



Strategic thinking  
on equality and mobility

## **Locating immigrant integration policy measures in the machinery of the European Commission**

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## **Preface**

The aim of this paper is to identify the laws, policies and financial and other programmes of the European Commission that support immigrant integration. The paper not only locates the increasing number of EU integration measures being designed, adopted and implemented, but also identifies key mainstream policies and programmes that impact on immigrant integration.

The paper locates EU integrations measures by following the journey of the immigrants - from their country of origin, into European society, and to active citizenship. In this way it helps policy makers and practitioners to practically link local, national and European migration and integration activities. It allows them to focus on the integration phase most relevant to their work and then search for EU programmes to support that work.

The authors are well aware of the complexities of integration processes and of European policy-making in this area. This paper cannot claim completeness. Some fields may not be or insufficiently covered while some policy instruments may have been overlooked. We are happy to receive comments for a next edition. The opinions expressed in this document are the sole responsibility of the authors and do not necessarily represent the position of EPIM.

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## Executive Summary

The aim of this paper is to locate immigrant integration policy measures in the machinery of the European Commission.

**Integration** is defined in this report as **a society's ability to integrate all its members into new arrangements of active citizenship that ensure the long-term wellbeing of all in a diverse society**. An environment of non-discrimination, mutual respect and personal development levels the playing field and enables the active participation of immigrants and nationals in diverse societies.

In order to identify policy measures that impact, or have the potential to impact on immigrant integration, the report examines declared policy and law (and the programmes and financial instruments that support them), and the policy infrastructures in place to promote cooperation, consultation and negotiation.

The report explores:

1. international relations and development policy measures that impact on migratory flows and subsequently, integration;
2. law and policy regarding the admission of migrants;
3. law and policy regarding entry and residence and associated rights;
4. socio-economic policies which facilitate an immigrant's adjustment to the host society; and
5. policy measures that improve societal integration through the promotion of social inclusion, anti-discrimination and diversity to ensure immigrants participate fully in the host society.

The purpose of this mapping exercise is to get a clearer picture of the Commission's approach to immigrant integration in order to assess whether the Commission's efforts have (or have the potential) to enhance European societies ability to integrate all its members into new arrangements of active citizenship that ensure the long-term wellbeing of all in a diverse society.

To provide the information to answer this question, the report looks closely at how the Commission's policies, laws and programmes (whether directed at immigrants or not) impact on immigrants at each stage of their migration journey and the beneficiaries of immigrant integration measures.

### **1. International relations and development policy measures that impact on migratory flows and subsequently, integration.**

An assessment of the policies and programmes of DG RELEX and DG FJS indicates that these are largely directed at stemming the flow of EU bound migrants. This is achieved by:

- reducing migratory push factors, including poverty, limited economic opportunities, lack of basic services, political repression and a lack of respect for human rights.
- enhancing intergovernmental cooperation to regulate forced and voluntary migration by establishing support for migration regimes origin and transit countries; and
- strengthening EU borders.

Efforts to facilitate migration from countries of origin (through the provision of information about legal migration and labour shortages in the EU, as well as pre-departure measures to facilitate integration) are foreshadowed.

## **2. Law and policy regarding the admission of migrants**

Community legislation has been introduced in relation to the needs assessment and admission of particular categories of migrant from outside the EU. Directives generally provide minimum standards while preserving the right of Member States to adopt or maintain more favourable provisions.

Community legislation regarding those seeking international protection is extensive. Although it allows for significant variance in practices between Member States, it does have a measurable impact on the ambit of claims that make an asylum-seeker eligible for protection as well as the quality of decision making that an asylum applicant can expect. It also allows for expedited processing of displaced persons following a mass influx into the EU.

The Directive on the right to family reunification regulates the admission of family members of TNCs who are lawfully resident, but has some significant restrictions. It requires that the sponsor has not only one year's residence, but 'reasonable prospects' of securing permanent residence, which precludes many refugees and migrant workers. In addition, beneficiaries of subsidiary protection are explicitly excluded. The Directive also limits the right of reunification to nuclear family members and allows for refusal on the broad grounds of 'public policy', public security or public health.

The only other categories of migrants to be included in Community legislation are largely uncontroversial – researchers, students, unremunerated trainees and volunteers. The expedited admission process for researchers, in particular, is likely to provide a positive context for integration. The same can be expected from the four specific Directives foreshadowed for highly-skilled and seasonal workers, intra-corporate transferees and remunerated trainees.

Although attempts have been made to harmonise needs assessment and admission regarding skilled migrants and resettled refugees, Member States retain responsibility for these areas. The regularisation of undocumented migrants is rapidly emerging as an issue that could benefit from information sharing and policy-making at the European level.

Financial programmes largely reflect the EUs legislative and policy domain. These focus on ensuring that asylum systems are robust, effective, comparable and fair. The integration process can be smoother if an asylum-seeker (successful or otherwise) believes that they have had their claims heard fairly and respectfully.

Disappointingly, the new framework programme on Solidarity and the Management of Migration Flows does not have a financial instrument that can be used for actions relating to the admission of migrants.

## **3. Law and policy regarding entry and residence and associated rights**

EU immigration and integration policies support the view that newcomers should garner new rights and obligations over time. The examination of community law indicates that rights not only accumulate with time (as indicated by the Long-term Residence Directive), but depends also on the desirability of the category of migrant. A newly-arrived researcher, for example, has greater freedom of movement within the EU than persons enjoying international protection who have been living in that Member State for a number of years.

Community law often limits, rather than allocates, rights. The majority of provisions in Community law stipulate that third-country nationals (TNCs) do not enjoy the same rights as nationals. Without equity, it is difficult to achieve mutual respect between TNCs and nationals, or to secure the personal development and active participation of TNCs. In short, parity of rights is required if TNCs are to enjoy the four dimensions of well-being (anti-discrimination, recognition, development and participation).

The integration framework, which advocates integration as a dynamic, two-way process of

mutual accommodation, asks much more of TNCs than it does of Member States and their residents.

The integration agenda often leaves out those who are most vulnerable and need integration assistance. This includes persons seeking asylum, enjoying subsidiary or temporary protection, and those who are without papers. It also includes those who have been resident in the EU long-term, but are unable to benefit from the security of long-term residence status as their financial and employment situations are too precarious. Despite huge concerns over second-generation youth, they too, fail to secure a place on the EU integration agenda.

The integration agenda also ignores the migrants that it courts – the highly-skilled, who often arrive on a temporary basis. While this group may not have such a pressing need for integration assistance, such help could smooth their settlement process and encourage them to stay for the longer-term.

The Integration Fund and the European Refugee Fund are vital instruments in funding actions that facilitate integration. However, as their scope reflects the integration agenda, actions may not reach those TNCs most in need of integration assistance, those who Member States desperately want to integrate (i.e. second-generation migrant youth), or those that they desperately need (the highly-skilled).

#### **4. Socio-economic policies which enable an immigrant's adjustment to the host society**

EU institutions are increasingly realising the importance of providing immigrants with the means to fulfil their potential in the realms of employment, enterprise and education. Without such opportunities, the skills, knowledge and aspirations of immigrants will be squandered and the EU will be unable to realise the full capacity of its human resources.

The importance of immigrant integration in meeting the socio-economic objectives of the Lisbon strategy, however, is not consistently reflected in policies, programmes or funding structures. For example, the EES has not shown consistent commitment in its prioritisation of immigrants as a disadvantaged group, DG Enterprise and Industry does not have a funding programme to support its ethnic entrepreneurship programme, and although impediments to immigrant integration are frequently identified as a problem, the Education and Training 2010 work programme has undertaken few concrete actions to remedy the situation. This may be in part due to the fact that the policy infrastructure of all three DGs does not provide avenues for structured dialogue with immigrant organisations or organisations working with immigrants.

Incorporating immigrant integration into the socio-economic portfolios may also be difficult due to the fact that the responsibilities of the DGs overlap. Entrepreneurship is imbedded in DG Employment (and is also rising issue in Education and Culture as one of the eight domains of key competences); and education and training, DG Education and Culture's *raison d'être*, forms a key part of DG Employment's EES.

It is not only the responsibilities of the DGs that overlap, but also certain funding programmes. The ESF is one of the EUs most fundamental financial instruments and it provides funding for a broad range of actions. It provides more opportunities for funding for entrepreneurship than DG Enterprise does and provides a significant portion of funding for education and training.

#### **5. The promotion of social inclusion, anti-discrimination and diversity to ensure immigrant participate fully in the host society**

The report considers that the Open Method of Coordination (OMC) for Social Protection and Social Inclusion has proved to be an effective mechanism to facilitate the societal integration of immigrants as has its Community Action Programme to combat social exclusion. It suggests that the following factors are likely to have contributed to its success:



- the common objectives of the OMC include immigrants as a target group;
- structured dialogue with European NGOs;
- the inclusion of a chapter on overcoming discrimination and increasing the integration of particular target groups, including immigrants in the Semester Reports of the networks of independent national experts; and
- the transnational exchange programme in providing a better understanding of strategies to improve immigrants' access to the labour market, health and psychological care and civic engagement.

The broad inclusion of 'immigrants' as a target group in the social inclusion strategy, and the Community Action Programme to combat social exclusion, has acted as both as a hindrance and a help. The failure to disaggregate immigrants by the length of settlement or migration experience and reason for migration can make it difficult to address the specific needs of different immigrant groups. However, it also has the advantage of allowing for a greater range of beneficiaries to be included in target groups than is catered for by DG JLS's Integration and Refugee Fund. For example, it enables second-generation immigrants and irregular migrants to benefit from funded programmes.

Immigrants do not appear to be included as a specified target group for social inclusion actions within the new PROGRESS programme. It is disappointing that PROGRESS does not appear to be capitalising on the gains made through the Community Action Programme to combat social exclusion.

EQUAL has made a considerable investment in projects that support the social and professional integration of immigrants and that take action to overcome barriers such as difficulties in having overseas qualifications and experience recognised, limited language skills, the reluctance of many employers to hire immigrants, and poor information and advisory services. EQUAL's work on asylum seekers has played a key role in identification and dissemination of good practice in helping asylum seekers integrate into society and in mainstreaming their needs.

Anti-discrimination measures are vital in achieving the participation of disadvantaged group. The Racial Equality Directive, introduced in 2000, does not cover difference of treatment based on nationality, but does prohibit direct or indirect discrimination based on racial or ethnic origin. Tackling discrimination against immigrants and highlighting the benefits of a diverse multicultural workforce is evident in DG Employment's policies and programmes relating to anti-discrimination and equity.

The success of anti-discrimination measures is likely to be bolstered by the recently established high-level advisory group on social and labour market integration of disadvantaged ethnic minorities (which includes recent migrants, established ethnic minorities and national minorities); the network of independent legal experts in the non-discrimination field, structured dialogue with funded European NGOs, and the high number of transnational actions with specific relevance to immigrant integration.

EQUAL has awarded at least €355 million to projects that catered for immigrants or ethnic minorities, and for asylum seekers specifically. In addition its budget for the equal opportunities strand is €478.3 million. With EQUAL projects drawing to a close, and with PROGRESS superseding the Community Action Programmes combating social exclusion and against discrimination (PROGRESS has a smaller budget and a less defined focus), the benefits arising from the current policy infrastructure may not be realised.

**Figure 1. Overview of funding criteria for key integration programmes**

<b>Programmes</b>	<b>Funding</b>	<b>Eligibility includes</b>	<b>Co-financing</b>	<b>Annual funding</b>
Thematic Programme for cooperation with third countries in the areas of migration and asylum	Thematic Programme (2007-2013)	Not announced	Not announced	Not announced
AENEAS	AENEAS (2004-2008)	NGO's international organisations, research institutions	50-80%	€120m (2004-06)
ARGO	ARGO (2002-2006)	Projects must involve national agencies	60% (80% in exceptional circumstances)	€5.4m (2006)
Solidarity and management of migration flows	The External Borders Fund (2007-2013)	National partners can include public authorities, international organisations, NGO's social partners	50% 75% for cohesion countries and specific Community priorities.	€170m (2007)
INTI Preparatory Programme	INTI (2003-06)	NGOs, public or private bodies, including university departments, research centres and international organisations	70%	€5m (2006)
Solidarity and management of migration flows	European Integration Fund (2007-2013)	NGOs, public or private bodies, including university departments, research centres and international organisations	50% 75% for cohesion countries and specific Community priorities.	€65m (2007)
Solidarity and management of migration flows (2007-2013)	European Refugee Fund (2007-2013)	NGOs, universities, international organisations	50% 75% for cohesion countries and specific	€71.4m (2007)

			Community priorities.	
EES National Reform Programmes	ESF (2007-2013)	Educational and training institutions, NGOs and the voluntary sector, trade unions, works councils, industry and professional associations, and individual companies.	For Convergence: 75% (80% cohesion fund & 85% outermost regions)  Regional Competitiveness and Employment: 50% (and up to 85% for the outermost regions)	€70 billion 2000-06
Education and Training 2010 work programme	Lifelong Learning Programme (2007-2013)	Legal entities	75% (n/a for actions under €25,000)	€784m (2007)
Community Action Programme to combat social exclusion	Community Action Programme to combat social exclusion (2002-2006)	Bodies for the promotion of equal treatment; social partners; NGOs, universities and research institutes, national statistical offices and the media.	-	€19.2m (2006)
EQUAL	EQUAL (2001-2006)	Partners include training bodies, public employment services, NGOs, enterprises, social partners.	50%	€3.3 billion (2001-2006)
PROGRESS	PROGRESS (2007-2013)	Public and private bodies, and relevant actors and stakeholders.	maximum of 80%	€24.3

## Chapter 1: Introduction

The aim of this paper is to locate immigrant integration policy measures in the machinery of the European Commission and to assist stakeholders to link national and European debates on migration and integration.

This introduction first proposes a working definition of migration. It then explains how migration reasons and entry conditions impact on integration. Finally it sets out how the European Commission's policies and programmes are mapped.

### 1.1. Defining integration

Integration is a multifaceted, long-term, multi-generational and not necessarily linear process. The definition of integration applied in this report is **'a society's ability to integrate all its members into new arrangements of active citizenship that ensure the long-term wellbeing of all in a diverse society'**<sup>1</sup>.

This concept of well-being must be unravelled in order to understand its various dimensions that may impact integration across policy realms. Well-being can be fleshed out and evaluated according to the four dimensions developed by the Council of Europe's 'concerted development of social cohesion indicators.' Each dimension encompasses a broad concept of social life and the policy response that governs it:

- *Non-discrimination promotes equity* - fair and equal access to available resources and rights. Anti-discrimination measures represent the core policy response.
- *Recognition promotes dignity* - the rights of the individual to recognition and respect. Policy responses in this realm negotiate the right to and limits of self-expression in diverse societies.
- *Development promotes autonomy* - the right of the individual to make his/her own choices and lead an autonomous life. Policy responses concern access to knowledge, the acquisition of skills and competencies and personal improvement.
- *Participation promotes commitment* - dynamic interactions between active citizens and open, flexible societies. Policy responses encourage individuals to exercise their civic rights. Policy should encourage social bodies to seek out and embrace the contributions of these individuals.

This emphasis on participation, which permeates all four dimensions, represents one of the major advantages of the Council of Europe's definition. An environment of non-discrimination, mutual respect and personal development levels the playing field and enables the active participation of immigrants and nationals in diverse societies. Given that rights materialise through active participation, the Council of Europe's four dimensions encourage individuals to secure the all member's rights to equal access, self-expression, individual development and civic participation. Such an active investment in mutual rights and responsibilities yields immense returns for the well-being of diverse societies.

The Council of Europe's definition also advocates for "quality" living standards for all citizens in all aspects of their daily lives and all stages of their lives, rather than least common denominators and bare minimums. It recognises the shared responsibility of public authorities and all stakeholders to play collaborative roles across institutional competencies and policy arenas. Lastly, this definition wishes to be comprehensive of and applicable to all members of society as a whole.

### 1.2. The Migration–Integration Nexus

Figure 2 shows in the left column the pathways of individual migrants: from (reason of) their mobility, via entry and settlement to adjustment and participation. The left column summarises the corresponding policy fields: from international relations and needs and

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<sup>1</sup>This definition is proposed in MPG's report for European Parliament 'Setting up a system of benchmarking to measure the success of integration policies in Europe', January 2007.

impact assessments to migration policies, socio-economic policies and citizenship and integration policies. Brief descriptions of each of the two columns are followed by an identification of related information sources.

Figure 2: The migration-integration nexus

<i>Migration pathways</i>	<i>Policy streams</i>
<p><b>Mobility reasons</b> Motivation Aspiration Capacity</p> <p><b>Migration purpose</b> Migrant workers; students; Family members; Refugees</p> <p><b>Settlement</b> Entry conditions Residence conditions Rights and responsibilities</p> <p><b>Adjustment</b> Adaptation to socio-economic requirements Acquisition of new competences Risk-taking and entrepreneurship</p> <p><b>Participation</b> Economic contribution Socially engaged Active citizen</p>	<p><b>International relations and development</b> Population and human rights policies Acting on forced or voluntary movements Transferability of capital, knowledge and values</p> <p><b>Needs assessment and admission</b> Economic migration Social Migration Protection</p> <p><b>Immigration rules and procedures</b> Degree of free movement Security and transparency Access and equality</p> <p><b>Socio-economic policies</b> Assessing human resources needs Matching supply and demand Bridging conflicting interest</p> <p><b>Citizenship and societal integration</b> Dynamic economies Open societies Diversity</p>

The chapters of this report are based on each of the migration pathways. Each chapter identifies the policies, programs and funding that is available for each stage of the immigrant's journey through the migration-integration nexus. Figure 3 provides an overview of the chapter structure and content.

### 1.3. Locating integration policies and programmes in EU machinery

In order to locate immigrant integration policy measures in the machinery of the European Commission, the report explores:

- international relations and development policy measures that impact on migratory flows;
- law and policy regarding the admission of migrants;
- law and policy regarding entry and residence and associated rights;
- socio-economic policies that facilitate an immigrant's adjustment to the host society; and
- policy measures that improve societal integration through the promotion of social inclusion, anti-discrimination and diversity to ensure immigrants participate fully in society.

The report identifies:

- the law and policies that impact, or have the potential to impact, on immigrant integration;

- the policy infrastructure in place to promote co-operation, consultation and negotiation by which issues of immigration integration are directly or indirectly addressed. These include mechanisms such as the Open Method of Coordination (OMCs) and governmental networks, such as National Contact Point. It also looks at how dialogue with civil society organised and identifies the main partners;
- the programmes in place to support legislation and/or other policy measures to ascertain whether these directly or indirectly target immigrants or minorities, and if so, whether the target groups are clearly defined; and
- the financial instruments that are in place to support legislation and/or other policy measures that facilitate, or have the potential to facilitate, immigrant integration, including the amount of funding, the funding criteria, including eligibility and co-financing.

The purpose of this mapping exercise is to get a clearer picture of the Commission's approach to immigrant integration in order to assess whether the Commission's efforts have (or have the potential) to enhance European societies ability to integrate all its members into new arrangements of active citizenship that ensure the long-term wellbeing of all in a diverse society. To provide the information to answer this question, the report looks closely at:

- how the Commission's law, policies and programme (whether directed at immigrants or not) impact on immigrants at each stage of their migration journey; and
- the beneficiaries of immigrant integration measures.

This report has identified the key Directorate Generals (DGs) relevant for integration. Clearly all DGs should take into consideration the needs of immigrants in the design of their legislation, policy and programmes, yet it is beyond the scope of this paper to examine the work of each DG in detail. The DGs that are included either have migration policy or immigrant issues in their mandate, or explicitly or implicitly mentioned in its main pieces of legislation and policy papers (Communications).

Figure 3. Overview of the report's structure and content.

<b>Ch</b>	<b>Migration Pathways</b>	<b>Policy streams</b>	<b>DG</b>	<b>Programmes</b> * Denotes programme closure	<b>Funding</b>
2	<b>Mobility Reasons</b>	International Relations and Development	RELEX  JLS	Thematic Programme for cooperation with third countries in the areas of migration and asylum  The ARGO programme*  Solidarity and the Management of Migration Flows	Financial instrument for the Thematic Programme  ARGO*  The External Borders Fund and Budget line B7-667
3	<b>Migration Purpose</b>	Needs assessment and admission	JLS	The ARGO programme*  Solidarity and management of migration flows	ARGO*  European Refugee Fund
4	<b>Settlement</b>	Immigration Rules and procedures	JLS	INTI Solidarity and management of migration flows	INTI European Integration Fund European Refugee Fund
5	<b>Adjustment</b>	Socio-economic policies: employment, entrepreneurship and education.	Employment Enterprise Education	National Reform Programmes  Multi-annual Programmes  Education and Training 2010 work programme	ESF  Grant Programme 2007, ESF and EQUAL*  Lifelong Learning Programme 2007-2013 and ESF
6	<b>Participation</b>	Citizenship and societal integration: Social inclusion, anti-discrimination and diversity	Employment	Community Action Programme to combat social exclusion* EQUAL* PROGRESS  The Community Action Programme to combat discrimination* EQUAL* PROGRESS	Community Action Programme to combat social exclusion* EQUAL* PROGRESS  The Community Action Programme to combat discrimination* EQUAL* PROGRESS

## **Chapter 2 Migration reasons: international relations and development**

Integration into receiving societies greatly depends on the individual's reasons for migration and their aspirations and capacities to migrate and to build a new life elsewhere. Migration can be a survival strategy, as a response to harsh situations and harmful circumstances, such as poverty, uneven distribution of income and opportunities, the breakdown of the economic and social fabric and political repression. Migration can also be an opportunity strategy, as a means to find the best place to realise one's life and livelihood and to match personal skills with favourable circumstances abroad. In both cases, it is evident that global economic disparities and opportunities gaps between countries act as the key drivers of international migration. Those individuals who chose to migrate, men and women alike, tend to be young, entrepreneurial and risk-taking. Their motivations, aspirations and capacities contribute to receiving societies and could enhance their integration.

The corresponding policy stream on (cross border) mobility reasons concerns questions of international relations. The international agenda touches on questions of motivation through cooperation on population issues such as urbanisation, balanced population growth, etc. and the promotion of human rights: from civil to political rights, to socio-economic rights and cultural rights.

Intergovernmental cooperation regulates aspirations towards forced and voluntary migration through distinct channels: refugee protection, establishment of and support for migration regimes (in receiving countries as well as in regions of origin and transit), fight against human trafficking, working on security issues, etc. The elimination of barriers for the free movement of labour and service provision is also an issue on the international agenda.

The capacities of migrants are addressed in the design of international codes for employment and self-employment, the promotion of transferability of human capital and the recognition of skills and qualifications. The capacities of immigrants are affected by the events and developments in their countries of origin (i.e. educational levels, employment opportunities, exercise of democratic laws and civil society freedoms). Conversely, migrants contribute to capacity-development in their countries of origin (transfers of money, knowledge and values).

This chapter explores the work of DG External Relations (DG RELEX) and DG Freedom, Security and Justice (DG JLS). Although this chapter addresses DG RELEX and DG JLS separately, their policies and programmes relating to international relations and migration are highly interrelated and both DGs feed into the policy process of the other.

### **2.1. DG External Relations**

This section explores the work of DG RELEX, the lead EU agency responsible for international relations and development. It focuses primarily on EU cooperation with third countries in the areas of migration and asylum.

It outlines DG RELEX's mission statement, its declared policies relating to the migration-integration nexus, and their policy infrastructure; the thematic programme on cooperation with third countries in the areas of migration and asylum and its financial instrument.

#### **2.1.1. DG RELEX mission statement**

DG RELEX mission is to support the objectives of the EU external policy by means of cooperation, development aid, conflict prevention and human rights programmes and projects, including promotion of the EU's identity on the international stage, notably through implementation of the common foreign and security policy. In the context of an enlarged Union, one of the key objectives of this policy area is to propose a stable and comprehensive political framework for the EU's neighbouring countries.

DG RELEX is responsible for the Commission's relations with international organisations, bilateral relations with third countries, its participation in the Common Foreign and Security Policy and European Neighbourhood Policy.



The integration of concerns related to migration and asylum within the external policy and programmes of the EU forms part of the effort to address migration issues in a coherent and efficient way at EU level. This has involved the close cooperation between DG RELEX, DG Freedom, Security and Justice (DG JLS) and DG Development.

### **2.1.2. Declared Policies**

The October 1999 Tampere European Council Presidency Conclusions called for the development of partnerships with countries of origin. They highlighted the need for a comprehensive approach to migration addressing political, human rights and development issues in countries and regions of origin and transit. This required combating poverty, improving living conditions and job opportunities, preventing conflicts and consolidating democratic states and ensuring respect for human rights.

The AENEAS programme was established in 2004 to provide third countries with financial and technical assistance in the areas of migration and asylum. Its main objectives are protecting migrants' rights against exclusion, discrimination and exploitation; facilitating the use of legal channels for labour migration; fighting against illegal migration with a particular focus on trafficking and smuggling of human beings; improving the capacity to provide refugees with asylum and international protection; facilitating the readmission and social and professional reintegration of returnees.

In August 2005 the Commission adopted the Communication on External Actions through Thematic Programmes under the Future Financial Perspectives 2007-2013, which confirms that the work of the AENEAS programme in cooperating with third countries in the areas of migration and asylum is envisaged to continue as a thematic programme within the framework of the financial perspective 2007–2013.

The Commission then carried out a public consultation to assist in proposing the scope, objectives and political priorities for the new thematic programme. The result was the 2006 Commission Communication on the thematic programme for the cooperation with third countries in the areas of migration and asylum<sup>2</sup>. When the European Parliament and the Council have responded to this Communication, the Commission will draft the thematic strategy and propose the budget for the programme. The budget was to be approved by the end of 2006.

The aim of the thematic programme is to provide specific, complementary assistance to third countries to support them in their efforts to ensure better management of migratory flows by:

- fostering the links between migration and development;
- promoting well-managed labour migration;
- fighting illegal migration
- facilitating the readmission of illegal immigrants;
- protecting migrants against exploitation and exclusion; and
- promoting asylum and international protection of refugees.

Activity to create legal pathways for migration, albeit with a focus on temporary labour migration, is to be accompanied by an even greater focus on preventing the unauthorised entry of migrants into the EU. This is largely to be achieved by enlisting the cooperation of third countries in the fight against irregular migration and conducting capacity building initiatives.

### **2.1.3 Policy infrastructure**

External relations policy infrastructure includes:

- cooperation strategies;
- dialogue with civil society; and

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<sup>2</sup> COM(2006) 26 final

- consultation on the thematic programme.

### **2.1.3.1. Cooperation strategies**

The Commission has incorporated questions relating to migration and asylum in its political dialogues with third countries and by mainstreaming these questions in its cooperation strategies. These notably include the European Neighbourhood Policy and cooperation agreements with the following regions:

- African, Caribbean and Pacific Group of States;
- Southern Mediterranean;
- Asia; and
- Latin America

#### European Neighbourhood Policy

The European Neighbourhood Policy was developed in 2004 in an effort to avoid the emergence of new dividing lines between the enlarged EU and its neighbours. It aims to strengthen the prosperity, stability and security of the region. Relations with partner countries are to be enriched drawing on the experience gained in supporting the process of political and economic transition, as well as economic development and modernisation in the new Member States and candidate countries.

