

EUROPEAN COMMISSION

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Dear Lord Boswell,

The Commission would like to thank the House of Lords for its report on 'The EU's Global Approach to Migration and Mobility' {COM(2011) 743 final}. The Commission welcomes this comprehensive report, which acknowledges the significant role of the EU in the context of external migration policy and the need for an effective implementation of the Global Approach to Migration and Mobility (GAMM). The Commission has taken good note of the recommendations in the report, which in many cases it shares.

Like the House of Lords, the Commission believes that the efficiency and effectiveness of GAMM can and should be further improved. Building strong and close partnerships with third countries, based on mutual trust and shared interests, takes time, commitment and resilience – and the determination of EU Member States to play their legitimate role in an active way. In order to further improve the dialogue and cooperation with third countries and to achieve concrete results on all four priority areas of the GAMM, i.e. in regard to legal migration, irregular migration, international protection and migration and development, it is of fundamental importance that the Member States stay committed and contribute actively to the implementation of the GAMM. The Commission will continue to encourage all Member States to actively contribute to the implementation of the GAMM, e.g. by participating in the Mobility Partnerships, and to fully engage in the respective regional migration dialogues that are in place or are being developed.

On the Mobility Partnerships (§140-149), it is the Commission's experience so far that they are an effective and an important tool, because they provide a valuable framework for cooperation with partner countries in a balanced and comprehensive manner. In the GAMM Communication from November 2011, the Common Agenda for Migration and Mobility was established as an alternative framework for cooperation in cases where one side or the other is not ready to enter into the full set of obligations and commitments implied by a Mobility Partnership. The Commission is in dialogue with India on this.

The Commission welcomes your support to its active participation in events such as the Global Forum on Migration and Development (§154), which allows for a useful debate on matters related to migration and development at global level.

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The Commission takes note of the factual analysis of EU readmission agreements in the report. As regards the recommendation (§88-89) that the United Kingdom participate in all EU Readmission Agreements, the Commission reiterates that it welcomes participation of the UK in these instruments. The report furthermore suggests that a "full" evaluation of EU readmission agreements would be beneficial. The Commission considers that its 2011 evaluation (Commission Communication, Evaluation of EU Readmission Agreements, COM (2011) 76, 23.2.2011), to which the report refers, was comprehensive in scope. It included an equally comprehensive range of recommendations to the European Parliament and Council, the relevance of which is undiminished. Now and in the immediate future, the focus of the development of the EU's readmission policy should be on the implementation of these recommendations.

On flexibility in EU labour markets (§46), increased mobility within the EU could help to alleviate specific labour shortages and/or mismatches in the EU. In the longer term, and especially in view of the EU's demographic development, economic migration by third-country nationals will have to be taken into consideration for the EU's labour market. Notwithstanding the current economic crisis, economic migration into the EU should thus be part of a comprehensive and well-coordinated EU policy. This includes the need to make the best use of the potential of migrants already legally residing in the EU while, at the same time, considering pathways for new economic migration in specific sectors in which labour and skills shortages are emerging that cannot be met by skills and talents present in the EU. Evidence on future economic and demographic trends indicates that there is no contradiction between the key goal of mobilising the full EU employment potential and the need for a more targeted economic migration policy that would open pathways for skilled migrants to fill unsatisfied labour needs.

The Member States' right to choose the number of migrants they wish to admit to their labour markets (§55) is enshrined in Article 79(5) of the TFEU. What is done at EU level, however, both through legislative action (such as the Single Permit and the proposal on intra-corporate transferees) and through non-legislative instruments (such as the EU Immigration Portal) is to promote the EU as an attractive destination for highly qualified migrants; to allow for mobility within the EU for certain categories of migrants; to support harmonisation, where desirable, of the administrative procedures to be followed in the migration process; and to provide an EU-wide analysis to identify labour market needs across the EU (e.g. via the European Vacancy Monitor and EU Skills Panorama).

On the possibility for the EU to accurately predict labour demand or skills shortages (§56), while this is, of course, not an exact science, some trends are clear. In particular, services including tourism, health care and IT are still expected to provide most job growth in the years up to 2020 (according to CEDEFOP). The Commission is also making use of a number of studies on this topic, notably by the European Migration Network and the IOM's Independent Network of Labour Migration and Integration Experts (LINET). It should be ensured that the right mechanisms are in place to allow the labour market to respond to such shortages. Member States could share their expertise in labour market analysis to achieve better results in this domain and allow a more accurate EU-wide mapping of labour demand of skills shortages.

On the portability of social rights (§60), EU rules on social security coordination remove disadvantages and protect acquired rights both for EU citizens and since 2003 for all legally resident non-EU nationals with a cross-border dimension. In addition, the Single Permit Directive will, once implemented by Member States (except Ireland, Denmark and the UK) from December 2013 on, secure the right for all migrant workers covered by it to be able to transfer their acquired pensions, under the same conditions and at the same rates as a Member States' nationals, when they move to a non-EU country. In other words, no cross-border dimension will be needed; even with a link to one Member State the equal treatment right to transfer pensions will be ensured. On a more general political scale, the portability of social and pension rights could also be a facilitator for mobility and circular migration, as well as a disincentive for irregular work, and could therefore be improved.

