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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND  
THE COUNCIL**

**First Annual Report on Immigration and Asylum (2009)**

{SEC(2010) 535}

## 1. INTRODUCTION

In the European Pact on Immigration and Asylum, adopted in October 2008<sup>1</sup>, the European Council made five basic commitments on legal immigration and integration, illegal immigration, border controls, asylum, and partnership with countries of origin and transit (Global Approach).

This is the Commission's 1<sup>st</sup> Annual Report on the implementation of the Pact. It will contribute to preparing the European Council's annual debate on immigration and asylum policies.

Section 2 summarises and assesses developments at EU and national levels<sup>2</sup> and presents recommendations, looking in turn at each of the five areas of the Pact. Given that this will be an annual exercise, the recommendations highlight points which the Commission considers need particular attention over the coming year. The commitments in the Pact will also be developed under the Stockholm Programme<sup>3</sup> and its Action Plan.

The reporting period is from October 2008 to end 2009. The economic crisis was a major factor, so section 3 looks at its effects on migration. Section 4 touches on the methodology for this report, followed by the conclusions. An annexe presents key statistics.

## 2. PROGRESS IN THE FIVE AREAS OF THE PACT

### 2.1. Legal Immigration — Integration

*Main commitment: Organise legal immigration to take account of the priorities, needs and reception capacities determined by each Member State, and to encourage integration*

**Legal migration. EU level:** Adoption of the EU Blue Card Directive will offer an EU admission procedure for highly qualified workers. Discussion continued on the proposed Framework Directive for a single permit and rights for migrant workers. The New Skills for New Jobs initiative<sup>4</sup> considered how migrant workers' skills can be linked to EU labour needs. A Commission report identified possible problems in transposing the Family Reunification Directive. Mutual information was developed, notably through the European Migration Network. However, an evaluation of the Mutual Information Mechanism showed it did not meet expectations.

**National level:** Labour migration continued to be managed by reference to labour market needs and preference to EU citizens. The economic crisis reduced inflows, but not in all Member States. Some Member States therefore tightened entry criteria or quotas, but others relied on the flexibility of demand-driven systems. Improvements to governance of legal migration included new policy concepts, new bodies and simplified procedures. Changes to family reunification policies included tighter conditions and increased action against marriages of convenience.

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<sup>1</sup> 14368/08 (Presidency Conclusions) and 13440/08 (Pact).

<sup>2</sup> An accompanying Commission Staff Working Paper provides more detail.

<sup>3</sup> EUCO 6/09 (Presidency Conclusions) and 17024/09 (Programme).

<sup>4</sup> COM(2008) 868.

Assessment: In line with the Pact, labour migration is in general managed by reference to labour market needs and EU preference. There was a welcome trend to simplify procedures. However, there is room for better matching of EU labour needs with skills in third countries.

Recommendations: Member States and Commission should, in cooperation with third countries, continue **to improve labour matching and skills recognition** in line with action to promote a comprehensive labour migration policy under the flagship initiative “An agenda for new skills and jobs” of the Europe 2020 strategy. This will also help meet demographic challenges.

The Policy Plan on Legal Migration should be pursued:

- Member States should work towards **timely and ambitious transposition of the EU Blue Card**,
- Council and Parliament should take advantage of the new dynamic of the Lisbon Treaty to reach **agreement on the Framework Directive** for a single permit and basic socio-economic rights for migrant workers.

Mutual information remains important: Member States and Commission should improve **reporting on important national developments through future Annual Reports on Immigration and Asylum**.

**Integration. EU level**: Two new instruments were launched: the European Integration Forum and European Web Site on Integration. Work was undertaken in priority areas identified in the November 2008 Council Conclusions: promoting European values, working on public perception of migrants and legal immigration, developing European modules and identifying indicators to evaluate results. The third Handbook on Integration was prepared. Details are in the Report to the 2010 Ministerial Conference on Integration<sup>5</sup>. Council adopted the Framework Decision on Racism & Xenophobia, and discussions continued on the proposed Framework Directive prohibiting discrimination outside employment. In March 2010 the European Council agreed that better integration of migrants would help achieve the Europe 2020 target of a 75% employment rate for 20-64 year olds.