In the European Neighbourhood Policy strategy paper<sup>3</sup>, co-operation on migration, asylum and visa policies are presented as potential priorities for the action plan. The paper highlights the importance of improving border management, cooperation in the fight against illegal immigration, and management of legal migration and implementation of migration plans, such as that with the three central Maghreb countries, Libya and Egypt.

#### Southern Mediterranean (Euromed)

The Euro-Mediterranean Conference of Ministers of Foreign Affairs, held in Barcelona in 1995, marked the starting point of the Euro-Mediterranean Partnership (the Barcelona Process), a wide framework of political, economic and social relations between the Member States and partners of the Southern Mediterranean.

At the 10th Anniversary Euro-Mediterranean Summit, partners agreed to the implementation of a Five Year Work Programme, of which migration forms a key strand. The Euro-Mediterranean partnership is to enhance co-operation in order to:

- promote legal migration opportunities. This includes facilitating legal migration (and recognising it as an opportunity for economic growth and a mean of improving links between countries); ensuring the fair treatment of legal migrants and developing integration policies for them; facilitating the transfer of remittances; and addressing 'brain drain'; and
- significantly reduce the level of illegal migration, trafficking in human beings and loss of life through hazardous sea and border crossings.

#### African, Caribbean and Pacific Group of States

The 2000 Cotonou Agreement, signed in Cotonou, Benin, for a period of twenty years, set up a new framework for cooperation between the members of the African, Caribbean and Pacific Group of States (ACP) and the EU. It is designed to promote and expedite the economic, social and cultural development of the ACP States, contribute to peace and security and promote a stable and democratic political environment.

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<sup>3</sup> SEC(2004) 564, 565, 566, 567, 568, 569, 570

Article 13 of the agreement relates to migration. It states that migration shall be the subject of in-depth dialogue in the framework of the ACP-EU Partnership. Article 13 has four key dimensions:

- Securing anti-discrimination: It states that the parties *agree to consider* that a partnership *implies* fair treatment. Hence, the wording is incredibly weak. Integration policy is to aim at granting Third Country Nationals (TNCs) rights and obligations comparable to those of their citizens, enhancing non-discrimination in economic, social and cultural life and developing measures against racism and xenophobia. EU nationals who work legally on the territory of ACP partners (and visa versa) are to be free from any discrimination based on nationality, as regards working conditions, remuneration and dismissal, relative to its own nationals.
- Reducing socio-economic push factors: It acknowledges the importance of reducing poverty, improving living and working conditions, creating employment and developing education and training opportunities as a long-term strategy to normalise migratory flows.
- Preventing illegal immigration: Illegal immigration is to be placed on the agenda of the Council of Ministers with a view to establishing a prevention policy.
- Facilitating readmission agreements: Member States *are to accept* the return of and readmission of any of their nationals illegally present in the territory of an ACP partner *without further formalities*, and visa versa. Hence, the agreement's wording as regards to readmission is very strong.

The Cotonou Agreement outlines the protocol for the ACP-EU Joint Parliamentary Assembly, which brings together Members of the European Parliament and the elected representatives of the ACP countries that have signed the Cotonou Agreement.

ACP partners have traditionally campaigned for stronger anti-discrimination measures for their nationals residing in the EU; while Member States have traditionally campaigned to establish and strengthen readmission agreements.

The 13th session of the ACP-EU Joint Parliamentary Assembly, which will take place in Germany in June 2007, will be considering the reports drawn up by the Standing Committees on the migration of skilled workers and its effect on national development.

### Asia

At the inaugural Asia-Europe Meeting (ASEM) in Bangkok in 1996, all participants agreed to work together to create a new Asia-Europe partnership, to build a greater understanding between the two regions and to strengthen dialogue.

The Asia-Europe Cooperation Framework was adopted by Heads of State/Government at ASEM 3 in Seoul in 2000. It sets out the vision, principles, objectives, priorities and mechanisms for the ASEM process for the following ten years.

Migration is not a key element of the Framework, although it does state that efforts should address global issues of common concern, including managing migratory flows; combating the smuggling and exploitation of migrants and the trafficking of persons in particular women and children; and combating racism and xenophobia.

### Latin America

In December 2005, the European Commission adopted a policy paper on the development of a stronger partnership between the EU and Latin America<sup>4</sup> to give new impetus to this

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<sup>4</sup> Com (2005) 636 final

strategic partnership by strengthening dialogue and cooperation between the two regions and reviewing strategies and policies to better address emerging global challenges.

Migration is not a high priority. The Communication does, however, address migration in the context of supporting Latin America's efforts to reduce social inequality, poverty and exclusion. It notes that many Latin American nationals faced with economic exclusion seek work abroad and that migratory flows to Europe, which have grown rapidly, have become a major challenge in economic, social and political terms, for the countries of origin. It suggests that particular attention be paid to anti-discrimination policies and that high-migration countries take greater advantage of the potential benefits of migration.

### **2.1.3.2. Dialogue with civil society**

National, European and international Development NGOs represent a powerful lobbying force in regard to EU foreign policy.

The EU also has avenues for structured dialogue with civil society. DG RELEX has close relations with the European Economic and Social Council's (EESC) section for External Relations, which facilitates dialogue with organised civil society in third countries, particularly those countries and regions with which the EU has structured relations. The EESC's section for External Relations also monitors relations between the EU and third countries. Notably, it has played a vital role in incorporating the views of civil society in the southern Mediterranean and in ACP states.

#### Southern Mediterranean

The Barcelona Declaration invited the EESC to establish links with its Mediterranean counterparts and equivalent bodies in order to contribute to a better understanding of the major issues relevant to the Euro-Mediterranean Partnership. As a result, an annual Euro-Mediterranean Summit of Economic and Social Councils and similar institutions has been held since 1995. Migratory flows have been one of the key issues addressed during the summits.

EESC has also developed contacts with the Euro-Mediterranean Parliamentary Assembly, and has strengthened its ties with the Euromed NGO platform.

EESC have also been active in monitoring EU relations with the southern Mediterranean. The EESC's Information Report on Greater involvement of civil society organisations in the Euro-Mediterranean partnership at national and regional level<sup>5</sup> states that greater efforts are needed to initiate serious and honest dialogue on migration (amongst other issues). It also advises the Commission to be particularly prudent and sensitive in considers matters relating to immigration policy that have particular social, political and economic implications in order to reach an impasse in a few years' time.

#### African, Caribbean and Pacific Group of States

In Protocol 1 of the Cotonou Agreement, Ministers made the EESC responsible for organising meetings and consultations with ACP-EU economic and social interest groups. The Cotonou Agreement also provides for follow-up dialogue between economic and social interest groups and the ACP-EU Joint Parliamentary Assembly on the one hand, and the ACP-EC Council of Ministers, on the other.

These contacts take place at the following levels:

- Regular meetings of the ACP-EU Follow-Up Committee composed of 12 EESC members and 12 representatives of ACP economic and social interest groups;

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<sup>5</sup> CESE 217/2003 fin rev

- Regional seminars in ACP countries designed to provide information on the Cotonou Agreement and monitor its implementation, in addition to informing delegates on the negotiations on the Economic Partnership Agreements and providing a forum for discussing a topic of common interest with civil society representatives in the region;
- General meetings of ACP-EU economic and social interest groups every two years in Brussels, with representatives from all the ACP countries. The recommendations from these meetings are forwarded to the political authorities.

In addition, the EESC maintains regular contacts with the Economic and Social Councils and similar organisations in the ACP countries, both through bilateral relations and the meetings of the International Association of Economic and Social Councils.

The EESC has for many years maintained regular contacts with the Joint Parliamentary Assembly by presenting a report on its activities at the Assembly's sessions and by inviting the latter's co-presidents to chair the meetings of ACP-EU economic and social interest groups.

The ACP-EU Follow-up Committee also regularly attends the annual meetings of the ACP-EC Council of Ministers and presents the views of economic and social interest groups, including those on migration.

#### **2.1.3.3. Consultation on the thematic programme**

The thematic programme for cooperation with third countries in the areas of migration and asylum is being developed with input from its 2005 public consultation, which involved all the relevant actors and interlocutors, including experts, civil society and international organisations.

#### **2.1.4. The Thematic Programme for cooperation with third countries in the areas of migration and asylum**

The thematic programme has yet to be confirmed. The proposed five strands of the programme are outlined below.

##### 1. Fostering the links between migration and development

Migration is an intrinsic part of the development process. The Commission's 2002 Communication on the integrating migration issues in the EU's relations with third countries<sup>6</sup> recognised that, although the long term priority of the Community is to address the root causes of migration, more attention could be given to identifying some concrete orientations likely to have a positive impact on the link between migration and development.

The Commission September 2005 Communication on Migration and Development: some concrete orientations<sup>7</sup>, the production of which had been led by DG JLS, proposed a toolbox for improving the linkages between migration and the development of countries of origin. It supported the development of a thematic programme that would extend greater benefits to countries of origin. This was to be achieved largely through the creation of greater opportunities for temporary labour migration, which could improve the financial situation of origin countries through remittances while mitigating the 'brain drain' from the developing world by encouraging / facilitating the return of migrant workers.

##### 2. Promoting well-managed labour migration

The Commission emphasised that the management of economic migration requires dialogue and cooperation with third countries in order to jointly improve the management of international labour migration. It suggests that the thematic programme could help to:

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<sup>6</sup> COM(2002) 703 final

<sup>7</sup> COM(2005) 390 final

- disseminate information about the legal framework for migration and conditions of entry in and stay in the EU;
- disseminate information about labour migration opportunities and needs in Member States, including the qualifications required;
- support to pre-departure training for candidates to legal migration to the EU, including information about integration in Member States and migrants' rights and obligations; and
- encourage the definition and implementation of legislative frameworks for migrant workers in third countries.

### 3. Fighting illegal migration and facilitating the readmission of illegal immigrants

The thematic programme aims to support cooperative projects with third countries in the following areas.

- The prevention and fight against illegal immigration, including through improving capacities in the areas of border, visa and passport management and detection of forged documents.
- The fight against smuggling of and trafficking in human beings and in distributing information aiming at discouraging illegal immigration and at raising awareness about its risks.
- Implementation of readmission agreements, including social and professional reintegration of returnees with the aim of making their return sustainable.
- Assisting third countries in the management of illegal immigration, including the negotiation and implementation of readmission agreements.

### 4. Protecting migrants in third countries against exploitation and exclusion

The thematic programme may also include initiatives to promote opportunities for migrants to be integrated into the host societies of third countries and to protect them against mistreatment. Possible interventions include the development of legislation on admission and equal treatment, promoting integration and non-discrimination, and preventing the trafficking and exploitation of human beings.

### 5. Promoting asylum and international protection of refugees

The EU supports the view that solutions to refugee problems should be found first and foremost in regions of origin, which often host the largest refugee populations and the host countries also often lack the institutional and financial capacity to address these challenges. The thematic programme's focus on enhancing support for international protection largely centres on supporting activities outside the EU. These include strengthening the institutional capacities and legal frameworks of third countries, including through the promotion of international standards; supporting the registration, reception and local integration of asylum applicants and refugees; and the durable reintegration of returnees and resettlement programmes.

#### **Box 1 - Regional Protection Programmes**

The Commission's Communication on the managed entry in the EU of persons in need of international protection and the enhancement of the protection capacity of the regions of origin<sup>8</sup> made concrete proposals for wider and more comprehensive action which can enhance protection capacities in the regions of origin, and more generally improve the accessibility, the equitableness and the management of the international protection regime. This is to be achieved by providing practical support in the examination of asylum applications, the reinforcement of subsidiary protection, integration and documentation.

<sup>8</sup> COM(2004) 410 final

The Commission undertook to implement EU Regional Protection Programmes and this was agreed by the Council<sup>9</sup>. The stated aim of the Programme is to enhance the capacity of areas close to regions of origin to protect refugees and to help create the conditions for durable solutions. The first pilot of the Regional Protection Programme was based in Eastern Europe (Ukraine, Belarus and Moldova) and the second in the Great Lakes region (Tanzania).

Regional Protection Programmes form part of the AENEAS programme. The Eastern European dimension is also part financed by the Technical Aid to the Commonwealth of Independent States (TACIS) program, an institutional restructuring programme to help members of the Commonwealth of Independent States, as well as Mongolia, in their transition to democratic market-oriented economies.

### **2.1.5. Financial instrument for the Thematic Programme**

The budget for the thematic programme for cooperation with third countries in the areas of migration and asylum is not yet known. The amount of funding and the conditions thereof could be gauged in part by its predecessor – the AENEAS Programme.

AENEAS established a five-year instrument (2004-2008), with an overall indicative budget of €250 million, including €120 million for the period 2004-2006. Grants for proposals were required to be between EUR 500,000 and 2,000,000.

The amount of grant contribution requested may not have exceeded 80% of the total eligible costs of the action and may not be less than 50% of the total eligible costs of the action. The balance was to be financed by the applicant's or partners' own resources, or from sources other than the European Community budget or the European Development Fund.

In order to be eligible for a grant, applicants must have been

- not-for-profit legal entities and
- belong to one of the following categories:
  - NGOs or other non-state actors; or
  - international organisations; or
  - for the beneficiary countries, public organisations or national agencies, public bodies and authorities at regional or municipality level in beneficiary countries, having a distinct legal personality from the State or Ministries; or
  - for the Member States of the EU, public entities at national, regional or municipal level; or
  - Universities and research institutes;
- be nationals of a Member State of the EU or in an eligible country and be directly responsible for the preparation and management of the action with their partners.

In addition to the thematic programme, funding for migration-related initiatives may also be available to implement cooperation strategies with third countries where migration features highly on the agenda. Funding instruments include:

- The MEDA programme. This is the EU's principal financial instrument for the implementation of the Euro-Mediterranean Partnership, which offers technical and financial support measures to accompany the reform of economic and social structures in the Mediterranean partners
- The European Development Fund. This is the main instrument for Community assistance to the ACP States.

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<sup>9</sup> COM 2005 388 final and Council document no. 12593/05

- Various geographical programmes, including TACIS (Eastern Europe and Russia) and MEDA provide financial assistance to the countries of the European Neighbourhood Policy.

### **Box 2 - The role of DG Development in the migration-integration nexus**

DG Development's mission is to help to reduce and ultimately to eradicate poverty in the developing countries through the promotion of sustainable development, democracy, peace and security. DG Development plays a key role in reducing the drivers for migration. Recent policy statements with a particular impact on migration include the following Communications by the Commission.

- Social Dimension of Globalization<sup>10</sup>, which highlights the importance of fully addressing migration issues in shaping globalization and of assessing the development impact of migration policies.
- Thematic programme for human and social development<sup>11</sup>, which impacts on migration incentives through support for the improvement of living and working conditions in developing countries.
- Policy Coherence for Development - Accelerating progress towards attaining the Millennium Development Goals<sup>12</sup>, which commits the EU to promoting synergies between migration and development, and to make migration a positive factor for development.
- EU strategy for action on the crisis in human resources for health in developing countries<sup>13</sup>, which identifies the need to support enabling environments, incentives and working conditions in resource-poor countries, to help retention, and to look at codes of ethical recruitment of skilled health care workers.
- The European Union Development Policy - the European Consensus<sup>14</sup>, which argues that development is the most effective long-term response to forced migration and destabilizing migratory flows and that the positive impact of migratory phenomena for developing countries must be maximized.

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<sup>10</sup> COM (2004) 383

<sup>11</sup> COM (2006) 18

<sup>12</sup> COM (2005) 134

<sup>13</sup> COM (2005) 642

<sup>14</sup> COM (2005) 311



## **Section 2.2. DG Freedom, Security and Justice**

This section examines the work of DG Freedom, Security and Justice (DG JLS), which is the lead EU agency responsible for the management of migratory flows.

It outlines DG JLS's mission statement and its declared policies relating to migratory movements, its policy infrastructure supporting the policy framework, the ARGO programme and the framework programme Solidarity and management of migration flows, and financial instruments.

### **2.2.1. DG JLS mission statement;**

DG JLS is to make the entire EU territory an 'area of freedom, security and justice' EU citizens must be free to move and settle whenever and wherever they wish and they must enjoy the privileges, protection, and obligations of living in a State governed by the rule of law. Its specific tasks and responsibilities are laid down by the Treaty of Rome, the Treaty of Amsterdam and the conclusions of the European Council meeting in Tampere in October 1999.

### **2.2.2. Declared policies relating to the management of migratory flows**

October 1999 Tampere European Council Presidency Conclusions call for the development of a common EU policy in the following areas:

- The efficient management of migration flows: it calls for the development, in close co-operation 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. It also call for the further development of a common active policy on visas and false documents, including closer co-operation between EU consulates in third countries and, where necessary, the establishment of common EU visa issuing offices.
- Tackling illegal immigration at the source: It proposes legislation that imposes sanctions on those who engage in trafficking in human beings and economic exploitation of migrants. It asks that Member States, together with Europol, to focus their efforts on detecting and dismantling criminal networks and upholding the rights of the victims of such activities, particularly women and children.
- Enhancing co-operation and mutual technical assistance between the Member States' border control services.
- Providing effective control of the EU's future external borders by specialised trained professionals.
- Promoting voluntary return and helping the authorities of origin countries to strengthen their ability to effectively combat trafficking in human beings and cope with their readmission obligations towards the EU and Member States.
- Concluding readmission agreements or including standard clauses in other agreements between the European Community and relevant third countries or groups of countries.

In November 2004, the European Council adopted the Hague Programme, which aims to extend and complete by 2010 the actions undertaken in Tampere for building an area of freedom, security and justice. The Hague programme states that "EU policy aims at assisting third countries, in full partnership, using existing Community funds where appropriate, in their efforts to improve their capacity for migration management and refugee protection, prevent and combat illegal immigration, inform on legal channels for migration, resolve refugee situations by providing better access to durable solutions, build border-control capacity, enhance document security and tackle the problem of return".

In November 2005 the Commission adopted a Communication laying down priority actions for improving migration management<sup>15</sup>. The Commission's initiatives on migration issues presented in the Communication are to be taken forward within the existing framework of the Commission work in the fields of Development, External Relations, in particular the European Neighbourhood Policy, and Freedom, Security and Justice.

Three key actions, which all relate to border security, are identified in the Communication:

- the EU must look into the feasibility of establishing a surveillance system and, a Mediterranean Coastal Patrols Network, to eventually cover the whole of the Mediterranean Sea, providing the necessary tools to detect illegal immigration and save lives at sea. It proposes that the FRONTEX agency would coordinate the surveillance activities.
- the EU Member States and key third countries to jointly develop a strategy and operational cooperation between countries of origin, transit and destination in order to manage migration more effectively along key migration routes. This would include actions aimed at making legal migration a success while enhancing the fight against illegal migration and trafficking in human beings.
- The EU will work with North African countries to assist them in their efforts to better manage migratory and refugee movements, trafficking in human beings, as well as promoting legal channels for migration. EU support includes technical assistance, equipment and training, and providing financial support to initiatives by EU Mediterranean partners.

In July 2006 the Commission adopted a further Communication on policy priorities in the fight against illegal immigration of TNCs<sup>16</sup>. In addition combatting trafficking of human beings including, it proposes:

- cooperation with third countries in the implementation of short and mid-term measures to tackle ongoing illegal immigration in the Mediterranean region, including joint patrols, surveillance and reinforced response capacity.
- strengthening the EU's external borders through the creation of an automated entry-exit system for registration of TNCs entering into or leaving EU territory to enable Member States to verify if a third-country national was "overstaying" as well as facilitating legal migration management. A further approach would consist in an enhanced use of advance passenger data for border and illegal immigration control purposes to develop threat analyses and risk assessments.

### **2.2.3. Policy Infrastructure**

The policy infrastructure in relation to cooperation with third countries on immigration and asylum was addressed in section 2.1.3.

The implementation of measures to address illegal immigration has largely been developed with officials of Member States. DG JLS have foreshadowed an evaluation of the effectiveness of legislation regarding illegal migration with a view to identifying and shortcomings or gaps. This will specifically cover legislation on commercial carriers' obligations to prevent illegal immigration and measures against the facilitation of unauthorised entry, transit and residence (smuggling). The evaluation is to be carried out in close cooperation with both Member States as well as relevant stakeholders, including the transport industry and humanitarian organisations.

### **2.2.4. Programmes**

This section looks at two programmes – the ARGO Programme and the Framework Programme on Solidarity and Management of Migration Flows. The ARGO Programme covered the period January 2002 to 31 December 2006. Actions under the 2006 ARGO

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<sup>15</sup> COM/2005/0621 final

<sup>16</sup> COM (2006) 402

programme will wind down by 2008, by which time the Framework Programme on Solidarity and Management of Migration Flows will have commenced.

#### **2.2.4.1. The ARGO programme**

ARGO is an action programme for administrative cooperation at EU level in the fields of external borders, visas, asylum and immigration. It, in part, replaced the Odysseus programme.

The ARGO programme's objectives are to promote cooperation between national administrations responsible for implementing Community rules and to ensure that proper account is taken of the Community dimension in their actions; promote the uniform application of Community law; and encourage transparency of actions taken by the national authorities and to improve the overall efficiency of national administrations in their tasks.

The ARGO programme supports activities that enhance the effectiveness of controls at the external borders and that aid the fight against illegal migration. It also supports activities relating to the following stage of the immigration-migration nexus - needs assessment and admission (see Chapter 3), including the harmonisation of policies and procedures regarding visas; establishing a common European asylum system, the effective and homogeneous application of rules on legal immigration; and the return of illegal residents.

ARGO supports actions such as:

- training;
- staff exchange;
- promoting the computerised handling of files and electronic data exchange;
- setting up of common operative centres and of teams composed of staff drawn from two or more Member States;
- studies, conferences and seminars; and
- co-operation with third countries .

DG JLS is responsible for the management and implementation of the ARGO programme, in partnership with the Member States. It must also prepare an annual work programme and evaluate and select the actions proposed. DG JLS is assisted by 'the ARGO Committee', which comprises representatives of the Member States. DG FJS may also propose its own actions in the annual work programme.

The Work Programme for 2006 focuses on actions designed to address the problems caused by illegal migration by sea, which was a priority expressed at the Luxembourg JHA Council of June 2005, in the Commission's Communication November 2005 on priority actions for responding to the challenges of migration, as a first follow-up to Hampton Court, and in the Conclusions of the European Council of 15/16 December 2005.

The 2006 Work Programme was also mindful to avoid an overlap of activities with those of the newly created FRONTEX agency, which had been established to coordinate operational cooperation between Member States in the field of management of external borders.

Amongst others, specific objectives and priorities of the 2006 Work Programme include:

- assisting those Member States more affected by the sudden arrival of migrants;
- promoting the development and use of state-of-the-art technology for control and improving the management of the control and surveillance tasks at the sea;
- land and improve their capacity to border guards to detect victims of human trafficking; and
- enhancing the quality and capacity of the temporary reception of the children, who are victims of trafficking;

- ensuring the coordination and reinforcement of the Immigration Officer Liaison Networks including exchange of information and working rules for those based in the southern Mediterranean;
- exchanging best practice and know-how on forged documents and identification of migrants travelling via the Mediterranean Sea;
- improving the exchange of best practices between Member States for capacity building concerning the migration management, involving third countries;
- strengthening administrative cooperation among migration management services of Member States; and
- improving the exchange of information on immigration policy and migration flows in particular their interactions with other policy areas notably economic and social policy, development and trade policy.

Clearly the programme has a very strong focus on border control.

#### **2.2.4.2. Solidarity and the Management of Migration Flows**

In 2005 the Commission proposed in 2005 the creation a framework programme on Solidarity and Management of Migration Flows for the period 2007-2013<sup>17</sup>. The negotiations between the Council and the European Parliament on the framework programme were successfully completed in December 2006.

The main objective of the framework programme is to address the issue of a fair share of responsibilities between Member States in the introduction of integrated management of the external borders of the EU and from the implementation of common policies on asylum and immigration. The framework programme also provides financial support to Member States in proportion to the efforts they undertake for the benefit of the Community as a whole.

The Framework programme consists of four financial instruments: the External Borders Fund (which will be addressed in this Chapter); and the Integration Fund, the European Refugee Fund (these two funds are addressed in Chapter 4), and the Return Fund

##### The External Borders Fund

The External Borders Fund establishes a financial solidarity mechanism to support the states who endure, for the benefit of the Community, a lasting and heavy financial burden arising from the implementation of common standards on control and surveillance of external borders and visa policy.

The adoption of the decision to establish the External Borders Fund for the period 2007 – 2013 will take place in spring 2007.

All Member States participate, except UK and Ireland. Denmark is to decide whether to participate within six months after the adoption. Bulgaria and Romania and the Schengen States also participate.

In October 2006 DG JLS launched informal consultations with the Member States on the preparation for the implementation of the four instruments in October last year. The consultations are ongoing and many of the details of the four instruments are yet to be decided.

The programme will contains national and Community programmes. Each beneficiary state is to develop their own multi-annual programming strategy (2007 – 2013) on the basis of Community strategic guidelines and in dialogue with the Commission. The strategic guidelines for this are not yet known. Each year the Commission shall adopt an annual work programme and invite bids for calls for proposals and/or tenders for transnational actions and actions in the interest of the Community mainly in the field of visa policy.

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<sup>17</sup> COM (2005) 123 final

## 2.2.5. Financial Instruments

This section provides a brief overview of three financial instruments:

- ARGO
- The External Borders Fund
- Budget Line B7-667

### 2.2.5.1. ARGO

The ARGO budget for the implementation of the 2006 programme is €5.38 million. This includes:

- €2,600,000 for the ordinary applications for grants;
- €2,000,000 for applications for grants for specific actions to address the problems caused by illegal migration by sea;
- €600,000 for the Commission initiatives; and
- €180,000 for the administrative expenditures.

Proposals submitted by a national agency of a Member State must *involve national agencies* of:

- at least two other Member States or
- another Member State and a candidate country or
- another Member State and a third country

The rules further stipulate that activities covering external borders must be located on a route that is important to combating illegal immigration and has a high number of crossings.

The criteria that the project 'must involve national agencies' does not preclude the national agency putting forward a proposal from a non-State agency. The International Organisation for Migration (IOM), for example, has successfully been awarded funding under ARGO.

The ARGO action programme may finance up to 60 % of the cost of the action (or up to 80 % in exceptional circumstances). The co-financing of an action by the ARGO action programme is exclusive of any other financing by another programme financed by the budget of the European Communities.

In early 2007, DG JLS announced the projects accepted for financing. These are to start later than 1 March 2007 and will run for a maximum duration of 12 months. Hence actions under the ARGO programme will be completed by 2008.

### 2.2.5.2. The External Borders Fund

The specific amount foreseen the External Borders Funds is presented in the table below.

External Borders Fund						
Total amount over the 2007-2013 period: 1,820 M€						
2007	2008	2009	2010	2011	2012	2013
170,00	170,00	186,00	208,00	254,00	350,00	482,00

The €1820 million Euro for the period 2007–2013 is divided as follows:

- €1533 million distributed among the states on the basis of objective criteria expressing the burden of each state for external border control and visa policy ('solidarity') for actions under national programmes;
- €109 million (6% of the total annual resources each year) for Community actions;
- €108 million for the Kaliningrad transit schemes (EU-Russia agreement on visa facilitation) implemented by Lithuania; and
- €70 million (10 million each year) for specific actions addressing weaknesses at strategic border points at the external borders on the basis of risk analyses carried out by the FRONTEX Agency.