The Commission welcomes your recommendation that the UK government should seek to opt-in to the Family Reunification Directive (§64). A more harmonised approach on a European level is beneficial both to Member States and to migrants seeking to reunite with their family. The public consultation on the Green Paper on Family Reunification concluded that the existing Directive should not be re-opened, but that the Commission should ensure the full implementation of existing rules and produce guidelines on its application. The Commission is currently preparing guidelines which will aim at balancing the need for efficient, transparent and clear rules on the right to family reunification at EU level with the need to ensure that this right is genuinely applied according to the rules of the Directive and to support Member States in their fight against possible misuse.

Although migrants' integration in the labour market should primarily be facilitated via the European Integration Fund (§70), integration should also and in particular be eased through the European Social Fund, which targets those with particular difficulties in finding work, such as women, young people, older workers, migrants and people with disabilities. ESF funding is also helping businesses and workers to adapt to change by supporting innovation in the workplace, lifelong learning, mobility of workers and diversity management. In the context of the GAMM, dialogue with EU partners also explores the role of diaspora communities and transnational networks, for example in preparing migrants better for residence in the Member States or for creating business opportunities for European companies that intend to invest in third countries.

The Commission furthermore welcomes your support for its role in promoting the sharing of experiences and good practices (§71), and for the important role played by NGOs and the private sector in general. Via the European Integration Forum and public consultations the Commission has engaged in a debate with civil society on different aspects related to migration and integration (e.g. on family reunification, diaspora communities, migrant entrepreneurship) and will continue to do so.

The Commission welcomes your support for the legal and policy framework of the EU for addressing trafficking in human beings (§90-94), including Directive 2011/36/EU and the EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016. The recently adopted Council Conclusions on the implementation of the EU Strategy in October 2012 are a relevant development in this respect. Furthermore, of particular interest to the external dimension of trafficking in human beings, is the adoption of the second and final report on the implementation of the Action-Oriented Paper (AOP) on strengthening the EU external dimension on action against trafficking in human beings: "Towards Global EU Action against Trafficking in Human Beings", which acknowledges that concerted efforts should be made to

implement the EU Strategy and adopted a list of countries and regions for further strengthening cooperation and partnership in addressing trafficking in human beings, based on the available statistics, as well as within the geographical and operational priorities identified in the GAMM.

With reference to the Joint EU Resettlement Programme (§107), the Commission would like to clarify that UNHCR is not responsible for priority-setting: this is the task of the Commission and the Member States. For instance, in its proposal for the establishment of the Fund, the Commission has proposed that Union resettlement priorities should be set once every two years.

The Commission also fully supports your recommendation to involve other relevant stakeholders in the development of Europe's common migration policy (§117-118). To be effective, the GAMM has to be linked and integrated with the EU's external policies, in particular with the EU foreign policy and development cooperation. At the same time it also needs to be aligned with the EU internal policy objectives, notably the Europe 2020 Strategy, employment and education policies. Hence, it is jointly implemented by the Commission, EEAS and EU Member States, allowing the EU to speak with one voice, also when it comes to its external migration policy, in line with the Treaty of Lisbon.

The Commission welcomes your recommendation that the UK's migration policy should take into account the EU policy, as well as your consistent advocacy for the UK participation in a majority of European individual migration and asylum measures (§160-171).

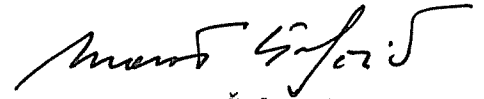
With reference to the points on right of free movement of EU citizens (§177-180), the Commission recalls that this is not a part of the GAMM; as it is one of the four fundamental freedoms of the EU and hence, an entirely different set of rules and framework apply.

With regard to international students (§186-188), and while noting that the UK is not participating in the Students Directive {Council Directive 2004/11}, the Commission clearly supports measures to attract international students, whilst also safeguarding against misuse by migrants coming as students (and measured as such) but who are in fact working, or seeking to remain in the country illegally. The Commission has recently proposed a new Students and Researchers Directive, to replace the two current directives in this area, with the main aim being to facilitate the admission of third-country national students (and researchers) to the EU.

As you know, the Commission has been entrusted by the Council to closely monitor the implementation of GAMM through biennial implementation reports which will be issued starting from June 2013. These reports will allow to take stock of progress made and should contribute to further strengthening the implementation of GAMM. Further development of GAMM is being discussed amongst all Member States in the High Level Working Group on Asylum and Migration, which holds strategic discussions on geographical priorities and necessary actions based on the evolving strategic interest of the EU. The Committee's report will serve as a source of inspiration for our own GAMM report, and its release is therefore very timely.

The Commission hopes that these clarifications address the issues raised by the House of Lords and looks forward to continuing our political dialogue in the future.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Maroš Šefčovič', written in a cursive style.

*Maroš Šefčovič
Vice-President*