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**DATA NEEDS FROM POLICY PERSPECTIVE - THE CASE OF THE EUROPEAN
UNION¹**

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I. Introduction

1. Before I go into a brief analysis of recent EU policy making in the area of migration, asylum, and integration, the sources of the massive expansion of EU competencies in this area and the latter's implications for data collection, I would like to briefly reflect on the topic of this paper in a more general manner.
2. My main argument is that the assumption underlying the very title of this paper, namely that policy makers are in fact in need of certain kinds of statistical data is less obvious than it seems to be.

¹ Based on the paper "The European Union and Migration Policy: The evolution of EU migration policies and implications for data collection", written with Martin Hofmann and Michael Jandl in the framework of the FP6 project "Towards the harmonization of European Statistics on International Migration (THESIM).

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3. To be sure, policy makers need to make informed choices, when formulating and deciding on policies. In order to make informed choices, they need well-grounded information on the societies they are meant to govern, and thus, ultimately, they need good statistics that provide appropriate and relevant information. But what is considered “relevant” or absolutely “crucial” information greatly depends on the context in which policies are framed. I will argue that the specific context of EU migration policy making is in several regards very different from the national policy context. It is this specific context which creates a pressure for better statistics that eventually impacts on data collection on both the national and the supranational, European level.

4. In the first section of the paper I briefly reflect on the history of international efforts to improve data collection and the reasons put forward by various protagonists why one should make an effort to improve statistical data collection on migration and try to do so at an international, rather than the national level. In a second step and largely from a theoretical perspective, I analyze reasons for improvement of data collection at the national level, while also scrutinizing specific information needs of governments.

5. In the second section, I will look at various mechanisms that have contributed to the markedly increasing efforts within the EU to systematically collect migration statistics on a European level and to making nationally collected data more comparable with each other.

6. Finally, I will sketch the evolution of migration policy at the European Union level, both in respect to EU nationals and third-country nationals and conclude by discussing the latter’s implications for data collection.

7. The European Union provides an interesting case study – as a political entity in the making, the political process of integration, the communitarization of ever more policy fields, and the resulting data needs and efforts to improve and harmonize data collection can be studied in one. At the same time, I argue that the EU context is fundamentally different from national contexts, and that it is this specific context which creates a favorable environment for the improvement of statistical data collection.

II. Historical perspectives and single-country perspectives on the “need” for migration statistics

8. Initiatives to improve and harmonize the collection migration statistics have a more than hundred year old tradition, with congresses organized by the International Statistical Institute in Vienna (1891) and in Budapest (1901) probably being the best known examples. The International Statistical Institute continued to play a major role in the Interwar period, when it was joined in these efforts by the International Labour Office (ILO).

9. From the outset, to achieve comparable international migration statistics was considered important not only for statistical and social scientific purposes. It was also seen as a precondition for “(...) the regulation of migration by international convention” [and a tool to] “facilitate cooperation of the administrative authorities of different countries” (International Labour Office 1932: 86, quoted in Kraly/Gnasekaran 1987: 968). In other words, migration statistics were seen as cornerstone of the governance of migration.

10. After World War II, the ILO continued to play a major role and was integrated in the larger UN framework. The UN itself through its specialized fora and organizations (notably the Economic and Social Committee and UNECE) became a key actor with regard to setting

standards for international migration statistics. In contrast to the interwar period, the reasons why one should try to improve and standardize the collection of international migration statistics was made much more explicit and explicitly linked to wider social and economic processes that governments needed to be aware of to adequately plan ahead. Thus, because “international migration patterns and trends have consequences for demographic, social and economic conditions; study of these trends and patterns is required for national accounting and planning” (Kraly/Gnasekaran 1987: 974).

11. But can we follow from that that sophisticated statistical information on migrants *per se* is automatically considered relevant by governments?

12. There is – at best – a mixed answer to this question. To be sure, governments are keen to be provided with up-to-date data on migration – on the stock of foreign nationals, on the number of immigrants and the number of asylum applications lodged. But governments’ interest rarely extends beyond these rather crude statistics.

13. Traditionally, specialized agencies within governments probably have always had some interest in reasonable migration statistics that live up to certain standards and provide information necessary for planning and other purposes.² In principle, however, migration statistics were seen as a technical issue that was left to Statistical Offices to deal with and were – with few exceptions – not used for policymaking or indeed planning purposes. Similarly, although governments’ own administrative datasets (on naturalization, residence permits, asylum applications, or population registers) are regularly used to produce statistics (and have been used in the past), the statistics are so closely tied to the operation of the respective laws, that they often provide only limited information on the universe of persons covered by these administrative datasets and thus are of little use for general statistical purposes.

14. In general it seems that suggestion for changes in recording migrants have traditionally come largely from statistical offices and specialized experts within government and particular government departments (e.g. ministries of labour, ministries of social affairs), while policy-makers at higher echelons of policy making or in other government agencies (ministries of interior, etc.) have by and large shown little interest, or indeed, understanding for the issues at stake. Often, governments simply lack sufficient research capacity to formulate data needs or use data as a support tool for formulating policies, and if using data, they are often not aware of the intricacies necessarily involved with less than perfect or rather complex statistics, that are difficult to interpret.

15. Thus, only in a few countries there is an explicit agenda for better data on migrants that is pushed by policy makers – often because some of the underlying issues involved (for example labour market and wider structural integration of immigrants and ethnic minorities) are considered to be of high priority and are at the same time addressed by special policy measures, including special monitoring mechanisms. In other countries, policy makers often are not particularly concerned about the quality of statistical information on immigrants, and sometimes are only too happy with established categories and poor statistics that are quite useful to exploit politically.

² A classical example would be labour market authorities which – in many European countries – were the primary actors in regard to migration policy for much of the 1970s and 1980s and which were also charged to monitor employment of foreign nationals. Another example that could be cited are school authorities which need to know the number of children with special language needs in order to effectively plan the allocation of resources to individual schools.

16. Admittedly, this is a rather polemical statement.³ Nevertheless, it touches upon an important point which is rarely explicitly considered, namely that the oft-stated “need” for better data is not so obvious from a government perspective. To be sure, from a scientific standpoint it may be desirable that policy-making should be based on sound and reliable data, but in practice this is not always the case. Thus, rational modes of governance would require detailed and reliable information on the social contexts policies are going to address, but laws may be adopted without this knowledge, and sometimes, if based on sound reasoning and expert opinions, may not be so bad after all.