The financing arrangements for national programmes are as follows:

- each year the Commission shall approve the annual programme of each beneficiary state and take the necessary financing decision, allocating a pre-financing payment of 50%. Further payments will depend on the progress in implementation of the actions; and
- 50% of the actions can be co-financed by the Fund. For Cohesion Fund countries<sup>18</sup>, and for actions implementing specific priorities of the strategic guidelines, 75% of the actions can be co-financed.

Examples of measures to co-finance are border crossing infrastructures, operating equipment, means of transport for the control of external borders, ICT systems, training and investments in technology.

Eligible national partners include regional, local, urban and other public authorities, international organisations, in particular the United Nations High Commissioner for Refugees (UNHCR), and bodies representing civil society, such as NGOs or social partners.

Rules on the eligibility of expenditure and definitions to clarify the scope of the tasks have yet to be decided. Informal consultations with Member States are ongoing.

### **2.2.5.3. Budget line B7-667**

This budget line was created in 2001 to support actions in third countries of origin and transit aimed at influencing migratory movements and taking action *in areas where funding cannot be found* in other European Community instruments or through bilateral action of Member States.

This programme is designed to provide support to:

- migration management and asylum systems;
- voluntary return to countries of origin;
- countries of origins ability to cope with their readmission obligations towards the EU and its Member States; and
- preventing and combating both trafficking and illegal immigration.

## **2.3. Conclusion**

The policies and programmes of DG RELEX and DG FJS are largely directed at stemming the flow of EU bound migrants. This is achieved by:

- reducing migratory push factors (poverty, limited economic opportunities, lack of basic services, political repression and a lack of respect for human rights);
- enhancing intergovernmental cooperation to regulate forced and voluntary migration by establishing support for migration regimes origin and transit countries; and
- strengthening EU borders.

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<sup>18</sup> Spain, Greece, Portugal and all new Member States qualify for the Cohesion Fund.

With the focus on the management of migratory flows and border control, it will be interesting to see the extent to which actions under the thematic programme, which facilitate migration from countries of origin (through the provision of information about legal migration and labour shortages in the EU, as well as pre-departure measures to facilitate integration), come to fruition.

### **Chapter 3: Needs assessment and admission**

The purpose of migration provides a useful context for interpreting the integration outcomes. Immigrants are given permission to reside in a Member State on the basis of their skills in order to meet labour market needs. Therefore, it could be expected that skilled and labour migrants should have higher rates of employment and labour market participation than natives.

People with a need for international protection, on the other hand, are given permission to reside in a Member State on the basis of its commitment to universal human rights principles and international law. People genuinely in need of international protection will have experienced trauma, and perhaps torture, and may have had little access to basic services such as health and education. While every effort should be made to ensure that people in need of international protection could become productive members of the host society, it would be unreasonable to expect them to have the same outcomes as natives.

The corresponding policy stream deals with defining migrants by their purpose and establishing the rights and responsibilities of both immigrants and state authorities. International refugee law and jurisprudence establish the definition of a refugee and national authorities are bound to humanitarian commitments to offer protection. European and national law also includes definitions of humanitarian and temporary protection. The definition of a migrant comes from the United Nations, whereas European conventions and national laws dictate categories of migrants for employment, family reunification and study. The national and regional levels provide assessments of demographic developments and labour market mismatches, which may lead to the design of a pro-active immigration policy.

This Chapter explores the work of DG Justice, Freedom and Security (DG JLS) as the lead EU agency responsible for immigration.

It looks at DG JLS's efforts in implementing a common immigration policy. It then, in turn, examines its declared policies relating to the entry of different categories of migrants. The Chapter looks at the policy infrastructure supporting the policy framework, and then examines the ARGO programme and the framework programme Solidarity and management of migration flows, including their financial instruments.

#### **3.1. EU immigration policies**

The main objective of the EU's common immigration policy is to better manage migration flows by a coordinated approach which takes into account the economic and demographic situation of the EU.

This section will explore legislation and policy regarding specific categories of migrants, notably:

- economic migrants
- students, vocational trainees and researchers
- those seeking international protection, specifically:
  - refugee protection
  - subsidiary protection
  - temporary protection
  - refugee resettlement
  - undocumented migrants

##### **3.1.1. Economic migration**

Discussions on the proposal for a Council directive on the conditions of entry and residence of TNCs for the purpose of paid employment and self-employed economic activities<sup>19</sup> did not lead to a positive result. Therefore, no EU legislation regulates so far the conditions of entry and residence of TNCs wishing to work in the EU.

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<sup>19</sup> COM (2003) 386 final



In 2003, in its Communication on immigration, integration and employment<sup>20</sup> highlighted the need for labour migration to address demographic, social and economic challenges. At the beginning of 2005, the Commission issued a Green Paper on a Community approach for the management of economic migration to identify the main challenges and explore the possible options for setting up a Community legislative framework.

The consultation process resulted in the Policy Plan on Legal Migration, which was adopted by the Commission in December 2005<sup>21</sup>. The Plan does not contain any legislative or operational proposal, but foreshadows a set of legislative proposals concerning the conditions of entry and residence for TNCs in employment, including:

- a general framework directive defining the basic rights of all immigrant workers admitted in the EU together with other horizontal measures. This Directive *will not* deal with numbers, procedures and conditions of admission for TNCs in employment; and
- four specific Directives addressing the conditions of entry and residence of highly-skilled and seasonal workers, intra-corporate transferees and remunerated trainees.

The Commission emphasise that the management of economic migration requires a clear and harmonised admission policy, yet the legislative proposals are extremely limited in their scope and are unlikely to provide a solution to the EU's demographic, social and economic challenges.

### **3.1.2. Students, vocational trainees, volunteers and researchers**

This section examines legislation surrounding (non-protection) temporary migration. Temporary migration is often an important source of longer-term migration for Member States as temporary migrants frequently extend their stays on the basis of employment, education or the commencement of a spousal relationship with a resident.

Three Council Directives cover the admission and mobility of scientific researchers<sup>22</sup>. The 2005 Directive sets out a specific procedure for admitting TNCs for the purposes of scientific research and two recommendations addressed to Member States with a view to fast-tracking the admission and issuing of visas to researchers from third countries. The purpose of the three Directives is to contribute to the Lisbon objectives of making Europe the most competitive and knowledge-based economy of the world, by fostering the admission and mobility of third country researchers in order to enhance the Community's attractiveness for researchers from around the world and boost its position as an international centre for research.

In December 2004 the Council adopted a Directive on the conditions of admission of TNCs for the purposes of studies, pupil exchange, unremunerated training or voluntary service<sup>23</sup>. This Directive applies to TNCs who apply to be admitted to the territory of a Member State for the purpose of studies, however Member States *may* also decide to apply this Directive to TNCs who apply to be admitted for the purposes of pupil exchange, unremunerated training or voluntary service.

The Directive establishes a framework for Member States to regulate the entry and residence of TNCs in the categories covered by the Directive.

The primary aim of the requirements outlined in the Directive is to ensure that the temporary migrant does not become a burden on the State. There are also some provisions, although not mandatory, which aid the integration process. These include the provision of basic

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<sup>20</sup> COM(2003) 336 final

<sup>21</sup> COM(2005) 669 final

<sup>22</sup> 2005/71/EC, 2005/762/EC 2005/761/EC

<sup>23</sup> 2004/114/EC

language training to unremunerated trainees, and a basic introduction to the Member State's language, history and political and social structures for volunteers.

### **3.1.3. Family reunification**

The Commission support the view that family reunification is a necessary way of making family life possible and facilitating the integration of TNCs in a Member State.

The purpose of the 2003 Council Directive on the right to family reunification<sup>24</sup> is to determine the right to family reunification of TNCs who are lawfully resident and to determine the conditions under which family members can enter into and reside in a Member State.

The Directive preserves the right of Member States to adopt or maintain more favourable provisions.

Key restrictions contained in the Directive are as follows.

Reunification is limited to nuclear family members. There is no provision for unmarried partners, adult children or relatives in the ascending line.

- Subsidiary protection beneficiaries are not included.
- Reunification can be denied on the grounds of 'public policy' (this is not clearly defined), public security or public health.
- The sponsor must have at least one year's residence and have reasonable prospects of securing permanent residence.
- Member States may impose other conditions, for example:
  - restricting the access of some family members to employment, including self employment;
  - requiring that the TNC have adequate accommodation, sufficient resources without recourse to public funds and sickness insurance; and
  - making the right to family reunion contingent upon compliance with integration measures.
- The Directive does not apply in the United Kingdom, Ireland or Denmark.

### **3.1.4. International protection**

This section examines legislation and policy that regulates the entry, eligibility and stay of those seeking international protection as a refugee, subsidiary protection beneficiary and temporary protection beneficiary. It also examines law and policy relating to the admission of asylum-seekers and of refugees under resettlement programme.

#### **3.1.4.1. Refugee status**

This section examines the Directive on minimum standards for the qualification and status of TNCs or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted<sup>25</sup> (the Qualifications Directive) and the Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status<sup>26</sup>.

#### **The Qualification Directive**

The Qualification Directive aims to harmonise the way in which Member States interpret the definition of refugee (and of subsidiary protection status).

Member States vary in their interpretation of the refugee definition presented in the Geneva Convention. The Directive lends clarity to some key ambiguities, which impacts on the type of

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<sup>24</sup> 2003/86/EC

<sup>25</sup> Council Directive 2004/83/EC

<sup>26</sup> Council Directive 2005/85/EC

claims that give rise to eligibility for refugee status. The Directive contains provisions which lead to both more favourable and less favourable opportunities for those seeking asylum in the EU.

The Directive increases the ambit of persons entitled to protection as it:

- confirms that persecution can also originate from non-State agents where a State is *unable* or *unwilling* to provide effective protection;
- in initial applications only, confirms a well-founded fear of persecution may arise as a result of the actions of an individual after leaving their country (sur place claims); and
- it confirms that forms of persecution can include mental and sexual violence and acts of a gender-specific or child-specific nature.

The Directive also allows for narrowing of the ambit of persons entitled to protection as it:

- supports the notion of the internal protection alternative - if effective protection is available in at least part of the country of origin, the application may be refused;
- restricts the validity of sur place claims in subsequent applications - refugee status may be denied "if the risk of persecution is based on circumstances which the applicant has created by his own decision since leaving the country of origin";
- supports the notion that actors of protection can include "parties or organisations, including international organisations, controlling the State or a substantial part of the territory of the State"; and
- includes an inconclusive definition of 'social group', by which sexual orientation or gender does not alone create a presumption for the applicability of the article on reasons for persecution.

This Directive impacts significantly on, not only the asylum-seeker's prospects of a successful application, but the likelihood of successful integration. For example, a number of Member States did not accept persecution from non-State actors as valid grounds for protection. Asylum-seekers fleeing persecution from non-State actors would have been refused and may have been given a tolerated status (if they could not be returned) or would be residing illegally in the Member State fearing the consequences of a forced return. Clearly these conditions are not conducive to integration. As a result of this Directive, asylum-seekers fleeing persecution from non-State actors are able to enjoy refugee protection. The same holds true for other favourable provisions. The Directive also, however, allows Member States to continue to provide, or to introduce, less favourable interpretations of the Geneva Convention.

### **Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status**

Procedures for granting or withdrawing refugee status differ across the EU due to different constitutional and administrative traditions in Member States. The Directive aims at establishing a minimum level playing field. Providing minimum standards does not bar Member States from enacting more favourable national provisions.

The general approach sets out a series of minimum standards, including:

- procedural guarantees, including information about the procedure, the opportunity to be interviewed, access to legal assistance;
- decisions are to be taken individually, objectively and impartially, by personnel specialised in asylum and refugee matters and specifically trained for that purpose
- common standards for the application of certain concepts and practices, including 'inadmissible applications', 'manifestly unfounded applications', 'safe third country' and 'safe country of origin';
- the right to an effective remedy before a court or tribunal against negative decisions on the application.

These minimum standards go some way to ensuring that refugee claims are considered in a fair and impartial way, which leads to an outcome that is consistent with the asylum-seekers need for protection.

#### **3.1.4.2. Subsidiary protection**

This section examines the provisions of the Qualifications Directive that apply to people seeking subsidiary protection.

##### **The Qualifications Directive**

Rather than creating new protection obligations on Member States, the Directive clarifies and codifies existing international and Community obligations and practice. The definition of subsidiary protection employed in the Directive is based largely on Article 3 of the European Convention on Human Rights and Fundamental Freedoms (ECHR), Article 3 of the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment, and Article 7 of the International Covenant on Civil and Political Rights.

Qualification for subsidiary protection is based on the notion of 'serious harm', which consists of the death penalty or execution; or torture or inhuman or degrading treatment or punishment of an applicant in the country of origin; or serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.

The scope of qualification is quite limited. Importantly, however, it does place an obligation on all Member States to provide the option of subsidiary protection (some States did not). The increased provision of subsidiary protection should result in an increase in the number of asylum-seekers that face serious harm on return being allowed to remain legally. This, in turn, enhances their integration prospects.

#### **3.1.4.3. Temporary Protection**

This section examines the impact of Council Directive on minimum standards for giving temporary protection in the event of a mass influx of displaced persons<sup>27</sup>.

In the 1990s, the EU witnessed an increased occurrence of mass influxes of displaced persons who could not return to their country of origin. To respond to this development and avoid serious disruption to their asylum systems, most Member States established exceptional temporary protection schemes. The Directive was developed in recognition of the need to have minimum standards at EU level to provide solidarity and burden sharing among Member States for receiving large number of people at one time and to reduce disparities between the policies of Member States on the reception and treatment of displaced persons.

This Directive adopted by the Council on the basis of a Commission initiative, defines the decision-making procedure to trigger, extend or end temporary protection. The temporary protection mechanism established by this Directive has not been used yet.

The temporary protection machinery can only be initiated when there is a mass influx of 'displaced persons', who come from a specific country or geographical area. Their arrival in the Community can be spontaneous or aided through an evacuation programme.

The Directive defines "displaced persons" as TNCs or stateless persons who have had to leave their country or region of origin, or have been evacuated, in particular in response to an appeal by international organisations, and are unable to return in safe and durable conditions because of the situation prevailing in that country, who may fall within the scope of Article 1A of the Geneva Convention or other international or national instruments giving international protection, in particular:

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<sup>27</sup> 2001/55/EC

(i) persons who have fled areas of armed conflict or endemic violence;

(ii) persons at serious risk of, or who have been the victims of, systematic or generalised violations of their human rights;

The Directive stipulates that Member States shall, if necessary, provide persons to be admitted to their territory for the purposes of temporary protection with every facility for obtaining the necessary visas, including transit visas. Formalities must be reduced to a minimum because of the urgency of the situation. Visas should be free of charge or their cost reduced to a minimum.

The Directive, however, does not seem to do anything to ease admission to the territory for persons arriving outside evacuation programmes, nor does it prevent the imposition of non-entry measures on nationals from countries experiencing large refugee outflows.

In general, this Directive does provide opportunities for a greater number of displaced persons to enjoy more immediate protection than that available through normal channels. This ensures their trauma is not exacerbated further, which is vital as the physical, mental and emotional well-being of the displaced person and impacts significantly on the integration process.

#### **3.1.4.4. Asylum-seekers**

The right to seek asylum in the EU is guaranteed under international, Community and national law. This right, however, does not extend to states facilitating entry. Hence asylum-seekers often enter Member States illegally. This can be a highly difficult and dangerous process. Chapter 2 outlined the policies and programmes aimed at combating irregular migration of which asylum-seekers form a significant part.

In 2003 the Council of Ministers adopted the Dublin II Regulation<sup>28</sup>, which establishes a set of criteria to allocate responsibility for examining asylum applications. The regulation states that the Member State that permitted the applicant to enter or to reside in their territory is responsible for examining the application according to its national law and is obliged to take back its applicants who are irregularly in another Member State.

The impact of Dublin II is that asylum-seekers that are successful in reaching EU territory only have the right to have their claims heard by one Member State. This can lead to inequitable protection outcomes as the laws and policies relating to eligibility for international protection vary widely across Member States, despite the EU harmonisation agenda.

#### **3.1.4.5. Resettlement**

Many asylum-seekers have no legal means of entering the EU. Resettlement programmes provide a limited number of refugees residing in second countries with a safe and legal avenue of securing protection in Member States.

In 2000 the Commission highlighted the merit of resettlement in providing access to international protection for UNHCR recognised refugees who would otherwise be at the mercy of irregular immigration or smuggling gangs or have to wait years for recognition of their status. The Commission also highlighted the importance of resettlement practices in the sharing of responsibility for managing refugees with third countries including countries of first asylum.

The Commission's Communication on improving access to durable solutions<sup>29</sup> proposed an EU wide resettlement scheme to ensure a more orderly and managed entry into the EU for International Protection. Member States, on a voluntary basis would commit themselves to find durable solutions for refugees, opening for them the possibility of resettlement on their

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<sup>28</sup> 343/2003/EC

territory. Despite this, no agreement had been reached by the Council of Ministers to establish an EU joint resettlement programme.

### **3.1.5. Irregular migrants - regularisation**

DG JLS acknowledges that regularisation can be an effective measure in addressing undocumented migrants who are unlikely, for whatever reason, to be returned to their countries of origin. DG JLS highlights the difficulties in tolerating a sustained presence of significant numbers of undocumented migrants given that they are not targeted by integration measures due to their status.

Member States have expressed concern that, without internal borders, large-scale national regularisation programmes have repercussions for all Member States. DG JLS foreshadows a study to determine the information available on practices, effects and impacts of regularisation measures. This study is to constitute the basis for future discussions on this issue, including on whether there is a need for a common legal framework on regularisation of TNCs residing without documentation.

## **3.2. Policy Infrastructure**

The European Migration Network (ENM) is an EU-wide network of National Contact Points (NCPs) which collates, provides access to and facilitates the exchange of information on migration and asylum nationally and across Europe. It also analyses this information, and co-ordinates existing research. It is hoped that objective, up-to-date, reliable and comparable information will contribute to better informed policy-making and action in this field.

The existing network currently comprises 17 official NCPs. The NCPs of other Member States, including the new Member States, are on the point of joining the EMN or are participating as observers. The network includes the key actors involved in the field of migration. NCPs are located in ministries, such as home affairs and justice; public bodies, such as national statistical institutes or research institutes; and non-governmental organisations or national branches of international organisations.

The EMN currently has no legal standing. It was set up in 2002 on the basis of a preparatory action, which ended in 2006. The Commission is now in the final stages of developing a draft for a legal base proposal, consulting also twice the Committee on Immigration and Asylum. This proposal would be based on Article 66 of the EC Treaty, requiring Qualified Majority Voting of the Council and consultation of the EP. The intention is for this to be formally presented to Council in the first quarter of 2007.

The EMN has undertaken small scale studies relating to the needs assessment and admission of migrants. It is currently preparing Conditions of entry and residence of Third Country Highly-Skilled Workers in the EU and recently completed the study on Illegally Resident TNCs in EU Member States: state approaches towards them, their profile and social situation.

A recent evaluation of EMN commissioned by DG JLS, however, has found that the EMN has not been effective in making an impact with its outputs<sup>30</sup>. As a result it has not adequately informed future EU policy developments with regard to asylum and migration – a fundamental aim of the network.

## **3.3. Programmes**

This section looks at two programmes. The ARGO Programme and its successor - the Framework Programme on Solidarity and Management of Migration Flows.

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<sup>29</sup> COM(2004) 410

<sup>30</sup> See EPEC (2005) Evaluation of the activities of the European Migration Network: Final report to the European Commission, EPEC, Brussels

### **3.3.1. The ARGO programme**

The ARGO programme, which was discussed in Chapter 2, is not only designed to enhance administrative cooperation at EU level in relation to external borders, but in the harmonisation of policies and procedures regarding visas; establishing a common European asylum system, the effective and homogeneous application of rules on legal immigration.

Specific objectives and priorities of the 2006 Work Programme that relate to needs assessment and admission include:

#### Economic migration

- Enhancing the exchange of information and best practices concerning the selection and recruitment of labour migrants in the Member States.

#### Temporary migrants

- Implementation and follow-up of the action plan for the admission of researchers.

#### International protection

- actions to promote a joint approach to mass arrivals of asylum-seekers;
- exchange of good practice and cooperation in the implementation of the Directive on minimum conditions for the reception of asylum seekers and in Dublin II;
- exchange of information and good practices between Member States operating a Single Asylum Procedure and those who do not;
- enhanced cooperation on compilation, assessment and application of 'country of origin information';
- exchange of information and best practices concerning unaccompanied minors who apply for asylum; and
- exchange of good practice and cooperation to promote and ease the resettlement of refugees in EU Member States (although priority is given to those in the Regional Protection framework).

The focus on the actions is on ensuring that the assessment of asylum applications is robust. Notably there is a welcome action on promoting the resettlement of refugees.

### **3.3.2. Solidarity and the Management of Migration Flows**

The framework programme on Solidarity and Management of Migration Flows was discussed in the previous chapter. The Framework programme consists of four financial instruments the External Borders Fund (discussed in Chapter 2) the Integration Fund (to be discussed Chapter 4) the Return Fund and the European Refugee Fund (ERF).

The ERF is the only of the four funds to have a provision for admission and needs assessment. ARGO had provided the opportunity to fund projects relating to migrants and temporary residents. These opportunities are not available in the framework programme on Solidarity and Management of Migration Flows.

#### **European Refugee Fund**

The ERF has been in place since 2000. Currently, the second generation of the Fund is being implemented. All Member States participate, except Denmark (UK and Ireland have opted in).

In addition to supporting and improving the efforts of Member States to grant reception conditions to refugees and protecting the rights of persons requiring international protection (these provisions will be discussed in Chapter 4), the ERF promotes fair and effective asylum procedures.

The new ERF will come into force in January 2008. It introduces support for new actions, including support for Member States to resettle UNHCR recognised refugees.

From 2008 the reserve established for emergency measures in the context of temporary protection can also be used to address particular pressures situations resulting from sudden arrivals of large numbers of persons who may be in need of international protection and which place significant and urgent demands on Member States' reception facilities or asylum systems.

The Fund has a national and a community programme.

On the basis of Community strategic guidelines and in dialogue with the Commission, each beneficiary Member State develops their own multi-annual programming strategy (the next phase is 2008 – 2013) on the use of the resources they receive each year. The strategy will constitute the framework for the implementation of actions through annual programmes.

Each year the Commission adopts an annual work programme and invite bids for calls for proposals and/or tenders for transnational actions and actions in the interest of the Community.

The Commission will adopt the annual work programme for the 2007 in the first half of 2007. The priorities for the 2006 Work Programme that are relevant to the admission of persons in need of international protection largely mirror the specific objectives and priorities of the 2006 ARGO Work Programme outlined above.

#### **Programmes supporting the entry of students and unremunerated trainees**

The legislation on the conditions of admission of TNCs for the purposes of studies, pupil exchange, unremunerated training or voluntary service<sup>31</sup> is supported in part by three funding streams for students and unremunerated trainees. These are:

- the Erasmus Mundus programme (2004-2008), which provides EU-funded scholarships for TNCs participating in selected Masters programmes.
- the new EU-Canada Cooperation Programme in Higher Education, Training and Youth (2006-2013), which amongst other actions, supports consortium projects for student exchange are expected to support over 4500 student exchanges.
- The new EU-US agreement on higher education and vocational training (2006-2013), which amongst other actions, supports transatlantic mobility of students and academic staff and providing scholarships to highly qualified professionals for undertaking studies in areas of specific relevance to the EU/US relations.

### **3.4. Financial Instruments**

The financial component of ARGO was discussed in Chapter 2. This section shall focus on the ERF.

#### **3.4.1. European Refugee Fund**

€628 million has been allocated for the period 2008–2013. The annual allocations are as follows:

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<sup>31</sup> 2004/114/EC



<b>European Refugee Fund</b>						
Total amount over the 2007-2013 period: 699,37 M€						
<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
71,37	82,00	98,00	98,0	110,00	110,00	130,00

### **National actions**

€566 million is to be distributed among the states on the basis of objective criteria relating to the number of asylum seekers and integrating persons benefiting from international protection

Before 1 March each year the Commission is to approve the annual programme of each beneficiary Member State and take the necessary financing decision, allocating a pre-financing payment of 50%. Further payments will depend on the progress in implementation of the actions. 50% of the actions can be co-financed by the Fund. For Cohesion Fund countries, 75% of the actions can be co-financed.

### **Community actions**

€62 million (10% of the total annual resources each year) is available for Community actions, with a particular emphasis on supporting practical cooperation between Member States.

Funding is open to national, regional and local authorities registered in one of the participating States, universities, NGOs as well as international organisations working on strictly non-profit basis.

75% of the actions for implementing specific priorities of the strategic guidelines can be co-financed.

Actions may include partners and participants from Denmark and acceding countries, but the costs for their participation may not be covered by the Community contribution and must be financed entirely by non-Community resources. Only national authorities are eligible for country of origin information projects.

### **3.5. Conclusion**

Community legislation has been introduced in relation to the needs assessment and admission of particular categories of migrant from outside the EU. Directives generally provide minimum standards while preserving the right of Member States to adopt or maintain more favourable provisions.

Community legislation regarding those seeking international protection is extensive. Although it allows for significant variance in practices between Member States, it does have a measurable impact on the ambit of claims that make an asylum-seeker eligible for protection as well as the quality of decision making that an asylum applicant can expect. It also allows for expedited processing of displaced persons following a mass influx into the EU.

The Directive on the right to family reunification regulates the admission of family members of TNCs who are lawfully resident, but has some significant restrictions. The requirement that the sponsor has, not only one year's residence, but 'reasonable prospects' of securing permanent residence, precludes many refugees and migrant workers. In addition, beneficiaries of subsidiary protection are explicitly excluded. The Directive also limits the right of reunification to nuclear family members and allows for refusal on broad grounds ('public policy', public security or public health).

The only other categories of migrants to be included in Community legislation are largely uncontroversial – researchers, students, unremunerated trainees and volunteers. The expedited admission process for researchers, in particular, is likely to provide a positive context for integration. The same can be expected from the four specific Directives foreshadowed for highly-skilled and seasonal workers, intra-corporate transferees and remunerated trainees.

Although attempts have been made to harmonise needs assessment and admission regarding skilled migrants and resettled refugees, Member States retain responsibility for these areas. The regularisation of undocumented migrants is only now emerging as an issue that could benefit from information sharing at the European level.

Financial programmes largely reflect the EUs legislative and policy domain. These focus on ensuring that asylum systems are robust, effective, comparable and fair. The integration process can be smoother if an asylum-seeker (successful or otherwise) believes that they have had their claims heard fairly and respectfully.

Disappointingly, the new framework programme on Solidarity and the Management of Migration Flows does not have a financial instrument that can be used for actions relating to the admission of migrants.

## **Chapter 4: Settlement – Immigration rules and procedures**

Migrants who fall into the different established categories meet different settlement conditions through subsequent entry and residence requirements. Immigration policies and law determine the degree of free movement entitlements for immigrants depending on their conditions of entry. Community law makes distinctions between nationals, EU and EEA nationals and TNCs, providing them different opportunities to integrate.

Immigration rules, procedures and permits can either capture or diminish opportunities for integration. Ideally immigrants obtain with these permits a secure and transparent legal status underpinned by principles of access and equality. Security of status and equal opportunities, rights, responsibilities enhance integration. Immigrants are allowed in such settlement circumstances to learn the language, adapt and improve their skills, and invest economically and socially in the host country.

