

Policy Department External Policies

VISA FACILITATION VERSUS TIGHTENING OF CONTROL: KEY ASPECTS OF THE ENP

FOREIGN AFFAIRS

This study was requested by the European Parliament's Committee on Foreign Affairs.

This study is published in the following language: English

Coordinating editors and authors: **Jérôme Boniface, Mara Wesseling**
Co-authors: **Kevin O'Connell, Ariadna Ripoll Servent**

Study made under the framework contract with the Trans European Policy Studies Association (TEPSA)

Jérôme Boniface is a National Seconded Expert at the European Policies Unit at the **European Institute of Public Administration (EIPA)** in Maastricht. He holds an M.A. in European Interdisciplinary Studies from the College of Europe, Natolin

Mara Wesseling is a Research Assistant at the European Policies Unit at the **European Institute of Public Administration (EIPA)** in Maastricht. She holds an M.A. in International Relations from the Institut d'Etudes Politiques de Paris and an M.A. in Political Geography from the University of Amsterdam.

Kevin O'Connell is an Academic Assistant at the Department of EU International Relations and Diplomacy Studies at the **College of Europe** in Bruges. He holds an M.Econ.Sc. in European Economic and Public Affairs from University College Dublin.

Ariadna Ripoll Servent is an Academic Assistant at the Department of European Political and Administrative Studies at the **College of Europe** in Bruges. She holds an M.A. in International Organisations from the Institut d'Etudes Politiques de Paris and an M.A. in European Political and Administrative Studies from the College of Europe, Bruges.

Responsible Official: **Stefan Krauss**
Directorate-General for External Policies of the Union
Policy Department
BD4 06M051
rue Wiertz
B-1047 Brussels
E-mail: stefan.krauss@europarl.europa.eu

Publisher European Parliament

Manuscript completed on 06 February 2008.

The study is available on the Internet at
<http://www.europarl.europa.eu/activities/expert/eStudies.do?languageEN>

If you are unable to download the information you require, please request a paper copy by e-mail : xp-poldep@europarl.europa.eu

Brussels: European Parliament, 2008.

Any opinions expressed in this document are the sole responsibility of the author and do not necessarily represent the official position of the European Parliament.

© European Communities, 2008.

Reproduction and translation, except for commercial purposes, are authorised, provided the source is acknowledged and provided the publisher is given prior notice and supplied with a copy of the publication.

TABLE OF CONTENTS

| | |
|---|-----|
| EXECUTIVE SUMMARY | iii |
| INTRODUCTION | 1 |
| I. STATE OF PLAY | 3 |
| 1) The EU visa framework..... | 3 |
| 1.1 A common policy..... | 3 |
| 1.2 Recent initiatives..... | 4 |
| 2) Facing challenges from the EU's neighbourhood | 5 |
| 2.1 A two-sided policy | 5 |
| 2.2 Action Plans and JHA..... | 6 |
| 2.3 State of play of visa cooperation with ENP partners | 7 |
| 2.4 Origin and volume of visa applications | 8 |
| 3) Balancing objectives and coherence of the ENP with the EU's visa obligation on its neighbours..... | 10 |
| 3.1 Benefits of the common visa policy..... | 10 |
| 3.2 The costs of visa requirements..... | 11 |
| II) ANALYSIS..... | 13 |
| 1) Instruments | 13 |
| 1.1 The local border traffic Regulation..... | 13 |
| 1.2 Visa facilitation agreements..... | 15 |
| 1.3 Common Application Centres..... | 18 |
| 2) Shortcomings | 18 |
| 2.1 Shortcomings relating to visa procedures | 19 |
| 2.2 Shortcomings relating to ENP goals | 22 |
| III) PROPOSALS AND POLICY RECOMMENDATIONS..... | 24 |
| 1) What is being proposed to improve the situation | 24 |
| 2) Ease legitimate travel to the EU | 25 |
| 3) Developing a regional approach..... | 26 |
| ANNEX 1: INTERVIEWS WITH KEY PERSONS..... | 28 |
| ANNEX 2: TABLE WITH VISA FIGURES 2003-2006..... | 29 |
| BIBLIOGRAPHY | 31 |

EXECUTIVE SUMMARY

24 of the European Union's (EU) 27 Member States are now part of the 'Schengen area' of internal free movement and issue 'Schengen visas' valid throughout this area. While celebrated as one of the most tangible successes of European integration and as the final reunification of a formerly divided Europe, the enlargement of the Schengen area poses particular challenges to the EU's relationship with its neighbourhood. The EU imposes a visa obligation on the citizens of all states covered by the European Neighbourhood Policy (ENP), with the exception of Israel, despite the ENP's very ambition of preventing 'new dividing lines' between an enlarged EU and its new neighbours. Accordingly, the EU faces a high demand for visas from citizens of ENP countries, with around 3 million visa applications in 2006.

While visas constitute a beneficial element of the EU's border control system, in that visa policy acts as a filter designed to protect the EU from potential threats of crime and irregular migration, the EU's visa regime also implies costs, especially in terms of the damage to ENP countries' citizens' perceptions of the EU, thereby undermining the ENP's objectives. In response to these challenges, the EU has devised a series of new instruments: common rules on local border traffic arrangements, designed to preserve cross-border contacts despite a strengthened external border; Community-level visa facilitation agreements aiming to facilitate the mobility of *bona fide* travellers; a first Common Application Centre (CAC) for visas, where Member States pool their resources to offer a more efficient service to visa applicants.

Despite these innovations, visa policy remains a bone of contention between the EU and its neighbours. The inconsistent application of the EU's common rules, as evidenced by a disparity in visa refusal rates, and perceived discrimination against visa applicants continue to undermine the ENP countries' confidence in the EU. Visa facilitation agreements bring with them new dilemmas in that differentiated treatment by professional categories opens new opportunities for corruption and creates divisions within societies. Differentiated treatment of ENP partners also questions the geographical coherence of the EU's policy towards its neighbourhood.

To address the shortcomings of visa procedures, this report recommends the swift adoption of the proposed Community code on visas, as well as a series of practical measures to ensure a better service for visa applicants, thereby improving perceptions of the EU in the neighbourhood. This report also advocates the wider use of multiple-entry visas for regular legitimate travellers, as well as a new work-visa for seasonal economic migrants. Finally, the report emphasises the foreign policy dimension of visas and calls for a wider use of the EU's instruments in all ENP countries.