17. Thus, in probably the majority of cases, concrete incentives are necessary that let governments to push for certain kinds of data and that leads them to show an active interest in the improvement of statistical data collection serving their particular information needs. Yet incentives for statistical data collection are often not enough, and, empirically, often are not the major source of improvements to statistical data collection. Sometimes, especially in the case of administrative datasets, improvements in statistical datasets are often a by-product of wider changes of administrative data collection. The establishment of centralized population registers is a case in point – population registers open up opportunities for better (statistical) data collection, but this is hardly their overall rationale. Similarly, the possibility to link population registers with a wide range of datasets is predominantly introduced for administrative reasons, for example, to better control migration, to trace individuals through the system, etc., which of course may in the end also lead to the production of better and more integrated statistics that are also rich in information.⁴

18. In general, however, there has been surprisingly little empirical research on what data is considered relevant by policy-makers in the field of migration and what role statistics play for policy formulation, implementation and evaluation.

III. Changing policy contexts, changing data needs and changing data policies

19. In the last ten years or so, there has been a certain change of attitude among EU governments towards migration statistics and what is perhaps more important, a change of government practice, both what the national and the European level is concerned. In many, though not all cases, I would argue, this increased attention given to the improvement of statistical data-collection is directly linked to the Europeanization of migration policy.

20. In particular the rapid expansion of the scope of EU migration policies after the Amsterdam Treaty has resulted in an increased awareness of the need for and increased practical efforts towards achieving comparable statistics, which in some cases has in turn also led to increased efforts nationally to improve the quality of data collection. Three reasons help to explain these developments:

- 1) The Europeanization of migration policy initiated by the Maastricht Treaty and the full-scale communitarization of migration policy with the Amsterdam Treaty were in themselves important triggers for data-collection on migration on a European level. Thus, in those areas of migration policy the Union has begun to be active, data is regularly

³ In addition, the statements are not based on in-depth research, but upon anecdotal evidence and arguably superficial knowledge of some governments' use of statistical data.

⁴ The recent establishment of an integration migration information system, linking several migration related datasets and the general population register in Slovenia could be cited as an example.

collected on a European level, which almost naturally has created a certain momentum to make data more comparable – at least to some degree – with each other.⁵

- 2) Secondly, the funds spent to support migration and asylum policies at the European level have been massively expanded in recent years. Increasingly, migration statistics are being used as one of several criteria to distribute these funds among Member States, currently mostly in the area of asylum (European Refugee Fund), but to some degree also in regard to labour market programmes (e.g. Equal, Integra and other employment related project funding lines). In addition, a return fund will be set up, as well as an EU wide integration fund (EIF) that will closely follow the model of the European refugee fund. Both stock and flow statistics will be an important criterion of distributing EIF funds.
- 3) Thirdly, migration statistics are increasingly used as "benchmarks" to assess the efficiency and impact of individual Member States policies as well as the efficacy of EU policy, which are again very closely related to funding mechanisms. In general, these political incentives for comparative statistics have probably never been so strong as they are now.

21. Thus, eventually the pressure on individual EU Member States to bring their data collection in line with international or European Union standards as well as the momentum to harmonize data collection in general, is to some degree not the result of specific information needs in particular subject areas, but of the political use statistics serve in the context of EU policy making.

22. Apart from the general incentive structure the communitarization of migration policy has created, communitarization has in another important respect directly led to more harmonized data or will do so in the near future, most importantly with regard to administrative data (notably asylum statistics and statistics of residence permits).

23. Since most of the categories used in administrative statistics (and to some degree also censuses and surveys) are a direct expression of national legal systems – in particular national legislation on asylum and migration, there is an inherent limit to harmonization, since differences in legal categories used will not disappear solely by means of more sophisticated standard classifications.

24. To be sure, in respect to many key demographic variables differences of definition should and can be relatively easily overcome. Ultimately, however, harmonization of statistics is a consequence of a unified administrative practice, and not vice versa. Conversely, the recent introduction of several important directives in the area of migration and asylum (and several pieces of legislation adopted but not yet in force or planned to be adopted soon) also lays the ground for common statistical definitions in regard to legal categories, most importantly in regard to asylum seekers and third country nationals, exactly by introducing a harmonized administrative practice and common legal categories in certain areas.

25. Finally, there are good reasons to expect that formal data standards implemented by the EU will have a major impact on other countries' data policies, notably on candidate and accession countries, but also on those with a long term agenda of eventually accessing the EU (many CIS states, for example) and states, with which the Union closely cooperates in the framework on bilateral agreements on migration, for example in the Mediterranean region.

⁵ It should be noted that data collection through the Joint Questionnaires already started in 1995 (with data for 1992) (See Herm 2005).

IV. Freedom of movement – the Union’s “internal migration policies”

26. From the start, the European Communities, or more precisely, the European Economic Community (EEC)⁶ was a project intrinsically concerned with migration, in the sense that trans-border mobility of Community citizens within the EC was to be facilitated, and by the 1990s, largely treated as internal migration. On the insistence of Italy, freedom of movement was included in the provisions of the Treaties of Rome. In principle, citizens of EC member states now had the right to freely travel to other Member States, as well as to seek employment and to work in other Member States⁷ (see article 39 and 43 EC, and Brinkmann 2004: 183; Favell and Hansen 2002: 585; Stalker 2002: 167; Tomei 1997: 13). However, the principle of freedom of movement was initially regarded as a functional right (as were the other freedoms), deemed a necessary requirement for the project of a common market (See Geddes 2000a: 44). As a corollary, it was restricted to salaried workers and their immediate family members (Menz 2002: 723). It was only later that the principle of freedom of movement was extended to self-employed workers and other categories (See Kostakopoulou 2002). Freedom of movement, however, was not only established through the principle of freedom of movement, but to some extent, namely as far as the temporary posting of workers was concerned, also in the context of the liberalisation of services as of 1st January 1970 (Menz 2002: 727).

27. Initially freedom of movement was not a priority in the overall goal of the establishment of a single European market, nor was migration policy in general. The concept of a European citizenship, first suggested in the early 1970s in the framework of the wider debate on “European identity”, however, rekindled the interest into the actual rights that the concept of freedom of movement should entail. From the start, a the concept of a European citizenship, was – in addition to its symbolical function – regarded as embodying the EC’s four freedoms, and particularly, freedom of movement.