This Chapter explores the work of DG Justice, Freedom and Security (DG JLS) as the lead EU agency responsible for the integration of immigrants.

It looks at DG JLS's integration agenda. It catalogues the rights allocated to different categories of migrants (long-term residents, those seeking or enjoying international protection and temporary migrants), and describes declared integration policies relating to the entry of different categories of migrants. The chapter then examines the policy infrastructure supporting the policy framework. Finally, it looks at the framework programme Solidarity and management of migration flows, including two of its financial instruments – the Integration Fund and the European Refugee Fund and their financial components.

### **4.1. Declared Policies**

In May 2005 the European Commission launched its 5 year Action Plan for Freedom, Justice and Security<sup>32</sup>. One of the ten key areas for priority action is to adopt, support and incentive measures to help Member States deliver better policies on integration so as to maximise the positive impact of migration on society and the economy.

#### **4.1.1. The EU Integration agenda**

This section maps the EU integration agenda by defining what is meant by 'integration', the relevant actors; and its target group.

The EU integration framework was forged at the 1999 Tampere European Council. The presidency conclusions regarding a Common EU Asylum and Migration Policy include the following.

- The fair treatment of Third-country nationals (TNCs): The EU must ensure fair treatment of TNCs who reside legally on the territory of its Member States. A more vigorous integration policy should aim at granting them rights and obligations comparable to those of EU citizens. It should also enhance non-discrimination in economic, social and cultural life and develop measures against racism and xenophobia.
- The legal status of TNCs should be approximated to that of Member States' nationals. A person, who has resided legally in a Member State for a period of time to be determined and who holds a long-term residence permit, should be granted in that Member State a set of uniform rights which are as near as possible to those enjoyed by EU citizens; e.g. the right to reside, receive education, and work as an employee or self-employed person, as well as the principle of non discrimination vis-à-vis the citizens of the State of residence. The European Council endorses the objective that long-term legally resident TNCs be offered the opportunity to obtain the nationality of the Member State in which they are resident.

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<sup>32</sup> COM/2005/0184 final

Tampere's overall promise centres around integration through access to comparable rights and obligations, with EU citizenship as a benchmark and equal access, treatment and opportunity based on anti-discrimination law. Tampere initially specified the policy realms concerned with these rights and obligations to include residence and legal status, education and employment.

Since Tampere, EU policy documents have reiterated that newcomers should garner new rights and obligations over time based on length of residence, which should culminate in a comparable status and ultimately the right to naturalisation.

With a view towards mainstreaming integration, the Thessaloniki Council reasoned that a framework definition should be applicable to integration questions that arise in diverse policymaking realms, including social cohesion, employment, education, language, health and social services, housing and culture. The 2003 Commission Communication inserted cultural and religious diversity, citizenship and political rights, due to its particular interest in the idea of "civic citizenship".

The EU framework definition on integration seeks to involve all possible policy realms and all possible actors, above all migrants themselves, in order to encourage concerted participation on a diverse set of integration needs.

On 4 November 2004, the European Council adopted the Hague programme which set the objectives to be implemented in the area of freedom, security and justice in the period 2005-2010. It underlined the need for greater co-ordination of national integration policies and EU initiatives in this field. It further stated that a framework, based on common basic principles, should form the foundation for future initiatives in the EU.

The stated purpose of the Common Basic Principles is:

- to assist Member States in formulating integration policies by offering a non-binding guide of basic principles against which they can judge and assess their own efforts;
- to serve as a basis for Member States to explore how EU, national, regional, and local authorities can interact in the development and implementation of integration policies; and
- to assist the Council to reflect upon and, over time, agree on EU-level mechanisms and policies needed to support national and local-level integration policy efforts, particularly through EU-wide learning and knowledge-sharing.

The Justice and Home Affairs Council of 19 November 2004<sup>33</sup> adopted the following Common Basic Principles.

1. Integration is a dynamic, two-way process of mutual accommodation by all immigrants and residents of member states.
2. Integration implies respect for the basic values of the EU.
3. Employment is a key part of the integration process.
4. Basic knowledge of the host society's language, history and institutions is indispensable for integration.
5. Efforts in education are critical for preparing immigrants to be more successful and active.
6. Access for immigrants to institutions, as well as to public goods and services, on a basis equal to national citizens and in a non-discriminatory way is an essential foundation.
7. Frequent interaction between immigrants and member state citizens is a fundamental mechanism.
8. The practices of diverse cultures and religion as recognised under the Charter of Fundamental Rights must be guaranteed.

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<sup>33</sup> See Justice and Home Affairs Council press release 14615/04

9. The participation of immigrants in the democratic process and in the formulation of integration policies, especially at the local level, supports their integration.
10. Integration policies and measures must be part of all relevant policy portfolios and levels of government.
11. Developing clear goals, indicators and evaluation mechanisms to adjust policy, evaluate progress and make the exchange of information more effective is also part of the process.

### **Integration actors**

The Common Basic Principles make it clear that integration is a process that must engage not only the migrant population, but also the host society. Mutual accommodation across the EU would be anchored in local integration through frequent interaction that targets migrants and the host society respectively, such as private exchanges, community-building, and inter-cultural dialogue.

While mutual accommodation refers to the interaction of migrants and citizens, the host society has been markedly peripheral in many integration policy documents. The 2005 Communication - A Common Agenda for Integration - Framework for the Integration of TNCs in the EU<sup>34</sup> fleshed out this concept of mutual accommodation with initiatives to involve the host society in the integration process at the national level. However, most accommodations outlined in the Common Basic Principles are undertaken by immigrants, whose text obliges them to respect basic values, acquire knowledge of the host society and participate in education, cultural life, the democratic process and the design of integration policies. Despite the intended two-way process of mutual accommodation between migrants and citizens, migrants continue to carry the main integration responsibility within the EU's framework definition.

### **The target group of the integration agenda**

Justice and Home Affairs ministries were instrumental in the selection of target groups for the EU integration framework, which emerged within the context of an Area of Freedom, Security and Justice and the development of a common European asylum and immigrant policy. This interpretation of the target group for integration has been enshrined in EU Council Conclusions, Commission Communications and EU hard law.

Because legality of status represented the most determining factor, justice and home affairs ministers considered undocumented migrants to fall out of the target group scope. Returned emigrants, whose integration obligations are determined by national law, are also absent from the target group. Likewise excluded are EU citizens, whose entitlement to automatic comparable rights, much like their right to free movement, is safeguarded under EC law.

All legally-resident TNCs do not fall under the EU framework definition's target group. Justice and Home Affairs ministries designated the target group for the EU integration definition to be three categories of legally resident TCNs: migration for employment and self-employment, family reunification and humanitarian reasons.

These ministries have specifically concentrated the EU framework and its fund more on "newcomers" than on settled immigrants or long-term residents. Reference to the 'descendents' of TCNs appears repeatedly in the original Common Basic Principles, though only once, concerning education, in the consequent 2005 Commission communication designed to put these Common Basic Principles into action. The 2006 European Parliament Report revived recommendations for the inclusion of immigrant descendents with their call for INTI funding for second and third generation immigrants. Nonetheless, these broader interpretations have not been codified at the EU level.

Students, researchers, seasonal workers and persons changing their status also fall outside the scope of the framework, although Member States retain the discretion to include them as

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<sup>34</sup> COM/2005/0389 final

additional beneficiaries in programmes focused on the main target groups.

The Thessaloniki European Council called for migrants to be treated as a disaggregate group with the needs of migrants considered according to their different conditions, sexes and stages of life. The 2003 Commission communication on Immigration, Integration and Employment and the 2005 Commission communication on a Common Agenda for Integration echoed this appeal for a focus on differentiated target groups of migrants.

This disaggregation is most apparent on the creation of two separate funding streams for immigrant integration. The proposal for the 2007-2013 Integration Fund explicitly excludes asylum seekers and those enjoying international protection, whose integration programmes would be developed separately under the European Refugee Fund.

The EU official target group ultimately remains at the discretion of national justice and home affairs concerns that may restrict or expand the personal scope of an EU framework definition on integration.

The official TCN target group has not gone uncontested by EU actors who promote broader definitions in non-binding documents at the European level.

The Common Basic Principles encourage Member States to adopt broader target group definitions at the national level that would cover temporary workers, descendents, pre-admission migrants and even refugees.

#### **4.2. Defining integration rights in Community law**

The security and transparency of residence conditions and extension of rights are a precondition for integration. This section examines Community law outlining the rights of particular categories of migrant, specifically:

- long-term residents;
- those seeking or enjoying international protection; and
- temporary residents.

##### **4.2.1. Long-term residents**

The aim of this Directive is to implement the Tampere declaration that TNCs who have been legal residents of a Member State of the EU for a period of time should be granted in that Member State a set of uniform rights which are as near as possible to those enjoyed by EU citizens. The Directive on long-term resident status does not apply to the United Kingdom, Ireland or Denmark.

The Directive applies to TNCs residing legally in the territory of a Member State, with the exception of those whose situation is precarious, including asylum-seekers, subsidiary protection beneficiaries and temporary protection beneficiaries; and those resident on a short-term basis, including seasonal workers, students and vocational trainees).

The Directive fails to recognise that TNCs in precarious circumstances are also those with the most need for security of residence. It is, however, at the discretion of Member States to adopt or maintain more favourable provisions.

The Directive allows for TNCs to receive permanent status evidenced by a residency permit of at least 5 years in length that is automatically renewable.

To acquire 'long-term resident' status, the TNC must:

- have been legally resident for an uninterrupted period of 5 years<sup>35</sup>,
- have sufficient level of stable and regular income and sickness insurance,
- comply with any integration conditions imposed by the Member State, and
- not constitute a threat to public security or public policy.

The Directive stipulates that long-term resident status will enjoy equal treatment with nationals as regards:

- access to paid and unpaid employment, conditions of employment and working conditions (working hours, health and safety standards, holiday entitlements, remuneration and dismissal);
- education and vocational training, recognition of qualifications;
- welfare benefits (family allowances, retirement pensions, etc.) and sickness insurance;
- social assistance, (minimum income support or retirement pensions, health care, etc.);
- social benefits, tax relief, access to goods and services;
- freedom of association and union membership; freedom to represent a union or association; and
- freedom of movement within the Member State (there are limitations movement within the EU).

However, there are exceptions to the long-term resident's entitlement to equal treatment. Member States may impose restrictions on:

- access to employment and to education, e.g. by requiring proof of appropriate language proficiency; and
- social assistance and social protection may be limited to equal treatment to core benefits.

The Directive also provides long-term residents with a greater security of status. Expulsion decisions can only be based on an actual and sufficiently serious threat to public order or domestic security that affects a fundamental interest of society. Long-term resident status, however, may be withdrawn on certain grounds, including absence from the territory for more than two years.

#### **4.2.2. International Protection**

Refugees and others in need of international protection will often have specific needs that have to be met in order to support their integration into a host society. These needs may be different to that of other migrant groups due to the forced nature of their migration and past experiences. People in need of international protection form one of the most vulnerable groups in society while also being one of the most resilient. It is important that their special needs of refugees are recognised in integration policies and practice.

The reception phase and the quality and length of the asylum determination procedure impact significantly on the integration process. Those who are successful in seeking asylum may have become demoralised by the time they are ready to fully participate in society. Early access to the labour market prevents exclusion from the host society, promote self-sufficiency, and facilitate integration. Even those asylum seekers whose claims are refused are better equipped to return and contribute to their origin-country when they have benefited from integration measures and may be more willing to cooperate with assisted return to their country of origin.

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<sup>35</sup> Absences from the Member State for less than six months or for specific reasons (military service, secondment for work purposes, serious illness, maternity, research or studies) will be regarded as not interrupting the period of residence.

This section examines the legal entitlements of those seeking or enjoying international protection:

- refugees,
- subsidiary protection beneficiaries,
- temporary protection beneficiaries, and
- asylum-seekers.

#### **4.2.2.1. Refugees and subsidiary protection beneficiaries**

The Qualifications Directive<sup>36</sup> requires Member States to guarantee a series of rights for persons qualifying for refugee status or subsidiary protection status.

In addition, Member States are required to take special account of the needs of certain categories (minors in general, unaccompanied minors, disabled people, elderly people, pregnant women, single parents accompanied by minors and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence). For instance, this group of people with special needs are entitled to adequate healthcare under the same eligibility conditions as nationals.

The Qualifications Directive furnishes refugees with more rights than subsidiary protection beneficiaries and gives Member States considerable discretion in the rights allocated to subsidiary protection beneficiaries.

The set of rights allocated to refugees and subsidiary protection beneficiaries is not intended to achieve parity of entitlement with nationals. There are, however, a number of rights that allow refugees (not subsidiary protection beneficiaries) to enjoy comparable rights to nationals. These relate to material assistance, vocational education and training for adults, education for minors, health care, and the recognition of foreign qualifications. The only provision that provides beneficiaries of subsidiary protection with equal footing to nationals is in the recognition of foreign qualifications.

The rights associated with refugee status and subsidiary protection are outlined below:

##### Residence:

- Beneficiaries of refugee status: entitled to a residence permit valid for at least three years and renewable unless compelling reasons of national security or public order exist.
- Beneficiaries of subsidiary protection: as for beneficiaries of refugee status, however the permit is valid for one year, as opposed to three years.

##### Security of status:

- Beneficiaries of refugee status: Member States are to revoke, end or refuse to renew the refugee status if they cease to meet the definition of a refugee. This broadly reflects the provision in the Geneva Convention, with the notable exception that it does not include the humanitarian principle that prevents cessation being applied to refugees who can invoke compelling reasons arising out of previous persecution for refusing to avail themselves of the protection of the country of nationality.
- Beneficiaries of subsidiary protection: cease to be eligible for protection when the circumstances which led to the granting of subsidiary protection status have ceased to exist or have changed to such a degree that protection is no longer required.

##### Freedom of movement:

Nationally

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<sup>36</sup> Council Directive 2004/83/EC



- Beneficiaries of refugee or subsidiary protection status are entitled to freedom of movement within the Member State under the same conditions and restrictions as legally resident TNCs.

#### Internationally

- Beneficiaries of refugee status: those who are unable to obtain a national passport are entitled to a travel document for the purpose of travel outside their territory unless compelling reasons of national security or public order otherwise require.
- Beneficiaries of subsidiary protection: as for beneficiaries of refugee status, with addition restriction that they are only entitled to travel documents when serious humanitarian reasons arise that require their presence in another State.

#### Family unity:

Member States are to ensure that family unity can be maintained. However, the right of family members to enjoy the benefits contained in the Directive is qualified by national procedures and the personal legal status of the family member. Member States may also extend more favourable provisions by including other close relatives who lived together as part of the family at the time of leaving the country of origin, and who were wholly or mainly dependent on the beneficiary of refugee or subsidiary protection status at that time.

#### Integration measures:

- Beneficiaries of refugee status: Member States shall make provision for integration programmes which they consider to be appropriate or create pre-conditions which guarantee access to such programmes.
- Beneficiaries of subsidiary protection: are to be granted access to integration programmes where the Member State considers it to be appropriate.
- Member States: must also ensure that appropriate measures are in place to promote harmonious relationships between local communities and accommodation centres that are located in their territory with a view to preventing acts of racism, sex discrimination and xenophobia against applicants for asylum.

#### Material assistance:

- Beneficiaries of refugee status: are entitled to receive the necessary social assistance as provided to nationals.
- Beneficiaries of subsidiary protection: as with beneficiaries of refugee status. However, Member States may limit social assistance to core benefits (to be provided at the same levels and under the same eligibility conditions as nationals).

#### Employment:

- Beneficiaries of refugee status: are entitled to engage in employed or self-employed activities subject to rules generally applicable to the profession and to the public service.
- Beneficiaries of subsidiary protection: as for beneficiaries of refugee status, with additional restriction that the Member States can exercise national rules on prioritisation in the labour market.

#### Vocational education and training:

- Beneficiaries of refugee status: Employment-related education opportunities for adults, vocational training and practical workplace experience to be offered to beneficiaries under equivalent conditions as nationals.

- Beneficiaries of subsidiary protection: Employment-related education opportunities for adults, vocational training and practical workplace experience, under conditions to be decided by the Member States.

Education:

- All minors granted refugee or subsidiary protection are entitled to full access to the education system under the same conditions as nationals.
- Adults granted refugee or subsidiary protection status are entitled to access to the general education system, further training or retraining, under the same conditions as TNCs legally resident.
- Beneficiaries of refugee or subsidiary protection status are entitled to equal treatment to nationals in the context of the existing recognition procedures for foreign diplomas, certificates and other evidence of formal qualifications.

Health care:

- Beneficiaries of refugee status: Entitled to receive access to health care under the same eligibility conditions as nationals.
- Beneficiaries of subsidiary protection: As with beneficiaries of refugee status. However, Member States may limit health care granted to core benefits (to be provided at the same levels and under the same eligibility conditions as nationals).
- Beneficiaries of refugee or subsidiary protection status who have special needs: Pregnant women, disabled people, persons who have undergone torture, rape or other serious forms of psychological, physical or sexual violence or minors who have been victims of any form of abuse, neglect, exploitation, torture, cruel, inhuman and degrading treatment or who have suffered from armed conflict are to be provided with 'adequate healthcare' under the same eligibility conditions as nationals.

Housing:

- Beneficiaries of refugee or subsidiary protection status are entitled to have access to accommodation under equivalent conditions as other legally resident TNCs.

**4.2.2.2. Temporary protection beneficiaries**

The Council Directive on minimum standards for giving temporary protection in the event of a mass influx of displaced persons<sup>37</sup> guarantees a series of rights for persons qualifying for temporary protection.

Specific provisions have been drawn up for unaccompanied minors and for those that have undergone particularly traumatic experiences (such as rape, physical or psychological violence)

The rights and entitlements associated with temporary protection are as follows:

Residence and security of status:

- Temporary protection beneficiaries are to be given a residence permit for the whole duration of the period of protection (one to three years); and
- Guaranteed access to the normal asylum procedure.
- Member States are to facilitate voluntary return. Voluntary and forced return are to be conducted with respect for human dignity.

Freedom of movement:

- There is no freedom of movement between Member States.

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<sup>37</sup> Council Directive 2001/55/EC

### Family reunification:

Family reunification is based on the following definitions on family: where families already existed in the country of origin and were separated due to circumstances surrounding the mass influx, the following persons are considered to be part of a family:

- the spouse of the sponsor or his/her unmarried partner in a stable relationship, where the legislation or practice of the Member State concerned treats unmarried couples in a way comparable to married couples under its law relating to aliens; the minor unmarried children of the sponsor or of his/her spouse, without distinction as to whether they were born in or out of wedlock or adopted; and
- other close relatives who lived together as part of the family unit at the time of the events leading to the mass influx, and who were wholly or mainly dependent on the sponsor at the time.

In cases where the separate family members enjoy temporary protection in different Member States, Member States *must* reunite the spouse or minor children and *may* reunite 'other close relatives' taking into account on a case-by-case basis the extreme hardship they would face if the reunification did not take place.

### Living arrangements for unaccompanied minors:

There is also a special provision to determine a suitable living arrangement for unaccompanied minors. In deciding where the placement should be, the views of the child shall be taken into account in accordance with the age and maturity of the child. The unaccompanied minor can be placed with:

- an adult relative;
- a foster-family;
- the person who looked after the child when fleeing;
- in reception centres with special provisions for minors; or
- in other accommodation suitable for minors

### Material assistance:

- The beneficiary of temporary protection is entitled to receive necessary assistance in terms of social welfare and means of subsistence, if they do not have sufficient resources.

### Employment, Education and Vocational Training:

- The beneficiary of temporary protection is entitled to engage in employed or self-employed activities, subject to rules applicable to the profession; and activities such as educational opportunities for adults, vocational training and practical workplace experience.
- For reasons of labour market policies, Member States may give priority to EU citizens and EEA citizens and also to legally resident TNCs who receive unemployment benefit.
- Beneficiaries of temporary protection are to be subject to the general law in force in the Member States applicable to remuneration, access to social security systems relating to employed or self-employed activities and other conditions of employment.

### Education:

- Minors (those under the age of 18) enjoy access to the education system under the same conditions as nationals of the host Member State. However, the Member States may stipulate that such access is confined to the state education system.
- Adults *may* be given access to the general education system.

#### Health care:

- The beneficiary of temporary protection is entitled to receive necessary assistance in terms of medical care, including at least emergency care and essential treatment of illness.
- Those who have special needs, such as unaccompanied minors or persons who have undergone torture, rape or other serious forms of psychological, physical or sexual violence are to be given necessary medical or other assistance.

#### Housing:

- The beneficiary of temporary protection is entitled to have access to suitable accommodation or, if necessary, receive the means to obtain housing.

#### **4.2.2.3. Asylum-seekers**

The Directive laying down minimum standards for the reception of asylum seekers<sup>38</sup> entered into force in 2003 and applies to all EU Member States, except Denmark and Ireland. The Directive establishes minimum standards for the reception of asylum seekers in the EU, which are deemed sufficient to ensure “a dignified standard of living and comparable living conditions in all Member States”.

The Directive applies to those who make an application for asylum under the 1951 Geneva Convention as long as they are allowed to remain on the territory as asylum seekers. It is left to the discretion of the Member State to apply the Directive to those applying for subsidiary forms of protection or to cases awaiting removal to another Member State under the Dublin Convention.

The Directive also demands that Member States implement the provisions on material reception conditions and health care with due regard to the specific situation of vulnerable persons such as minors (the best interests of the child are to be given primary consideration), unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence.

Member States may also introduce or retain more favourable provisions in the field of reception conditions, as long as they are compatible with the Directive.

The Directive provides the following rights and conditions:

#### Freedom of movement:

- “Member States *may* allow applicants to move freely within the territory of the host Member State or an area assigned to them, in accordance with their national law. This area *must not* affect “the unalienable sphere of private life and shall allow sufficient scope for guaranteeing access to all benefits under the Directive”.
- However, Member States are also given powers to control the movement and residence of asylum applicants for certain reasons, for example, expediting asylum processing. In such circumstances the Member State is to provide for the possibility of granting applicants temporary permission to leave the place of residence – a decision which is to be taken individually, objectively and impartially.
- Member States *may* provide asylum seekers with a travel document when serious humanitarian reasons arise that require their presence in another State.

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<sup>38</sup> Council Directive 2003/9/EC

#### Family unity:

- Asylum-seekers who are provided with lodgings, whether this be a house, accommodation centre or hotel, are to be assured protection of their family life.

#### Unaccompanied minors:

- As soon as possible a guardian will be appointed for each unaccompanied minor. In addition, the Member States will endeavour to trace the members of his family.

#### Material assistance:

- Member States are obliged to provide material reception conditions in order “to ensure a standard of living adequate for health and to enable subsistence”.
- Material reception conditions may be provided in kind and / or in the form of financial allowances or vouchers.

#### Employment:

- Member States must determine the period of time after an application is made during which an applicant will not have access to the labour market, which will not exceed one year (so long as the delay is not attributable to the applicant).
- Access to the labour market cannot be withdrawn during the appeals procedures.
- Access to the labour market is subject to conditions laid down by the Member State and may include giving priority to EU /EEA nationals and legally resident TNCs.

#### Education:

- The Directive does not provide adults with the right to education.
- The Directive gives minors applying for asylum or the children of asylum seekers the right to education. The provision of education should be similar to, but not necessarily the same as, provision for nationals. Education can be postponed for no more than three months from the date of application<sup>39</sup>. Education may also be provided in accommodation centres.

#### Access to vocational training:

- Member States *may* provide asylum-seekers with access to vocational training irrespective of whether they have access to the labour market.

#### Health care:

- Asylum-seekers are to receive necessary health care, including as a minimum emergency care and essential treatment of illness.
- Member States shall provide necessary medical or other assistance to applicants who have special needs.
- Member States are to provide rehabilitation services for minors who have been victims of any form of abuse, neglect, exploitation, torture or cruel, inhuman and degrading treatment, or who have suffered from armed conflicts, and ensure that appropriate mental health care is developed and qualified counselling is provided when needed.
- Asylum-seekers who have been subjected to torture, rape or other serious acts of violence are to “receive the necessary treatment of damages caused by the aforementioned acts”. The types of services that are to be made available, however, are not defined.

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<sup>39</sup> Unless specific education, i.e. language tuition, is provided in order to facilitate access to the system whereby the postponement can be for 1 year.

### 4.2.3. Temporary residents – researchers and students

Students and researchers are not included in the integration framework, but Member States have the discretion to include them. Community law, however, provides researchers and students with some basic rights.

The 2005 Council Directive on the admission and mobility of scientific researchers<sup>40</sup> outlines a number of associated rights relating to equity and non-discrimination. In addition to residence rights (the Directive prescribes that the researcher's residence permit must be for at least one year or the duration of the project; and also stipulates that the residence permit of family members, if Member States agree to their issuance, should be for the same period), it also furnishes that researcher with:

- the right to teach;
- equal treatment with nationals in regard to the recognition of qualifications;
- the same working conditions as nationals;
- access to social security schemes for employed persons;
- tax benefits;
- equal access to goods and services; and
- the right to conduct research in other Member States for periods of up to three months.

The 2004 Directive on the conditions of admission of TNCs for the purposes of studies, pupil exchange, unremunerated training or voluntary service<sup>41</sup> provides eligibility TNCs with a basic right of residence for the duration of their studies / training / activity. These rights do not provide parity with nationals.

The Directive gives particular rights to students, including:

- the right to a *renewable* residence permit (so long as the holder continues to meet the conditions);
- the right of free movement: Students participating in a Community or bilateral exchange programme or admitted for no less than two years have the right of free movement to another Member State; and
- the (conditional) right to work: students are entitled to be employed and may be entitled to exercise self-employed activity. The situation of the labour market in the host Member State may be taken into account. Member State shall determine the maximum number of hours per week or days or months per year, which must not be less than 10 hours per week (or the equivalent in days or months). The following restrictions, however, apply:
  - The right is subject to the rules and conditions applicable to the relevant activity in the host Member State;
  - students, or their employers, may have to officially report that they are working; and
  - access to work in the first year of residence may be restricted by the host Member State.

### 4.3. Policy infrastructure

Immigration and integration have traditionally been extremely unpopular issues within Europe. As a result, DG JLS was hampered in building up the policy infrastructure necessary to design and implement integration policies. Notably, it was not permitted to embark on an open method of co-ordination. Interestingly, many ingredients of such a policy infrastructure have been put in place in the meantime. The Thessalonica European Council and the Hague Programme endorsed this piecemeal approach. It includes:

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<sup>40</sup> 2005/71/EC, 2005/762/EC 2005/761/EC

<sup>41</sup> 2004/114/EC

- the establishment of the National Contact Points;
- the European Migration Network on information exchange (see Chapter 3);
- the publication of an Annual Report;
- the adoption of the Common Basic Principles;
- the development of Handbook on Integration, followed by an integration website;
- the creation of an Integration Forum; and
- the creation of an Integration Fund.

A network of National Contact Points on integration was set up by the Commission as a follow-up to the Justice and Home Affairs Council conclusions of October 2002 where the need for exchange of information and best practice and the establishment of a network was called for. The Thessaloniki European Council conclusions stressed the importance of developing co-operation and exchange of information within this network with a view in particular to strengthening co-ordination of relevant policies at national and European level.

