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Commissioner responsible for Justice, Freedom and Security

**Speaking points on “migration and
asylum package”**

*Check Against Delivery
Seul le texte prononcé fait foi
Es gilt das gesprochene Wort*

Press conference

Brussels, 1st September 2005

The Commission adopted today an important and comprehensive package of concrete measures in the field of immigration and asylum, which represent an important step towards achieving the balanced approach to migration called for by the Hague Programme.

Important, as it touches upon issues which I know are of great interest and sometimes even concern to EU citizens, such as the need for a proper EU return policy and the issue of integration of third country nationals in our societies; comprehensive as it touches upon both the internal as well as the external dimension of immigration policies

The package adopted today comprises of measures constituting the two sides of the same coin: coherent, fair, efficient and credible European asylum and immigration policies

On the one hand it gives the clear message that people staying illegally in the EU should return to their country of origin- indeed if we don't ensure a human, dignified but efficient return of illegal migrants this will undermine the integrity and credibility of our immigration and asylum policies.

On the other hand our measures envisage a vigorous integration of legal migrants, of those who are allowed to remain, in our societies.

The package furthermore sets out concrete proposals on the link between migration and development and regional protection programmes offering added value to Member States efforts.

I will briefly present the 4 elements of the package one by one and then be ready to take your questions.

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RETURN

On return, common standards are proposed ensuring a balance between full respect for the human rights of returnees and the need to end illegal stay in order to maintain the integrity of our migration policy.

The proposal aims to harmonise Member State legislation. It provides for clear, transparent and unambiguous common rules concerning return, removal, use of coercive measures, temporary custody and re-entry, which take into full account the respect for human rights and fundamental freedoms of the persons concerned. Common rules which provide – at once – for effective enforcement in case of non-compliance with immigration rules.

Let me briefly inform you of some of the key features of the proposal:

- It establishes the rule that illegal stay should be ended through a fair and transparent procedure;
- It promotes the principle of voluntary return by establishing a general rule that a "period for departure" should normally be granted; after this period, a removal order shall be issued and executed;
- It limits the use of coercive measures and binds it to the principle of proportionality;

- It protects the interests of the state in cases of serious threat to national and public security, and gives at the same time a European dimension to the effects of national return measures, by establishing a re-entry ban valid throughout the EU, with a duration of a maximum of five years or even longer in case of persons posing a threat to national security;
- It addresses situations where a third-country national who is the subject of a removal order or return decision issued by a Member State is apprehended in the territory of another Member
- It limits the use of temporary custody, under the supervision of a judicial authority, to a maximum of 6 months, binds it to the principle of proportionality and establishes minimum safeguards for the conduct of it.

Consideration was given by the Commission to whether the issue of expulsion/removal for reasons of national and public security should be addressed within the context of the present proposal, in particular with respect to the expulsion of presumed terrorists. However, the proposal does not contain an express provision on this issue for three reasons:

- - All EC Directives adopted in the field of asylum and immigration already contain “public order” clauses which allow Member States to withdraw residence permits and to expel third-country nationals who constitute a threat to public policy or public security.
- – It may not always be in the interest of the State to expel a suspected terrorist. It may sometimes be preferable to bring criminal charges against such person or to keep him under surveillance in a Member State rather than to expel him to a third country.
- – Even if there was a case for further harmonizing the issue of “expulsion for reasons of public order/security”, such harmonization should not be proposed within the context of a Directive dealing with the ending of illegal stay/return, but rather within the context of the Directives regulating the conditions of entry and stay - and ending - of legal residence/stay.

However, once the legal stay of a third country national has been ended for reasons of public order, this person becomes a third country national staying illegally in the territory of a Member State for the purposes of the present directive and the provisions of this directive will be applied to this person.

In conclusion on the issue of return: currently, Member States’ legislation and practice in the field of return differs widely. A Community policy in the field of return, therefore, needs to be put in place progressively. Once adopted, the proposed Directive will be a major step forward as it will lay down a common legal frame, common definitions, criteria and procedures, whilst leaving a certain level of discretion with Member States.

In the long term these standards may be the basis for a complete harmonisation and provide the ground for adequate and similar treatment of illegally staying third-country nationals, regardless of the Member State which carries out the return procedure.

INTEGRATION

On integration - a key topic for Europe today - concrete proposals are made for action both at EU and national level. The Communication also stresses the importance to further clarify and support the rights and responsibilities of new migrant members of our societies.