INTRODUCTION

On 21 December of last year, a major event occurred with only little media attention, despite its major consequences for the whole European continent: the Schengen area was extended to nine more EU Member States ⁽¹⁾, considerably enlarging the border-free zone. What does this mean concretely? The holder of a Schengen visa is now entitled to travel across 24 EU countries, as well as Iceland and Norway, without any restriction. This historic progress is a major achievement and definitely reconciles the two sides of Europe, but there is a third side of Europe that has been let aside: non-EU members from Eastern Europe and more generally the whole periphery of the EU, the Euro-Mediterranean zone in particular, are likely to suffer from this extension.

The progressive softening of internal borders as a result of the regional integration process goes along with a necessary reinforcement of control at the external borders, and consequently tougher measures regarding the acquisition of a visa. Taking a legal definition, a visa is 'an official government stamp applied on foreign passports by the consular or immigration authorities of a State to authorise entry or stay in that State' ⁽²⁾. Some would argue visas are a necessary tool aimed at regulating cross-border movements; others would argue they are a means of keeping 'undesirable' populations at bay, which is very often perceived by third-country nationals as unfair discrimination since visa requirements are commonly defined for entire countries and fail to distinguish between different categories of travellers ⁽³⁾.

Yet, whatever one might think about the necessity or otherwise of closing borders and controlling the cross-border flows of populations, reducing visas to a simple border management tool is too limited. Visa policy has a much broader impact since it closely relates to foreign policy, internal security and migration control issues and touches upon a key aspect of modern civilisation: mobility. Besides, applying for a visa to enter the Schengen Areas is in most cases the first contact whatsoever a third-country national has with the EU and it certainly contributes to shaping the neighbours' perceptions of the EU. Unfortunately the image conveyed by the EU through its visa policy has not been very positive according to widespread opinion among ENP partner countries' citizens and NGOs. Applicants often experience visa application procedures as traumatic and sometimes humiliating ⁽⁴⁾. Complexity of procedures, confusing and inconsistent lists of supporting documents requested, delays in processing visas and high costs are examples commonly invoked by the EU's neighbours to denounce the raising of new barriers surrounding the European Union.

Such a statement can be partially explained by the growing emphasis put on security concerns that not only affect the daily lives of EU citizens but likewise impact on

¹ The Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia abolished border controls at all internal EU land and sea borders. Controls at air borders are to cease from 31 March 2008.

² Meloni, Annalisa, *Visa Policy within the European Union Structure*, Springer, Berlin, 2006, p. 31.

³ Richard, Yann, *Les frontières improbables de l'espace migratoire européen*, Friday 8 July 2005, p. 9, available at www.peuplesmonde.com/article.php3?id_article=293 [20 January 2008].

⁴ See Boratynski, Jakub & Anita Szymborska, *Neighbours and Visas – Recommendations for a Friendly European Union Visa Policy*, Stefan Batory Foundation, Warsaw, September 2006, pp. 7-8, available at www.batory.org.pl/doc/neighbours-and-visas.pdf [20 January 2008].

third-country nationals wishing to travel to the EU. Hence, the third-country nationals primarily affected by those growing obstacles to mobility are likely to be the ones residing in the immediate periphery of the EU, the ones who used to travel freely to what have become the EU's 'new Member States' in recent successive waves of enlargement.

In order to tone down potential adverse effects, and avoid precisely the above-mentioned risk of new dividing lines, the EU launched in 2004 the European Neighbourhood Policy (ENP), whose objectives were amongst others to ease legitimate movement between the EU and its periphery through visa facilitation (⁵). However, the EU sees visa facilitation primarily as a reward or bargaining chip for more efforts by ENP partners to better control their borders and fight against illegitimate movements. This cautiousness may explain why the ENP has up until now turned out to be rather disappointing concerning the movement of ENP countries' citizens to the EU, as acknowledged by the European Commission itself (⁶).

Mobility or the lack of mobility has proven a highly sensitive and rather contentious issue with most ENP partners, revealing a classic opposition between two divergent EU concerns: reinforcing internal security and Justice and Home Affairs (JHA) aims on one hand and promoting good relations with the neighbourhood and foreign policy aims on the other hand (⁷). An overly lenient visa policy is unconceivable for most EU Member States but an overly restrictive and sometimes inconsistent visa policy may also undermine the ambitions of the relatively young European Neighbourhood Policy, and damage the EU's image, attractiveness and thereby influence. The differentiated treatment ENP partners receive when it comes to visas is another serious point of contention, which might undermine the ENP process as a whole.

Rather than focusing either on an exclusively security-driven approach or on an entirely libertarian vision, this study claims that intermediate solutions exist and a trade-off between visa facilitation and tightening control can be found and would benefit both sides. This study will proceed in three steps. Firstly, it gives an overview of the current state of play with regard to the EU's common visa policy and the European Neighbourhood Policy, by outlining the common EU visa framework, evaluating the ENP's main proposals in terms of mobility and its adequacy in the light of the volume of visa applications originating in the EU's periphery and then attempting an assessment of the cost/benefits the current visa regime entails. Subsequently, this study proposes an analysis of the instruments aimed at facilitating movement and lays out the remaining shortcomings the EU response to the mobility challenges raised by neighbourhood countries has not yet solved. The study finally sets out the most recent proposals from the European Commission and formulates policy recommendations intended to overcome the above-mentioned shortcomings, remaining issues and complement the existing official proposals. Among the recommendations we propose, specific emphasis will be put on measures fostering more flexibility for specific categories of visa applicants and legitimate travellers as well as the drawing up of a coherent regional visa strategy.

⁵ European Commission, *The Neighbourhood Policy Strategy Paper*, COM(2004) 373 final, Brussels, 12 May 2004, p. 16.

⁶ European Commission, *Strengthening the European Neighbourhood Policy*, COM(2006) 726, Brussels, 4 December 2006, pp. 3-4.

⁷ See O'Connell, Kevin, 'EU Visa Policy: Squaring the Circle of Neighbourhood and JHA Objectives', in Mahncke, Dieter & Sieglinde Gstöhl, *Europe's Near Abroad: Promises and Prospects of the EU's Neighbourhood Policy*, P.I.E. Peter Lang, Brussels, 2008 (forthcoming).

I. STATE OF PLAY

1) *The EU visa framework*

Since the coming into force of the Amsterdam Treaty and thereby the incorporation of the Schengen *acquis* into the EC Treaty in May 1999, the EU's short-stay visa policy has become a common policy supported by a common legal and institutional framework⁽⁸⁾. After a five-year transitional period, the European Parliament became co-legislator on visa issues in May 2004.