28. Thus, it is no mere coincidence that the rights entailed by European Union citizenship, created by the Treaty of Maastricht (1992) and strengthened by the Treaty of Amsterdam (1997), are primarily relevant to economic migrants, a vivid expression of the EU’s concern to ensure free movement of persons within the European Union (Prentoulis 2001: 198). On the other hand, there is surprisingly little interest into the empirical reality of freedom of movement. Similarly, the large numbers of young persons in university education or vocational training who take part in one of the EU mobility programmes, remain largely unnoticed by the general public and the scientific community alike.

29. The centrality of freedom of movement to the concept of European citizenship is further underlined by a directive on the rights of European Union citizens and their family members, which was adopted by Council on 29 April 2004.⁸

30. Apart from consolidating earlier directives into a single legislative document, the directive will further simplify the formalities still involved with the exercise of free movement (e.g. by

⁶ The European Coal and Steel Community (ECSC), created in 1951, already obliged Member States to remove restrictions on movement for workers of Member States employed in the coal and steel industries, respectively (Geddes 2000a: 45).

⁷ Articles 48-51 EEC (39-42 on renumbering) actually referred to “workers” without specifying whether these should be nationals of a Member State or simply legal residents of a Member State (See Kostakopoulou 2002: 445).

⁸ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC

abolishing residence permit requirements for citizens of the European Union and replacing them with a simple registration certificate issued after registration with the population register at the place of residence). In addition, the directive introduces a right to permanent residence after 5 years of continuous residence⁹ and a right to free movement of family members of EU nationals irrespective of their nationality. Finally, it clarifies the conditions under which the right of free movement of EU nationals can still be restricted on grounds of public policy, public security and public health, introducing certain safeguards for minors and long-term residents. While the conditionality of the right of residence in case of lack of means is upheld by the directive, it prohibits automatic expulsions as a consequence of recourse to the social assistance system.

31. The changes which have to be transposed by Member States into national legislation within a period of two years have important implications for data collection on intra-European migration as the removal of controls will further reduce the incentives for EU nationals to register or de-register once they move to another Member State. Also, it will very likely result in EU nationals disappearing from aliens registers in countries where EU nationals are still included in such datasets (e.g. in Germany)¹⁰ and thus will further strengthen the emphasis in both migration policy and migration research on third-country nationals.

V. Migration policy vis-à-vis third-country nationals

V.1 Intergovernmental cooperation, 1986-1996

32. The enactment of the Single European Act in 1986 (in force since July 1987) was a major step towards achieving the goal of a single market and towards realizing its four underlying freedoms (in capital, goods, services, and persons).¹¹ It was also a crucial step towards formalized European political cooperation involving regular consultations on matters of immigration and asylum policies. In the view of the Commission, the project of a single European market and cooperation on immigration policies were necessarily linked, not least in view of the abolition of internal border controls in principle agreed at the Council of Fontainebleau 1984 (See Geddes 2001: 24; Guiraudon 2000: 254f). However, because several Member States declared their reservations in regard to the abolition of internal border controls, the agenda as well as closer cooperation in terms of visa policies, exchange of information etc., had to be pursued outside the formal framework of the EC (Hailbronner 1995: 184f).

33. In 1984, five Member States (France, Germany, Belgium, the Netherlands and Luxembourg) reached a framework agreement on the abolishment of internal border controls in Saarbrücken. The resulting Schengen Agreement was signed in 1985 (See Guiraudon 2000: 255, Moraes 2003: 117). The Schengen Implementation Convention was concluded five years later in 1990 and entered in force since March 1995. Through the Treaty of Amsterdam (1997), the Schengen acquis has been incorporated into the European Union structures and thus in principle

⁹ Under previous EU legislation, EU nationals could be deported or expelled from another Member State on grounds of public policy (e.g. on grounds of social policy in case of lack of means), public security (e.g. in case of conviction, but also on lesser grounds, e.g. on grounds of public order) and public health.

¹⁰ EU nationals resident in another Member State will normally be included in population registers (where these exist) or will be covered by censuses.

¹¹ Article 13 of the Single European Act explicitly states that the single market, to be created by 1992, will be “an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of this Treaty.” (See also Huysmans 2000: 758f; Klos 1998: 29).

applies to all Member States, except Denmark, Ireland and the UK. Outside the Union, Iceland and Norway are also parties to the convention.¹²

34. With the Single European Act, several new fora were created that functioned in the framework of intergovernmental cooperation within the EC, notably the Ad-Hoc-Immigration-Group of Senior Officials, created by ministers responsible for migration in 1986.

35. The work of the Ad-Hoc-Immigration-Group resulted in two main international agreements relevant to the harmonization of European asylum laws: The "Dublin Convention" determining the state responsible for examining applications for asylum and the non-binding "London Resolutions" on the harmonization of substantive and procedural asylum law.¹³ Both agreements initiated the process of harmonization in the area of asylum and have since been largely incorporated into community legislation.

36. Finally, the Treaty of Maastricht of 1992 formally made immigration an issue of common interest for the EU, to be dealt with in the "third pillar" of the EU. Several new structures were established two of which also dealt, at least to some extent, with migration statistics, namely CIREA (Centre for Information, Discussion and Exchange on Asylum)¹⁴ and CIREFI (Centre for Information, Discussion and Exchange on the Crossing of Borders and Immigration).¹⁵

37. A far reaching Communication of the European Commission issued in 1994 proposed a comprehensive approach to immigration, based on three elements: (1) strengthening integration policies to the benefit of long-time immigrants; (2) better control of migration flows, including the adoption of measures to combat illegal immigration, and (3) adopting a long-term approach to reducing migration pressures (See Hailbronner 1995: 203).¹⁶ Importantly, the Communication also reiterated the need for accurate information and suggested among other things, the establishment of a European Migration Observatory.

V.2 The communitarization of migration policy with the Amsterdam Treaty

38. The "diluted intergovernmentalism" (Kostakopoulou 2000: 498) created by Maastricht, however, soon proved to be deficient in several respects, lacking coherence, consistency, transparency and efficiency. These deficiencies were increasingly recognized both by the Commission and the Member States and were finally addressed by the Amsterdam Treaty in 1997 (Morris 1997: 245).

