



# Legal Migration in the EU

From Stop-Gap Solutions to a Future-Proof Policy

European Political  
Strategy Centre

## The Age of Migration is Here to Stay

Migratory flows have never been bigger and they are forecast to double in the next 35 years. Europe will be a top destination for migrants, with or without a legal migration system in place. It is therefore in Europe's self-interest to manage that inflow and root it in the formal economy.

## The Current Crisis is an Opportunity for Systemic Overhaul

Flaws in the EU migration and asylum systems have been exposed with a vengeance. A system that effectively makes applying for asylum contingent on being on European soil has contributed to a humanitarian catastrophe. The current patchwork of measures, offering few channels for migration of low-skilled workers, will not stand the test of time. There has hardly been a more appropriate time to seek a comprehensive overhaul of the system.

## Legal Migration is an Asset for the Economy

A number of advanced economies have built their prosperity on managed legal migration. Australia, Canada, New Zealand and Singapore have benefited enormously from cultural diversity and the entrepreneurial zeal of migrants. Europe's demographics leave little doubt that migration will have to be part of the solution to its higher dependency ratios and labour shortages.

## From a Common External Border to a Common European Migration Policy

Having established a shared external border, a common EU migration policy is the necessary next step. The same vision that established Schengen must now drive bold action to overcome the discrepancies caused by an area of internal free movement and fragmented immigration and asylum regimes. Opinion polls suggest that European citizens will support a common European action on migration policy.

## I. Migration Flows Will Only Grow Bigger. Europe Will Remain a Magnet

As movement becomes easier and cheaper, there are ever larger numbers of migrants in search of better prospects. These numbers will only get bigger. Estimates show that **if the immigrant population grows at a similar rate as in the past 20 years, it is likely to reach 405 million by 2050, compared to 214 million in 2009.**<sup>1</sup>

A significant element of global mobility will be related to the fragmentation of societies and proliferation of local conflicts. According to the UN High Commissioner for Refugees, the number of displaced people worldwide has exceeded 50 million for the first time in the post-World War II era, linked to the unravelling of regimes in the Middle East and as conflicts in sub-Saharan Africa (see Graph 1).

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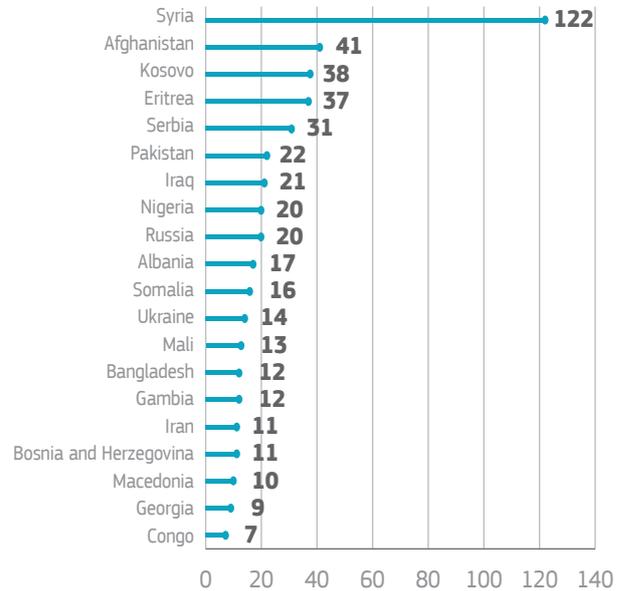
Demographic trends will determine the future of global mobility. Africa will play host to more than half of the world's demographic growth by 2050. In spite of many promising economic projections for large parts of the continent, it will remain a significant source of migration to Europe. This shows that the EU's policy must be proactive and anticipate future demographic, economic and geopolitical trends.

## II. Properly Managed Migration Helps the Economy and Drives Growth

**Migration brings benefits to receiving countries' labour markets and boosts economic growth.** As the OECD estimates, immigrants represented 47% of the increase in the workforce in the United States, and 70% in Europe over the past 10 years. Immigrants play an important role in the most dynamic sectors of the economy, including the STEM (Science, Technology, Engineering and Mathematics) occupations, as well as in more traditional occupations, such as installation, maintenance and repair. By expanding the workforce, migration helps aggregate GDP to grow.