National level: Member States reported adopting or preparing national legislation, plans or strategies. Several Member States referred to mechanisms for consultation and dialogue. Key themes for policies were language learning, access to employment and action against discrimination. Some Member States focus policies on refugees. A few formalise rights and obligations in an ‘integration contract’. Some reported on policies to improve the status of migrants, into long-term residence or citizenship. An increasing number of Member States mention monitoring and efforts to develop indicators.

Assessment: The EU framework was consolidated. Integration policy continued to be developed at EU and national levels in line with the EU common basic principles for integration and the 2005 common agenda for integration. Attention is being paid both to rights (employment, anti-discrimination) and obligations (language learning). A welcome trend is continued development of EU and national structures, for policies as a whole, for information exchange and for dialogue.

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<sup>5</sup> SEC(2010) 357.

**Recommendations:** Priority should still be given to indicators for monitoring the results of integration policies.

Work should start on a **new EU agenda for migrants' integration** to be adopted in 2011, as called for by the Europe 2020 strategy, and taking account of the Stockholm Programme and of an explicit legal basis (Art. 79(4) TFEU) introduced by the Lisbon Treaty.

## 2.2. Illegal Immigration

*Main commitment: Control illegal immigration in particular by ensuring that illegal immigrants return to their countries of origin or to a transit country*

EU level: Two key instruments were adopted: the Return and Employer Sanctions Directives. The Commission proposed an instrument to enhance preventing and combating human trafficking and protecting victims. FRONTEX increased its activities in the area of return. Efforts to conclude readmission agreements were pursued: an agreement was signed with Pakistan; negotiations advanced with Morocco and resumed with Turkey (see 2.5); negotiations directives were adopted for Georgia and Cape Verde. Negotiations on a number of Partnership and Cooperation Agreements continued. The effectiveness of readmission agreements is regularly monitored in joint readmission committees. Tackling illegal immigration was a key component of Mobility Partnerships (see 2.5).

National level: Work began on transposing the Return Directive. Measures were taken in a several Member States to promote voluntary departure. More stringent policies on forced return and higher enforcement rates were occasionally considered to lead also to a decrease of illegal immigration. Certain Member States pointed to large numbers of illegally staying migrants who temporarily cannot be returned and stated that measures should be taken to find solutions. Considerable support was given to joint return flights. Several Member States indicated measures taken to fight human trafficking. Many Member States reported on efforts to conclude bilateral readmission agreements and stressed the importance of cooperation with third states at EU level, subject to proper consultation. Individual Member States mentioned regularisation measures they have taken; some others strived to avoid such measures or to tailor them to return policy. A few Member States reported on mechanisms to prevent abuse of legal migration schemes and free movement, e.g. by improving coordination between different parts of the national administration.

Assessment: Return policy and readmission agreements were a major focus of attention. Voluntary departure appears to have become the preferred option of return, in line with the Return Directive. On the other hand, several Member States also adopt a more stringent policy on forced return, pointing to the deterrent effect. Many Member States reported positive experiences with FRONTEX-coordinated joint return flights. Cooperation with countries of origin and transit is essential for policies on illegal immigration. The existence of large numbers of illegally staying migrants who temporarily cannot be returned deserves further attention. As for regularisation measures, there seems no consistent view among Member States on their use as a tool to tackle illegal immigration.

**Recommendations:** Member States should pay particular attention to **full and timely transposition of the Return and Employer Sanctions Directives**.

Member States should **increase numbers and effectiveness of inspections** at workplaces in sectors where there is particular risk of exploitation of illegally staying workers.

Member States should use the opportunity offered by the Return Directive to **foster voluntary departure** and make use of the Return Fund.

The use of **joint return flights should be further promoted**, by making full use of the Return Fund and FRONTEX coordination.

Taking into account different approaches, **exchange of information and monitoring of national regularisation measures** should be promoted, in line with the recommendations of the Pact.

Further efforts should be made to **negotiate and conclude readmission agreements** with key third countries.

Given large numbers of **illegally staying migrants who temporarily cannot be returned**, the Commission will carry out a study on their treatment **whilst maintaining the primary objective of carrying out return (ending of illegal stay) as soon as possible**.

The EU and Member States should ensure that measures aiming at better control of migration take full account of **fundamental rights and children's rights** in accordance with the EU Charter of Fundamental Rights and the UN Convention on the Rights of the Child.