The main objective of the network is to create a forum for the exchange of information and best practice between Member States at EU level with the purpose of finding successful solutions for integration of immigrants in all Member States and to ensure policy co-ordination and coherence at national level and with EU initiatives.

The European Migration Network has undertaken studies that can contribute to the development of an EU approach to integration. These include their 2004 study on 'the Impact of Immigration on Europe's Societies', the 2005 study on 'Reception Systems, their Capacities and the Social Situation of asylum applicants within the Reception Systems in the EU Member State'. A study on 'Family Reunification and Family Formation' is also foreshadowed.

Networking at European level between NGOs occurs at a modest scale, which can be attributed partly to interest ('all integration is local') and partly to capacity ('European co-operation costs time, money and language skills').

A number of active and rather powerful networks of NGOs do exist at the European level to reflect civil society's diversity. The strongest networks are those linked to or part of established organisations such as churches, trade-unions, human rights or refugee organisations. Among them are networks sponsored by the European Commission.

#### **4.4. Programmes**

This section looks briefly at the INTI Programme before concentrating on its successor - the European Integration Fund – one of the four financial instruments of the framework programme on Solidarity and Management of Migration Flows

##### **4.4.1. The Preparatory Actions for integration of third-country nationals (INTI)**

The Preparatory Actions for integration of third-country nationals (INTI) promotes the integration of legally-residing TNCs not covered by the European Refugee Fund.

INTI is designed to promote activities at local level, strengthening networks and the exchange of information and good practices between Member States, their regional and local authorities and other stakeholders. It supports actions that:

- promote the integration of TNCs through specific projects encompassing, in particular, language courses and information on the distinctive cultural, political and social characteristics of the country in question, including citizenship and European fundamental values;
- develop dialogue with civil society;
- seek out and evaluate best practice in the integration field;
- develop integration models; and
- establish networks at European level.

Even though INTI is an integration programme, part of its appropriation can be used to address the root causes of migration in the country of origin (mobility reasons).

The Integration Fund (see 4.5.) was proposed as a result of the success of INTI projects. 2006 was the final round of INTI funding. Projects, which have a maximum duration of 18 months, must start before 31 August 2007. Hence INTI will draw to a close by the end of 2008.

#### **4.4.2. Framework programme on solidarity and management of migration flows**

The framework programme on Solidarity and Management of Migration Flows for the period 2007-2013 (which was outlined in greater detail in Chapter 2), consists of four financial instruments. Two of these financial instruments provide considerable funding for integration activities in the EU. These are:

- The European Integration Fund; and
- The European Refugee Fund (ERF)

##### **4.4.2.1. The European Integration Fund**

The European Integration Fund (the Fund) follows on from INTI

The general objective of the Fund is to support the efforts of Member States to enable TCNs to fulfil the conditions of residence and to facilitate their integration into European societies, in accordance with the Common Basic Principles.

The target group of the fund is primarily newly-arrived TNCs. It does not cover integration for refugees and beneficiaries of subsidiary protection as such actions fall under the European Refugee Fund (see 4.4.2.).

The Fund contributes to six main policy objectives:

1. to facilitate organisation and implementation of admission procedures for migrants by strengthening their integration component;
2. to contribute to the organisation and implementation of introduction programmes and activities for TNCs;
3. to increase civic, cultural and political participation by TNCs in the host society;
4. to strengthen the capacity of national organisations to better respond to the needs of different groups of TNCs;
5. to strengthen the ability of the host society to adjust to increasing diversity; and
6. to increase the capacity of Member States to develop and evaluate integration policies.

The Fund complements the European Social Fund.

All Member States participate, with the exception of Denmark (UK and Ireland have opted in).

##### **4.4.2.2 European Refugee Fund (ERF)**

This section focuses on the integration aspects of the ERF as contained in the Council Decision establishing the European Refugee Fund for the period 2005 to 2010<sup>42</sup>.

The target group comprises of persons seeking or enjoying international protection in the EU, and their families. Specifically:

- refugees,
- subsidiary protection beneficiaries,

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<sup>42</sup> 2004/904/EC



- temporary protection beneficiaries, and
- asylum-seekers.

National actions eligible for support under the ERF include the provision of:

(a) advice and assistance in areas such as housing, means of subsistence, integration into the labour market, medical, psychological and social care;

(b) actions enabling recipients to adapt to the society of the Member State in socio-cultural terms, and to share the values enshrined in the Charter of Fundamental Rights of the EU;

(c) actions to promote durable and sustainable participation in civil and cultural life;

(d) measures focusing on education, vocational training, recognition of qualifications and diplomas;

(e) actions designed to promote self-empowerment and to enable these persons to provide for themselves;

(f) actions that promote meaningful contact and constructive dialogue between these persons and the receiving society, including actions which promote the involvement of key partners such as the general public, local authorities, refugee associations, voluntary groups, social partners and the broader civil society;

(g) measures to support the acquisition of skills by these persons, including language training;

(h) actions that promote both equality of access and equality of outcomes in relation to these persons' dealings with public institutions.

The integration of asylum seekers is also a specific objective of the DG Employment, Social Affairs and Equal Opportunities' EQUAL programme which is discussed in detail in Chapter 6 (section 6.1.3.3.)

#### **4.5. Financial instruments**

This section looks at the financial dimensions of INTI and the Integration Fund.

##### **4.5.1. INTI**

Since preparatory actions are trans-national, they include partners from at least 5 different Member States. Projects must have been submitted by a legal person, i.e. the coordinator, who carries out the project with at least four other distinct and unrelated legal persons established in different Member States.

Calls were open to NGOs, public or private bodies, including university departments, research centres and international organisations

The co-financing amount is cannot exceed 70% of the total eligible costs of the project.

##### **4.5.2. Integration Fund**

The Commission had originally proposed an allocation of €1771 million for the period 2007-2013. The European Parliament and the Council made a compromise amendment that the Integration Fund shall be €825 million for the period and each Member State shall receive a fixed amount of €500,000 from the Fund's annual allocation. The annual allocation of funds is presented in the table below.

<b>European Fund for the Integration of Third-country nationals</b>						
Total	amount	over	the	2007-2013	period:	825 M€
2007	2008	2009	2010	2011	2012	2013
65,00	78,00	98,00	106,00	132,00	163,00	183,00

Of the E €825 million total, €768 million distributed amongst Member States on the basis of objective criteria of the number of legally resident TNCs. The remaining 7% (€57 million) is reserved for Community actions.

#### National actions

On the basis of Community strategic guidelines and in dialogue with the Commission, each beneficiary Member State will develop their own multi-annual programming strategy (2007 – 2013) on the use of the resources they receive each year. The strategy will constitute the framework for the implementation of actions through annual programmes.

The strategic guidelines, however, have not yet been developed. Member States are expected to develop their multi-annual programmes and first annual programmes in the second half of 2007, when the strategic guidelines and the estimates for 2007 are known. Approval of the annual programmes will not occur until early 2008.

Before 1 March each year the Commission shall approve the annual programme of each beneficiary Member State and take the necessary financing decision, allocating a pre-financing payment of 50%. Further payments will depend on the progress in implementation of the actions.

#### Community Actions

Each year the Commission will adopt an annual work programme and invite bids for calls for proposals and/or tenders for transnational actions and actions in the interest of the Community.

The annual work programme is to build on past experiences, particularly in regard to the INTI preparatory programme.

The Commission will adopt the annual work programme for the 2007 Community Actions for the Integration Fund in the first half of 2007. The calls for proposals, inviting project bids from third parties, and possible calls for studies are to be launched in the third quarter of 2007.

#### Eligibility

Although the eligibility criteria for the 2007-2013 programme are not yet known, it is likely a wide range of actors will be able to apply. The INTI preparatory programme for 2006 was open to national, regional and local authorities of the EU Member States and to NGOs, public or private bodies, including university departments, research centres and international organisations established in one of the Member States – all must operate on a strictly non-profit basis and have proven experience and expertise in the field of integration.

#### Co-financing

50% or, for Cohesion Fund countries and actions implementing specific priorities of the strategic guidelines, 75% of the actions can be co-financed by the Fund.

Examples of measures to co-finance are intercultural training and dialogue, platforms and networks and tools for comparative learning and programmes and activities in Member States aimed at introducing newly-arrived TNCs to the host society and enabling them to acquire

basic knowledge about the host society's language, history, institutions, socio-economic features, cultural life and the fundamental norms and values. This also includes such programmes and activities offered as pre-departure measures in third countries (as outlined in Chapter 2).

#### **4.5.3. The Refugee Fund**

The ERF and its financial structure are outlined in detail in Chapter 3.

#### **4.6. Conclusion**

EU immigration and integration policies support the view that newcomers should garner new rights and obligations over time. The examination of community law indicates that rights not only accumulate with time (as indicated by the Long-term Residence Directive), but on the desirability of the category of migrant. A newly-arrived researcher, for example, has greater freedom of movement within the EU than persons enjoying international protection who have been living in that Member State for a number of years.

Community law often limits, rather than allocates, rights. The majority of provisions in Community law stipulate that TNCs do not enjoy the same rights as nationals. Without equity, it is difficult to achieve mutual respect between TNCs and nationals, or to secure the personal development and active participation of TNCs. In short, parity of rights is required if TNCs are to enjoy the four dimensions of well-being (anti-discrimination, recognition, development and participation).

The integration framework, which advocates integration as a dynamic, two-way process of mutual accommodation, asks much more of TNCs than it does of Member States and their residents.

The integration agenda often leaves out those who are most vulnerable and need integration assistance. This includes persons seeking asylum, enjoying subsidiary or temporary protection, and those who are undocumented. It also includes those who have been resident in the EU long-term, but are unable to benefit from the security of long-term residence status as their financial and employment situations are too precarious. Despite huge concerns over second-generation youth, they too, fail to secure a place on the integration agenda.

The integration agenda also ignores the migrants that it courts – the highly-skilled - who often arrive on a temporary basis. While this group may not have such a pressing need for integration assistance, such help could smooth their settlement process and encourage them to stay for the longer-term.

The Integration Fund and the European Refugee Fund are vital instruments in funding actions that facilitate integration. However, as their scope reflects the integration agenda, actions may not reach those TNCs most in need of integration assistance, those who Member States desperately want to integrate (i.e. second-generation migrant youth), or those that they desperately need (the highly-skilled).

## **Chapter 5: Adjustment – Socio-economic policies**

Settled immigrants work and employ their skills under different adjustment circumstances. Their skills may be undervalued or under-utilised at work, where they may equally be vulnerable to exploitation and discrimination. In such cases, immigrants must repeatedly prove their value and adjust their working methods to new and rapidly changing labour situations. Against these pressures, many assert an entrepreneurial spirit to take risks and acquire new skills and competencies. Earning their living as employee or entrepreneur and taking care of their families fulfil their migration aspirations and enhance their integration.

Assessments of human resources needs should inform socio-economic policies. Instruments to match supply and demand include reducing unemployment, removal of employment barriers for specific groups (women, minorities, the elderly etc.), promotion of life-long learning and acquisition of competences, and the recruitment of foreign labour (selective immigration). Conventional assessments consider the impact of immigration in terms of the effect on wages and the employment rates of certain categories of workers. These investigations aim to reconcile any conflict of interest between low-skilled native workers and immigrants or between categories of native and immigrant high-skilled workers. National policy approaches perceive an exchange between the economic benefits of immigration and its social costs on the overall population.

Immigrants also face obstacles in accessing and participating in education. These barriers can have negative consequences for the individual immigrant and the host society, including future unemployment, underemployment and social exclusion. If immigrants are to have a sense of wellbeing and participate fully in society, and if host countries are to realise the full capacity of their human capital and achieve social cohesion, it is vital that education systems provide immigrants with the means to fulfil their potential.

This chapter examines DG Employment, Social Affairs and Equal Opportunities' European Employment Strategy; DG Enterprise and Industry's Ethnic Minority Entrepreneurs programme; and DG Education and Culture's Education & Training 2010 work programme to implement the Lisbon objectives; and the efforts of these DGs in mainstreaming immigrant integration into their socio-economic policies, programmes and financial instruments.

### **5.1. DG Employment, Social Affairs and Equal Opportunities**

Before examining DG Employment, Social Affairs and Equal Opportunities (hereafter referred to as DG Employment) role in immigrant integration, it is important to understand the historical link between employment and migration within the Community. The foundations of EU migration policy are to be found in the socio-economic affairs portfolio as migration was primarily an issue about the free movement of workers within the Community.

The freedom of movement of workers was enshrined in the founding Treaty of the European Communities, which gave nationals of Member States the right to move to another Member State and take up a gainful activity and establish themselves under the same conditions as nationals of that Member State. As a consequence, intra-Community migration was no longer considered as 'migration' and 'internal migrants' were no longer seen as immigrants.

The introduction of EU citizenship in the 1990 Maastricht Treaty gave European citizens the right of free movement within the EU on the basis of equality - every national of a Member State had a right to move, work and settle in another Member State. The economic aim to complete the internal market drove EU migration policy. The expansion of free movement impelled further development of Community law and supportive programmes to promote mobility, to the benefit of an increasing number of EU citizens.

A broad disconnection between migration and integration and socio-economic development occurred throughout Europe in the nineties, which also manifested itself at the EU level. Without any serious shortages on the labour market, the private sector exerted no pressure for the recruitment of foreign labour. They considered the promotion of the free movement of EU citizens sufficient to fill labour mobility needs. A low demand for foreign labour and an

abundant EU supply of labour caused a restrictive tone to filter into European debate re-focused on preventing international migration. The transfer of immigration from socio-economic affairs to internal and juridical portfolios reflected the dominant view that immigration was not desired.

DG Employment barely considered migration as a complementary labour market strategy and it scarcely figured in the Employment Strategy. The language used in those policy circles labelled immigrants as a vulnerable group and not as economic and social actors.

Immigration and the integration of immigrants into the labour market have since risen on the political agenda, not only because immigrants pose particular challenges to meeting socio-economic goals, but also because they contribute to achieving these goals. European employment strategies can advance their goals through the mainstreaming of immigrants into these general policies and the development of policies to address specific immigration-related issues.

### **5.1.1. Mission Statement**

The mission of DG Employment, Social Affairs and Equal Opportunities (hereafter referred to as DG Employment) is to contribute to the development of a modern, innovative and sustainable European Social Model with more and better jobs in an inclusive society based on equal opportunities.

It plays a key role in promoting positive interaction between economic, social and employment policies, bringing in the main players who can help to make Europe the world most competitive and dynamic knowledge-based economy, capable of sustainable economic growth, with more and better jobs and greater social cohesion.

DG Employment assists in addressing major challenges and formulating concrete responses in relation to:

- employment: via the European Employment Strategy and the European Social Fund;
- structures in the world of work: by approximating national legislation regulating the labour market, by developing social dialogue at European level, by modernising labour relations, and by making the EU workers more mobile;
- social exclusion and social protection: by reinforcing the co-operation between Member States, drawing up legislation and running programmes to counter discrimination, promoting fundamental rights and by enhancing the integration of disabled people; and
- equality between men and women: by producing and overseeing legislation, running programmes designed to improve equal opportunities for women and men and ensuring that the gender issue is taken into account in all fields of Community action.

### **5.1.2. Declared Policies – the European Employment Strategy**

On the basis of the new provisions of the Amsterdam Treaty, the Luxembourg European Council of November 1997 initiated the European Employment Strategy (EES), also known as 'the Luxembourg process'. It was designed to give direction to and ensure co-ordination of EU employment policy priorities.

Heads of State and Government agreed on a framework for action based on the commitment from Member States to establish a set of common objectives and targets for employment policy. This co-ordination of national employment policies at EU level was built around an annual process of guidelines agreed at the Council level, national action plans from the Member States and a joint report by the European Commission.

The EES's main subject area was best captured in the 2000 Lisbon Strategy, which aimed to make the EU the most competitive and knowledge-based economy in the world by 2010. This economy would sustain more and better jobs while maintaining greater social cohesion.

The EES was revised in 2005 to improve coordination between Member States and the European institutions on the one hand and, on the other hand, to better coordinate employment policies with macroeconomic and microeconomic policies of the EU. The new EES covers a three year period, from 2005 to 2008. The revision resulted from the EES's failure to deliver on its targets, particularly related to growth, unemployment and lack of investment in research and development. The EES was re-oriented towards growth and jobs as a precondition for delivering other elements of the strategy. This focus contains three underlying objectives: achieving full employment, improving quality and productivity at work, and strengthening social and territorial cohesion.

The components of the new EES are:

- Integrated Employment Guidelines (the Guidelines): following a proposal from the Commission, the European Council agrees every year on a series of guidelines setting out common priorities for Member States' employment policies.
- National Reform Programmes: every Member State draws up a programme in which is described how these Guidelines are going to be designed and implemented nationally.
- Joint Employment Report: the Employment chapter of the annual progress report is adopted by the Council to form the Joint Employment Report.
- Recommendations: The Council may decide, by qualified majority, to issue country-specific Recommendations upon a proposal by the Commission.
- EU annual progress report: the Commission reviews progress made at both national and Community level, based on regular monitoring of the actions listed in the Community Lisbon Programme and on an evaluation of the implementation of the Member states national programmes. On the basis of this annual assessment, the Commission may, if necessary, identify further actions to revise the Community Lisbon Programme.

### Immigrant integration in the EES

EES and Article 127 of the Amsterdam Treaty introduced the concept of mainstreaming, whereby the EES should take into account the employment impact of all community policies. The Commission's 2003 Communication on the future of the EES<sup>43</sup> reinforced this principle with regard to immigrants, who it argued must likewise be better considered in EU employment coordination strategies.

The 1999 Guidelines introduced a separate guideline on disadvantaged groups. Guideline 9 set the goal of the integration of disadvantaged groups and individuals into the labour market, including the disabled, ethnic minorities and other groups. The Commission significantly expanded this Guideline in 2001 to include migrant workers, to cover combating discrimination and to substitute 'disadvantaged groups and individuals' with 'the promotion of social inclusion.' The Communication on the future of the EES qualified that this integration into the labour market must be 'sustainable.'

The different sets of Guidelines and Joint Employment Reports have set areas of improvement and targets of varying scopes. The prioritising of immigrant inclusion therefore appears in waves of intensity, with a rather heavy focus in 2003 and 2004 preceded and followed by rather sparse treatments in the periods of 2002 and 2005-2008. The Commission's 2002 Action Plan for skills and mobility established four goals to expand occupational mobility and skills development. Immigrants (defined as TCNs) and ethnic minorities were mainstreamed into two of these goals and targets:

- intensify support for integrating disadvantaged people, including ethnic minorities and immigrants, into the education and training system; and
- ensure access to lifelong training for all, particularly workers from disadvantaged or minority groups.

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<sup>43</sup> COM (2003) 6 final

The Communication on the future of the EES expanded on these two points to incorporate more targets and a disaggregate approach to immigration and gender, age, mother tongue and education. The target group was expanded from just TNCs to also include first and second generation youth. It highlighted the need for:

- access to training and employment services to increase labour market participation and reduce unemployment by 2010;
- develop sanctions and preventative measures to turn undeclared work into regular employment;
- closer monitoring of EU labour market needs;
- increased job mobility for TNCs;
- exchange of information and peer review for the promotion of employment incentive measures, the recognition of skills and diplomas, entrepreneurship among first and second generation youth, barriers to integration in the labour market, local employment strategies, language training for professional purposes including fast-track schemes.

The 2003/2004 joint employment report proposed a more compact set of five targets to guide the actions of the employment task force, Member States and the social partners. Here the target group consists of TNCs, with focus on one sub-group, immigrant women:

- greater participation of TNCs in education and training programmes for integration into the labour market;
- develop measures to combat discrimination in the workplace;
- incorporate the needs of immigrant women into strategies;
- promote immigrant business creation;
- improve the recognition of qualifications and competences acquired abroad.

The current edition of the Guidelines (2005-2008) is less elaborate than its predecessors. Guideline 19 pertains to immigrants; "ensuring inclusive labour markets, enhancing work attractiveness, and making work pay for job seekers, including disadvantaged people and the inactive." Non-EU nationals are targeted as a specific disadvantaged group. The guidance is broken down into a more detailed explanation, which stresses that the national labour markets must give full consideration to the potential additional labour supply resulting from immigration of non-EU nationals.

Target groups in Guidelines tend to be defined ambiguously and refer interchangeably to ethnic minorities, immigrants and TCNs. The definition process becomes more confused as Member States select their own national definitions from these generally recommended definitions of disadvantaged groups. Disaggregations of immigrants appear rarely.

To summarise efforts to incorporate immigrant integration into the EES, figure 4 lists key actions considered that are necessary to overcome barriers to immigrant integration in the field of employment (these are framed in the four dimensions of well-being outlined in Chapter one) and it then indicates if these actions have been identified in EES Guidelines, and if so, which year/s this occurred.

<b>Figure 4 - Actions to facilitate immigrant integration contained in the Guidelines</b>	
<b>Actions to facilitate integration</b>	<b>Incorporation into Guidelines</b>
<b>Non-discrimination</b>	
* access to employment for all * access to public sector employment * access to welfare benefits * non-discrimination in the job hunt	* combat discrimination in the labour market (2001)

<b>Dignity</b>	
* transparent, timely and affordable procedures	
* security of residence and work status	
* recognition of skills and qualifications	* recognition of skills and diplomas (2003, 2004)
* fair work conditions	* turn undeclared work into regular employment (2003)
* respect for diversity in the workplace	* combat discrimination in the workplace (2004)
* access to benefits for elderly immigrants	
<b>Development</b>	
* mobility within the labour market	* increase job mobility for TCNs (2003)
* career guidance and job lifelong and language training	* access to and participation in training (2002, 2003, 2004)
* specific needs of immigrant entrepreneurs	* promote immigrant business creation (2004)
<b>Participation</b>	
* unemployment gaps	* increase labour market participation and reduce unemployment (2003, 2004, 2005-2008)
* labour market situation of immigrant women	* incorporate needs of immigrant women (2004)

The 2006 Annual Progress Report used EU-wide rather than country-specific recommendations. The Annual Progress Report stressed the need to target specific groups, such as immigrants, through comprehensive action on anti-discrimination and labour market integration.

### 5.1.3. Policy infrastructure

This section looks at the EES's Open Method of Coordination and DG Employment's dialogue with civil society.

#### 5.1.3.1. Open Method of Coordination

A new title on employment in the Amsterdam treaty in 1997 entrusted the European institutions with stronger roles and instruments to complement Member States, who possess the sole competence for employment policy. The subsequent EES operated as an Open Method of Coordination (OMC), ensuring coordination of the employment policies in all the Member States based on a set of common objectives and targets.

The exchange of good practice and implementation measures on the inclusion of immigrants into the labour market within the EES have been minor. Among all the activities of the Mutual Learning programme, only one peer review programme addressed only tangentially the specific goals of immigrant inclusion in the labour market and anti-discrimination. This represents one programme out of the reported 47 peer reviews, five thematic reviews, nine follow-up/dissemination networks and three synthesis reports from 1999 to 2005.

#### 5.1.3.2. Dialogue with civil society

The development and implementation of EES through the European Structural Funds must take place in partnership with all the key players at a national, regional and local level. This includes involving relevant partners in the development and implementation of plans and in programme monitoring committees.



The EES provides opportunities for both social NGOs and social partners to participate. However, the level of involvement varies widely across Member States, and the impact of the participation has also been called into question.

A 2005 report prepared by social partners<sup>44</sup> found that social partners were usually consulted during the preparation of the National Action Plans, however the impact of the consultation process was variable. In some cases their comments were broadly taken into account (Belgium, Cyprus, Finland, Greece, Italy, Luxembourg, Slovenia and Sweden), in others their comments had some impact (Czech Republic, Germany, Latvia, Netherlands, Poland, Spain, UK) or very little impact (France, Ireland and Portugal). In many countries social partners' joint contributions were included in a distinct manner in the text of the National Action Plan and/or its annexes (Belgium, Czech Republic, Denmark, France, Germany, Italy, Luxembourg, Spain, Sweden and UK).

In terms of quality, the consultation improved over the years in one country (Germany), but was seen as unsatisfactory due to an inadequate method of involvement (Spain), insufficient time for consultation (Ireland, Netherlands, Portugal and Spain) and the absence of discussions with government (Austria).

Furthermore, recent research conducted at the University of Bath<sup>45</sup> suggests that the EES provides social partners with a reduced form of collaboration where they appear to be co-opted into a process and a mechanism beyond their influence. The paper concludes that social partners cannot be said to be systematically involved in all stages of the National Action Plan process or the peer review.

The Commission's Communication on the Social Agenda<sup>46</sup> calls for a stronger link between the EES and the development of social partners' agreements to make it possible to enhance the adaptability of labour and to support policies for lifelong training and modernisation of the organisation of work. It is not yet clear what this 'stronger link' entails.

#### **5.1.4. National Reform Programmes**

Every Member State draws up a National Reform Programme (these were referred to as 'National Action Plans' prior to 2005) which describes how the Guidelines are put into practice at the national level. They present the progress achieved in the Member State over the last 12 months and the measures planned for the coming 12 months, so they are both planning and reporting documents.

To what extent is immigrant integration addressed in the most recent National Reform Programmes? A number of Member States outline the future importance of immigration in sustaining their labour markets in the future. However, acknowledgement of the challenge of integrating immigrants is not evident in the National Reform Programmes. In its review report of the new 2005 NRPs, the European Anti-Poverty Network (EAPN) especially highlights the lack of reference to discrimination<sup>47</sup>. In the Belgian, German, Danish, Swedish, Irish and UK reports discrimination was only addressed in the context of labour market integration, which is according to EAPN too limited.

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<sup>44</sup> European Trade Union Confederation (UNICE), Union of Industrial and Employers' Confederations of Europe (UEAPME), European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest, "Report on Social Partner Actions on Employment in Member States", March 2005.

<sup>45</sup> Cressy, P. & Gold, M. "Whatever Happened to Social Dialogue? From Workers' Rights to the Employment Agenda", UK Work Organisation Network (UKWON) Working Paper Series, July 2005.

<sup>46</sup> COM(2005) 33 final

<sup>47</sup> See EAPN, "Back to the Future? An EAPN assessment of the Implementation Reports on the NAPs Inclusion," (Brussels, 2005) 15-17. See most recent, EAPN, "Making Lisbon deliver for people experiencing poverty: EAPN response to 2006 Implementation Reports on the National Reform Programs," (Brussels, 2007).

In years past, country-specific recommendations on immigrant integration have been issued to Austria, Denmark, Finland, Germany, the Netherlands, Portugal, Spain and the United Kingdom, which largely corresponds to the list of countries that report statistics on immigrants, foreigners or ethnic minorities. These recommendations are either general (active labour market inclusion measures and incentives) or specific (focus on immigrant youth participation, monitor impact of reforms, etc).

#### **5.1.5. Financial instrument - ESF**

The European Social Fund (ESF), created in 1957, is one of the EU's four Structural Funds set up to promote economic and social cohesion. In the period 2000-2006, the ESF provided €70 billion to people and projects across the EU. It is the financial instrument for implementing the EES and also funds the EQUAL Community Initiative, which will be discussed in the Chapter 6.

A new programming round for the Structural Funds commenced in January 2007, which is to be accompanied by a new set of regulations governing the operation of the Structural Funds. The new regulations are currently being debated and will result in some of the biggest changes in the operation of the Structural Funds for more than a decade.