39. The treaty made migration policy subject to the Community Method and created a new title (Title IV – Freedom, Security, Justice) dealing with migration issues, which also incorporated the Schengen *acquis* into the EU framework. While the communitarization of migration policy was largely a response to the evident deficiencies of intergovernmental cooperation on migration under the Maastricht framework, it was also meant to strengthen the

¹² In the 10 new Member States, which joined the Union on 1st of May 2004, the Schengen *acquis* will become operational once all the preconditions for the implementation of the Convention have been fulfilled and checks at their external borders are effective.

¹³ A third document elaborated by the AHIG, the "External Frontiers Convention" has not been adopted.

¹⁴ CIREA was created in by the Decision of 11 June 1992 for the creation of a "Centre d'Information, de Recherche et d'Echanges en matière d'Asile" (CIREA), Document WGI 1107, on the basis of the Dublin convention.

¹⁵ CIREFI was created by the decision of the ministers responsible for immigration setting up a centre for information, discussion and exchange on the crossing of borders and immigration (CIREFI) of 30 November 1992.

¹⁶ Commission of the European Communities, Communication From The Commission To the Council and the European Parliament On Immigration And Asylum Policies", COM (94) 23 final, Brussels, 23 February 1994

existing framework (particularly the Schengen acquis) in view of the eastern enlargement of the Union (Lavenex 2001: 33).

40. According to the Amsterdam Treaty, the Community is now responsible for laying down uniform procedures for carrying out checks on persons at the external borders; uniform rules on visas for stays of up to three months, including a list of third countries whose nationals must be in possession of a visas when crossing the external borders¹⁷; the procedures and conditions for issuing visas by Member States; and a uniform visa format.

41. In addition, the Council was asked to adopt measures in respect to refugees, including the establishment of criteria and mechanisms for determining which Member State is responsible for considering an application for asylum submitted by a national of a third country in one of the Member State¹⁸; minimum standards for the reception of asylum seekers¹⁹; minimum standards for the qualification of third country nationals as refugees and the criteria for awarding refugee and subsidiary protection status²⁰; minimum standards on procedures in Member States for granting or withdrawing refugee status²¹; and minimum standards for giving temporary protection to displaced third-country nationals.²² The Treaty also specified a dateline of five years after its entry into force (i.e. 1st May 2004), by which the Council should adopt measures in respect to border control and refugee and asylum issues. Finally, the Council was also asked to propose measures on the conditions of entry and residence of third country nationals and to define a set of basic rights of third country-nationals who are long-term residents of a Member State, a task that is not subject to the deadline specified by the Treaty.

42. However, with the exception of a common visa policy, Denmark does not participate in the common migration policy, although it can adopt relevant EU legislation building on the Schengen acquis, thus creating mutual obligations under international law.²³ Similarly, the Republic of Ireland and the United Kingdom are not bound by measures under Title IV. Nevertheless, the two countries are free to participate in the adoption and implementation of measures under Title IV if they wish to do so, and thus can participate on a case-by-case basis.²⁴ In addition, Ireland and the UK also reserved the right to control any persons seeking to enter the territory of either state and the concomitant right to grant or refuse entry.²⁵ Partly because three

¹⁷ See Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.

¹⁸ See Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national

¹⁹ See Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers

²⁰ See the proposal for a Council Directive on minimum standards for the qualification and status of third country nationals and stateless persons as refugees or as persons who otherwise need international protection. The directive was adopted at the Council Meeting of 29th April 2004 (See Press Release: http://europa.eu.int/comm/justice_home/news/intro/wai/news_0404_en.htm)

²¹ See Proposal for a Council Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status, (COM(2000) 578 final — 2000/0238(CNS)). On 29th April 2004, the Council agreed on a general approach to the proposal for a directive on minimum standards on procedures in member states for granting and withdrawing refugee status. Before the directive will be finally adopted, the European Parliament will be consulted.

²² Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof.

²³ See Protocol on the Position of Denmark, OJ C340, 10 November 1997

²⁴ See Protocol on the Position of the United Kingdom and Ireland, OJ C340, 10 November 1997

²⁵ Protocol on the application of certain aspects of Article 7a of the Treaty establishing the European Community to the United Kingdom and to Ireland, OJ C340, 10 November 1997

countries do not participate in a common EU asylum and migration policy, except on a case-by-case basis, and - in the case of Denmark - limited to legislation building on the Schengen acquis, intergovernmental modes of cooperation have remained important, as expressed, for example, by the creation of the cross-pillar High Level Working Group on the initiative of the Netherlands in December 1998 and several other initiatives proposed by individual Member States and groups of Member States at the Councils of Seville (2002) and Thessaloniki (2003) (Guiraudon 2003: 272).

V.3 Beyond a security agenda – anti-discrimination and the fight against racism and xenophobia

43. The Amsterdam Treaty also significantly broadened the scope of the EU's competences in respect to migration policy in the widest sense and outside the Justice and Home Affairs provisions of Title IV, namely in regard to migrant integration and anti-discrimination (See for example article 13 and article 137 of the Treaty). Anti-discrimination had long been on the European agenda, in the sense that the liberalizing philosophy underlying the single market project tended to see every digression from market mechanisms as problematic and dysfunctional and thus also provided a powerful rationale for anti-discrimination policies, mainly in respect to disadvantages faced by EU citizens residing and working in another Member State, but also, since the 1970s, in respect to gender.

44. By the time of the Amsterdam Treaty the anti-discrimination agenda had gained a momentum of its own, and was broadened to include third-country nationals and immigrant minorities and partly fused with the increasing concern to foster social cohesion and to fight social exclusion. Other than in the original core area of migration policy – border control and cooperation in respect to asylum issues – the impetus for the expansion of the EU anti-discrimination and wider immigrant policy agenda came from the Commission itself and various migrant interest groups sponsored by the Commission, such as the Starting Line Group (SLG), led by the Brussels based Migration Policy Group and supported the British Commission of Racial Equality and the Dutch National Office against Racism (See Geddes 2000b).