### **2.3. Border Control**

*Main commitment: Make border controls more effective*

EU level: Preparatory work was undertaken for the recent (February 2010) proposal to upgrade FRONTEX and for a proposal for an EU Entry/Exit System and EU Registered Traveller Programme. Technical problems which postponed the Visa Information System (VIS) were tackled. Discussions took place on an improved Schengen evaluation mechanism proposed by the Commission. The Common Consular Instructions (CCI) were amended, providing a legal framework for enhanced cooperation between Member States' consulates, and implementing measures were prepared. In order jointly to manage mixed migration flows, reinforced international cooperation took place in particular with Turkey and Libya (see 2.5).

National level: All Member States reported on efforts to put in place or maintain reinforced border control mechanisms — where appropriate with support from the Borders Fund. Several took measures to foster better cooperation between migration, border and police authorities. Member States reported on their active involvement in FRONTEX activities; many expressed support for upgrading FRONTEX's role. Several Member States mentioned intensified border management cooperation with third countries. Preparation for the VIS was undertaken; several Member States underlined the need to deal with the remaining obstacles as soon as possible. Some Member States aimed to promote the role of Immigration Liaison Officers in visa services, and active support was given to cooperation between consulates at local level. A number of Member States implemented projects for registered traveller programmes and entry/exit systems.

Assessment: All Member States took seriously the commitment to ensure more effective control of external borders. Significant efforts were made, including deployment of modern technology. The usefulness of funding from the Borders Fund was frequently mentioned. There is broad support for and involvement in FRONTEX activities. Several followed the call to reinforce consular cooperation. Several Member States — particularly at the EU's eastern

and southern border — intensified border management cooperation with third countries. The technical problems and subsequent delay of operation of VIS was deplored by several Member States and some expressed doubts about further development of large-scale IT systems (such as EU Entry/Exit System) at this time. The commitment to improve the Schengen evaluation process could not be followed up yet.

**Recommendations:** Member States and the Commission should **make best use of, and ensure correct application of, the key legal instruments** (Border Code, Visa Code (repealing the CCI), Frontex Regulation, VIS, Borders Fund), and take the necessary implementing measures.

Where there is broad support for further harmonisation (such as **upgrading the role of FRONTEX** as proposed by the Commission, or amending certain provisions of existing legislation), efforts should be made in legislative discussions to stand by the commitments in the Pact to mobilise all available resources to ensure more effective border control and to give Frontex the resources to fulfil its mission.

Schengen cooperation has been an outstanding success story and the **Schengen evaluation process is a unique review mechanism which should be maintained and strengthened in line with the provisions of the Treaty**. This mechanism must be built upon trust between all involved and a clear allocation of competencies. Now the Lisbon Treaty has entered into force, the Commission will submit a new proposal shortly. To achieve a result, flexibility from all EU institutions and recognition of legal realities will be required.

## 2.4. Asylum

*Main commitment: Construct a Europe of asylum*

**EU level:** The Commission presented all the legislative initiatives requested by the Pact and others which had been announced in the June 2008 Policy Plan on Asylum. The amendments to the Directives on Asylum Procedures and Qualification, in particular, answer the Pact's call for a single procedure and uniform status, and are expected to improve coherence between EU asylum instruments. They should simplify, streamline and consolidate substantive and procedural standards of protection across the EU and lead to more robust determinations at first instance, thus preventing abuse and improving efficiency of the asylum process.

Amendments to the Dublin and Eurodac Regulations and to the Directive on Reception Conditions were also proposed, and there were proposals for a Joint EU Resettlement Scheme, and a European Asylum Support Office (EASO) to facilitate, coordinate and strengthen practical cooperation. Council and Parliament reached political agreement in November 2009 on the EASO.

Non-legislative action was also taken. An external evaluation of Regional Protection Programmes concluded that they are a first and successful mechanism to provide more protection for refugees close to regions of origin, but that their impact was limited due to limited flexibility, funding, visibility and coordination with other EU humanitarian and development policies, and insufficient engagement of third countries. It has been decided to improve and expand them, in particular in the Horn of Africa (Kenya, Djibouti, Yemen) and north Africa (Libya, Egypt, Tunisia).