**Graph 1: Top 20 Asylum Sending Countries to the EU28, 2014**

In Thousand Persons

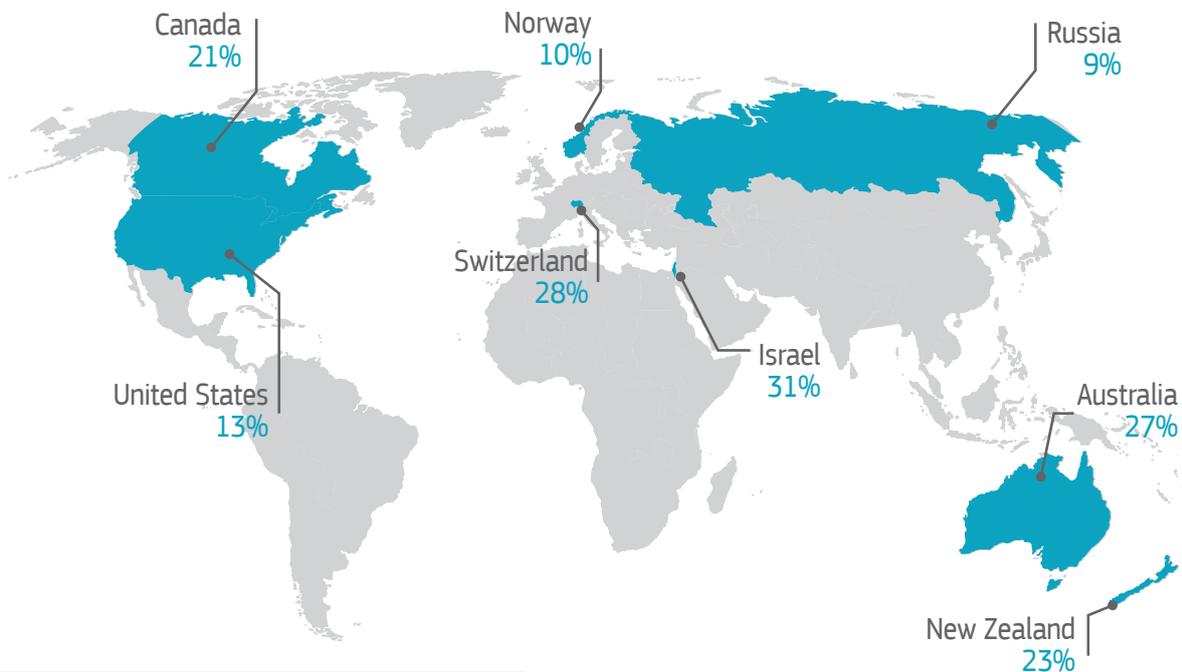


Source: [Asylum and New Asylum Applicants Database](#), Eurostat

**Graph 2: Foreign Born Population in Europe and the World**

2010

% of Total Population



Number of Residents in EU		% of EU Population
31 433 773	2010	6%
32 245 149	2011	6%
33 037 492	2012	7%
33 537 867	2013	7%

Source: DG Home Statistical Compilation 2014

**Immigrants tend to be neutral to the public purse of receiving countries.** An OECD study on the fiscal impact of the cumulative waves of migration in the past 50 years suggests that the impact has been close to zero and rarely exceeded 0.5% of GDP.<sup>2</sup> Switzerland and Luxembourg have even seen a net benefit of about 2% of GDP to their public finances. **In most countries, migrants contribute more in taxes and social contributions than they receive in individual benefits.**

Migrants tend to be younger and more economically active and hence **contribute to reducing dependency ratios.** This is particularly important for the EU where an ageing and shrinking population will see the old-age dependency ratio almost double from 27.5% in 2013 to 51.0% in 2080.

**Migrants are an unrivalled source of entrepreneurial activity and innovation.**

Research in the United States suggests that skilled immigrants help to boost research and innovation as well as technological change and entrepreneurship.<sup>3</sup> A vivid example is Jan Koum, founder of WhatsApp, a technology company that was sold for \$19 billion to Facebook in 2014. Originally from Kiev – and growing up on food stamps in California – Koum and his mother fled anti-Semitism in their native country. Particularly in the digital age, future economic models will increasingly be based on driving forward the frontier of knowledge, creating new markets. Across the world, migrants are at the forefront of these developments. Migration should therefore be seen as an indispensable asset for success in the modern economy.