45. Already before the 1996 IGC, the Council had adopted measures to combat racism and discrimination on the basis of race and ethnicity. Thus, a consultative commission on racism and xenophobia was created at the Council of Corfu in 1994, followed by the creation in of the European Monitoring Centre on Racism and Xenophobia (EUMC) based in Vienna in 1997 (Geddes 2000a: 115).²⁶ The EUMC interpreted its mandate to monitor developments in Member States with regard to racism and xenophobia extensively and established an extensive data collection system, including commissioned reports on the social, economic and legal status of migrant minorities and issues of integration and exclusion more generally.²⁷ The EU's movement into areas beyond classical Justice and Home Affairs concerns also propped up the Commission's long-standing quest²⁸ to include a rights based approach alongside the more security-driven policy initiatives in the core areas of EU migration policies such as asylum and border controls.

²⁶ Council Regulation (EC) No 1035/97 of 2 June 1997 establishing a European Monitoring Centre on Racism and Xenophobia.

²⁷ The EUMC will be transformed into a Human Rights Agency, following a decision at the European Council in Brussels on 13 December 2003.

²⁸ For example, the 1994 Communication on immigration and asylum (Com (94)23 Final) stated that "[t]he Commission feels that steps should be taken to align the rights of [legal] immigrants more closely to those of nationals of the Member States and that measures are needed in the fields of employment, education and information and to combat racial discrimination and all forms of racism and xenophobia." Similarly, the 1995 Commission White Paper on Social Policy similarly made a case for extending the right to work and reside in another Member State to Third Country Nationals (Morris 1997: 244).

46. In this way, the EU has also moved beyond a narrow migration management agenda focusing on the management of *migration flows* to take a much broader approach to migration issues that includes a strong emphasis on integration of migrants and non-discrimination.

47. One of the most important legal instruments adopted within the EU's new anti-discrimination agenda was the Race Equality Directive (2000/43/EC), adopted in June 2000, just seven months after the submission of the proposal by the Commission. While the speed of the decision was largely due to a perceived need for action against racism, xenophobia and discrimination in the wake of certain political developments across Europe, its early adoption was also a powerful reminder that EU migration policy was no longer solely concerned with migration as a security issue or confined to Justice and Home Affairs issues in general. A second directive on equality in employment²⁹ was adopted in November 2000, alongside a Community Action programme on discrimination.³⁰ A communication from the Commission on the community immigration policy, adopted in November 2000, equally signalled a certain shift towards a rights based approach, introducing the concept of "civic citizenship" to denote the evolving status of third-country nationals (Bauböck 2004).³¹

48. As a corollary, there is a strong need to improve and expand the collection of statistical and other data on discrimination and integration of migrants, most importantly, by improving and expanding statistical data on the labour market performance of migrants. For example, while a broad range of general employment indicators are regularly collected on a national level, current data rarely allow to distinguish migrants or specific groups of migrants. In addition, the definition of migrants in the bulk of European countries uses citizenship as the main criterion of distinction. This is particularly problematic in countries where citizenship can be obtained after a relatively short waiting period and where migrants minorities are no longer captured by regular employment statistics (See Jandl/Kraler/ Stepien 2003: 83ff and below).

V.4. The Tampere Summit (1999) and its aftermath

49. Following the entry into force of the Amsterdam Treaty, a special meeting of the European Council took place in Tampere in October 1999, which was devoted exclusively to Justice and Home Affairs matters and which became a landmark in the development of a common EU migration policy.

50. The Tampere conclusions also reiterated the need for a common approach vis-à-vis the integration of long-term immigrants into European societies, going beyond the immediate concerns of non-discrimination, most importantly, by approximating the rights of third-country nationals to that of Member States' nationals.³²

²⁹ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

³⁰ Council Decision 2000/750/EC establishing a Community Action Programme to Combat Discrimination. One of its priorities are analysis and evaluation.

³¹ See Communication from the Commission to the Council and the European Parliament on a Community Immigration Policy, COM(2000) 757 final, Brussels, 22.11.2000, paragraph 3.5

³² Tampere European Council, 15 and 16 October 1999, Presidency Conclusions, SN200/99, para 4. See also Communication from the Commission to the Council, European Parliament, the European Economic and Social Council and the Committee of the Regions on Immigration, Integration, and Employment, COM(2003)336 final, Brussels, 3.6.2003

51. In this context, the Tampere conclusions also emphasized the importance of citizenship as an important step towards integration of third-country nationals and the development, on the part of the migrants, of a sense of belonging towards the receiving society. The policy shift towards a more pro-active integration policy and towards an emphasis on the rights of third-country nationals initiated by Amsterdam and endorsed at the Tampere Summit was also linked to a more general shift in policy that stressed the positive balance of migration and the need to manage rather than to restrict migration. Underlying this change of paradigm in the approach towards migration was the increasing realization that European societies needed immigrants for demographic and economic reasons, and particularly highly skilled migrants to fill certain gaps in highly specialised sectors of the labour market (See Düvell/ Jordan 2002 503f).

52. The momentum created by the Tampere Summit and by the biannual review of the progress in regard to the agenda set by the Amsterdam Treaty and the Tampere Summit (“Scoreboard”)³³ resulted in numerous proposals for community legal instruments in respect to migration, asylum and integration.

53. In response to the conclusions of the European Council of Seville, the Commission issued a series of communications on the issues emphasized in the Council conclusions – on the integration of migration in the Union’s relation to third countries³⁴, on a common return policy (based partly on an earlier Green Paper)³⁵, and on illegal migration, trafficking and smuggling of migrants.³⁶ In addition, a fourth communication, published in early June 2003, reiterated the importance of comprehensive policies towards the integration of migrants, but also touched on wider strategic migration management issues (e.g. whether immigration could partly solve the problem posed by aging societies in Europe), while several actions were presented to enhance the knowledge about migratory phenomena in the Union.³⁷

54. The European Council of Thessaloniki, held in June 2003, again ascribed “top political priority to migration”.³⁸ Among many other things, it also called for an Annual (Statistical) Report on Migration and Integration in Europe.³⁹

³³ See “Communication from the Commission to the European Parliament and the Council on the scoreboard to review progress in creating an area of freedom, security and justice in the European Union” COM(2000) 167 (21 March 2000) and the “Communication to the Council and Parliament on the biannual update of the scoreboard to review progress in creating an area of 'freedom, security and justice' in the European Union” COM(2000) 782

³⁴ Communication from the Commission to the Council and the European Parliament on Integration and Migration Issues in the European Union’s Relations with third Countries. Part I: Migration and Development; Part II: Report on the Effectiveness of Financial Resources Available at Community Level for Repatriation of Immigrants and Rejected Asylum Seekers, for Management of External Borders and For Asylum and Migration Projects in Third Countries. Com (2002) 703(01).