With due consideration to the competence of Member States and of their local and regional authorities, it is essential to foster a more coherent framework for and approach to integration. In order to enhance such coherent approach, this Communication stresses the importance of further clarifying the rights and responsibilities of migrants within the EU, above all the principle of full respect of EU fundamental values and national law. We cannot accept any religious or political practice to violate our charter of EU Fundamental Rights.

The cornerstones of the proposed framework are proposals for concrete measures, on both national and EU level, to put the Common Basic Principles on Integration – agreed by the Council in November 2004 – into practice. A set of supportive EU mechanisms is provided for to facilitate this. While measures are proposed for both national and EU level, they take very strongly into account the local and urban level where integration actually takes place.

The Commission will ensure the follow-up to this Communication through its ongoing processes of co-operation and exchange of information, in particular through the National Contact Points on Integration, Handbook on Integration, and the Annual Report on Migration and Integration. This Communication also proposes the setting up of a European Integration Forum which will involve various stakeholders at European level, as well as developing an Integration website.

MIGRATION AND DEVELOPMENT

Migration is by its nature an issue best addressed by international cooperation in full partnership with our partner countries of origin and transit. With this Communication, the Commission will be providing very concrete input to a debate which is taking place in various fora at the moment but too often remains quite theoretical. I find it therefore crucial that we have succeeded in going beyond theory and are able to present positive, innovative and first and foremost concrete proposals.

The Communication addresses four sets of issues: migrants' remittances, the role of diasporas; the facilitation of brain circulation; and efforts to curb brain drain. In each, it seeks to define concrete orientations for improving the contribution of migration to the development of countries of origin.

In my view it is vital that we encourage migrants to take "ownership of the development of their home country"- that's why we take a bottom-up rather than a top-down approach; in that context it is important to assist migrants in making use of their own skills, experiences and entrepreneurial capacities. We also want to facilitate the possibilities for them to invest in the future of their home country, or for instance for researchers and scientists to work half in a EU Member State and half in their home country, this is what is referred to as "brain circulation".

REGIONAL PROTECTION PROGRAMMES

It is a fact that the vast majority of refugees remain in their regions of origin in circumstances of extreme poverty and questionable safety.

The EU can no longer ignore the wider picture of global protection needs. Delivering direct, tangible benefits to refugees is a challenge that can only be tackled effectively if we strive to ensure that those who need protection are able to access it as quickly as possible and as closely as possible to their needs.

The main purpose of the Regional Protection Programmes is to deliver direct benefits to refugees as well as contribute to the improvement of the protection and human rights situation in the host country.

A programme of 5 or 6 actions could therefore be envisaged which includes registration and other projects which are focused on the delivery of practical benefits (training, infra-structure building, the provision of equipment etc).

A joint resettlement programme, to be implemented on a voluntary basis, will be an important factor in every RPP in terms of delivering a Durable Solution outcome to refugees and demonstrating the partnership element of RPPs to the third countries involved.

The choice of the regions for the first RPP relies on a number of factors: the protracted refugee situations identified by UNHCR, financial opportunities available under existing Community funds and political priorities.

Our intention is to start the first Regional Protection Programme in the Western New Independent States (Ukraine, Belarus, Moldova). A pilot Regional Protection Programme for this region would seek to build on and complement the work already begun (in the fields of protection, integration and documentation). The main focus of action should be on strengthening already existing protection capacity.

It is equally important to complete our efforts by starting the next pilot Regional Protection Programme in a region of origin, and our priority would be the Great Lakes region and Tanzania in particular.

The identification of the specific actions needed for each of the identified regions will be undertaken on the basis of an analysis of on-going activities (in order to avoid duplications) and in close cooperation with the national authorities of the third countries concerned and UNHCR.

Just to be absolutely clear, the RPP's have nothing to do with keeping refugees in camps and RPP do not deal with processing of asylum application outside the EU. This is protection delivered through existing financial instruments and in the context of existing relationships between the Commission and third countries.

RPPs aim at increasing protection in the regions of origin and such an approach will be complementary rather than substituting the Common European Asylum System. Asylum seekers arriving spontaneously to Europe will see their asylum claims examined in the country where they have arrived, in line with the Dublin Regulation.

However, the EU cannot ignore the needs of those who are in the regions of origin, and RPPs, which are totally in line with the Agenda for Protection and Convention Plus initiatives run by UNHCR, aim at addressing these needs. Moreover, UNHCR has already expressed their support to RPPs and have been extensively consulted in all phases of this process.

It is true, though, that RPPs will also contribute to prevent illegal secondary movements and to the fight against human trafficking, as refugee camps are often reservoirs for criminal organisation, but these are goals I don't think anyone could object to.