1.1 A common policy

In order to ensure the free movement of third-country nationals across an area where internal border control had been lifted and a common external border had been set up, the EU laid down common provisions and conditions establishing uniform visas for short stays of up to 90 days⁽⁹⁾. The EU has carried out efforts towards more harmonisation through the adoption of several legal instruments. Firstly, common technical specifications and standards were laid down to ensure that the issuance of visas was performed in accordance with a uniform format and in conformity with certain security criteria, in particular aimed at preventing visa counterfeiting⁽¹⁰⁾. Secondly, the EU has agreed on a common list of countries whose nationals require a visa to cross the external borders and those whose nationals are exempt from this requirement⁽¹¹⁾. A total of 133 countries and three entities are affected by visa requirements for their citizens. Thirdly, a common visa fee has been decided - and recently increased - in order to cover the administrative costs necessary for processing visa applications and issuing visas⁽¹²⁾. Visas for entering the Schengen area are now fixed at a price of EUR 60; an increase from the previous fee of EUR 35 was agreed in 2006 due to the extra costs entailed by the forthcoming introduction of the Visa Information System (VIS) and the inclusion of biometric identifiers in visas. Fourthly, the rather practically-oriented Common Consular Instructions (CCI)⁽¹³⁾, which are part of the Schengen *acquis*, further define the rules governing the issuance of visas by consular authorities from the application procedure to the administrative management and processing of the visa application. Due to the constant evolution of the visa field, the CCI are regularly amended. These rules are also

⁸ The United Kingdom and the Republic of Ireland do not take part in the EU's common visa policy, while non-EU members Norway and Iceland do take part.

⁹ Member States retain competence for long-term visas of above 90 days' duration.

¹⁰ Council Regulation (EC) No. 1683/95 of 29 May 1995 laying down a uniform format for visas, OJ L 164, 14.7.1995.

¹¹ 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, OJ L 81, 21.3.2001, as amended.

¹² Council Decision 2006/440/EC of 1 June 2006 amending Annex 12 to the Common Consular Instructions and Annex 14a to the Common Manual on the fees to be charged corresponding to the administrative costs of processing visa applications, OJ L 175, 29.09.2006.

¹³ Council of the European Union, *Common Consular Instructions on visas for the diplomatic missions and consular posts*, OJ C 313, 16.12.2002.

complemented by further local consular cooperation (LCC) between participating Member States' consular services (¹⁴), primarily aimed at facilitating the exchange of information through regular meetings within more or less informal structures.

1.2 Recent initiatives

In the Hague Programme of 2004, the European Council highlighted 'the need for further development of the common visa policy as part of a multi-layered system aimed at facilitating legitimate travel and tackling illegal immigration through further harmonisation of national legislation and handling practices at local consular missions' (¹⁵). To this end, the Council invited the European Commission to recast the CCI in order to integrate the whole scope of instruments relating to the common visa policy into one single code (¹⁶). Reinforcing transparency and equal treatment towards visa applicants, clarifying the legal status of the current CCI and strengthening procedural guarantees, in particular by notifying the motives for a visa refusal, are high up among the declared objectives of the future Community code on visas, which is however unlikely to enter into force before 2009 at the earliest. Simplifying and rationalising the common visa policy by establishing a Community code is certainly a decisive and necessary step to improve the harmonisation of national legislations and handling practices at local consular level. However, as set out in the proposal, new developments also need to be taken into account, in particular those relating to the Visa Information System (VIS) and the use of biometrics. These new developments form an important part of the recent initiatives elaborated in the field of visa policy.

After the adoption in 2004 of the first legal step towards a VIS (¹⁷) enabling the European Union to equip itself with a database on short-stay visas whose data could be shared between Member States, the European Commission drafted a second proposal (¹⁸) on the purpose and the modalities of use of the VIS, which specifies the conditions under which Member States could collect and exchange information. As Commissioner Franco Frattini put it: '[The] VIS has two main goals: contributing to the internal security of the Member States and the fight against illegal immigration by supporting the common visa policy and the checks on the visa applicants, thereby facilitating bona fide travelling in the Schengen area without internal borders' (¹⁹). The VIS will consist of one central system connected to national systems; authorised competent authorities will be able to consult and feed the database with visa application and visa refusal data, establishing a

¹⁴ Denmark, the Republic of Ireland and the United Kingdom do not participate in the CCI and the two newest Member States, Romania and Bulgaria, do not yet participate fully.

¹⁵ Council of the European Union, *The Hague programme: strengthening freedom, security and justice in the European Union*, JAI 16054/04, Brussels, 13 December, p. 17.

¹⁶ European Commission, *Draft proposal for a Regulation of the European Parliament and of the Council establishing a Community Code on Visas*, COM(2006) 403 final, Brussels, 19 July 2006.

¹⁷ Council Decision 2004/512/EC of 8 June 2004 establishing the Visa Information System (VIS), OJ L 213, 15.6.2004. This Decision gives the European Commission a mandate to further develop the VIS.

¹⁸ European Commission, *Proposal for a Regulation concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas*, SEC(2004) 835, Brussels, 28 December 2004.

¹⁹ European Commission press release, 'Proposed Visa Information System (VIS) enhances security and facilitates travelling in EU', IP/05/10, 7 January 2005, available at europa.eu/rapid/pressReleasesAction.do?reference=IP/05/10&format=HTML&aged=0&language=EN&guiLanguage=en [20 January 2008].

single instrument for Member States to record and assess short-stay visa applications and thereby facilitate the decision-making.

The data that will be recorded in the VIS, according to the Commission proposal, includes not only the data related to the applicant and the details of their visa application, but also a facial image and ten fingerprints as biometric identifiers ⁽²⁰⁾. By requesting these, the EU wants to ensure that the visa holder is indeed the very person the visa was issued to. Such a system has obvious security advantages; not only will it facilitate border controls, but it will also prevent visa shopping and will have clear advantages with regards to identifying actual and suspected criminals. However, it also entails heavy implementation costs and raises highly sensitive issues regarding the protection of personal data and individual rights.

In order to limit the financial burden entailed by the implementation of biometric technology in each consulate or diplomatic post of the Schengen Member States, the Commission also proposes alternative solutions that will be discussed further in this study, such as outsourcing, the reinforcement of cooperation between consular representations or the establishment of Common Application Centres (CACs) for visa applications ⁽²¹⁾.

It is striking to note that among all third countries whose nationals require a visa to cross the EU's external borders, Moldova is the first one to receive a CAC. It clearly demonstrates that the EU is primarily concerned with its closest neighbours when it comes to visas. The last two rounds of enlargement have indeed extended the EU's external borders and thereby put an end to freedom of movement between some new Member States and their eastern neighbours in particular (for instance Moldova and Romania, Poland and Ukraine). Indeed, all the countries covered by the European Neighbourhood Policy, except Israel, are included in the so-called 'negative list' of countries whose nationals require a visa to cross the external borders. Thus, citizens of the following ENP states and entities are required to obtain a visa before entering the EU: Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Jordan, Lebanon, Libya, Moldova, Morocco, the Palestinian Authority, Syria, Tunisia, and Ukraine. Taking this into account, the central importance of visa policy in the EU's relations towards its neighbourhood is apparent.

