set up and operate the VIS at a central level. In the course of 2003 the Commission presented two proposals on a uniform format for visa and residence permits. The technical committee has since concluded that it is not feasible to integrate biometrics into each sticker due to durability challenges and interference between several chips in one passport. It has, therefore, been decided that for *residence permits only* card versions will be issued. As for visas, biometric identifiers will not be integrated into the sticker itself nor will there be a separate smart card. Biometric identifiers will only be stored on the Visa Information System. Thus, the proposed requirement for biometrics to be included in the visa sticker was withdrawn, whilst the proposal for inserting biometrics into residence permits was amended.

For further information and a summary of these initiatives see:

- COD/2004/0287: Proposal to set up a common system and common procedures for the exchange of visa data between Member States.

- COD/2004/003: Regulation laying down standards for security features and biometrics in passports and travel documents issued by the Member States.

- COD/2003/0218: Proposal to lay down a uniform format for residence permits for third-country nationals.

Return Policy

In 2005, the Community proposed a Directive on common standards and procedures in the Member States for returning illegally staying third country nationals, otherwise known as the Return Directive. It provides common rules on the return, removal and use of coercive measures, temporary custody provisions and provisions on re-entry. The Commission also proposed a European Return Fund, the main objective of which is to strengthen an integrated Member State return management scheme. The Return Fund would help finance more effective and uniform use of common standards on return. In other developments, the Commission has been continuing negotiations for Community readmission agreements with Morocco, Pakistan, Russia and the Ukraine.

For further information and a summary of these initiatives see:

- COD/2005/0167: Proposal to provide common rules concerning return, removal, use of coercive measures, temporary custody and re-entry for illegally staying third-country nationals.

- COD/2005/0049: Proposal to establish a European Return Fund.

Human trafficking

In December 2005, an EU Plan on best practices, standards and procedures for combating and preventing Trafficking in Human Beings was adopted by the Council. This action plan covers a full range of issues, such as measures to understand the origins of the crime, how to prevent further trafficking from taking place and how to reduce demand. Other measures seek to promote efficient investigations and prosecution, measures to protect and support victims of trafficking and how to re-integrate third-country nationals once they have been returned.

Relations with Third Countries

Over the last year, the EU has further strengthened dialogue on migration issues with third countries. This dialogue has focused primarily on the root causes of migration, how to address the root causes and ways in which a migration policy can be strengthened. In the framework of the European Neighbourhood Policy, a number of action plans with both Mediterranean and Eastern European countries have been agreed. These include a commitment from both sides to co-operate on migration issues and to fight illegal migration. Further the Commission helped fund a number of projects under the AENEAS programme.

Supporting measures

Supporting measures include a secure web-based Information and Co-ordination Network for Member States' Migration Management Services (ICONet), the purpose of which is to provide a platform for the exchange of strategic, tactical and operational information concerning illegal migratory movement. In addition the "Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration" (CIREFI) has continued to assist the commission through monthly discussions.

Control of external borders: development of a common policy, Thessaloniki Council

2003/2156(INI) - 03/06/2003 - Non-legislative basic document

PURPOSE : to review progress and make recommendations on measures to combat illegal immigration. CONTENT : at Laeken and in Seville, the European Council re-emphasised the importance of measures to combat illegal immigration. In Seville, in particular, it launched a number of detailed initiatives, including operational measures, aimed at implementing this priority quickly. This Communication reviews the progress made in the last few months in order to make a political evaluation and draw up guidelines as to the priorities to be pursued before the completion of the overall programme defined at the Tampere European Council. The Commission examines recent policy developments, including visa policy, border control policy and return policy. It feels that the following guidelines should be considered as priorities for guiding the actions of the Union's institutions over the coming months in implementing, in accordance with the conclusions of the Seville European Council, the action plans adopted in 2002: - the principle of solidarity between Member States should be reinforced and consolidated. Although this solidarity can take a variety of forms, in particular through the strengthening of operational cooperation, it is of major financial importance. For this reason the principle of solidarity should be reflected in budgets within the new post-2007 financial perspective. In the meantime, the Commission is willing to examine, in agreement with the budgetary, the possibility of using part of the budgetary margin available for internal policies to support a solidarity drive over the period 2004-2006 which could include: - a structural approach to requirements in terms of external border controls, extending beyond a simple reinforcement of the ARGO programme; - with the renewal of the ERF, the adoption of a more targeted approach, concentrating available resources, to reception and integration of refugees and displaced persons; - the gradual development of the Visa Information System (VIS), in the light of the options to be selected by the Council on the basis of the results of a feasibility study. The Commission is also willing to examine a separate instrument designed to assist a common returns policy by financing specific programmes covering the various stages of this process. The Commission also makes the following points: - the conclusions of the Seville European Council laid the basis for strong action on external border controls. This initiative has led to the introduction of a number of pilot projects to try out various forms of cooperation. The Commission feels that requirements in terms of planning, support (training, information gathering and processing, network analysis, etc.), organisation and evaluation of operational cooperation could require, beyond the creation of a joint unit made up of practitioners, the establishment of a Community operational structure. The role of this body would be to implement the strategic guidelines adopted by the Council with the assistance, if need be, of the "centres" set up as pilot projects whose contribution would have been validated by the Council. Clearly, such an operational body could only be fully effective if it was endowed with the powers and resources necessary. Within the context of the resources allocated by the budgetary authority,this operational structure could play a role in the management of Community financing. It could also mark the first step on the road to the creation of a "European Corps of Border Guards", which the Commission still firmly believes is necessary to support and complement the actions of Member States' bodies in the management of their external borders; - the Council must set up by the end of 2003 the guidelines necessary for the development of a common visa information system. It must also settle the preparation of the legal basis allowing it to be set up, and the release of financial resources in accordance with the options chosen. In this framework a coherent approach is needed on biometric identifiers or biometric data in the EU; this would result in harmonised solutions for documents for third country nationals, EU citizens' passports and information systems (VIS and SIS II); - the implementation of a common return policy for illegal immigrants is largely dependent on action by the Member States. Nevertheless, greater efficiency can be achieved by increasing cooperation and introducing the necessary legislative framework, in addition to the possible adoption of a specific financial instrument. The Commission is therefore asking the Council to look into the possibility of conferring on the operational structure, which would be set up for border control, similar responsibilities for the organisation of cooperation on returns; - work on developing a common policy on readmission must continue. The Commission recommends that a detailed assessment of geographical priorities be carried out. It should take into account in particular the importance of the third country concerned and the state of its relations and cooperation with the Community and the Member States, before entering into other negotiations, especially in the context of the implementation of the Cotonou Agreement; - the common policy to combat illegal immigration must be based on strengthening the Union's ability to gather, exchange and process information on this phenomenon and working towards greater consistency of action in the field of combating trafficking in human beings. On the latter, the Commission will concentrate on combating undeclared work by the fixing of objectives under the European employment strategy and indirectly by the swift adoption of the proposal for a directive on admission for employment purposes.