**Europe is falling behind in the global race for talent.**

Since 2000-2001, immigrants have represented 31% of the increase in highly educated labour force in Canada, 21% in the United States and 14% in Europe. This is all the more important as the proportion of highly educated immigrants is rising sharply, with an up to 70% increase in the past decade, mostly driven by Asian migration.

### III. EU Migration Policy Needs an Overhaul

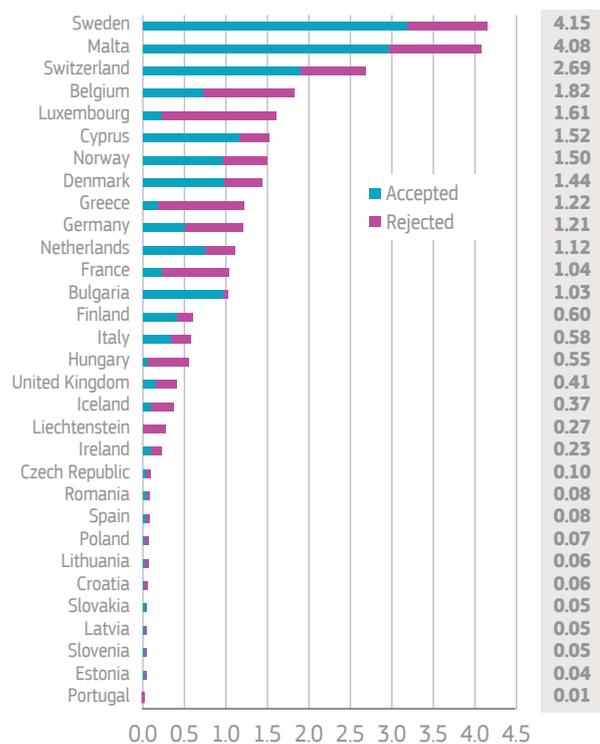
The tragedies in the Mediterranean and the deep unease of European public opinion testify to the failure of the current EU migration and asylum policy. Key weaknesses of the current framework need to be clearly identified. They include:

- **The effective requirement that asylum claims are processed on European soil.** Many of the 25,000 victims in the Mediterranean in the past 10 years sought to reach the EU in order to file an asylum application. By providing few means to legally access its asylum procedures, the EU creates a client base for the smugglers and traffickers operating out of Libya and elsewhere.

- **Having a disjointed approach to migration policy,** which treats its different strands in relative isolation, from legal migration, through asylum, to border control and irregular migration. This hampers cohesion and coordinated action across the Member States and reinforces the lack of political will to move forward on politically sensitive areas, such as legal migration.
- **Applying a fragmented system for legal migration of both high-skilled and low-skilled labour.** The legal migration framework in the EU is a patchwork of weakly implemented measures. While a set of selective, sectoral directives for distinct categories of labour migrants is in place (high skilled, seasonal workers, researchers and students, intra-corporate transferees), the overall system lacks cohesion – and vision.
- **Huge disparities across countries in the number of asylum applications that are granted.** At the moment, there are glaring imbalances in the Common European Asylum System (CEAS), leading to an uneven distribution of asylum seekers across EU Member States, with Sweden receiving 4.1 applicants per 1000 inhabitants in 2014, well ahead of France (1.0 per 1000), Finland (0.6 per 1000), and the UK (0.4 per 1000) (see Graph 3).

**Graph 3: Distribution of Asylum Seekers in Europe, 2014**

Per 1000 Inhabitants



Sources: [First Instance Decisions on Applications Database](#), Eurostat; [Population Database](#), Eurostat

Legal migration often serves as a shorthand for channels providing legal entry for migrant workers, but it also encompasses the inflows of people moving for diverse reasons, including asylum seeking, family reunification, education, and business.