2) Facing challenges from the EU's neighbourhood

2.1 A two-sided policy

Since 2004, the main framework for the EU's relations with its eastern and southern neighbours has been the European Neighbourhood Policy, which was born after the EU

²⁰ To this end, the Commission drafted a second proposal, complementary to the VIS proposal and more specifically focused on the collection of biometric data (whereas the VIS proposal covers the transmission and exchange of data): European Commission, *Proposal amending the Common Consular Instructions on visas for diplomatic missions and consular posts in relation to the introduction of biometrics including provisions on the organisation of the reception and processing of visa applications*, COM(2006) 269 final, Brussels, 31 May 2006.

²¹ Though the relevant proposal for a Regulation has not yet been adopted, a first pilot project of a CAC led by Hungary was opened in April 2007 in Chisinau (Moldova). See below.

took consciousness of the external consequences of enlargement and was a response to the numerous problems arising from the radical re-shaping of Europe's borders after the accession of ten, then a further two new Member States to the EU. The rationale underlying the launch of a specific policy for countries located on the immediate outskirts of the EU aimed at 'avoiding the emergence of new dividing lines between the enlarged EU and its neighbours' (²²) and 'sharing the benefits of enlargement with our neighbourhood in strengthening stability, security and prosperity' (²³) through increased political cooperation and economic integration. The motives as laid out by the European Commission are two-fold and reflect an ambiguous perception of the neighbourhood, being at the same time a source of concern and potential security threats, but also a zone of opportunity where the EU could exert a positive influence and propose a strong reform-oriented agenda, based on similar mechanisms (conditionality along with socialisation) as used with candidate countries during recent enlargement rounds. In that sense, the ENP cannot be viewed solely as a classic foreign policy but as a mixture of internal and foreign policy preoccupations intended to extend the EU's domestic norms and policies beyond its borders without further institutional implication, or to put it simply, without further enlargement. The specific objectives of the ENP include both reform-oriented and value-driven objectives competing with security-driven priorities, reflecting the traditional dilemma between more openness and traditional priorities of foreign ministries' agendas, and more security and control as objectives generally pursued by interior ministries.

This ambiguity of the ENP is best reflected in the issue of freedom of movement since, on the one hand, the EU proposes to its neighbours increased trade and economic integration, better networks and interconnections, as well as a reinforced people-to-people contacts; yet on the other hand, the ENP puts emphasis on the fight against terrorism, illegal immigration and organised crime and calls for the adoption of measures leading to further restrictions on free movement and thereby establishing increasingly divisive external borders.

2.2 Action Plans and JHA

A strong Justice and Home Affairs dimension was included in the ENP from the outset, paying particular attention to strengthened cooperation in border management, immigration and visa-related issues. Allowing legitimate movement between the EU and its neighbours was mentioned as a priority and visa facilitation was considered in the ENP Strategy paper of 2004. Priorities then translated into Action Plans, which constitute the key operational instruments of the ENP.

Up until now, twelve Action Plans (²⁴) have been adopted and are currently being implemented; all but two Action Plans (Israel and the Palestinian Authority) contain specific provisions with regard to cooperation on Justice and Home Affairs and more precisely on migration and border management. Within the migration field, several priorities and actions are identified and are mostly common to all ENP countries:

²² European Commission, *The Neighbourhood Policy Strategy Paper*, op. cit.

²³ Ibid.

²⁴ Armenia, Azerbaijan, Egypt, Georgia, Israel, Jordan, Lebanon, Moldova, Morocco, the Palestinian Authority, Tunisia and Ukraine currently have Action Plans.

- ensuring and promoting effective legal migration flows;
- combating illegal immigration;
- cooperating on readmission issues and;
- facilitating the movement of persons by initiating dialogue on visa issues, exchanging information and/or improving the security of travel documents and visas.

2.3 State of play of visa cooperation with ENP partners

Though ENP Action Plans broadly share the same structure and contain very similar provisions in the field of cooperation on JHA matters, the legal framework and the practical state of the EU's cooperation on specifically visa-related issues differ between ENP countries and thus reveal discrepancies in the way neighbourhood citizens are treated:

East:

- Ukraine and Moldova are clearly the most advanced countries in terms of visa cooperation and dialogue. Since 2003, Ukraine has had a specific Action Plan on JHA with the EU, tackling the issue of dialogue on visas (²⁵). As for Moldova, its ENP Action Plan proposes a broad dialogue on Schengen visa procedures (criteria and the procedure for the issue of visas are mentioned) and sets out the facilitation of visa issuance as an objective. Indeed, both Moldova and Ukraine have recently negotiated visa facilitation agreements back-to-back with readmission agreements with the EU.
- The legal framework for cooperation on readmission and visa issues with the Southern Caucasus Republics formally remains within the Partnership and Cooperation Agreements (PCA). A readmission clause has been enshrined in the PCAs, allowing Caucasian Republics to readmit their own nationals illegally present on an EU Member State's territory, as well as the capacity to sign bilateral readmission agreements with EU Member States encompassing the readmission of third-country nationals illegally entered in the EU, but this instrument has not proven very effective since few bilateral readmission agreements have been signed until now (²⁶). It is noteworthy that Armenia's Action Plan mentions the introduction of biometrics. Apart from that, the Action Plans with the Caucasian Republics make only vague references to exchange of information on visa issues and cooperation regarding the improvement of security of travel documents and visas.
- Cooperation with Belarus is frozen.

Mediterranean:

- Citizens of Israel are free of a short-stay visa requirement to cross the external borders of the EU.
- In the ENP Action Plans with Egypt, Jordan, Lebanon, Morocco and Tunisia, cooperation on facilitating the movement of persons is included, in particular the

²⁵ Council of the European Union, *EU Action Plan on Justice and Home Affairs in Ukraine*, Brussels, 10 December 2001, OJ C 77, 29.3.2004.