³⁵ Communication from the Commission to the Council and the European Parliament on a Community Return Policy on Illegal Residents. Com (2002) 564(01); Green Paper on a Community Return Policy on Illegal Residents. COM (2002) 175 final. A return action programme was adopted in November 2002 (Council Document 14673/02).

³⁶ Communication from the Commission to the European Parliament and the Council in View of the European Council of Thessaloniki on the Development of a Common Policy on Illegal Immigration, Smuggling and Trafficking of Human Beings, External Borders and the Return of Illegal Residents. Com (2003) 323(01).

³⁷ Communication from the Commission to the Council, European Parliament, the European Economic and Social Council and the Committee of the Regions on Immigration, Integration, and Employment, COM(2003)336 final, Brussels, 3.6.2003.

³⁸ Presidency Conclusions – Thessaloniki, 19 and 20 June 2003, 11638/03 3, available at: <http://ue.eu.int/en/Info/eurocouncil/index.htm>

³⁹ The first report was published in early 2004 and is accessible online under http://europa.eu.int/comm/justice_home/doc_centre/asylum/statistical/doc_annual_report_2001_en.htm

55. By the end of 2004, a large part of the Community measures called for in the Amsterdam Treaty had already been adopted (see the references in the footnotes on measures adopted):

- the criteria and mechanisms for determining which Member State is responsible for considering an application for asylum⁴⁰;
- minimum standards on the reception of asylum-seekers in the Member States⁴¹;
- minimum standards with respect to the qualification of nationals of non-member countries as refugees and the criteria for awarding refugee and subsidiary protection status⁴²;
- minimum standards on procedures in Member States for granting or withdrawing refugee status⁴³;
- minimum standards for giving temporary protection⁴⁴;
- promoting a balance of efforts between Member States in receiving and bearing the consequences of receiving refugees and displaced persons⁴⁵;
- conditions of entry and residence, and standards on procedures for the issue by Member States of long-term visas and residence permits, including those for the purpose of family reunion⁴⁶;
- illegal immigration and illegal residence, including repatriation of illegal residents⁴⁷;
- provisions defining the rights and conditions under which nationals of non-member countries who are legally resident in a Member State may reside in another Member State.⁴⁸

56. In addition to the measures that were subject to the deadline of 1 May 2004 as specified by the Amsterdam Treaty and subsequent amendments, the Union has also achieved considerable progress in other areas for which it received a mandate by the Amsterdam Treaty, namely in respect to defining a set of minimum rights of third country nationals who are long-term residents

⁴⁰ Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national. Council Regulation (EC) No 1560/2003 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national. These regulations ("Dublin II") superseded the original Dublin Convention of 1990 and came into effect in October 2003.

⁴¹ Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers.

⁴² See the proposal for a Council Directive on minimum standards for the qualification and status of third country nationals and stateless persons as refugees or as persons who otherwise need international protection. The directive was adopted at the Council Meeting of 29th April 2004 (See Press Release: http://europa.eu.int/comm/justice_home/news/intro/wai/news_0404_en.htm)

⁴³ See Proposal for a Council Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status, (COM(2000) 578 final — 2000/0238(CNS)). On 29th April 2004, the Council agreed on a general approach to the proposal for a directive on minimum standards on procedures in member states for granting and withdrawing refugee status. Before the directive will be finally adopted, however, the European Parliament will be consulted.

⁴⁴ Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof.

⁴⁵ 2000/596/EC: Council Decision of 28 September 2000 establishing a European Refugee Fund.

⁴⁶ Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals. Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification. Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents.

⁴⁷ Council Framework Decision of 19 July 2002 on combating trafficking in human beings. 2002/946/JHA: Council framework Decision of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence.

⁴⁸ Council Regulation (EC) No 1091/2001 of 28 May 2001 on freedom of movement with a long-stay visa.

in a EU Member State, and in regard to the adoption of measures to foster the integration of immigrants and combat discrimination. Legislation has been adopted or is in the process of being adopted in respect to the following issues:

- family reunion for third-country nationals who are legally established in a Member State⁴⁹
- rights and status of third-country nationals who are long-term residents of a Member State.⁵⁰
- anti-Discrimination⁵¹
- measures on integration⁵²

V. Conclusions: EU migration policy in an enlarged Union and implications for data collection

57. Almost six months after enlargement, the European Council has adopted a new agenda in regard to migration and asylum policy for the next several years in the form of the “Hague Programme” which succeeds the Tampere agenda, clearly signalling the will to further progress in migration policy after enlargement.⁵³

58. The recent policy developments on EU level make it very clear that migration policy in the enlarged Union is no longer solely an issue of Justice and Home Affairs, but increasingly, for example where anti-discrimination policy, integration policy and labour market policies towards vulnerable groups of migrants are concerned, also of DG Employment and Social Affairs.⁵⁴

⁴⁹ Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification.

⁵⁰ Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents

⁵¹ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin; and Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

⁵² The Commission sees the directive on the rights of third country nationals (residence rights) and the planned directive on employment of third country nationals as well as the legislation on anti-discrimination as part of its wider activities in the area of integration. In a communication in 2000, the Commission introduced the concept of “civic citizenship” as a core concept for the further elaboration of a EU integration and migration policy (Communication from the Commission to the Council and the European Parliament on a Community Immigration Policy, COM(2000) 757 final, Brussels, 22.11.2000, paragraph 3.5). The communication and follow-up policy documents make it clear that the Commission sees the ultimate goal of EU policy towards third country nationals in approximating their status to that EU citizens currently enjoy when residing in another Member State. In 2003, the Commission published a communication on integration and employment, on the basis of which it also established a budget line for integration activities (INTI) (See Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on Immigration, Integration and Employment, Brussels, 3.6.2003, COM (2003) 336 final)

⁵³ Council of the European Union. Draft Multiannual Programme - The Hague Programme – Strengthening Freedom, Security and Justice in Europe. Brussels, 27 October 2004, available at http://europa.eu.int/comm/justice_home/news/information_dossiers/2005-2009/docs/jhamultiannualprogramme94_en.pdf

⁵⁴ The unit (D.4) within the Commission Directorate for Employment and Social Affairs now called “Free Movement of Workers, Migrant Integration and Anti-Racism” was created as early as 1958. Article 137 of the Amsterdam Treaty gives the Union a mandate to assist Member States, among other things, with regard to the conditions of employment of third country nationals, in combating social exclusion, and integrating persons excluded from the labour market. The EU mandate with regard to anti-discrimination is laid down in article 13 of the Amsterdam Treaty (See also Guiraudon 2003: 275).