Faced with growing global mobility, legal migration can serve as a key means for managing otherwise uncontrolled flows of migrants, addressing security concerns including the activities of smugglers and traffickers, and reducing the number of lives lost at sea. This argues for a wider interpretation of the term legal migration, to encompass legal entry schemes for refugees and those deserving humanitarian protection.

### Solutions Should Therefore Envisage:

a) **Moving towards a system which would allow for the processing of a proportion of asylum claims in third countries.** As a complementary instrument for dealing with asylum flows, the EU could explore the feasibility of off-shore asylum processing through, for instance, **EU-run facilities in North Africa**

**and in key transit countries.** They would offer asylum processing in full compliance with international and EU law. This option is not without difficulty, nor controversy. Not only does it require the cooperation of the host third country, but also the agreement of Member States to take in refugees that are granted international protection by such facilities, and allocated according to a distribution key.

As an interim solution, **the EU should promote the expanded use of humanitarian visas or humanitarian admission to grant short-term residence in receiving Member States,** with a stipulated duration after which the ongoing need for protection would be examined. This solution would be applied to migrants in an extremely insecure or vulnerable situation and in need of urgent protection.

To optimise the potential of new arrivals, **asylum seekers and refugees should be encouraged to contribute to Europe's economy.** Under the Common European Asylum System, Member States are obliged to grant access to the labour market no later than nine



### Legal Migration: Global Comparative Perspectives

Examining the migration policies of internationally attractive migration destinations can offer Europe lessons from other countries and different legal migration traditions:

**Canada**, an immigration 'success story', is a pioneer of the 'points-based' selection model for labour migration under the *Federal Skilled Worker Programme*. The model has seen a continual fine-tuning with an increasing emphasis on selecting people with higher education, skills and experience. After the Federal Skilled Worker Programme, the second largest economic immigration stream is provided by the *Provincial Nominee Programs* in which provincial authorities nominate individuals who meet local/regional labour market needs. Introduced in the 1990s, they have prompted a gradual shift from a centralised model of immigrant selection towards devolution of federal authority to provinces. In addition, Canada has seen a significant expansion in its temporary labour migration since 2000 under the Seasonal Agricultural Workers Program, Live-In Caregiver Program, Low Skilled Pilot Program and *Other Temporary Workers* category. Employers have first to obtain a Labour Market Opinion demonstrating that there is a genuine job, demonstrate a labour market need and that an attempt was made to first hire Canadians or permanent residents.

The **United States** has a robust legal immigration policy, which is largely employer-driven (i.e. employers petition for the admission of workers). In addition to a comprehensive permanent labour migration scheme which sets a cap on 140,000 workers admitted per year, 50,000 migrants are admitted via a *diversity lottery* and 2 million for temporary employment. A set of new proposals put forward by President Obama in 2014 aim to further reduce barriers for immigrant entrepreneurs by introducing *start-up and investor visas*. Proposed reforms also aim to tackle the estimated 11 million strong irregular migrant population by opening a path to regularisation, a process that includes passing a background check, paying taxes, paying a penalty, learning English and applying for a provisional legal residence status.

The **United Arab Emirates** has grown significantly into a migrant-receiving country in recent years. The UAE attracts both high and low skilled workers with immigrants making up over 90% of the country's private workforce. Nationals, expatriates and companies can hire foreign workers under a temporary guestworker program, the *Kafala Sponsorship System*. However, the system has attracted criticism due to frequent violations of labour rights.

months from when an application is lodged. Asylum seekers should, however, gain early access to the labour market, and refugees should receive language and training support. **Targeted regularisations**, for irregular and non-returnable migrants coordinated at EU level, and carried out according to strict criteria to avoid pull effects, could reduce the black labour market, increase tax revenues and alleviate the social costs of marginalisation.

**b) Creating a solidarity framework in which Member States have to agree to accept a minimum number of relocated refugees.** As an interim solution, a **“solidarity scoreboard”** can be created to rank Member States by number of refugees received in relation to economic capacity/population. Financial incentives should be put in place for Member States willing to accept high numbers of relocated refugees in order to compensate for the additional cost of the undertaking.