²⁶ Armenia concluded readmission agreements with Denmark, Switzerland and Lithuania.

facilitating of the visa issuing procedure (in Jordan, Morocco and Tunisia's cases, the Action Plans even call for an acceleration and a simplification of visa issuing procedures). In the case of Egypt, Lebanon and Tunisia, the wording specifies that the visa issuing procedure should be facilitated for some categories of persons but without further definition of those categories. It is noteworthy that a readmission agreement has been under negotiation with Morocco since 2000 but, unlike the approach adopted with Ukraine and Moldova, a visa facilitation agreement has not been proposed in return. Negotiations have proven difficult and there are still unresolved issues pending between the two parties. There are no such agreements being planned with other Mediterranean neighbours and as a matter of fact, most of the Association Agreements in force with Mediterranean neighbours lack provisions on visa issues (²⁷), since these were not covered until the approval of the Valencia JHA regional programme in 2002. Still, migration and more specifically visa issues are always mentioned along with security and terrorism concerns.

- There is no mention of visas in the ENP with regards to the Palestinian Authority.
- Algeria has not yet fully engaged in the Neighbourhood Policy as a country report is currently under development, but contacts have already been made as regards the negotiation of a readmission agreement (²⁸).
- There are neither Action Plans nor Association Agreements with Libya and Syria.

2.4 Origin and volume of visa applications

This relatively diverse state of play of cooperation in the visa field also corresponds to a largely diverse demand for visas originating from the different ENP partner countries. Some statistics and figures on visas have recently been released and though they are sometimes incomplete and do not provide figures over a longer-term period, some patterns can already be identified and some conclusions can be drawn (²⁹). What are the origins and the volume of visa applications that the EU is facing in the neighbourhood?

²⁷ Egypt is the only Mediterranean country to have a readmission clause in its Association Agreement; it is noticeable that this agreement was signed later than the AAs with the other Mediterranean countries.

²⁸ "The Algerian authorities have indicated that negotiating a readmission agreement for third country nationals is intrinsically linked to visa facilitation for Algerian citizens". European Commission, *Non-Paper expanding on the proposals contained in the communication to the European Parliament and the Council on "Strengthening the ENP" – COM (2006) 726 final of 4 December 2006: ENP – Visa Facilitation*, January 2008, p.3, available at ec.europa.eu/world/enp/pdf/non_paper visa_facilitation_en.pdf [28 January 2008].

²⁹ All visa data in this report and the annex is based on figures provided by Member States in accordance with the Decision of the Schengen Executive Committee of 22 December 1994 on the exchange of statistical information on the issuing of uniform visas (SCH/Comex (94) 25). For 2003 data, see Council document no. 7496/04 VISA 51 COMIX 195, 10 May 2004, available at register.consilium.europa.eu/pdf/en/04/st07/st07496.en04.pdf [20 January 2008]; for 2004 data see Council document no. 9749/05 VISA 134 COMIX 377, 3 June 2005, available at register.consilium.europa.eu/pdf/en/05/st09/st09749.en05.pdf [20 January 2008]; for 2005 data see Council document no. 6813/06 VISA 61 COMIX 196, 19 July 2006, available at register.consilium.europa.eu/pdf/en/06/st06/st06813.en06.pdf [20 January 2008]; for 2006 data see Council document no. 10700/07 VISA 187 COMIX 556 - 12/06/2007, available at register.consilium.europa.eu/pdf/en/07/st10/st10700.en07.pdf [20 January 2008].

- A steady increase of the overall demand for visas in the ENP region, from barely 2 million visa applications in 2003 to 3 million applications in 2006;
- A clear shift in the origin of visa applications; whereas in 2003 and 2004 roughly one third of visa applications originated from eastern ENP partners, in 2005 two thirds of visa applications originated from the eastern neighbourhood countries and this trend was reinforced even more in 2006 with more than two thirds of visa applications coming from the six eastern partners (2.1 million against roughly 1 million for the southern partners) ⁽³⁰⁾;
- Among the southern ENP partners, the Maghreb countries and Egypt produce the highest numbers of visa applications, while Ukraine and Belarus are the most important eastern ENP countries in terms of visa demand;
- The vast majority of visa applications originating from Maghreb countries are made in French and Spanish consulates while Belarusian applications concern mainly three Member States: Poland, Lithuania and Germany;
- Ukrainians apply for visas mainly in Polish consulates (half of the applications in 2005) but the remainder of the applications are distributed among EU Member States although a significant share goes to Germany;
- Throughout the 2003-2006 period, we can observe a significant disparity in the refusal rate for short-term visa applications between the Maghreb countries (from 25 % to 32 %) and the Eastern European neighbours (Belarus, Moldova, Ukraine), where the refusal rate varies from 4 % in 2005 and 2006 to 16 % at its highest in 2003.
- The most advanced countries in terms of cooperation with the EU are not necessarily the ones with the highest numbers of visa applications, as the Moldovan example demonstrates.

Statistics clearly show a rising demand for visas from the neighbourhood countries, meaning an increasing burden on EU Member States' consulates and growing pressure on the European Neighbourhood Policy to deliver and match the neighbours' aspirations for mobility.

More generally, the ENP is a cross-pillar and comprehensive policy incorporating a large scope of fields of cooperation: the invitation to have a stake in the internal market, the initiatives aimed at allowing ENP partners to take part in EU programmes, as well as the objective of further developing people-to-people contacts necessarily imply a larger scope for movement of persons. Further cooperation on migration and visa-related issues is not only an objective of the ENP in itself, but it is also a means of achieving other ENP objectives. Unfortunately, however, the ENP has up until now fallen short of initial expectations and, as stated by the Commission itself, 'it has not yet allowed significant progress on improving the movement of partner country citizens to the EU; the length and cost of procedures for short term visas is a highly visible disincentive to partner countries, and an obstacle to many of the ENP's underlying objectives ⁽³¹⁾'. In its recent

³⁰ This switch has to be interpreted cautiously since visa statistics for 2003 and 2004 concerning Belarus are largely incomplete, and this sudden increase of demands for EU visas can also be due to a lack of available data in previous years (see tables in annex).

³¹ European Commission, *Strengthening the European Neighbourhood Policy*, op. cit., pp. 3-4.

Non-Paper on this issue, the Commission again acknowledged that ‘[the] EU cannot fully deliver on many aspects of the European Neighbourhood Policy if the ability to undertake legitimate short-term travel remains constrained ⁽³²⁾’.

Thus, while stricter controls and a restrictive visa policy may benefit the EU and its Member States in some circumstances, the weakness on the part of ENP to deliver credible incentives fostering mobility may also have a cost.

3) Balancing objectives and coherence of the ENP with the EU’s visa obligation on its neighbours

As indicated above, visa obligations are in place for citizens of all ENP countries, other than Israel. Although the exact requirements for obtaining a (Schengen) visa might differ amongst the Member States and amongst the ENP countries, it is possible to draw a general overview of the costs and benefits the visa policy entails for the European Union. This cost-benefit analysis below will not only consider tangible aspects that can be expressed in hard euros but also insist on more abstract notions that are difficult to measure such as ‘perceptions’ and political influence.