Work has been ongoing since July 2009 on a pilot project for voluntary relocation from MT to other Member States of beneficiaries of international protection, with financial support from the European Refugee Fund, which in 2009 also supported the relocation to FR from MT of 95 beneficiaries of international protection. In total, ten Member States (DE, FR, LU, HU, PL, PT, RO, SI, SK, UK) accepted to relocate from MT beneficiaries of international protection.

National level: By the start of the reporting period most Member States had already transposed the first-phase instruments of the asylum *acquis*, although there were some which notified transposition measures in 2009, with significant delay. The main activities reported were resettlement and practical cooperation activities. Some non-traditional resettling Member States offered resettlement (BE, PT) while at least two Member States (RO, SK) temporarily hosted refugees to be resettled elsewhere.

MT and EL were supported by some Member States (NL, UK) by practical cooperation such as training and secondment of officials. Several Member States (BE, CZ, DE, FR, NL, AT, SE, UK) continued their efforts to create a European Asylum Curriculum.

Assessment: Efforts are ongoing to implement all asylum-related commitments of the Pact. However, while progress has been significant in setting up the EASO, which will be operational in 2010, and in resettlement, with an increasing number of Member States showing an interest, discussions on amending the first-phase instruments are difficult and are progressing slowly. The majority of Member States have not shown much interest in solidarity measures in the form of intra-EU relocation of beneficiaries of international protection.

Recommendations: Additional efforts should be made by Council and Parliament in the ongoing legislative discussions to **stand by their commitment to a Common European Asylum System offering a higher degree of protection and standards.**

All stakeholders should provide full support for a **quick start of EASO's operations.**

More Member States should step up efforts to **support Member States most affected by asylum pressures**, by accepting relocation of beneficiaries of international protection or by other means, e.g. through providing technical assistance, in line with the principle of solidarity and fair sharing of responsibility (Art. 80 TFEU) introduced by the Lisbon Treaty.

## **2.5. Global Approach to Migration**

*Main commitment: Create a comprehensive partnership with the countries of origin and of transit to encourage synergy between migration and development*

EU level: Building on the 2008 Commission Communication on 'Strengthening the Global Approach to Migration', which suggested improvements to coordination, coherence and synergies, the tools of the Global Approach have been further developed. In addition to ongoing Mobility Partnerships (MPs) with the Republic of Moldova (15 Member States participating) and Cape Verde (5 Member States), in November 2009 the EU signed a MP with Georgia (16 Member States). A September 2009 Commission Staff Working Document evaluated the pilot MPs. The main elements of the evaluation were reflected in December 2009 Council Conclusions. Other tools were deployed such as migratory missions to Georgia, Tanzania, Belarus and Kenya. Migration profiles were completed in 10 countries in Western

Africa and 17 in East and South-East Europe, as well as those annexed to the Country Strategy Papers of ACP countries. A cooperation platform was set up in Ethiopia.

The June and October 2009 European Council conclusions on the Mediterranean have been successfully followed up. As regards Turkey, stalled negotiations on a readmission agreement were resumed, and FRONTEX made progress in negotiating a working arrangement. As regards Libya, the Commission continued negotiating the EU-Libya Framework agreement, including a migration article, and developed dialogue and cooperation.

In relation to Africa, the Commission supported actions under the EU-Africa Partnership on Migration, Mobility and Employment and, at regional level, the Rabat/Paris Cooperation Programme. In Eastern Europe the Commission supported the April 2009 Ministerial Conference in Prague and the follow-up project Building Migration Partnerships. In other regions, the EU launched a Structured Dialogue on Migration with Latin American and Caribbean countries, and held meetings with ASEM and India. The Thematic Programme funded projects on brain drain, circular migration, legal and illegal migration, diaspora involvement in development and remittances. Funding under geographical instruments has been programmed for migration-related activities.

A September 2009 Commission Communication highlighted the need for coherence between migration and development policy, as did November 2009 Council Conclusions.