The ESF will provide support under two new objectives: 'Convergence', which concerns the least developed regions, and 'Regional Competitiveness and Employment', which concerns the rest of the EU.

The links between the ESF and the EES are being reinforced so that the ESF can contribute more effectively to the employment objectives and targets of the "Lisbon Strategy for Growth and Jobs", and its three main objectives of full employment, quality and productivity at work, social cohesion and social inclusion.

The ESF will focus on four key areas for action for both the Convergence and the Regional Competitiveness and Employment objectives:

- increasing adaptability of workers and enterprises
- enhancing access to employment and participation in the labour market
- reinforcing social inclusion by combating discrimination and facilitating access to the labour market for disadvantaged people
- promoting partnership for reform in the fields of employment and inclusion

In addition, under the 'Convergence' objective the ESF will also support efforts to expand and improve investment in human capital, in particular by improving education and training systems; and action aimed at developing institutional capacity and the efficiency of public administrations, at national, regional and local level.

The Commission does not directly fund ESF projects. Member States are responsible for identifying their priorities for funding and for selecting individual projects.

A broad range of government and non-government actors are able to apply for funding, including national, regional and local authorities, educational and training institutions, NGOs and the voluntary sector, as well as social partners, for example trade unions and works councils, industry and professional associations, and individual companies.

#### Convergence

The Convergence objective aims to help the least-developed Member States and regions catch up more quickly with the EU average by improving conditions for growth and employment. The following are eligible for ESF:

- regions where per capita GDP is below 75% of the Community average and where the administrative region has a population of between 800,000 and 3 million (NUTS II level). Such regions will receive 70.51% of the funds allocated for this objective.

- regions where per capita GDP has risen above 75% of the Community average due to the statistical effect of enlargement will benefit from transitional, specific and degressive financing. They will receive 5% of the total allocation.

For this objective, the following ceilings apply to co-financing rates:

- 75% of public expenditure co-financed by the ESF;
- up to 80% where the eligible regions are located in a Member State covered by the Cohesion Fund; and
- 85% in the case of the outermost regions.

### Regional Competitiveness and Employment

This objective aims to strengthen the competitiveness, employment and attractiveness of regions other than those which are the most disadvantaged.

The eligible regions are:

- regions which fell under Objective 1 during the period 2000-06, which no longer meet the regional eligibility criteria of the Convergence objective, and which consequently benefit from transitional support; and
- all other regions of the Community not covered by the Convergence objective.

The resources intended for this objective total €49 billion, equivalent to 16% of the total and divided equally between the ERDF and the ESF. Of this amount 79% is intended for the regions not covered by the Convergence objective and 21% is earmarked for transitional degressive support.

Under this objective, measures can be co-financed up to 50% of public expenditure. The ceiling is 85% for the outermost regions.

## **5.2. DG Enterprise and Industry**

### **5.2.1. Mission Statement**

DG Enterprise and Industry's mission is to make the EU the most competitive and dynamic knowledge driven economy by making it more entrepreneurial and innovative and by getting still more from the internal market. Opening doors to minority groups is a one of its strategies for achieving this objective.

### **5.2.2. Declared Policies**

DG Enterprise and Industry has decided to consider one particular aspect of immigrant inclusion in the labour market: self-employment. Since most employment policies conceive of TNCs as migrant workers, ethnic minority entrepreneurs, their contribution and their unique challenges remain uncharted territories.

The third multi-annual programme for small and medium-sized enterprises in the EU 1997-2000 proposed the development of measures and initiatives to address the needs of small enterprises and specific target groups of entrepreneurs. The programme identified ethnic minorities as one of these target groups and set in motion a programme on ethnic minority entrepreneurship.

The 2004 Commission Action Plan on the European agenda for Entrepreneurship<sup>48</sup> gave some shape to this programme, with ethnic minorities appearing on its agenda. Key action 5 of the Action Plan sets the main goal for this programme as the provision by the Commission

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<sup>48</sup> COM(2004) 70 final

and Member States of tailor-made support for women and ethnic minorities. DG Enterprise and Industry would apply to ethnic entrepreneurs the methodology of its well-established efforts for another mainstreamed target group, female entrepreneurs. The process would rely on the identification and evaluation of policy measures and good practice in order to encourage ethnic entrepreneurs. DG Enterprise and Industry also ambitiously declared its support for the active involvement of their representative bodies in new policymaker networks to stimulate EU, national and regional dialogue.

### **5.2.3. Policy Infrastructure**

As concerns the involved partners, DG Enterprise and Industry placed a few civil servants in charge of the promotion of ethnic entrepreneurship. On request, Member States have occasionally contributed local, regional and national authorities responsible for the field. Other expert organisations and academics have also participated in consultations.

Consultation on ethnic entrepreneurship has been with a narrow sample of stakeholders and with a loose and infrequent coordination structure. The programme sought out organisations that provide support services for small business or representatives of their interests. These business support service providers ranged from general to specific support and membership organisations. Regardless of whether they had already developed specific support programmes for ethnic entrepreneurs, business support service providers represented the main partners and beneficiaries. Ethnic entrepreneurs, listed as the other beneficiaries and important partners in consultations, primarily serve as 'success stories' in the search for best practice.

Ethnic Minority Entrepreneurs Network was created in 2004. According to its mission statement, the Ethnic Minority Entrepreneurs Network serves as interlocutor with the European institutions and as a central link with other European networks. The exchange of good practices on immigrant entrepreneurs concerns national public officials and their administrative practices, researchers and their studies on good practice as well as stakeholders and their recommendations. Meetings of the Network have flagged trans-European research and data on impediments, areas of improvement and recommendations. The network intends to establish a national contact directory, promote public awareness, and engage in benchmarking. These ambitious objectives offer it high potential to act, if its overstretched resources can deliver on this mandate.

In addition to policy infrastructure of DG Enterprise and Industry, the EES, through its OMC, provides opportunities for both social NGOs and social partners to participate through its policy pillar of the development of entrepreneurship.

### **5.2.4. Programmes**

The programme on ethnic minority entrepreneurship has been coordinated under DG Enterprises' Multi-annual Programmes (1997-2000, 2001-2004, 2004-2007). Within these three multi-annual programmes over ten years, the programme has amounted to two studies, a pilot project, a conference and one permanent network.

To identify impediments and areas of improvement, DG Enterprise and Industry commissioned the qualitative Middlesex Study<sup>49</sup>. This 2000 study provided some general and specific recommendations for EU action with respect to ethnic minority entrepreneurs.

General recommendations:

- raise awareness at all levels on the possibilities of entrepreneurship and existing EU support programmes;

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<sup>49</sup> Centre for Enterprise and Economic Development Research (CEEDR), "Young Entrepreneurs, Women Entrepreneurs, Co-Entrepreneurs and Ethnic Minority Entrepreneurs in the EU and Central and Eastern Europe," Middlesex University Business School, United Kingdom, July 2000

- promote the development of tailor-made local support services and the recruitment of staff from these target groups;
- facilitate the international exchange of good practice; and
- support further research and data collection to inform and monitor policy.

#### Specific Recommendations:

- increase access of ethnic minorities to mainstream support provision, including existing EU support programmes;
- increase access to finance through loan guarantees and micro-credit schemes as well as strategies with mainstream financial institutions;
- support ethnic minority development in new sectors of activity;
- network initiatives to build local capacity

The study formed the basis of a European platform, which was activated with the June 2003 European Conference on Ethnic Minority Entrepreneurs. Participants included ethnic minority entrepreneurs, representative organisations, European professional organisations and administrators from all levels of governance. The participants discussed impediments concerning isolation and breakout strategies, involvement in the political process and access to finance and support services.

Monitoring of the implementation of DG Enterprise and Industry's 2004 Action plan, including on ethnic minority entrepreneurs, was carried out in a 2005 progress report and a 2006 final implementation report. The 2005 progress report labelled the work on ethnic minority entrepreneurs "in progress", with the launch of the tender for the 2007 study. The final implementation report in 2006 highlighted that DG Enterprise and Industry had successfully delivered on 90% of the sub-actions. Ethnic entrepreneurship received the same "in progress" status, with the signing of the study contract. The study would culminate in a second conference on results and exchange of good practice and meetings with national experts in late 2007.

### **5.2.5. Financial Instruments**

This section outlines DG Enterprise and Industry's Grants Programme (which does not currently have any scope for funding actions in support of ethnic entrepreneurship), and then looks at provisions for supporting entrepreneurship in the ESF and EQUAL.

#### **5.2.5.1. Grant Programme 2007**

The Grant Programme 2007 revolves around the objectives of DG Enterprise and Industry's Annual Management Plan. The 2006 Annual Management plan includes a commitment to work with national authorities to promote actions to assist women entrepreneurs and to encourage young people, older workers and people from ethnic minority backgrounds to become entrepreneurs.

The Grants Programme covers the three strands of DG Enterprise and Industry's activities, specifically:

- competitiveness, industrial policy, innovation and entrepreneurship;
- internal market for goods and sectoral policies; and
- space and security.

Funding is divided between a list of planned actions and ad-hoc proposals. Although funding is available for a discrete number of projects promoting and supporting entrepreneurship, none of these specifically address ethnic entrepreneurs.

#### **5.2.5.2. ESF**

ESF funding is available for activities that develop entrepreneurship. Entrepreneurship can be promoted through subsidies or other support for those starting their own business; information, training and mentoring activities; and it can also be helped by fully exploiting the possibilities offered by certain sectors (local / social economy, new areas of work). More details on the ESF are available in section 5.1.5.

### **5.2.5.3. EQUAL**

In addition to funding available through the ESF more generally, support for ethnic entrepreneurs is available through the EQUAL programme (see section 6XX in the following chapter). Member States base their EQUAL strategy on specific thematic areas under the four pillars of the employment, the second of which is “to make it possible for anyone to start up a business by providing the tools necessary to do so and to identify new opportunities for employment in urban and rural areas.” "Entrepreneurship for All" activities aim at removing the key barriers or obstacles that prevent disadvantaged groups and deprived areas from being able to set up viable businesses and promoting the social economy as a tool for labour market integration and for developing new systems for meeting social needs.

Recent examples of EQUAL funded actions include 'Building Entrepreneurship', a partnership between Denmark, Spain, England and Hungary, which aims to build and support ethnic entrepreneurship by identifying and developing good practice 'grass roots' initiatives which aim to overcome social exclusion experienced by disadvantaged groups; and 'Integration and Development of Immigrant Businesses in Odense, Aarhus and Copenhagen' which resulted in the publication 'Moving Out of the Shadow Economy: Tools and Methods for an Inclusive Entrepreneurship,

## **5.3. Education**

### **5.3.1. Mission Statement**

DG Education and Culture's mission statement is to reinforce and promote lifelong learning, linguistic and cultural diversity, mobility and the engagement of European citizens, in particular the young. Its objective is to reinforce the human dimension of Europe by developing the feeling for a European citizenship and by contributing to the creation of a European Space for education and training.

### **5.3.2. Declared Policies**

Lisbon signalled the need for the adaptation of education and training systems to ensure they prepared the people of Europe for living and working in the 'knowledge society'. The focus of the reform is defined by the three concrete future objectives of education and training systems identified at the European Council in Stockholm in 2000, including increasing the quality and effectiveness of education and training systems, facilitating access for all, and opening up the education and training systems to the wider world.

The European Council in Barcelona set five ambitious goals for education and training. By 2010:

1. the highest quality will be achieved in education and training and Europe will be recognised as a world-wide reference for the quality and relevance of its education and training systems and institutions;
2. education and training systems in Europe will be compatible enough to allow citizens to move between them and take advantage of their diversity;
3. holders of qualifications, knowledge and skills acquired anywhere in the EU will be able to get them effectively validated throughout the Union for the purpose of career and further learning;
4. Europeans, at all ages, will have access to lifelong learning; and

5. Europe will be open to cooperation for mutual benefits with all other regions and should be the most-favoured destination of students, scholars and researchers from other world regions.

In May 2003 Education Ministers agreed to the implementation of the following five common education and training benchmarks:

- Benchmark 1 - an EU average rate of no more than 10% early school leavers should be achieved by 2010.
- Benchmark 2 – the percentage of low-achieving 15-year-olds in reading literacy should have decreased by at least 20% compared to the year 2000.
- Benchmark 3 - the average proportion of 22-year-olds in the EU with at least upper secondary education is 85% or more by 2010.
- Benchmark 4 - the total number of graduates in mathematics, science and technology should increase by at least 15% while at the same time the level of gender imbalance should decrease by the year 2010.
- Benchmark 5 - the EU average level of participation in lifelong learning should be at least 12.5% of the adult working age population (25-64 age group).

The Council only agreed to establish reference levels of European average performance. In recognition of the different starting points of individual Member States, it did not define national targets nor prescribe decisions to be taken by national governments. However, the objective is also to identify countries which perform well, so that expertise and good practice can be shared with others.

### **5.3.3. Policy Infrastructure**

In order to implement the Lisbon strategy, Heads of Government agreed to a new and voluntary protocol of engagement known as the Open Method of Coordination (OMC) in the relevant policy areas. The introduction of the OMC in the field of education was groundbreaking as the Treaty of European Union explicitly states that the content of teaching and the organisation of educational systems is a national responsibility, and the OMC would see cooperation and collaboration with Member States agreeing on common objectives and methods of evaluation in order to identify and disseminate best practice in education.

Working Groups were set up over the course of 2001/2002 to produce policy recommendations and/or concrete material to implement Education & Training 2010. Each Working Group was responsible for one or more of the 13 objectives.

The Working Groups brought together a wide range of stakeholders. For example, the membership of the Key Competencies Working Group extends beyond government officials to include representatives from adult education, trade unions, student unions, technical and vocational education and training, entrepreneurship research, parents associations, education associations and councils, social NGOs, private business, EUROSTAT, Eurydice and the OECD.

Members of the Working Groups facilitated the implementation of the 13 objectives at the national level by mapping and assessing issues outlined as themes of exchange in the Detailed Work Programme and emerging issues identified by the Working Groups. Each Working Group engaged in exchanges of good practice, study visits and peer learning activities as they deemed necessary to define the target groups / key beneficiaries, map the policy situation and identify areas for improvement for each of the objectives.

In order to strengthen support for the implementation of Education & Training 2010 at national level, working methods were adjusted to enable Member States to focus on their specific policy priorities. The term 'cluster' refers to this regrouping of interested countries around a specific theme, corresponding to their national policy priorities.

DG Education and Culture advise that the aim of the clusters is to strengthen mutual learning and deepen the exchange of good practice between countries sharing similar concerns, in

order to develop a common understanding of success factors for the improvement of policy-making and the implementation of reform.

The following clusters were established in 2005/2006:

1. Modernisation of higher education
2. More efficient use of resources
3. Teachers and trainers
4. Access and social inclusion in lifelong learning
5. Maths, science and technology
6. Key competences
7. ICT
8. Recognition of learning outcomes.

Participation in the eight clusters varies. Cluster 8 - Recognition of learning outcomes, with 23 countries, has the highest participation rate, and Cluster 2 - Making best use of resources, with 10 countries, has the lowest participation rate. The discretionary nature of the participation means that countries to draw best practice from, and share best practice with, is limited. And without consensus among all Member States, clusters are unlikely to produce any strategic EU-wide policy recommendations.

The clusters are open to European social partners, but not a wider circle of stakeholders. Social partners participating include the Confederation of European Business (UNICE), European Trade Union Confederation (ETUC), European Trade Union Committee for Education (ETUCE), and UEAPME: the employers' organisation representing the interests of European crafts, trades and small to medium enterprise.

In addition to the Social Partners, Cedefop: the European Centre for the Development of Vocational Training, European Training Foundation (ETF) and Eurydice are to participate in the clusters where appropriate. Partnership working is a key element to the implementation of the Education and Training 2010 agenda. Unlike the Education and Training 2010 Working Groups, there are no social NGOs involved in the clusters. Hence there is no organisation to represent the views of those people who are not in education or employment, and who are a key target group for meeting the Lisbon objectives.

A limited number of national initiatives relevant to the integration of immigrants have been identified through the exchange of good practice, study visits, and peer learning activities on broader topics. Initiatives may be presented by Member States as 'good' or 'best' practice, but there is often limited evidence to support this assertion.

Immigrant organisations were neither represented on any of the Working Groups, nor have representation in the new clusters.

The membership of the Working Group G (Open learning environment, active citizenship and social inclusion) did, however, have significant representation from members with a focus on human rights, Education for Democratic Citizenship and intercultural education and this is likely to be a contributing factor to this Group's focus on issues that have particular pertinence to immigrants.

In the new clusters, Membership is restricted to government officials and European Social Partners. As there is neither a direct channel for voicing the needs of immigrants, nor an indirect channel through social NGOs, the opportunity to make some real inroads into immigrant integration in education may be lost.

The cluster on access and social inclusion is the only cluster which is currently planning to organise peer learning activities on issues specifically relating to immigrants. The following countries are participating in this cluster: Austria, Belgium (French), Cyprus, Czech Republic, Denmark, Greece, Estonia, France, Hungary, Ireland, Italy, Lithuania, Luxembourg, Latvia, Netherlands, Romania, Sweden and Turkey. The relatively high participation rate in this



cluster presents an opportunity to engage in wide-ranging peer learning activities in the areas for improvement for immigrant integration in education.

#### 5.3.4. Education and Training 2010 work programme

The strategy for implementing the Lisbon objectives in the field of education is known as Education & Training 2010 (originally referred to as the Detailed Programme on the follow-up of the objectives of education and training systems). The strategy was adopted at the European Council in Barcelona in 2002, and this included 13 objectives, an agreed rationale and timetable for action, the identification of 42 key issues, themes for exchange of good practice and peer review and suggestions for indicators to measure progress<sup>(50)</sup>.

##### **Education & Training 2010's three strategic goals and 13 objectives**

**Strategic objective 1: Improving the quality and effectiveness of education and training systems in the EU**, in the light of new requirements of the knowledge society and the changing patterns of teaching and learning.

- Objective 1.1: Improving the quality of teachers and trainers.
- Objective 1.2: Developing skills for the knowledge society
- Objective 1.3: Ensuring access to ICT for everyone
- Objective 1.4: Increasing recruitment to scientific and technical studies.
- Objective 1.5: Making best use of resources

**Strategic Objective 2: Facilitating the access of all to education and training systems**, in the light of the guiding principle of lifelong learning, fostering employability and career development as well as active citizenship, equal opportunities and social cohesion.

- Objective 2.1: Creating an open learning environment
- Objective 2.2: Making learning more attractive
- Objective 2.3: Supporting active citizenship, equal opportunities and social cohesion.

**Strategic objective 3: Opening up education and training systems to the wider world**, in the light of the fundamental need to foster relevance to work and society and to meet the challenges resulting from globalisation.

- Objective 3.1: Strengthening the links with working life and research and society at large.
- Objective 3.2: Developing the spirit of enterprise
- Objective 3.3: Improving Foreign Language Learning,
- Objective 3.4: Increasing mobility and exchange
- Objective 3.5: Strengthening European Cooperation

The scope of the reform encapsulates the whole spectrum of formal and informal learning from pre-school to post-retirement and includes all learning activity with the aim of improving knowledge, skills and competences within a personal, civic, social and/or employment-related perspective. Education & Training 2010 incorporates the work streams of lifelong learning; the "Copenhagen process" which aims to improve the quality and attractiveness of vocational education and training by focussing on transparency and recognition of qualifications and competences; the "Bologna process" which outlines an agenda for structural reform in higher education; and the 2001 recommendation of the European Parliament and of the Council on mobility.

#### Immigrant Integration in Education & Training 2010

Immigrant integration is not a specific subject area of Education & Training 2010. The original Detailed Work Programme on the follow-up of the objectives of education and training systems makes no specific reference to immigrants. Immigrants are, however, mentioned in

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<sup>50</sup> 2002/C 142/01

numerous other policy documents and reports relating to Education & Training 2010, although this is only in the context of them forming part of a group of beneficiaries who are 'disadvantaged' and/or 'at risk of social exclusion'.

There is no explicit link made between Education & Training 2010 and the Commission's 2005 communication *A Common Agenda for Integration: Framework for the Integration of Third-Country Nationals in the European Union*, in which the EU outlined its commitment to improving the participation of immigrants in education. Its fifth Common Basic Principle states that "efforts in education are critical to preparing immigrants, and particularly their descendents, to be more successful and more active participants in society".

As there is no overarching structure to incorporate the concerns of immigrants, efforts to address their needs have tended to be either piecemeal or in the broader context of disadvantaged learners.

To summarise actions to incorporate immigrant integration into Education and Training 2010, figure 5 lists key actions necessary to overcome barriers to immigrant integration in the field of education and training (framed in the four dimensions of well-being) and then indicates whether these actions are identified, and indeed progressed, by the Education & Training 2010 Working Groups (it is too early to report on the work of the clusters).

Although figure 5 indicates that Working Groups have identified and progressed a number of actions necessary to overcome barriers to immigrant integration in education, it is important to note that this does not mean that each of these actions was highlighted for individual attention and / or addressed in a comprehensive or systematic manner.

<b>Figure 5. Actions to facilitate immigrant integration in Education &amp; Training 2010</b>			
	AFI identified	Responsible Working Group	How progressed
<b>Equity / non-discrimination</b>			
* improve access to education	✓	G B&G subgroup	Policy recommendations
* recognise prior learning	✓	H	Peer learning
* improve attrition rates	✓	B	-
* improve acquisition of key competencies	✓	B	-
<b>Dignity / recognition</b>			
* accommodate cultural and religious requirements	✗		
* improve access to training in and of the mother-tongue	✓	Languages Expert Group	Peer learning
* prepare teachers for educating people from culturally and linguistically diverse backgrounds	✓	A	Policy recommendation
<b>Autonomy / development</b>			
* extend support measures beyond the initial settlement phase	✓	B&G subgroup	Peer learning
* provide additional academic tuition	✗		
* provide tuition in the host-country's language to students and their parents	✓	Languages Expert Group	Peer learning
<b>Participation / commitment</b>			
* introduce a greater focus on intercultural education	✓	B	Peer learning
* evaluate immigrant support measures	✗		

### **5.3.5. Financial instruments**

This section looks at the European Social Fund (ESF) and DG Education and Culture's Lifelong Learning Programme for 2007-2013.

#### **5.3.5.1. European Social Fund**

The role of the ESF in supporting education and training for the period is set out in the June 2006 DG Employment paper "European Social Fund support to Education and Training - 2007-2013".

During 2000-2006 the ESF supported Member States actions in the area of education and vocational training in the context of 'promoting lifelong learning'. For the period 2007-2013, ESF supports education and training systems, primarily under the 'human capital' priority.

The education and training priorities of the ESF support the Education & Training 2010 work programme. Based on the 2006 Joint Interim Report of the Council and the Commission<sup>51</sup>, three policy areas for education and training were identified as priorities:

- investing in the future: improving the level of basic competences;
- transformation of systems to make lifelong learning a reality for all; and
- increasing the quality and attractiveness of vocational education and training.

The DG Employment paper outlines 23 ways in which priorities of the Education & Training work programme can be funded under the ESF – two which relate specifically to immigrants:

- increasing access and participation of groups at risk of exclusion, specifically immigrants and ethnic minorities, in compulsory, higher and adult education, are eligible actions under 1(b) - enhancing access to employment and participation in the labour market, 1(c) - reinforcing social inclusion by combating discrimination and facilitating access to the for disadvantage people, and 2(a) - expanding and improving investment in human capital.
- targeted investment, assessment of prior learning and tailored training and learning provision for low skilled people and disadvantaged groups such as migrants, refugees, Roma, people in prison, older workers, and people with special educational needs are eligible actions under 1(b) and 1(c).

The financial details of the European Social Fund were discussed in section 5.1.5. of this Chapter.

#### **5.3.5.2. The Lifelong Learning Programme 2007-2013**

The Decision establishing a new Lifelong Learning Programme, was signed by the Presidents of the European Parliament and of the Council in November 2006<sup>52</sup> and came into force in December 2006.

The Lifelong Learning Programme comprises four sectoral programmes on school education (Comenius), higher education (Erasmus), vocational training (Leonardo da Vinci) and adult education (Grundtvig), and a transversal programme focusing on policy cooperation, languages, information and communication technology and dissemination and exploitation of results. In addition, a Jean Monnet programme focuses on European integration. The Lifelong Learning Programme budget for 2007-2013 is €6,970 million for the total period. €784 million of this total is earmarked for 2007.

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<sup>51</sup> 2006/C79/01

<sup>52</sup> Decision No.1720/2006/EC

The aim of the new Lifelong Learning Programme is to contribute through lifelong learning to the development of the Community as an advanced knowledge society, with sustainable economic development, more and better jobs and greater social cohesion. It aims to foster interaction, cooperation and mobility between education and training systems within the Community, so that they become a world quality reference.

In December 2006, DG Education and Culture published the priorities for the 2007 Lifelong Learning Programme<sup>53</sup>. Building networks to enhance immigrant integration is a priority of both Comenius and Grundtvig.

Comenius (school education) networks are to be supported in six areas, one of which is citizenship, culture and education, including intercultural education and combating racism and xenophobia in school education.

Comenius's budget for developing networks €2.557 million. It is expected that eight networks will be supported in the funding process so it is likely that at least one network that supports intercultural education and anti-discrimination will be funded.

One of Grundtvig's (adult education) three priorities for developing networks is adult learning opportunities for migrants. Under this priority networks are to focus on:

- sharing knowledge and disseminating good practice on adult learning opportunities for migrants;
- identifying present, emerging and future needs where European cooperation on adult learning for migrants would be beneficial to learners;
- exploring how adult education can contribute to fighting racism and xenophobia; and
- strengthening cooperation between adult education providers and local and national authorities involved in the integration of migrants.

Grundtvig's total budget for developing networks €2.557 million. It is expected that seven networks will be supported so it is likely that at least two networks which support adult learning opportunities for migrants will be funded.

The maximum community contribution for Comenius and Grundtvig is 75% of the project cost, and up to €150,000 per year (the project can be up to three years in duration). Evidence of co-financing does not have to be provided for grants under €25.000.

Applications may be submitted legal bodies, for example:

- Institutions or organisations providing initial and/or in-service training for teachers and other school education staff;
- schools, whether providing general (pre-primary, primary and secondary), vocational or technical education, whether public or private;
- institutions or organisations active in school education such as research centres, training centres active in the field of education management or guidance and counselling, educational authorities and public or private companies;
- authorities, institutions or organisations which are not in themselves educational, but whose action can contribute to developing high-quality education; and
- networks, voluntary associations and other not-for-profit organisations and undertakings active in the field of education

Project partners must be from a minimum of ten different countries.

#### **5.4. Conclusion**

EU institutions are increasingly realising the importance of providing immigrants with the means to fulfil their potential in the realms of employment, enterprise and education. Without

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<sup>53</sup> EAC/61/2006

such opportunities, the skills, knowledge and aspirations of immigrants will be squandered and the EU will be unable to realise the full capacity of its human resources.

The importance of immigrant integration in meeting the socio-economic objectives of the Lisbon strategy, however, is not consistently reflected in policies, programmes or funding structures. For example, the EES has not shown consistent commitment in its prioritisation of immigrants as a disadvantaged group, DG Enterprise and Industry does not have a funding programme to support its ethnic entrepreneurship programme, and although impediments to immigrant integration are frequently identified as a problem, the Education and Training 2010 work programme has undertaken few concrete actions to remedy the situation. This may be in part due to the fact that the policy infrastructure of all three DGs does not provide avenues for structured dialogue with immigrant organisations.