3.1 Benefits of the common visa policy

First, it needs to be stressed that visa policies are directly linked to the basic attributes of sovereignty of the state to decide who is permitted to enter the state’s territory and under what conditions. As mentioned in the first part of this study, the harmonisation of border controls and common visa requirements became necessary after the completion of the Internal Market and the abolition of border checks at the internal borders of the Schengen area. Moreover, it was believed that the loss of control at the internal borders had to be counterbalanced by ‘compensatory measures’ strengthening the external borders of the EU.

Visa obligations are crucial to preventing irregular or undesired entry into the territory of the Member States. They form a filter, reducing the potential risk connected to each foreigner’s entry of their remaining to reside or work illegally in a state’s territory. Visa procedures enable systematic control and regulation of entry by foreigners. In the near future, everybody who applies for a Schengen visa will be registered and pictures and fingerprints will be safeguarded and exchanged via the Visa Information System. In this way, governments can keep track of whom they issue visas to. Visa applicant information also provides a tool to assess a foreigner’s financial resources, motives to travel and family ties before entering the territory and hence determine the probability of violating migration laws. Furthermore, the visa requirements provide a two-stage control: once at the consulate and once at the border ⁽³³⁾.

Moreover, at least in theory, visa obligations form a barrier against organised crime, terrorism and other actual or perceived threats to national security. Obviously, the

³² European Commission, *Non-Paper: ENP – Visa Facilitation*, op. cit. p. 1

³³ Boratynski, Jakub et al., *Monitoring of Polish Visa Policy - Report*, Stefan Batory Foundation, Warsaw, November 2004, pp. 9-10, available at www.batory.org.pl/doc/monitoring-of-polish-visa-policy-2004.pdf [20 January 2008].

restrictive nature of the visa policy makes it more difficult for *malafide* travellers to access the Schengen area. However, there are several shortcomings to the visa requirements and procedures. Firstly, it has to be acknowledged that visa requirements also give rise to illegal activities to circumvent these very visa obligations. Secondly, one may wonder if the information requested from a visa applicant effectively captures the intentions of the applicants and the potential risk they may constitute for the receiving State. These procedures can indeed give an impression of the applicants' financial resources and destination, but can they really prevent illegal employment, organised crime or terrorism?

Furthermore, the advantage for third-country nationals of being able to travel through the entire Schengen area once they have obtained a Schengen visa likewise benefits the Schengen countries themselves, in that pressure on their consulates to examine visa applications is alleviated. Whereas in the past travellers from third countries had to apply for separate visas for each country they wished to visit, they now only have to go through the visa application procedures once. This reduces the number of visa applications and increases the efficiency of the system since duplication of work is avoided.

From a broader political perspective visa policy and potential liberalisation of visa regimes can be understood as a tool to introduce a form of conditionality into a broader security agenda linked to Europe's neighbourhood³⁴. The main objective of this agenda is to strengthen the internal security of the EU. This is illustrated by the fact that the main pre-condition for the liberalisation or even the facilitation of visa requirements relates to cooperation on security issues, in particular relating to illegal immigration, organised crime and terrorism. Taking this approach the primary responsibility for achieving progress regarding visa facilitation would lie with the ENP countries themselves and depend on their willingness to comply with the EU's broader security agenda.

3.2 The costs of visa requirements

The direct costs of visa obligations towards neighbouring countries consist of the administrative costs related to the examination of visa applications and the issuing of visas. These expenditures include for instance: the cost of consular personnel, offices, waiting room facilities, the introduction of biometrics and other high-tech techniques to verify the authenticity of documents. Given the growing number of visa applications, consulates need to strengthen their capacities and increasingly face difficulties to deal effectively with the flood of visa applications.

One of the major consequences of the current visa regime is a decreased attractiveness of travel to the EU for all groups of travellers. Schengen visa applicants have to provide consulates with numerous supporting documents in addition to a valid passport, such as: bank statements of several months, hotel reservations for the entire travel period or specific insurance papers (³⁵). Procedures can be time-consuming since

³⁴ Wichmann, Nicole, 'The intersection between Justice and Home Affairs and the European Neighbourhood Policy: taking stock of the logic, objectives and practices', *CEPS working document*, No. 275, Centre for European Policy Studies (CEPS), Brussels, October 2007

³⁵ Some embassies of EU Member States explain their visa requirements and procedures on their websites. Visa requirements vary from country to country and among EU Member States. The examples mentioned

applicants may be requested to travel to the consulate a number of times; they sometimes have to queue for several hours and the time between the submission of the complete visa application and the issuance of the visa may cover a week or more. In addition to the Schengen visa fee (between EUR 35 and EUR 60, depending on the applicant's nationality), the cost of transport to the consulate and the fees for some official documents and, where applicable, translations thereof must be added. For these reasons, as well as the sometimes opaque procedures and unfriendly treatment, talented students, businessmen and other travellers that could potentially make a valuable contribution to the EU may opt for other places where they receive a warmer welcome (³⁶), given that such visa regimes penalise not only undesired travellers but all travellers.

On a psychological level the visa procedures may create negative perceptions of the EU among citizens of ENP countries and provoke resentments against perceived hypocrisy on the part of the EU. One of the consequences of the common visa policy is that it installs barriers where they did not exist before. A well-known example is the Polish-Ukrainian border. Both countries previously had visa-free regimes and tight family and business relations existed across the border. However, since Poland joined the EU and more recently the Schengen area, the Schengen visa rules apply to travellers from the Ukrainian side. The impact is particularly significant with regard to local cross-border traffic and raises dissatisfaction on both sides of the border. Furthermore, as has been demonstrated by the Stefan Batory foundation (³⁷), travellers from the (eastern) neighbourhood perceive unfriendly treatment and lengthy procedures as more important than the final outcome of their visa application. The restrictive visa rules raise feelings of discrimination amongst citizens in the neighbourhood countries.

Finally, as mentioned above, one of the objectives of the ENP is to transfer the norms and values of the EU and to foster people-to-people contacts. The freedom to travel to the EU could be one of the key incentives in neighbouring countries to undertake democratic and free-market reforms. However, the strictness of the current visa obligations may form an obstacle to this enhanced contact and may lead to isolation, religious intolerance and nationalistic feelings on the borders of Europe.

In short, it is the duality between on the one hand inclusion through partnership and participation in the Internal Market and on the other hand exclusion by the strengthened external border that increases tensions in the ambitions of the ENP. How can declarations on the need for economic cooperation and cultural and social interchange be accompanied by a rather restrictive migration and visa policy? How to develop a friendly border and interpersonal contacts between the EU and its eastern neighbours across a strong external border?