National level: Member States reported strong interest in better synergy (i.e. links) between migration policies and external relations, especially with countries on migratory routes to Europe. Member States report having contributed well to the Global Approach, with participation in Mobility Partnerships, migratory missions, launching of Building Migratory Partnerships, and progress with the Cooperation Platform in Ethiopia. Individual Member States have negotiated bilateral agreements on migratory issues with Morocco, Russia, Georgia, Ukraine, Congo, Burundi, Malawi, Libya, Albania, and Cape Verde. Some Member States have adopted a medium-term Strategy for Development Cooperation that includes development linked to migration. On specific issues, there are programmes on transparency in the remittances sector and on countering ‘brain drain’ by ethical recruitment of medical staff from developing countries.

Assessment: Dialogue with third countries on migration has considerably developed. However, the various dialogue processes need rationalising, while synergies between migration and development need strengthening. The cooperation under the Thematic Programme needs to be strengthened by using EU geographical instruments and Member States’ contributions; cooperation on migration and development should now go beyond pilot cases. Migration profiles, a key instrument for an evidence-based migration policy, were successfully promoted. The tools of the Global Approach need to be systematised and consolidated with the active involvement of all actors to ensure better coordination, coherence and synergies.

Recommendations: The EU should, with continued Member State support, **further develop and consolidate the Global Approach to Migration**, on the basis of the Stockholm Programme, by strategic, evidence-based and systematic use of all its instruments, rationalisation of dialogue processes and strengthening of operational cooperation. Balance between the three areas (legal migration, illegal migration, migration and development) should be reinforced.

**The focus should remain on cooperation with the more relevant countries of origin and transit in Africa and Eastern and South-Eastern Europe.** Dialogue and cooperation should also be furthered with countries in Asia, e.g. India and China, and in Latin America and the Caribbean.

### 3. EFFECTS OF THE ECONOMIC CRISIS

Immigration from third countries has contributed to growth in many Member States. The economic downturn poses new challenges, although its effects on migration flows are difficult to assess. Two-thirds of Member States have seen an impact of the economic crisis on migration flows, mainly reflected in reduced demand for foreign workers.

Migrants are among the hardest hit by the crisis. The impact differs widely, however, especially by sector (the worst hit include construction, manufacturing, tourism and financial services), education level and professional qualifications. Unemployment rates of non-EU citizens climbed from 13.6% in 3Q2008 to 18.9% in 3Q2009 — a higher increase than for nationals (6.4% to 8.4%), but similar to workers from other Member States (8.6% to 12%).

Remittance flows to developing countries have declined — from \$338 billion in 2008, according to the World Bank; the estimate for 2009 is \$317 billion. EU support has focused on the hardest hit developing countries.

The EU has responded resolutely to the effects of the crisis. Many of the overall measures such as economic stimulus packages and labour market interventions through job creation have benefited EU citizens and migrants.

The economy is already recovering. Although in the short term the crisis will attenuate labour and skills shortages, in the longer term a well organised legal immigration policy will continue to play an important role in filling labour shortages and meeting demographic challenges (the EU's active population will start to shrink as from 2013/2014). In fact, an over-restrictive policy could worsen the effects of the crisis by aggravating labour shortages. In this context, due regard should be paid to the need to respect the principle of Union preference and the relevant transitional arrangements of recent acts of accession.

**Recommendations:** The EU and Member States should **maximise the benefits of labour migration as an important tool to address labour market shortages as part of the Europe 2020 strategy.**

The EU should **address the economic crisis with third countries** that are particularly hit by its long-term effects.

### 4. METHODOLOGY

Using the 'tracking method' described in its June 2009 Communication<sup>6</sup>, the Commission assembled this report from Member States' contributions and other information, in particular reports from National Contact Points (NCPs) of the European Migration Network (EMN).

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<sup>6</sup> COM(2009) 266.

The 2<sup>nd</sup> Annual Report, to be presented in 2011, will also cover the Stockholm Programme and Action Plan in relation to immigration and asylum.

Recommendation: For the next report, Member States should continue to provide a political report to the Commission but **relevant factual information should be provided in the reports of the EMN NCPs.**

## 5. CONCLUSIONS

Progress has been made at national and EU levels in developing immigration and asylum policies in line with the Pact. A first generation of instruments of the comprehensive EU migration policy are now in place: legislation, the four Funds, agencies and networks, agreements with third countries. These should be fully implemented, used to best advantage and evaluated<sup>7</sup>. Some policy frameworks need to be further developed, such as the Policy Plan for Legal Migration and the Global Approach.