59. With regard to freedom of movement within the EU, there has been considerable progress towards ensuring that the right to freely travel to, reside, and work in another Member State can be enjoyed by all Union citizens. The directive on the rights of Union citizens and their family members further reduces the still existing bureaucratic barriers to free movement, while also limiting the powers of Member States to expel European Union citizens or their family members (irrespective of nationality) in case of longer term unemployment, lack of means, divorce (in case of third country nationals) and other grounds.⁵⁵ Over a transition period of at maximum seven years, citizens of the 8 Central and Eastern European Accession Countries, while free to travel within Europe for a period not exceeding three months, however, are subject to certain restrictions in regard to taking up employment (citizens of Malta and Cyprus are exempt from these restrictions).

60. Clearly, the massive expansion of the scope of EU migration policy also has a major impact on what information is needed to effectively plan, adopt, implement and evaluate policies adopted at a European level. The European Union has increasingly realized the need for better information on migration. For example, the recent Communication on the links between legal and illegal migration, notices the lack of comparable and reliable data in respect to the issues it looked into⁵⁶, while numerous research reports commissioned by EU institutions or conducted within the framework of EU-funded research projects similarly deplore the lack of sufficiently sophisticated, comparable and reliable data on a European level (see for example Gächter 2003; Jandl/Kraler/Stepien 2003).

61. Various measures have been introduced since Amsterdam that aim to enhance the knowledge base in this area, including the establishment of a European Migration Network (EMN), the establishment of funding lines on migration and related issues within DG Research's framework programmes,⁵⁷ and the commission of numerous research reports on aspects of migration policy by DG Justice and Home Affairs and other Directorates. Since recently, DG Justice and Home Affairs also publishes annual and monthly statistical reports on asylum and return which is meant as a first step towards a more comprehensive reporting system on migration and asylum in Europe, as called for by the Thessaloniki Conclusions.⁵⁸

62. In 2003, the Commission issued a Communication detailing an Action Plan for the collection and analysis of Community statistics in the field of migration.⁵⁹ It succeeds a communication from 1998, on the basis of which Eurostat started collecting monthly statistics on

⁵⁵ See FN 8

⁵⁶ Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, Com(2004) 412 final, 4.6.2004

⁵⁷ A variety of migration related research projects have been completed or under way under the 5th and 6th Framework Programmes. In general, the impact of research conducted under the framework programmes on policy making has been limited, particularly as there were no robust mechanisms to ensure that results were disseminated among policy makers and relevant political institutions. However, the 6th Framework Programme includes a project line called "Specific Targeted and Policy Research" (STREP), where researchers closely cooperate with representatives from Commission Directorates-General interested in the respective areas, for example from DG Justice and Home Affairs or DG Employment in case of migration related research. Specific targeted research projects such as THESIM ("Towards Harmonized European Statistics on International Migration") clearly enhance the otherwise still unsatisfactory links between policy making and research. The 6th Framework Programme also introduced two new instruments, "Integrated Research Projects" and "Networks of Excellence", respectively. A network of excellence devoted to the study of migration (IMISCOE) has started its work in April 2004 and receives funding for a five year period.

⁵⁸ See http://europa.eu.int/comm/justice_home/doc_centre/asylum/statistical/doc_asylum_statistics_en.htm

⁵⁹ Communication from the Commission to the Council and the European Parliament to present an Action Plan for the collection and analysis of Community Statistics in the field of migration. Com (2003) 179 final.

asylum and illegal entry in the framework of CIREA⁶⁰ and CIREFI. The communication proposes the

- Adoption of new practices, common statistical methods and new forms of cooperation.
- Activities to enhance information exchange and to promote decision-making. This should include annual meetings and ad hoc seminars bringing together the Member States and other data providers under the aegis of the Commission.
- Changes in the current data collection system or databases, including the extension of the data collection to include data on legal entry and stay; second instance asylum decisions and data on the implementation of procedures, criteria and mechanisms for deciding which Member State is responsible for the examination of asylum applications.
- Production of user-friendly statistical outputs by the Commission.
- Actions relating to the legal and political framework, including the adoption of Community legislation on statistics and the evaluation of the implementation of the Action plan.

63. A draft regulation on the collection of migration and asylum statistics in Europe as stipulated by the Action Plan is due to be published soon by the Commission. The regulation circumscribes the scope of data collection on a European level and proposes to collect data in the following areas: on the overall non-national resident population, naturalization, emigration and immigration; asylum applications and decisions; illegal entry, illegal stay and facilitated entry; and on legal status (residence permits) of third country nationals.

64. The data should be broken down by a limited number of variables, most importantly citizenship, but also country of birth, age and sex (in respect to the non-national resident population). Additional breakdowns, such as employment related variables, may be introduced later on by the Commission.

65. At first glance, the scope of the preliminary draft proposal for a regulation on community statistics seems to be rather limited. In particular, the preliminary draft proposal may be criticized as not sufficiently addressing the data needs raised by the “new areas” of common migration policy such as integration and discrimination policy. On the other hand, the inclusion of data on the legal status of third-country nationals (by way of administrative statistics on residence permits) is a bold step, considering the vastly diverging legal frameworks and the different permits issued across Europe.

66. As this analysis of EU migration policy clearly shows, there certainly is a requirement for a much wider scope of data collection, particularly in the “new” areas of migration policy where legislation on EU level is already in place or planned (i.e. in respect to the status of third country nationals, family reunification, integration and anti-discrimination). Obviously, some of these areas are also those where national regulations and data collection systems differ the most (e.g. in respect to employment statistics which are a necessary requirement for monitoring integration of migrants and cases of discrimination on a comparative, European level etc.).