In this regard, the European Commission also appears to be sending contradictory messages: 'sometimes implying that movement of persons must be restricted to increase security sometimes advocating that a stake in the internal market including free

are taken from the websites from the Dutch Embassy to Morocco and the Dutch Embassy to Ukraine and Moldova. However, similar requirements exist for other EU Member States.

³⁶ Boratynski, Jakub et al., *Visa Policies of European Union Member States – Monitoring Report*, Stefan Batory Foundation, Warsaw, June 2006, available at www.batory.org.pl/doc/monitoring-of-eu-visa-policies.pdf [20 January 2008].

³⁷ Ibid.

movement of persons is central to building stability and security in the region' (³⁸). Thus, the interrelation between the different objectives of the ENP and their apparent contradiction constitutes the essential dilemma of the common visa policy towards the 'ring of friends' surrounding the EU. In the second part of this study, the instruments the Union has developed to deal with the above-mentioned issues and the remaining challenges to improve the common visa policy will be discussed.

II) ANALYSIS

1) *Instruments*

In its 2004 ENP Strategy Paper, the European Commission identified two main tools to attenuate the divisions caused by the new external borders: a special arrangement for residents of the border areas and visa facilitation (³⁹). More recently, the European Commission has proposed the establishment of Common Application Centres (CACs) (⁴⁰), which are of particular relevance to those third countries where not all Member States are represented. All three instruments will be presented in turn.

1.1 The local border traffic Regulation

The need for common rules on local border traffic (LBT) was identified in the European Commission's 2002 Communication on Integrated Border Management (⁴¹). The Commission subsequently analysed existing bilateral LBT regimes and noted a divergence in terms of their geographical scope (how is the border area defined in terms of kilometres?), the categories of people targeted (does it apply only to nationals of the bordering country or does it include third-country nationals residing there?), as well as the types of documents issued and requested for the crossing of the border (⁴²).

³⁸ Guild, Elspeth, Khasson Viktorya, Mir Miriam, *State of the art: the nexus between European Neighbourhood policy and Justice and Home Affairs*, Case Reports No. 73/2007, pp.7-9, available at: www.case.com.pl/upload/publikacja_plik/15918220_rc73.pdf

³⁹ European Commission, *European Neighbourhood Policy – Strategy Paper*, op. cit., p. 17.

⁴⁰ Common Application Centres were proposed in the context of the forthcoming introduction of the Visa Information Centre and the need to enrol biometric identifiers of visa applicants. See European Commission, *Proposal amending the Common Consular Instructions on visas for diplomatic missions and consular posts in relation to the introduction of biometrics including provisions on the organisation of the reception and processing of visa applications*, COM(2006) 269, Brussels, 31 May 2006.

⁴¹ European Commission, *Towards Integrated Border Management of the External Borders of the Member States of the European Union*, COM(2002) 233 final, Brussels, 7 May 2002.

⁴² European Commission, *Proposal for a Regulation of the European Parliament and of the Council laying down rules on local border traffic at the external land borders of the Member States and amending the Schengen Convention and the Common Consular Instructions*, COM(2005) 56 final, Brussels, 23 February 2005.

A Regulation on local border traffic was adopted in December 2006⁽⁴³⁾ and what it specifically entails is the creation of a local border permit with common security features, entitling people residing within 30 kilometres, or in some cases 50 kilometres⁽⁴⁴⁾, of the EU's external borders to enter the EU without a visa⁽⁴⁵⁾. While the Regulation establishes common rules for LBT regimes, it delegates to Member States the actual implementation of such regimes through bilateral agreements⁽⁴⁶⁾.

Thus, the Regulation authorises Member States to negotiate, or maintain where applicable⁽⁴⁷⁾, bilateral agreements with neighbouring third countries, regarding the specific arrangements for local border traffic at their common land border. Arguably, some Member States may be more inclined than others to pursue the implementation of such a regime, especially where access to former territories, ethnic diasporas or seasonal labour may be at stake. Moreover, the Regulation leaves Member States considerable discretion regarding the specific bilateral arrangements relating to the local border permit: for instance, the fees to be charged for its issuance (may be free or at most equivalent to fees for multiple-entry visas)⁽⁴⁸⁾, the maximum permitted length of uninterrupted stay in the border area (up to three months)⁽⁴⁹⁾ and its validity (between one and five years)⁽⁵⁰⁾. While the EU has thus created a tool to foster cross-border people-to-people contacts and prevent a 'paper curtain' from descending across Europe, Member States' own foreign policy concerns largely determine whether and to what extent use is made of this tool. Nevertheless, in an apparent effort to ensure some coherence, Poland, Slovakia, Hungary and Romania have declared their willingness to enter into negotiations of bilateral agreements with Ukraine for the purpose of implementing local border traffic regimes⁽⁵¹⁾. Likewise, Romania and Moldova have endeavored to enter into negotiations of a bilateral agreement on local border traffic⁽⁵²⁾.

⁴³ Regulation (EC) No. 1931/2006 of the European Parliament and of the Council of 20 December 2006 laying down rules on local border traffic at the external borders of the Member States and amending the provisions of the Schengen Convention, OJ L 405/1, 30.12.2006.

⁴⁴ If part of a local administrative district lies between 30 and 50 kilometres from the border line, it may also be considered as part of the border area. See Art. 3 (2) of the Regulation.

⁴⁵ By definition, the LBT Regulation is only applicable to land borders. Moreover, Art. 16 of the Regulation stipulates that its common rules do not apply to the existing bilateral arrangement between Spain and Morocco regarding visa-free entry for residents of the Moroccan provinces of Tetuan and Nador to the Spanish enclaves of, respectively, Ceuta and Melilla. The LBT Regulation is therefore of interest only to the EU's Eastern ENP partners.

⁴⁶ Regulation (EC) No 1931/2006 laying down rules on local border traffic at the external borders, *op. cit.*, Art. 13.

⁴⁷ The Regulation also serves to codify existing bilateral agreements between the accession states of 2004 and their Eastern neighbours and bring them in line with the Schengen *acquis*. See *ibid.*, 9th Recital.

⁴⁸ *Ibid.*, Art. 5.

⁴⁹ *Ibid.*, Art. 11.

⁵⁰ *Ibid.*, Art. 10.

⁵¹ Draft political declaration from Poland, Hungary, Slovak Republic and Romania attached to the Agreement between the European Community and Ukraine on the facilitation of the issuance of visas, see European Commission, *Proposal for a Council Decision on the signature of the Agreement between the European Community and Ukraine on the facilitation of issuance of short-stay visas*, COM(2007) 190 final, Brussels, 17 April 2007, p. 21.