In some areas the Commission has presented proposals to upgrade the first-generation instruments by creating a Common European Asylum System and upgrading FRONTEX. The Commission encourages the European Parliament and Council to agree on ambitious legislative texts.

Further development of the EU's migration policy is however needed, as recognised by the Stockholm Programme. The Europe 2020 strategy calls for a comprehensive labour migration policy and better integration of migrants including in the workplace. The recommendations in this Report identify priorities for the coming year. Further impetus will also come from changes under the Lisbon Treaty, notably the enhanced role of the European Parliament, and from the Action Plan Implementing the Stockholm Programme<sup>8</sup>.

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<sup>7</sup> In 2010 the Commission will present a Communication on evaluating JLS policies.

<sup>8</sup> 'Delivering an area of freedom, security and justice for Europe's citizens', COM(2010) 171.

## Annex: Statistical summary

### EU demographic perspectives<sup>9</sup>

- From 495.4 million in 2008 the EU-27 population is projected to rise to 520.7 million in 2035 then fall to 505.7 million in 2060. Whereas in 2008 there were 4 persons of working age (15-64) for every person aged 65 or over, in 2060 the ratio is expected to be 2 to 1.

### Migration and integration

- On 1.1.2003, the number of third-country nationals (TCNs) in the EU-25 was 16.2 million, i.e. 3.6% of the population. Five years later, on 1.1.2008, the number of TCNs in the EU-27 was 19 million, i.e. 3.9% of the EU-27 population (4.15% of the EU-25 population).
- The largest groups of TCNs in 2008 were Turks, Moroccans and Albanians.
- In 2008, 1.62 million first residence permits were issued in the EU<sup>10</sup>. 35% were issued for family migration, 33% for paid employment, 14% for study; the rest for various reasons (protection-related, residence without right to work, etc).
- As shown in the table, the unemployment rate for nationals wishing to work in their own Member State was lower than that for TCNs. Although the current economic crisis has hit both groups of workers, TCNs have suffered more: the unemployment rate increased by 31% for nationals and by 39% for TCNs between 3Q2008 and 3Q2009.

		3Q2007	3Q2008	3Q2009
EU citizens	Nationals	6.6%	6.4%	8.4%
	Other EU citizens	7.7%	8.6%	12%
Third-country nationals (TCNs)		13.4%	13.6%	18.9%

### Illegal immigration and return

- In 2008, the number of illegally staying TCNs apprehended in the EU-27 was about 609 000 (in 2003 in EU-25 the number was 425 000). Member States issued around 608 000 return decisions. The number of effected returns was much lower, about 241 000 (in 2003 in EU-25, 245 000).
- The Clandestino project<sup>11</sup> estimated the size of the illegally staying population in 2008 at between 1.8 and 3.3 million for the EU15 (down from 3.1–5.3 million in 2002).

### Asylum

- In 2008, Member States recorded slightly over 240 000 asylum applicants, an increase of about 6% compared to 2007. Preliminary data indicate that the number of asylum

<sup>9</sup> Eurostat *Statistics in focus* 72/2008.

<sup>10</sup> Excluding LU, UK.

<sup>11</sup> Research project financed by the 6<sup>th</sup> Framework Programme.

applications in 2009 remained at the same level as in 2008; but this apparent stability hides significant differences at national level: the Mediterranean Member States (EL, ES, IT, CY, MT) experienced decreases but there are large increases in DK (59 %), HU (50 %), PL and FI (47 %), BE (40 %), DE (25 %), AT (23 %) and FR (19 %). Moreover, those total figures for asylum applications hide significant differences between Member States when the numbers are expressed as a proportion of population.

- In 2009, the most important countries of citizenship of asylum-seekers in the EU were, in order: Afghanistan, Somalia, Russia, Iraq and Serbia (including Kosovo). Numbers were down by 36% for Iraqis compared to 2008, but they were up by more than 30% for Afghanistan and Serbia.
- In 2008, more than 65 000 asylum-seekers received international protection status in the EU. This status was granted in almost 24 % of decisions taken in first-instance procedures. In addition nearly 11 000 persons were authorised to stay for humanitarian reasons.
- 4 886 refugees were resettled in the EU from third countries.
-