Integrating immigrant integration into the socio-economic portfolios may also be difficult due to the fact that the responsibilities of the DGs overlap. Entrepreneurship is imbedded in DG Employment (and is also rising issue in Education and Culture as one of the eight domains of key competences); and education and training, DG Education and Culture's *raison d'être*, forms a key part of DG Employment's EES.

It is not only the responsibilities of the DGs that overlap, but funding programmes. The ESF is one of the EUs most fundamental financial instruments and it provides funding for a broad range of actions. It provides more opportunities for funding for entrepreneurship than DG Enterprise does and provides a significant portion of funding for education and training.

## **Chapter 6: Participation - citizenship and societal integration**

The independence and self-reliance that emerges from the economic participation of immigrants lays the foundation for their societal integration. Employment and self-employment imply that immigrants interact with their local environment and may expand their participation beyond the labour market to actively contribute to an open and diverse society's well-being, as volunteers and members of trade-unions, religious groups, and community and political organisations.

In a review of this migration-integration nexus, the interconnections demonstrate that open and dynamic economies mobilise human resources and increase competence levels of all members. Inclusive societies offer equal opportunities for all through anti-discrimination policies and social inclusion strategies. Therefore policies can at once capitalise on diversity and address its challenges. The integration of immigrants begins with the opening up of mainstream institutions for people with different cultural backgrounds, religious belief and ethnic and racial background. The mobilisation of human resources and competences hinges on the tailoring of public and private services to the needs of a diverse population.

The EU has taken up the promotion of policies to reinforce social cohesion in increasingly diverse European societies. Since the launch of the Lisbon Strategy, the EU has assembled new mechanisms to tackle these challenges. The intersection of immigration and social cohesion emerged within the Social Inclusion Strategy and the current Open Method of Coordination on Social Protection and Social Inclusion (OMC/SPSI).

The EU approached social cohesion in diverse societies from the perspective of the combat against social exclusion and poverty. Each year, the Commission and Member States have used these mechanisms to direct increased attention to immigrants, who are framed as a group vulnerable to social exclusion and poverty.

Actions to level the playing field (anti-discrimination), and actions that reveal and promote the skills and talents of players from different backgrounds (diversity) enable the effective participation of immigrant in socio-economic and civic and political life. EU actions have traditionally focussed on anti-discrimination, however, diversity is a rapidly emerging theme within the work of the EU.

This Chapter examines the work of DG Employment, Social Affairs and Equal Opportunities (hereafter called DG Employment) to increase the participation of immigrants through its efforts to achieve:

- social inclusion
- anti-discrimination and diversity

### **6.1. Social inclusion**

#### **6.1.1. Declared Policies**

DG Employment, Social Affairs and Equal Opportunities heads the EU's strategy on social inclusion. The subject area was set out in the 2000 Lisbon summit's call for "greater social cohesion" in the EU, with social exclusion and poverty identified as the two greatest impediments. The European Council asked for Member States and the Commission to undertake a social inclusion strategy with the central goal of eradicating poverty by 2010.

The Social Protection Committee was established in 2000<sup>54</sup>, in order to serve as a vehicle for cooperative exchange between the European Commission and Member States of the EU about modernising and improving social protection systems.

Under the mandate given to it by the Council, the Committee should work on the policy challenges related to the following objectives: "to make work pay and provide secure income,

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<sup>54</sup> Council Decision 2000/436/EC was later repealed by Council Decision 2004/689/EC

to make pensions safe and pension systems sustainable, to promote social inclusion and to ensure high quality and sustainable health care". In practice, the Committee's work since its establishment has been largely determined by the Lisbon objectives. This, followed up by mandates from subsequent European Councils, gave highest priority to work in the field of fighting poverty and social exclusion and the adequacy and sustainability of pensions.

The Social Protection Committee's work led to the application of the Open Method of Coordination (OMC). Since 2001, Member States have coordinated their policies on social inclusion on the basis of an OMC process of policy exchanges and mutual learning.

In 2003, the Commission proposed to streamline the OMC on the eradication of poverty and social exclusion together with two other separate policy areas, the provision of pensions and of long-term care.

The Commission intended this combination to better integrate the EU's social inclusion, health and pension strategies within the Lisbon process and particularly the European Employment Strategy (EES). The Commission, along with Member States and involved NGOs, aimed for a streamlined OMC with greater effectiveness, visibility and linkages with other policy fields and actors.

As of 2006, these three strands (eradicating poverty and social exclusion; adequate and sustainable pensions; and accessible, high quality and sustainable health and long-term care) were incorporated into a new OMC called the Social Inclusion and Social Protection strategy (OMC/SPSI), whose time schedule was synchronised with the EES.

The OMC has five main elements:

1. Agreeing common objectives for the Union.
2. Establishing common indicators as a means of comparing best practice and measuring progress.
3. Translating the EU objectives into national/regional policies on the basis of National Reports on Strategies for Social Protection and Social Inclusion
4. Publishing reports analysing and assessing the National Reports.
5. Establishing a Community Action Programme to combat social exclusion to promote policy cooperation and transnational exchange of learning and good practice.

Each of these elements is outlined below, as is their incorporation of immigrant issues.

#### Common objectives

Three common objectives in the OMC/SPSI apply to all three strands on social inclusion, health and pension policies:

- to promote social cohesion, equality between men and women and equal opportunities for all through adequate, accessible, financially sustainable, adaptable and efficient social protection systems and social inclusion policies;
- to promote effective and mutual interaction between the Lisbon objectives of greater economic growth, more and better jobs and greater social cohesion and the EU's Sustainable Development Strategy;
- to promote good governance, transparency and the involvement of stakeholders in the design, implementation and monitoring of policy.

Three more detailed objectives have been defined for each strand of work. The three additional objectives on poverty and social exclusion consisted of:

- equal access to resources, rights and services needed for participation in society and the prevention of exclusion and all forms of discrimination;
- active social inclusion through participation in the labour market and combating poverty and social exclusion; and

- coordination and active involvement of all levels of government and relevant actors in social inclusion policies, which should also be mainstreamed into all relevant public policies, notably structural and European Social Funds programmes.

The objectives are complemented by commonly agreed 'key priorities'. The 2006 and most recent Joint Report highlighted the following seven priorities:

1. Increasing labour market participation
2. Modernising social protection systems
3. Tackling disadvantages in education and training
4. Eliminating child poverty
5. Ensuring decent accommodation, particularly the lack of social housing for vulnerable groups.
6. Improving access to quality services
7. Overcoming discrimination and increasing the integration of people with disabilities, ethnic minorities and immigrants.

The common objective of social cohesion and equal opportunities applies equally to the OMC/SPSI's work on pensions and health care. The strand on health and long-term care specifically aims for 'ensuring effective access for everyone to health care and tackling health inequalities,' with special attention to disadvantaged groups, but migrants are not mentioned specifically.

The OMC/SPSI mirrors the EES's use of both immigrants and ethnic minorities in a target group definition that expands beyond a more strict JLS definition of TNCs. Key priority number seven of the 2005 and 2006 Joint Reports on Social Protection and Social Inclusion expanded upon the 2005 integration priority:

- Overcoming discrimination and increasing the integration of people with disabilities, ethnic minorities and immigrants

The Joint Report called for Member States to implement this key priority with a threefold approach:

- increase access to mainline services and opportunities;
- enforce legislation to overcome discrimination; and
- develop targeted approaches for ethnic minorities and migrants, with special attention to the difficulties faced by the Roma population

As the common objectives of the OMC/SPSI do not include reference to one specific target group, but rather to ethnic minorities, immigrants and particularly the Roma, so that Member States can adjust the target groups to capture their national realities. The 2006 NAPs demonstrate a wide range of target group definitions with most of these being very general – 'ethnic minorities', 'immigrants', 'non-nationals' and 'TNCs'.

These all-inclusive target groups fail to treat immigrants as a disaggregate group and acknowledge the multiple levels of social exclusion faced by different migration histories, age groups, communities, genders and generations. A number of Member States have more specific target groups. Malta boldly includes irregular migrants, who may fall outside the FJS integration scope, but whose risk of poverty and social exclusion policymakers cannot ignore. Lithuania and Portugal include victims of trafficking, while Denmark and Sweden consider families and descendents of immigrants in order to consider persistent inequalities across generations.



## Common indicators

In June 2006, the Social Protection Committee adopted a set of common indicators for the social protection and social inclusion process<sup>55</sup>. It mostly includes commonly agreed EU indicators that allow for comparative assessment across Member States; but also includes commonly agreed national indicators to measure national progress that do not allowing for a direct cross-country comparison.

All but one of the 22 primary and secondary indicators proposed in the SPC's 2006 report were common EU indicators. The only national indicator is 'employment gap of immigrants', which is defined as the percentage point difference between the employment rate for nationals and non-EU nationals (those 'born abroad'). The indicator is disaggregated for gender, but not age. The SPC suggests; "this indicator needs to be supplemented by relevant national data covering other key aspects of inclusion of immigrants.

## Translating the EU objectives into national/regional policies on the basis of National Reports

Member States assemble national strategies for social protection and social inclusion to address the specific challenges that arise from these common objectives. The National Action Plans (NAPs) map the social situation and its major trends and challenges. A mapping of the national policy strategies follows, with constant reference to the three overarching objectives and appropriate common EU and national indicators.

## Publishing, analysing and assessing the National Reports

European Commission and the Council conduct a joint analysis and assessment of the National Action Plans submitted by the Member States. The Joint Reports assess progress made in the implementation of the OMC, set key priorities and identify good practice and innovative approaches of common interest to the Member States.

Two Joint Reports on Social Inclusion have been adopted, in 2002 and 2004, drawing respectively upon the National Action Plans on Social Inclusion of 2001-2003 and 2003-2005. In 2005, reflecting the streamlining of the OMC, an annual Joint Report on Social Protection and Social Inclusion started to be published. To feed in the preparation of this overarching report, the Commission services publish separate and more in-depth reports focusing on the National Action Plans on Social Inclusion or on the Joint Inclusion Memoranda (to assist Candidate Countries to combat poverty and social exclusion and to modernise their systems of social protection as well as to help preparing their full participation in EU policies).

The Council adopted the Commission proposal for Joint Report on social protection and social inclusion in February 2007. The report will be submitted to the Spring European Council to inform Heads of State and Government on the progress in the area of social protection and social inclusion. The aim is for the key messages emerging from the report to drive policy efforts in the areas of social protection and social inclusion over the next couple of years in EU-27.

To what extent do immigrant issues feature in the Joint Reports? The 2006 joint report<sup>56</sup> analyses the 2003-2005 and 2004-2006 NAPs of nineteen Member States (EU-15 plus Cyprus, Hungary, Lithuania and Malta). The majority of Member States identify the significant and sometimes widening gaps between the majority and ethnic minority or migrant population. These gaps are generally evident with regard to unemployment, education and poverty levels. Four of the nineteen (Germany, the Netherlands, Sweden and the UK) reported high levels of unemployment among foreigners, immigrants and/or ethnic minorities. Ten Member States drew attention to poverty among immigrant children and eight identified a higher poverty and/or exclusion risk for immigrants and ethnic minorities.

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<sup>55</sup> European Commission, Proposal for a portfolio of overarching indicators and for the streamlined Social Inclusion, Pensions, and Health portfolios, (Brussels, 2006)

<sup>56</sup> SEC(2006) 410.

A number of Member States have incorporated the specific needs of immigrants and ethnic minorities into Key Priority 5 on decent accommodation, which made reference to the lack of social housing for vulnerable groups. Denmark, Finland, the Netherlands, Spain and Sweden took the initiative to place immigrants and the Roma at the top of their agendas, among the other vulnerable groups. They resolved to open up their mainline housing services to find housing that catered to immigrants' specific needs.

The 2006 Joint Report noted that most Member States frame immigration and integration as a policy challenge. Six countries (Austria, Denmark, France, Ireland, the Netherlands and Spain) acknowledged the new social challenges arising from inward immigration, while eleven (aforementioned list plus Germany, Finland, Luxembourg, Sweden and the UK) focused specifically on challenges for integration policy. Only five countries (Denmark, the Netherlands, Portugal, Spain and the UK) paid attention to the challenge of reducing the high risk of poverty and social exclusion. Member States also stated their eagerness to engage civil society in the design and execution of such policies.

The 2006 Joint Report concludes that:

- the first key priority, increased access to mainline services and opportunities, has not been addressed through the mainstreaming integration policy. The NAPs do not sufficiently situate the social inclusion of migrants within the wider context of integration and social cohesion policy. Immigrants for instance were not mainstreamed into other mappings of single parents, low educational and vocational qualifications, young unemployment, jobless households or the working poor. Furthermore, few EU-10 reports consider the link between immigration and social exclusion or poverty;
- introduced anti-discrimination legislation often lacked adequate implementation and monitoring, which was called for in the second objective. The Commission believed that Member States must exert greater efforts in monitoring risks of discrimination in the labour market and access to services, assisting the proper enforcement of legislation and conducting impact assessments.
- a targeted approach to immigrant needs, is hampered by the unclear and incomplete national definitions. Unclear (use of ethnic minorities, immigrants or some combination) or roaming (use of ethnic minorities and immigrants interchangeably) targets in the NAPs make setting and sticking to a targeted policy unfeasible. On a positive note, targeted strategies have been incorporated into many national legal frameworks. The report took note of a growing emphasis on integration measures, such as language and skills training. This increased policy attention often translated into measures to tackle the increased poverty risk, housing exclusion and higher unemployment rates of immigrants, ethnic minorities, and the Roma community.

#### A Community Action Programme to combat social exclusion

The Commission presented its proposal for a Community Action Programme to combat social exclusion to promote policy cooperation and transnational exchange of learning and good practice in June 2000, which was adopted in December 2001. The details of the programme and the PROGRESS programme (its successor) are discussed in section 6.1.3.

#### **6.1.2. Policy Infrastructure**

The OMC/SPSI specifically incorporates the involvement of stakeholders in policymaking and implementation as one of its three overarching objective. Most Member States set up committees involving relevant ministries and agencies to coordinate the preparation of national contributions. Whether or not a range of different actors is consulted in drafting these contributions varies considerably across the EU. Some Member States directly involve different ministries and representatives of other actors (social partners, regional and local government, NGOs) in working groups, while others limit the involvement of non-governmental actors to meetings, seminars and written submissions.

The Social Protection Committee allows both the Commission and Member States to steer the OMC structure and serves as a clear leading vehicle for policy exchange. Its indicators sub-group provides a distinct forum for the design of common analytical and implementing tools. These two bodies at the European level have designed and refined an OMC structure that has worked out questions of transparency, synergy and comprehensiveness over time.

The OMC/SPCI is widely recognised as being the OMC with the most developed dialogue with civil society.

First, it has cultivated relations with key European networks of organisations involved in the fight against poverty and social exclusion to enable these organisation to contribute to the OMC by providing a better understanding of the most concrete forms of social exclusion, a regular monitoring of the implementation of the national action plans at a level closer to their main beneficiaries, a greater awareness of the European strategy in the public opinion, as well as ensuring that this strategy takes into account the experience of people exposed to social exclusion.

The Community Action Plan provides funding to the following organisations:

- Caritas Europa, a network of Catholic relief, development and social service organisations which focuses on issues related to migration and asylum, as well as poverty and social inequality;
- Eurochild, a network of organisations and individuals which focuses on improving the quality of life of children and young people;
- European Anti Poverty Network (EAPN), a network of non-governmental organisations and groups fighting against poverty and social exclusion;
- European Social Network, is a network of directors of social services in Europe. Members are national associations or groups of directors of local authority social services, social protection and social welfare, politically independent of national, regional or local government.
- FEANTSA European Federation of National Organisations working with the Homeless; and
- European Transregional Network for Social Inclusion (RETIS), a network of political authorities representing the regional and local governmental level in Europe wishing focused on social policy, with a particular focus on social inclusion.

Second, it established a network of independent social inclusion experts. This network consists of 27 experts from Member States, including Bulgaria and Romania, as well as one from Turkey. Experts are largely affiliated with universities, research institutes and private consultancy firms. The experts undertake three activities:

1. Policy assessment activities

The experts are to analyse the perspectives of administrations, political parties or politicians, social partners, the media and NGOs in order to provide general periodic reviews on their respective countries, cross-country thematic reviews, surveys of innovative practices, and independent policy assessments. An assessment of how the activities carried out in the framework of the OMC contribute to the implementation of the revised Lisbon strategy is an integral part of the experts' tasks.

2. Providing semester reports

The experts provide bi-annual reports on their respective countries, which outline recent developments, key trends and policy, legislative and budgetary developments.

3. Contributing to the assessments of the National Strategy Reports for the Commission

The independent experts also give support to the Commission for the assessment of the "social inclusion strand" of the National Strategy Report on Social Protection and Social

Inclusion that Member States have to submit under the new “streamlined” framework and of the national Lisbon implementation report. They contribute to assess how each Member State has addressed key challenges in regard to the overall objectives of the OMC/SPSI. Experts also assess how action taken by the Member States supports the Lisbon efforts and the extent to which the feeding-in and feeding out mechanisms have been set up and are working.

Although dialogue with civil society is well, there are still limitations. Member States are not always inclusive of partners in their initial stages of policy development. The ETUC (European Trade Union Conference) signalled an insufficient involvement of social partners in drafting the National Actions Plans on social inclusion throughout Europe. They are often only consulted in the final drafting stage when the scope for influencing matters is limited. This view is shared by UNICE, the European Employers’ Organisation, and other NGOs who report significant limitations to the consultative process.

### **6.1.3. Programmes**

This section will provide an overview of the Community Action Programme to combat social exclusion (2002-2006) and then look at its successor PROGRESS. Finally it will examine the EQUAL (2001-2006) which has retained a strong focus on securing the social inclusion of immigrants. .

#### **6.1.3.1. Community Action Programme to combat social exclusion**

The SPSI Community Action Programme to combat social exclusion supports three strands of actions for the widest possible range of stakeholders.

- The first strand enhances the quality of data and research that improves the understanding of poverty and social exclusion.
- The second strand promotes the exchange of information and best practices. It consists of two major components: networks of independent national experts that produce non-governmental reports and a transnational exchange programme that sustains long-term partnerships with concrete outputs. The Peer Review programme is the keystone of this strand, as an alternative form for Member States to evaluate themselves rather than the Commission and Council in their joint report.
- The third and final strand encourages participation and networking at the European level through specific Presidency events, and round table conferences.

To what extent has immigrant integration been incorporated into the three strands?

#### Strand one

One of the twelve completed studies focussed in immigrant integration. The aim of the 2005 study on “policy measures to ensure access to decent housing for migrants and ethnic minorities” was to identify and analyse the most effective policy measures to ensure access to decent housing for immigrants with legal status and ethnic minorities. The study recommended that the European institutions encourage NAPs to specify and analyse policies on access, identify common targets and establish monitoring procedures.

#### Strand two

The Peer Review programme has devoted three out of its 22 peer reviews to the general category of foreigners and ethnic minorities. One focussed specifically on immigrants: the November 2004 French-led peer review on the topic of ‘Reception Platforms’ to promote the integration of immigrants.’ The other two focussed on the Roma.

The first transnational exchange programme (2002-2005) supported two phases of projects on social inclusion and social protection. Phase I actions mapped current data on immigrant

and policy situations on a particular issue through transnational and multisectoral partnerships. The programme envisioned specific objectives and proposals to be developed by these partners that would sustain a longer-term network for cooperation.

Phase I laid the groundwork for Phase II, where the same partnerships applied to gear their networks towards concrete outputs, such as seminars, short studies or literature reviews. Leading partners organised each network of similar partners in three to nine other EU Member States. 38 of the 95 (or 40% of) projects addressed issues of immigration and ethnic diversity. 8 of the 31 in Phase I addressed impediments to social inclusion through culture, citizenship, service delivery and labour market inclusion. Of Phase II's 64 projects, 29, or the largest single category of projects, consisted of follow-up actions to Phase I projects on immigration as well as new initiatives on psychological care, health concerns and civic engagement.

The leading partners on immigration and ethnic diversity included international, governmental, NGO and private sector stakeholders from Austria, Estonia, France, Germany, Greece, Italy, the Netherlands, Portugal, Spain and the UK. Lead partners were coupled with networks of additional partners in all EU-15 countries plus Norway. The specialised nature of each project allowed immigrants to be treated as a disaggregate group, with particular attention to adolescent immigrants and refugees, migrant women, elderly and specifically elderly women and unaccompanied minor asylum seekers.

The Community Action programme envisions a second transnational exchange programme.

The networks of independent national experts 2006 and 2007 semester reports will each include at least one chapter for each country devoted to the Joint Reports' seven key policy priorities, the seventh of which is: overcoming discrimination and increasing the integration of people with disabilities, ethnic minorities and immigrants which includes integration of ethnic minorities and first and second generation immigrants.

The rest of the Community Action Programme's second and third strand has yet to produce implementation reviews or programmes on immigrants. The fourteen awareness-raising projects, the 2002-2006 EU Round Tables, and the Presidency events all retained a rather general focus.

### **6.1.3.2. EQUAL**

The EQUAL Initiative is a laboratory for new ideas to the EES and the Social inclusion process. Its mission is to promote a more inclusive work life through fighting discrimination and exclusion based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Although EQUAL does not explicitly include immigrants, its efforts to combat discrimination on the grounds of racial and ethnic origin and religion ensure that immigrants are a part of its key beneficiaries. Furthermore, asylum-seekers are a particular target group for its European Thematic Activities.

EQUAL is implemented in and between Member States and is funded through the European Social Fund (ESF). The two criteria which make it different from ESF actions are an emphasis on innovation and a requirement of transnationality.

The building blocks of EQUAL are:

- Partnership: to bring together key actors (local and regional authorities, training bodies, public employment services, NGOs, enterprises, social partners) in Development Partnerships (DPs) on a geographical or sectoral level to tackle discrimination and inequality.
- Thematic approach: to concentrate actions on thematic fields in keeping with the EES.
- Innovation: to explore and test innovative approaches in formulating, delivering and implementing employment and training policies.

- Empowerment: to strengthen capacity building by making all relevant actors, including beneficiaries, work together on an equal footing.
- Transnationality: to render it possible for individual DPs and national authorities to learn from each other and co-operate productively across borders.
- Mainstreaming: to develop and test new ways of integrating best practices into employment and social inclusion policies.

The EQUAL programme is coming to an end. It no longer exists in the framework of the new Structural Funds regulations 2007-2013 as its principles are to be integrated in the main programmes.

### EQUAL Development Projects

EQUAL funds a large number of Development Projects (DPs) on the grounds selected by regional/national authorities. Community Initiative Programs in the Member States

EQUAL has funded a significant number of DPs that facilitate immigrant integration. Many of these have been funded under the employability strand. Approximately 100 DPs (more than 20%) of all 'employability' themed DPs in EQUAL's first round catered for immigrants or ethnic minorities, either as the sole focus or amongst other target groups. These DPs aimed at improving the existing situation and creating a climate that is more conducive to the social and professional integration of immigrants and ethnic minorities; and/or improving their employability through a range of training and employment measures<sup>57</sup>.

Efforts to overcoming barriers in access to training and employment, this includes:

- the accreditation or recognition of prior learning or qualifications, either by formal or informal education or by professional experience.
- awareness raising activities for employers, including explaining the benefits of employing people from migrant backgrounds; developing tools to make employers more aware of their legal and social obligations; and using both preventative and curative methods to combat discrimination in the workplace.
- promoting non-discriminatory practices and developing workplaces that are welcoming to people from migrant and ethnic minority communities.
- improved information and advisory services.
- training of trainers as a way of overcoming existing barriers for migrants and ethnic groups in their access to training and employment services.

b) increasing participation in civic life by:

- helping immigrants learn the host countries language; and
- providing training in citizenship rights and duties.

Three examples of DPs that specifically target immigrants are presented below:

- Building on Diversity - Living & Working together - Regional development and the integration of minorities in upper Austria. The objective of this development project is reducing the attitudinal, structural and legal barriers that have a negative effect on the integration and equal treatment of migrants and ethnic minorities in the regional labour market, and raising awareness of the opportunities emerging from the opening-up of the labour market in the border region and developing/consolidating the district of Mühlviertel, as an economically strong and socially integrative business area.
- Paradox is a Belgian DP is persuading SMEs to hire 'non-native' and older people. It uses a demand-oriented approach to labour market integration in order to realise its main objective of increasing the employment rates of its target group.

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<sup>57</sup> See EQUAL paper 'Theme 1B: Employability – Combating Racism, January 2003.

- Klara! Implemented by Netzwerk österreichischer Frauen-und Mädchenberatungsstellen dedicates one of its five modules to alleviating the situation of women who suffer from alarming pay discrimination by offering a mentoring programme for women immigrants and asylum seekers.

DPs have also resulted in the development of products that facilitate integration. Three examples are presented below.

- Flüchtlinge qualifizieren - sektorale EP Bayern zum Thema Asyl produced a skills assessment for migrants - a resource-orientated instrument which seeks to discover and enhance existing potential.
- Chambers of Commerce of Ireland produced a handbook titled Managing Diversity in the Workplace - Focusing on the employment of Migrant Workers. Its aim is to provide practical guidance for those recruiting and employing migrant workers and it covers issues related to recruitment, employment permits and employment rights; managing a diverse workforce and developing an intercultural workplace policy.
- The Qualification for Language and Culture Mediators in the health and social services (SpraKuM) was produced by the development project TransSpuk - Transfer von Sprache und Kultur in Gesundheits- und Sozialversorgung. It comprises a standard study period of 2½ years: a 1½-year theoretical phase and 1 year of practically-orientated training consisting of long-term internships. Training in the theoretical phase includes intensive acquisition of language skills and dealing with personal migration experience; teaching basic knowledge of the health and social services; and then focuses on intercultural teaching in the health-related area of psychotherapy and psychiatry and in the social-service field of child and youth assistance.

Clearly EQUAL has been instrumental in developing and sharing good practice that facilitates participation of immigrants in society as a whole.

#### European Thematic Activities

The European Thematic Activities are clustered around five fields:

1. employability,
2. entrepreneurship,
3. adaptability,
4. equal opportunities and
5. asylum seekers.

Building on Diversity was chosen as the initial issue on which the EQUAL European Thematic Group on Employability would focus its activities. To do this it established five working groups, one of which was dedicated to ethnic minorities and migrants.

#### National Thematic Networks

EQUAL support to National Thematic Networks to assist the transfer of good practices that have emerged from its DPs into mainstream policy and practice.

In order to provide a stronger focus for the work of round one of DPs, several Member States launched National Thematic Network that specifically addressed issues concerning the integration of immigrants and ethnic minorities (Austria, Germany, France, Italy, Portugal and the UK). Most of these networks became operational in 2004 and all of them offered a platform for cooperation and exchange between DPs and for the identification, validation and dissemination of those good practices and products that emerged from the DPs' work. In some cases, including in France and Portugal, the activities of the National Thematic Network

have already stimulated a wider transfer of promising outcomes from the participating DPs that, in turn, has provoked change in conventional mainstream practices<sup>58</sup>.