**c) Establishing a clear and transparent system of legal labour migration into EU Member States,** supported by an online application system and a revised Blue Card Directive, with an expanded scope to cover other categories of skilled migrants. Third countries should be further incentivised to work together with the EU through more strategically focused “Mobility Partnerships”, recalibrated to provide greater offers of mobility to lower skilled migrants and educational partnerships to counter concerns over possible brain drain. More efforts should also be made to tap into the migration-development nexus and reorient assistance towards strengthening partnership with third countries, supporting the build of entrepreneurial capacities and institutions. In parallel, tighter border control would need to be introduced, accompanied by reinforced surveillance and effective returns.

## IV. Partnership With an Informed Public

Public opinion will expect a balanced approach, whereby robust border control and enforcement is accompanied by safe, humane and transparent avenues for legal migration.

The migration challenge is particularly prone to stereotyping which can lead to social tension. Studies have shown that **negative sentiment towards migrants is often strongest in areas where there are fewer of them.** Apart from overblown concerns and fears which are fuelled by successive waves of populism, many European citizens are genuinely concerned about their security and perceive migration as contributing to the problem rather than being part of the solution.

What is needed is recourse to the facts. **Scare stories which proliferate across the European public space feed on fragmented information and misguided narratives.** The significant contributions that immigrants make to the richness and potential of European societies have to be proactively showcased. In the UK for instance, one study finds that migrant entrepreneurs are behind one in seven of all UK companies and entrepreneurial activity among migrant communities is nearly double that of the native population. The public can either go along with the new logic of migration policy or become irreversibly opposed to the idea of preserving relatively open borders in Europe for many years to come.

In order to ensure **a balanced picture of the impact of migration, cooperation with research centres and think-tanks will be important** to generate analyses on the effects of migration policies on social infrastructure such as health, welfare and education systems. National observatories, such as the [Migration Observatory](#) at the University of Oxford, provide a wealth of data and informational resources and could serve as a model on which to base the establishment of a similar, European-level observatory. Think-tanks with an international perspective, such as the transatlantic [Migration Policy Institute](#) (MPI) can offer comparative approaches and examples of international best practice.

Reorienting the EU’s migration policy means **working with an extensive range of stakeholders** who are either beneficiaries of migratory flows (business leaders, research centres, universities) or have an evident stake in the issue (social partners, media, churches and faith groups).

At the same time, more should be done to highlight the EU-level labour market forecasting systems. The European Centre for the Development of Vocational Training (CEDEFOP), for instance, provides detailed projections on future demand and supply in individual professions and by Member State. These can give a timely ‘heads-up’ to Member States about skills shortages on the horizon, for instance in nursing and care sectors, which in turn allows for a more targeted and better managed migration policy.

### V. The Way Forward: Towards European Leadership in Sowing the Seeds for Change

Migration is a notoriously difficult and controversial issue. This will not change, no matter how much evidence is provided or how many stakeholders are engaged. Rather than using this as a pretence for inaction, it calls for Commission leadership to become less sensitive to public criticism and instead show determination, resilience and ambition in driving forward a European response to an issue that can so evidently no longer be handled primarily at Member State level.

A genuine common European migration policy is a natural progression of establishing the Schengen Area and a logical consequence of sharing a common external border. The current migration arrangements at EU level therefore represent unfinished business and demand that the EU takes the bold, but inevitable, next step. Public opinion polls suggest that Europeans will support an ambitious approach.<sup>4</sup>

The only thing that will ultimately matter and be remembered is that this Commission is on the 'right side of history' and has sown the seeds for change. Only a legal migration system will put the EU – and its Member States – in the political driving seat. A legal approach to migration can change a policy that has been strictly reactive and defensive into one that not only better suits Europe's economic objectives and future needs but also upholds our values and beliefs.

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## Notes

1. World Migration Report 2010, International Organisation for Migration
2. Liebig, T. and J. Mo (2013), "The Fiscal Impact of Immigration in OECD Countries", International Migration Outlook 2013, OECD Publishing, Paris
3. Hunt, J. (2010), "Skilled Immigrants' Contribution to Innovation and Entrepreneurship in the US", Open for Business: Migrant Entrepreneurship in OECD Countries, OECD Publishing, Paris.
4. Eurobarometer data shows that more than 7 in 10 Europeans are in favour of a common European Policy on Migration: Standard Eurobarometer 82, Autumn 2014.