67. But sometimes less may be more, and a necessary prerequisite for better data collection, omitted in the Communication, is a review of national data collection systems and the identification of gaps in data collection – both in quality and in scope. For example, only few

⁶⁰ CIREA has ceased to exist in 2002, when the commission took over its task, with the help of the Eurasil network, created for this purpose.

countries collect data on immigrants as defined by their origin (country of birth) or ethnicity (self-reported or mother's/father's country of birth) rather than citizenship which makes it rather difficult to monitor deeply entrenched patterns of discrimination affecting also the second and later generations, but also more general patterns of migrant integration. Also, longitudinal data – whether based on sufficiently sophisticated registers or on panel surveys – are available only in a handful of countries. Thus, a necessary corollary for the collection of migration statistics on a European level and arguably a prerequisite for a future expansion of data collection in this area, is the development of guidelines on the scope and depth of data collection on a national level, for example, by defining loose criteria what the data should principally be “able to do”, based on the assessment of data needs in every single policy area within the broad field of migration policy, that are not solely policy driven, but also or perhaps predominantly so, reflect scientific needs.

68. Improving the collection of migration statistics step-by-step needs to be complemented by a consideration of medium and long-term strategic goals. For example, there clearly is a close relationship between asylum, irregular border-crossing and return and thus, statistics on each of these areas. However, it is virtually impossible to link figures on irregular entry/ border apprehensions to asylum statistics or asylum statistics with data on return. One strategic goal could thus be to work towards allowing the various datasets to be linked, in order to avoid double counting and to gain a more comprehensive view of migration flows across countries. The next logical strategic goal could then be to prepare for linking data on various migration flows with data on migrant stocks. As the experience with the harmonization of European migration data over the past two decades has shown, this is already a formidable long-term agenda.

VII. Selected European Union Documents

a) Council Regulations, Council Directives, and Decisions (chronologically and by subject area)

Free Movement:

- Council Directive 68/360/EEC of 15 October 1968 on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families
- Council regulation EEC 1612/68 on freedom of movement for workers within the Community
- Regulation EEC 1251/70 on the right of workers to remain residing in the territory of a Member State after having been employed in that State.
- Council Directive 73/148/EEC of 21 May 1973 on the abolition of restrictions on movement and residence within the Community for nationals of Member States with regard to establishment and the provision of services.
- Council Directive 90/364/EEC of 28 June 1990 on the right of residence
- Council Directive 90/365/EEC of 28 June 1990 on the right of residence for employees and self-employed persons who have ceased their occupational activity
- Council Directive 93/96/EEC on the right of residence for students
- Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC

Border Control/ Visa

- Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.

Asylum

- 2000/596/EC: Council Decision of 28 September 2000 establishing a European Refugee Fund.
- Council Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention
- Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof
- Council Regulation (EC) No 407/2002 of 28 February 2002 laying down certain rules to implement Regulation (EC) No 2725/2000 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention
- Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers
- Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national
- Council Directive on minimum standards for the qualification and status of third country nationals and stateless persons as refugees or as persons who otherwise need international protection (draft adopted 29th April 2004, subject to a Parliamentary Scrutiny reservation made by Netherlands delegation)

Irregular Migration, Trafficking, Return Policy

- Council Framework Decision of 19 July 2002 on combating trafficking in human beings.2002/946/JHA
- Council framework Decision of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence

Immigration

- Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals
- Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification
- Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents.

Anti-discrimination

- Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin
- Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation
- Council Decision 2000/750/EC of 27 November 2000 establishing a Community action programme to combat discrimination

b) Communications

- Commission of the European Communities, Communication of the Commission to the Council and the European Parliament on the Right of Asylum, SEC (91) 1857 of 11 October 1991 (final)
- Commission of the European Communities, Communication of the Commission to the Council and the European Parliament on Immigration, SEC (91) 1855 of 23 October 1991 (final)
- Communication From The Commission To The Council And The European Parliament On Immigration And Asylum Policies", COM (94) 23 final, Brussels, 23.02.1994
- Communication from the Commission to the Council and the European Parliament on a Community Immigration Policy, COM(2000) 757 final, Brussels, 22.11.2000
- Communication from the Commission to the Council and the European Parliament on a common policy on illegal immigration. Com (2001) 0676 (final)
- Green Paper on a Community Return Policy on Illegal Residents. COM (2002) 175 final
- Communication from the Commission to the Council and the European Parliament on a Community Return Policy on Illegal Residents. Com (2002) 564(01)
- Communication from the Commission to the Council and the European Parliament on Integration and Migration Issues in the European Union's Relations with third Countries. Part I: Migration and Development; Part II: Report on the Effectiveness of Financial Resources Available at Community Level for Repatriation of Immigrants and Rejected Asylum Seekers, for Management of External Borders and For Asylum and Migration Projects in Third Countries. Com (2002) 703(01).
- Communication from the Commission to the Council and the European Parliament to present an Action Plan for the collection and analysis of Community Statistics in the field of migration. Com (2003) 179 final
- Communication from the Commission to the European Parliament and the Council in View of the European Council of Thessaloniki on the Development of a Common Policy on Illegal Immigration, Smuggling and Trafficking of Human Beings, External Borders and the Return of Illegal Residents. Com (2003) 323(01).

- Communication from the Commission to the Council, European Parliament, the European Economic and Social Council and the Committee of the Regions on Immigration, Integration, and Employment, COM (2003)336 final, Brussels, 3.6.2003
 - Communication from the Commission to the Council and the European Parliament - Area of Freedom, Security and Justice: Assessment of the Tampere programme and future orientations {SEC(2004)680 et SEC(2004)693}, COM (2004) 4002 final of 2 June 2004
 - Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions. Study on the Links Between Legal and Illegal Migration, Com (2004) 412 final, of 4 June 2004
- c) Eurostat discussion documents**
- Eurostat (n.d): Preparing legislation for Community statistics on migration and asylum. Draft proposal for a regulation of the European Parliament and of the Council on Community Statistics on Migration and Asylum
 - Eurostat/ Ann Singleton (2003): Statistical Data on Illegal Immigration in the European Union. Discussion Paper on Policy Needs and Data Availability. Working Paper Nr.13. Joint ECE-Eurostat Work Session on Migration Statistics organised in cooperation with the UN Statistics Division (Geneva, 28-30 April 2003)

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