A number of German DPs involved in developing and testing new approaches to improving access to training and work for immigrants and people with a migrant or ethnic minority background formed a National Thematic Network on the Vocational Integration of Migrants, through which they pool their experience and disseminate their approaches so that these can be taken up and used within the country's mainstream integration strategies.

#### European Thematic Activities – asylum-seekers

As highlighted in Chapter 3, there is considerable debate as to whether asylum seekers should be the beneficiaries of integration policies given their precarious status. Yet, perhaps the finest example of an immigrant group being targeted by mainstream funding is the inclusion of asylum-seekers as a European Thematic Activity. It is also notable as the remaining four activities are based on the four pillars of the European Employment Strategy (EES). Hence, EQUAL has made the bold move of including a group that is not a priority of the EES and whose merit for receiving assistance is contested.

European Thematic Activities on asylum seekers aim to play a role in the identification and dissemination of good practice and policy lessons to help asylum seekers integrate into society. The lessons learned from EQUAL activities will be used to promote horizontal mainstreaming (promoting changes at local or regional level and focusing on good practice) and vertical mainstreaming (promoting changes at political and administrative level).

The asylum seekers theme within EQUAL has specific characteristics. Firstly, it is closely linked to EU policy on the Common European Asylum System (CEAS) being taken forward by DG JLS, a policy which goes beyond Employment and Social Affairs. Secondly, activities within the theme address a diverse target group living within changing policy and legislative contexts that vary between Member States. Finally, the number of Development Partnerships involved in the theme is much lower than in the other EQUAL themes.

The Transnational Partnerships<sup>59</sup> address a wide variety of themes. These include:

a) Capacity building, including:

- networking and exchange of information to reach a better understanding of the social situation of asylum-seekers;
- lobbying to change national and EU level legislation;
- awareness raising and working towards a more positive public opinion vis-à-vis asylum seekers;
- Staff training – Exchange visits, Guides, Curricula and Accredited Course.

b) Education, training and advice, including:

- training packages and methods for asylum seekers;
- information and welcome packages; and
- skills audit and portfolio development.

c) access to employment, including new or alternative modes of providing work experience.

EQUAL's work on the integration of asylum-seekers has resulted in EQUAL policy briefs that make recommendations regarding future developments in policy and practice. Policy briefs include:

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<sup>58</sup> For more details, see the EQUAL paper 'National Networks of DPs Tackling Discrimination against immigrants and ethnic minorities', March 2006.

<sup>59</sup> For more details on these projects, refer to the EQUAL paper 'Making the most of transnational cooperation – Asylum seekers', March 2007.



a) 'Advice Education and Training' (new version 2007), which recommends to the European Commission, European Parliament and Member States that:

- asylum seekers should continue to receive support even when a decision on their application has been reached; and
- there is scope for "exceeding" the minimum standards of Article 12 (vocational training) of the Directive on minimum standards for the reception of asylum seekers.

Furthermore, it recommends to the National/regional/ local authorities and employers that:

- the development of specific vocational programmes for asylum seekers facilitates the learning process and enables them to better "profile" themselves on the labour market;
- civic orientation and intercultural learning help both asylum seekers and the host society;
- traineeships and other forms of on-the-job training are a first and important step which help the integration of asylum seekers and can lead to 'real' employment;
- the European Social Fund 2007-2013 should include asylum seekers as a target group and that transnational work encourages learning and the identification of approaches and methods which are applicable in different contexts.

b) 'Building capacity for asylum seekers' (new version 2007) also contains policy message, but more succinctly outlines an evidence-base for policy making:

- networks improve communication between actors and create a better understanding and increased knowledge of asylum issues;
- networking tools facilitate coordination of services and matching;
- training of those who work with asylum seekers in a professional capacity improves the quality of services provided to them and helps their integration; and
- awareness raising activities make the wider public aware of asylum seekers' conditions, needs and potential and empower asylum seekers.

c) 'Getting asylum seekers into employment' (new version 2007) contains additional policy recommendations. It recommends to the European Commission, European Parliament and Member States that:

- asylum seekers' lives should not be 'wasted by waiting'; and
- there is scope for "exceeding" the minimum standards of Article 11 (employment) of the Directive on minimum standards for the reception of asylum seekers.

Furthermore, it recommends to the National/regional/ local authorities and employers that:

- Building strong relations with employers, employer associations and social partners is essential for enhancing awareness of the potential of asylum seekers and the value that they can bring to an organisation and the overall community;
- Job placements and other forms of work experience are a first and important step to help the vocational integration of asylum seekers and to address skills shortages and other labour market need; and
- Databases and other networking tools facilitate partnership building and enhance the effectiveness of matching the potential of asylum seekers to labour market needs.

d) 'The Right Opportunity for the Right Skills - EQUAL promotes skills audits with Asylum-Seekers' (updated 2007), which recommends to European Commission, European Parliament and Member States that:

- the application of skills audits for asylum-seekers could form a practical component of the Common European Asylum System; and
- Skills audits for asylum-seekers work in different national and regional contexts across the EU and the practices are already being mainstreamed nationally.

Furthermore, it recommends to National/regional/ local authorities and employers that:

- the benefits of skills audits for asylum-seekers outweigh the costs;
- the effectiveness of integrated programmes offered to asylum-seekers, providing a combination of language courses, educational/vocational training, introduction to the labour market and on-the-job training could be enhanced if skills audits were an integral part of them.
- The Operational Programmes and project that will be supported by the European Social Fund 2007 - 2013 could include measures to promote the use of skills audits for asylum seekers and other newcomers.

### **6.1.3.2. PROGRESS**

With the view of fostering greater coherence and simplification in the way Community programmes are delivered, the Commission established the framework programme PROGRESS, which brings together actions undertaken under Community Action Programme to combat social exclusion, the strategy on gender equality, Community Action Programme to promote organisations active at European level in the field of equality between men and women, as well as those activities undertaken at community level in relation to working conditions.

More specifically, PROGRESS supports:

- the implementation of the EES;
- the implementation of the OMC/SPSI;
- the improvement of the working environment and conditions including health and safety at work and reconciling work and family life
- the effective implementation of the principle of non-discrimination and promotion of its mainstreaming in all EU policies
- the effective implementation of the principle of gender equality and promotion of its mainstreaming in all EU policies.

The vision of PROGRESS is a European Community that can fully play its part in promoting more and better jobs and equal opportunities for all and whose positive contribution is recognised and valued.

Its aim is to effectively and efficiently fulfil the Treaty-delegated tasks and powers in employment and social solidarity to the benefit of European citizens by:

- shaping and focusing the EU policy agenda on the most EU pressing concerns;
- promoting the coordination and convergence of national policies towards EU objectives;
- ensuring maximum compliance with EU law;
- partnering with key stakeholders and getting support and ownership on all EU policies and objectives.

The general objectives of PROGRESS are to:

- improve the knowledge and understanding of the situations prevailing in the Member States;
- support the development of statistical tools, methods and common indicators;
- support and monitor the implementation of Community law and policy objectives in the Member States, and assess their effectiveness and impact;

- promote networking and mutual learning, identification and dissemination of good practice and innovative approaches at EU level;
- enhance the awareness of stakeholders and the general public about EU policies and objectives;
- boost the capacity of key EU networks to promote, support and further develop EU policies and objectives

PROGRESS complements action under the European Social Fund (ESF). It finances studies, awareness-raising campaigns, exchanges of information and good practice; monitoring and evaluation exercises and networking initiatives.

Immigrants do not feature in the objectives of PROGRESS or in the 2007 Work Programme<sup>60</sup>. Immigrants are no longer included as a specified target group for social inclusion policies. The only actions that pertain more generally to immigrants are those focussed on anti-discrimination on grounds of racial or ethnic origin, religion or belief, disability, age or sexual orientation (not immigrant status per-se). These are discussed in section 6.2 on anti-discrimination and diversity.

DG Employment see PROGRESS programme for employment and social solidarity 2007-2013 as a framework for ensuring equal opportunities for all, yet the failure of PROGRESS in recognising the specific needs of immigrants represents a backwards step in efforts to secure the social inclusion of immigrants.

#### **6.1.4. Financial instruments**

This section looks at the financial instruments attached to:

- the Community Action Programme;
- EQUAL; and
- the PROGRESS programme.

European Social Fund (ESF), which also provides support objectives approved by the EU in the area of social inclusion, is discussed in 5.1.5.

##### **6.1.4.1. The Community Action Programme**

The budget of the Community Action Programme from 2002-2006 was €75 million. The estimated spend for 2006 is €24.3 million.

Access to this programme was open to all public and/or private bodies, actors and institutions involved in the fight against social exclusion, in particular member states, local and regional authorities, bodies responsible for combating social exclusion, social partners, bodies providing social services, NGOs, universities and research institutes, national statistical offices and media.

In the preparatory actions implemented by the Commission to promote good practice in the fight against social exclusion, the Commission proposed that the Community should finance 80% of the total eligible costs of an action, with a requirement for the remaining 20% to be co-financed in cash.

In the case of support for the running costs of European networks of NGOs, where exception circumstances exist, the Community can pay up to 90% of the total eligible costs. This is in recognition that the national NGOs which are members of the network are often unable to provide a higher level of co-financing from their own resources and that it is difficult to raise funds from national sources for purely European activities.

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<sup>60</sup> See PROGRESS/2006/004-rev (21 March 2007), DG Employment, Brussels.

#### **6.1.4.2. EQUAL**

EQUAL co-finances activities in all EU Member States. The EU contribution is matched by national funding. EQUAL has been provided with €3.3 billion funding through the ESF for the period 2001-2006.

The financing rules of the ESF outlined in Chapter 5 (section 5.1.5.) apply to EQUAL.

The employability strand received the largest portion of funding (€1.19 billion or 36.3%). It can be estimated<sup>61</sup> that €237.6 million has been awarded to projects that catered for immigrants or ethnic minorities, either as the sole focus or amongst other target groups. In addition, €117 million (3.6%) of the funding has funded actions focussed on asylum seekers.

#### **6.1.4.3. PROGRESS**

The Commission has proposed a budget of €628 million for PROGRESS from 2007-2013. PROGRESS's budget for 2007 is €81.9 million, of which €22.9 million has been allocated to the operational costs of social protection and inclusion. This compares to a forecasted spend of €24.3 for 2006 under the Community Action Programme.

It will provide support for three types of activities:

- analytical activities that improve the understanding of the Social Policy Agenda's issues, contribute to its effective implementation and help to improve coordination with other EU policy areas and strategies.
- activities involving mutual learning, exchanges of information, awareness-raising, identifying and promoting good practice and measures related to monitoring and evaluation (e.g. peer reviews) that help to establish the state-of-play in Member States and, in this way, improve the application of Community rules.
- activities that support the main stakeholders in order to promote the exchange of good practice, the sharing of information, preventive awareness-raising measures, as well as discussion processes (e.g. setting up working parties of national officials, developing networking at EU level or funding networks of experts in the different areas).

PROGRESS will be open to public and private bodies and relevant actors and stakeholders. It is geared towards Member States, local and regional authorities, public employment services and national statistics offices. It is open to candidate countries. Specialised bodies, universities and research institutes, as well as the social partners and non-governmental organisations will also be able to participate in the programme.

There is a maximum of 80% of co-financing for projects. As an exception, Community support to the operating costs of European level networks of NGOs may be above this limit, taking into account that such Community funding will gradually decrease annually. The co-financing arrangements are broadly similar to those under the Community Action Programme.

### **6.2. Anti-discrimination and diversity**

#### **6.2.1. Declared policies**

Support at European Community level in combating discrimination has been expressed through a variety of joint declarations, charters, resolutions, and legislation related to the promotion of equal opportunities and equal treatment between men and women. Further to the broadening of its powers relating to discrimination in the 1997 Amsterdam Treaty, the Community went one step further in 2000 and gave a specific legal base for action to promote equal treatment through the Racial Equality Directive and the Employment Equality Directive

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<sup>61</sup> Calculation is based on proportion of DPs in first round of funding that featured immigrants and ethnic minorities in their target group.

(which does not cover discrimination on the basis of racial or ethnic origin as this is the purpose of the former Directive).

Disappointingly, nationality was not included as a discrimination ground in the Racial Equality Directive. It expressly states that it “does not cover difference of treatment based on nationality and is without prejudice to provisions and conditions relating to the entry into and residence of TNCs and stateless persons on the territory of the Member States, and to any treatment which arises from the legal status of TNCs and stateless persons concerned”.

Nevertheless, the Directive’s recital states that any direct or indirect discrimination based on racial or ethnic origin should be prohibited throughout the Community. This prohibition of discrimination should also apply to nationals of third countries, but does not cover differences of treatment based on nationality and is without prejudice to provisions governing the entry and residence of TNCs and their access to employment and to occupation.

Legislation sends clear signals about what society regards as acceptable or unacceptable, and the two Directives form an integral part of the Community’s strategy in changing attitudes and behaviour, however legislation is not sufficient on its own. That is why the Community established a Community Action Programme to combat discrimination 2001-2006 (which is discussed in detail in section 6.2.3.1.) to enable people to build their own actions to tackle discrimination at a local level, where it is often most effective.

As part of the Community Action Programme to combat discrimination, in 2003 DG Employment initiated ‘For Diversity. Against Discrimination’ a five-year pan-European information campaign on combating discrimination on the grounds of racial or ethnic origin, religion or belief, age, disability and sexual orientation.

Although the policies tackle anti-discrimination more broadly, the importance of addressing discrimination against immigrants is also highlighted. DG Employment’s 2004 Green Paper ‘Equality and non-discrimination for all in an enlarged EU’ states that ‘anti-discrimination policy is an important part of the EU’s approach to immigration, inclusion, integration and employment. By clarifying rights and obligations and highlighting the positive benefits of diversity in a multicultural society, it can help to guide a process of change based on mutual respect between ethnic minorities, migrants and host societies.”

A wide public consultation conducted in 2004 on the basis of the Commission’s Green Paper. On the basis of the feedback from consultations, a framework strategy was designed to ensure that discrimination is effectively tackled, diversity is celebrated and equal opportunities for all are promoted.

The 2007 European Year of Equal Opportunities for All is the centrepiece of this strategy is set out in a Communication adopted by the European Commission in June 2005<sup>62</sup>. This Communication also recognises the need to ‘develop appropriate responses to the different needs of new migrants, established minorities of immigrant origin and other minority groups.’

European Year of Equal Opportunities for All has four core themes of the European Year proposed by the Commission are:

- Rights – raising awareness of the right to equality and non-discrimination.
- Representation – stimulating a debate on ways to increase the participation of under-represented groups in society.
- Recognition – celebrating and accommodating diversity.
- Respect and tolerance – promoting a more cohesive society

The 2005 ‘Communication on non-discrimination and equal opportunities for all - A framework strategy’ also foreshadowed the establishment of:

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<sup>62</sup> SEC(2005) 689

- an annual, high level Equality Summit involving Ministers, heads of national Equality Bodies, Presidents of European-level NGOs, the European social partners and representatives of international organisations; and
- a high-level advisory group on social and labour market integration of disadvantaged ethnic minorities;

### 6.2.2. Policy Infrastructure

The anti-discrimination unit is in regular contact with the Platform of European Social NGOs, which was created in 1995, and has 39 member organisations operating in the social sector. Via these members, it brings together over 1700 organisations, associations and other voluntary bodies at local, regional, national and European level, representing a wide range of civil society, including migrants.

The anti-discrimination unit organises jointly with the European Platform of Social NGOs bi-annual meetings where NGOs are invited to discuss different Community matters. NGOs are given an opportunity to comment on ongoing issues and the Commission also announces new initiatives. The anti-discrimination unit also organises ad hoc meetings as needed.

The Community Action Programme funds four European umbrella NGO networks representing and defending the rights of people exposed to discrimination – one per ground of discrimination. One of the four European umbrella networks it supports is the European Network Against Racism (ENAR), a network of European NGOs working to combat racism in all EU member states, which aims to fight racism, xenophobia, anti-Semitism and Islamophobia, to promote equality of treatment between EU citizens and TNCs, and to link local/regional/national initiatives with European initiatives. Funding towards their running costs is provided until the end of April 2007.

The Community Action Programme also funds a Network of independent legal experts in the non-discrimination field that provides independent information and advice on the implementation of the Article 13 anti-discrimination Directives in all 25 Member States. The Migration Policy Group and Human European Consultancy have established and manage the network for the European Commission. The task of the Network is to produce:

- information on the transposition of the Directives, their practical implementation, national initiatives in the field of anti-discrimination legislation and related policy developments, the impact of national court rulings that have the effect of establishing jurisprudence on the level of protection provided by national law against discrimination, the potential conformity of national developments with the requirements of Community law; and the impact of judgments of the European Court of Justice and the European Court of Human Rights on national law; and
- comprehensive reports, thematic reports, regular flash report, bi-annual bulletins, a chapter for the Commission's Annual Equality Report and a one-day annual seminar.

The high-level advisory group on social integration of ethnic minorities and their full participation in the labour market<sup>63</sup> comprises 10 experts from civil society, the world of research, business, the national and local authorities, as well as ethnic minorities and other stakeholders.

The group will focus on issues such as bringing disadvantaged ethnic groups into the labour market. In its work, the group will draw upon the experience of existing EU programmes, specifically the EQUAL initiative, and a new study on the social and labour market integration of ethnic minorities, which will analyse the extent to which membership of a particular ethnic minority may lead to specific barriers in gaining access to the labour market, and how to tackle these barriers more effectively. The study plans to examine the relationship between action to promote integration of ethnic minorities and wider action to tackle social inequality.

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<sup>63</sup> 2006/33/EC

The Group has been asked to submit, before the end of the 2007, a report containing recommendations on the policies to be implemented. The group will focus on the following issues:

- the socio-economic situation of ethnic minorities in today's EU,
- the different situations and needs of minority groups, including recent migrants, established ethnic minorities, national minorities, the Roma and stateless persons,
- the impact of multiple discrimination and the influence of factors such as age, sex, disability and religion, as well as the impact of geographical isolation and level of education,
- the contribution of EU policies and programmes to social integration of ethnic minorities and their full participation in the labour market,
- the impact of future developments, including possible new waves of accessions to the EU (Romania, Bulgaria, Turkey, western Balkans).

The group first met in February 2006 so it is too early to report on their progress.

### **6.2.3. Programmes**

The section provides an overview of programmes which fund actions to combat discrimination:

- The Community Action Programme to combat discrimination;
- PROGRESS;
- EQUAL

Community Action Programme to combat discrimination has been subsumed into the PROGRESS programme.

#### **6.2.3.1. The Community Action Programme to combat discrimination**

The Community Action Programme has three strands.

The first strand is analysis and evaluation of policy and activities. It includes monitoring and analysis of the implementation of the Racial Equality Directive and Employment Equality Directive by expert groups (see Policy Infrastructure), commissioning publications on specific non-discrimination issues.

The second strand is capacity building, through the support of transnational partnerships and their exchange of experience and good practice in fighting discrimination and the funding of several non-governmental organisations (including ENAR).

Many of the transnational actions tackled discrimination on all legal grounds. A significant number of transnational actions focussed specifically on discrimination on the grounds of racial and ethnic origin and religious background.

In 2003, 33% of actions (9 out of 27) had specific relevance to immigrant integration, with two of these actions pertaining to immigrants specifically.

- Multicultural education in police services in Europe: an exchange of learned lessons, good practices and tools;
- Trade Union action against racial and religious discrimination;
- Religions and Social Cohesion - Building social participation in the framework of religious differences: Local Muslim communities in Europe;
- Media Literacy: Decoding Stereotypes concerning Arabs and Muslims;
- Combating and Preventing Discrimination within Police and School (focusing on institutionalised racism);
- Partners for Health - A pilot action to fight discrimination against immigrants in health care services

- Football Against Racism in Europe (FARE) Action
- Lesbian immigrants in Europe - combating multiple discrimination
- European Centre of Information and Expertise on Media, Diversity and Society (focussing on discrimination on racial / ethnic background, and religion/belief)

In 2004-2006, the proportion of projects with specific relevance to immigrant integration dropped to 24% with no projects focussing solely on immigrants. Projects include:

- Strategies on Litigation tackling Discrimination on the grounds of ethnic origin and religion in EU Countries;
- Mobilising Communities, Advocates and Lawyers to Challenge Racial and Other (including ethnic origin and religion) Discrimination in an Expanding Europe;
- EUREQUALITY: Informal networking among the anti-discrimination bodies and anti-discrimination institutions of Spain, Poland, Bulgaria, Ireland, Belgium and Finland (focussing on discrimination on the grounds of racial and ethnic origin);
- Centre for Combating Ethnic Discrimination - Towards Common Measures for Discrimination;
- Deutscher Caritasverband. GET in - Guide to Equal Treatment in the private sector (focussed on discrimination ground of ethnic origin)
- Institute of Urban Environment and Human Resources - Equality in Health (focussing on discrimination on the grounds of ethnic origin and religion)

The third strand is awareness raising, which takes the form of one-off events and long-running information campaigns and projects. The large majority of projects maintained a broad anti-discrimination focus. The exceptions are the national awareness raising projects. Iceland focussed on immigrant integration specifically, Italy and Spain's projects had an immigrant dimension and Ireland focussed on racial discrimination.

#### **6.2.3.2. EQUAL**

EQUAL, which was discussed in detail in section 6.1.4.3, also funds projects that work to combat discrimination and inequality in the labour market and promote diversity. For example it funds projects that:

- improve access to certain public training and employment services by making them more flexible or/and by creating specific new services for those target groups with special difficulties in accessing mainstream services. In this context, the in-service training of trainers and staff from such services is a key aspect in trying to promote equal access and equal treatment;
- enhance the range of labour options and rights of migrants working in specific sectors (such as construction, agriculture and catering) by facilitating training and providing language tuition to enable them to diversify their occupational options;
- raises the awareness of employers of the need to overcome discrimination in recruitment processes and of the benefits of employing people from migrant backgrounds; and
- change public attitudes and opinions with a view to creating a climate that is more conducive to the social, as well as the vocational, integration of migrants and ethnic minorities.

#### **6.2.3.3. PROGRESS**

The 2007 Annual Plan of Work<sup>64</sup> will support anti-discrimination measures to guarantee effective legal protection against discrimination, and which overcome the structural barriers to achieving equal opportunities.

It emphasises the responsibilities of public authorities at all levels of governance to:

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<sup>64</sup> See PROGRESS/2006/004-rev (21 March 2007), DG Employment, Brussels.



- identify and address issues of socio-economic disadvantages and systemic discrimination
- guarantee actual access to rights and opportunities
- implement legislative and programmatic measures in both the public and private sectors.

#### **6.2.4. Financial Instruments**

- The Community Action Programme to combat discrimination;
- EQUAL and
- PROGRESS

##### **6.2.4.1. The Community Action Programme to combat discrimination**

Decision of the Council in 2000 set the financial amount for the implementation of the programme for the period 2001 to 2006 at €98.4 million<sup>65</sup>. The budget for 2006 was €19.2 million.

Access to funding was open to public and/or private bodies and institutions involved in the fight against discrimination, in particular Member States, local and regional authorities, bodies for the promotion of equal treatment; social partners; NGOs, universities and research institutes, national statistical offices and the media.

This programme has been superseded by PROGRESS.

##### **6.2.4.3. EQUAL**

€478.3 million of funding has been provided through the equal opportunities strand of EQUAL between 2001 and 2006.

As EQUAL is funded through the ESF, the financing rules of the ESF apply. These are outlined in Chapter 5 (section 5.1.5.).

The EQUAL programme is drawing to a close.

##### **6.2.4.3. PROGRESS**

Its budget for 2007 is €81.9 million. €17 million has been allocated to the operational costs of antidiscrimination and diversity (gender equality has its own budget line of €7.2 million).

For further financial details refer back to section 6.1.4.3.

### **6.3. Conclusion**

The OMC/SPSI has been an effective mechanism to facilitate the societal integration of immigrants as has its Community Action Programme to combat social exclusion. The following factors are likely to have contributed to its success:

- the common objectives include immigrants as a target group;
- structured dialogue with funded European NGOs;
- the inclusion of a chapter on overcoming discrimination and increasing the integration of people with disabilities, ethnic minorities and immigrants in the Semester Reports of the networks of independent national experts; and
- the transnational exchange programme in providing a better understanding of strategies to improve immigrants' access to the labour market, health and psychological care and civic engagement.

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<sup>65</sup> 2000/750/EC

The broad inclusion of 'immigrants' as a target group in the social inclusion strategy has acted as both as a hindrance and a help. The failure to disaggregate immigrants by the length of settlement (newly arrived, settled, second-generation) or migration experience (forced or voluntary category) and reason for migration (international protection, skilled migration or family reunion) can make it difficult to address the specific needs of different immigrant groups. However, it also has the advantage of allowing for a greater range of beneficiaries to be included in target groups than is catered for by DG JLS's Integration and Refugee Fund. For example, it enables second-generation immigrants and irregular migrants to benefit from funded programmes.

Immigrants do not appear to be included as a specified target group for social inclusion actions within the PROGRESS programme. The PROGRESS programme also has a smaller budget than the Community Action Programme to combat social exclusion for activities relating to social inclusion and social protection and is gradually reducing funding to European level networks of NGOs. It is disappointing that PROGRESS does not appear to be capitalising on the gains made through the Community Action Programme. If PROGRESS's broad remit does not allow for targeted actions to ensure the social inclusion of immigrants, then gains made so far may be lost.

EQUAL has made a considerable investment in projects that support the social and professional integration of immigrants and that take action to overcome barriers such as difficulties in having overseas qualifications and experience recognised, limited language skills, the reluctance of many employers to hire immigrants, and poor information and advisory services.

It has also made the bold move of including asylum seekers, a group that is not a priority of the EES and whose merit for receiving assistance is contested, as one of its five European Thematic Activities. EQUAL's work on asylum seekers has played a key role in identification and dissemination of good practice in helping asylum seekers integrate into society and in mainstreaming their needs.

EQUAL has awarded at least €355 million to projects that catered for immigrants or ethnic minorities, and for asylum seekers specifically. The EQUAL programme is winding down. It no longer exists in the framework of the new Structural Funds regulations 2007-2013 as its principles are to be integrated in the main programmes. It is difficult to see how the mainstreaming of EQUAL's principles into Structural Funds will result in a concerted effort to ensure the social inclusion of immigrants.

Anti-discrimination measures are vital in achieving the participation of disadvantaged group. The Racial Equality Directive, introduced in 2000, does not cover difference of treatment based on nationality, but does prohibit direct or indirect discrimination based on racial or ethnic origin. Tackling discrimination against immigrants and highlighting the benefits of a diverse multicultural workforce is evident in DG Employment's policies and programmes relating to anti-discrimination and equity.

The success of anti-discrimination measures is likely to be bolstered by:

- the recently established high-level advisory group on social and labour market integration of disadvantaged ethnic minorities (which includes recent migrants, established ethnic minorities and national minorities);
- the network of independent legal experts in the non-discrimination field;
- structured dialogue with funded European NGOs;
- the fifteen of the transnational actions which had specific relevance to immigrant integration.

The work of EQUAL to overcome discrimination and promote diversity is substantial, as is its budget (€478.3 million through its equal opportunities strand alone). It is unlikely that the gains made in fighting discrimination and promoting diversity could have been realised without this support.

With EQUAL projects drawing to a close, and with PROGRESS superseding the Community Action Programme against discrimination (PROGRESS has a smaller budget and a less defined focus), the benefits arising from the current policy infrastructure may not be realised.