⁵² Political declaration from Romania and Political declaration from the Republic of Moldova attached to the Agreement between the European Community and Moldova on the facilitation of the issuance of visas, see European Commission, *Proposal for a Council Decision on the signature of the Agreement between the*

In its recent Non-Paper the European Commission also called on Member States to make wider use of this instrument (⁵³).

1.2 Visa facilitation agreements

The term ‘visa facilitation’ denotes an arrangement whereby the issuance of visas to *bona fide* travellers is facilitated or accelerated through derogations from the normal procedures (⁵⁴). In the EU context, this means the issuing of Schengen short-stay visas through accelerated procedures that derogate from the Common Consular Instructions. The EU’s first comprehensive visa facilitation agreement (VFA) was signed between the European Community (EC) (⁵⁵) and the Russian Federation at the EU-Russia Summit in Sochi on 25 May 2006 (⁵⁶). In the aftermath of the EU’s 2004 enlargement, the EU and Russia had agreed to open negotiations on visa facilitation, having previously identified visa-free travel as a long-term objective (⁵⁷). The resulting VFA seeks to promote people-to-people contacts while preventing illegal immigration (⁵⁸). The agreement is based fully on the principle of reciprocity, in that the facilitations apply equally to EU citizens (⁵⁹) and citizens of Russia, both requiring visas to enter each other’s territories. The scope of the agreement is limited to the following categories of travellers: members of official delegations, business people, international cargo drivers and railway staff, journalists, participants in cultural and artistic activities, students, participants in international sports events, participants in official exchange programmes organised by twin cities, close relatives conducting family visits, and visitors to military and civil burial grounds. The facilitations as laid down in the VFA include simplified requirements for supporting documents and easier issuance of multi-entry visas of up to five years’ validity. Moreover, visa fees are waived for certain categories of applicants, including students, relatives and official delegations. Finally, the visa fee for all other applicants is fixed at EUR 35 (in order words, the Schengen visa fee increase of 1 January 2007 did not apply to Russian citizens).

The Hague Programme of 2004 raised the prospect of a wider application of visa facilitation, but did so explicitly in the context of readmission policy, by asking the

European Community and Moldova on the facilitation of issuance of short-stay visas, COM(2007) 488 final, Brussels, 3 September 2007, p. 22.

⁵³ European Commission, *Non-Paper: ENP – Visa Facilitation*, op. cit., p. 8.

⁵⁴ See O’Connell, op. cit.

⁵⁵ As visa policy pertains to the ‘Community pillar’, the agreement with Russia is a Community agreement, as provided for in Article 300 of the EC Treaty.

⁵⁶ *Agreement between the Russian Federation and the European Community on the facilitation of the issuance of visas to the citizens of the Russian Federation and the European Union*, available at www.delrus.ec.europa.eu/en/p_508.htm [20 January 2008].

⁵⁷ EU-Russia Cooperation Council, *Joint Statement on EU Enlargement and Russia-EU Relations*, Brussels, 27 April 2004, available at ec.europa.eu/comm/external_relations/russia/russia_docs/js_elarg_270404.htm [20 January 2008].

⁵⁸ The entry into force of the VFA between the Community and Russia was made conditional upon the simultaneous entry into force of an agreement on the readmission of irregular migrants, which was negotiated in parallel with the VFA. See *Agreement between the Russian Federation and the European Community on readmission*, available at www.delrus.ec.europa.eu/en/p_509.htm [20 January 2008].

⁵⁹ The agreement does not apply to the UK and Ireland, given their non-participation in the Common visa policy.

Council and the Commission ‘to examine, with a view to developing a common approach, whether in the context of the EC readmission policy it would be opportune to facilitate, on a case by case basis, the issuance of short-stay visas to third-country nationals, where possible and on the basis of reciprocity, as part of a real partnership in external relations, including migration-related issues’⁽⁶⁰⁾.

A Common approach on visa facilitation was indeed agreed at Coreper level in December 2005⁽⁶¹⁾. The aim was to provide a framework for further visa facilitation measures, ‘in order to avoid a piecemeal response based exclusively on pressures from third countries’⁽⁶²⁾. The Common approach document specifically lays down the process according to which negotiations with third countries may be opened: ‘Before bringing forward a negotiating mandate, the Commission consults with Member States, in both competent JHA and geographical Council groups, and subsequently carries out exploratory talks with the third country concerned’⁽⁶³⁾. Further, ‘to ensure coherence between issues relating to external relations on the one hand, and to freedom, security and justice concerns on the other, relevant JHA Council groups, in close consultation with the relevant geographical working groups, will prepare the adoption of negotiating directives in the Council’⁽⁶⁴⁾. Thus, the Commission acts as negotiator, in accordance with article 300 of the EC Treaty, but the Council retains significant oversight over any future visa facilitation negotiations.

The Common approach on visa facilitation states that the decision to open negotiations with third countries should be based on ‘a case by case assessment of third countries, while bearing in mind the EU’s overall relationship with candidate countries, countries with a European perspective and countries covered by the European Neighbourhood Policy as well as strategic partners’⁽⁶⁵⁾. The document further mentions criteria to be used when deciding whether to open such negotiations: ‘whether a readmission agreement is in place [...]; external relations objectives [...]; progress on related issues in the area of justice, freedom and security (e.g. border management, document security, migration and asylum, fight against terrorism, organised crime and corruption)’⁽⁶⁶⁾.

Statements by Commissioner Frattini in May 2006 revealed a cautious approach in that ‘the idea of visa facilitation is still a new groundbreaking instrument in the framework of a common approach on EU short-term visa policy with a clear link to readmission agreements. We need time to observe how it works in practice’⁽⁶⁷⁾. However, later that year the Commission first acknowledged that the EU ‘cannot fully

⁶⁰ Council of the European Union, *The Hague Programme: strengthening freedom, security and justice in the European Union*, JAI 16054/04, Brussels, 13 December 2004, p. 18.

⁶¹ *Common approach on visa facilitation*, Council document no. 15012/05 VISA 297 RELEX 694. This document was agreed at Coreper level. The 5 December 2005 version agreed by the High-Level Working Group on Asylum and Migration is available at www.libertysecurity.org/article627.html [20 January 2008].

⁶² Ibid.

⁶³ Ibid., Point 11.

⁶⁴ Ibid., Point 12.

⁶⁵ Ibid., Point 2.

⁶⁶ Ibid., Point 6.

⁶⁷ Frattini, Franco, ‘The role of internal security in the relations between the EU and its neighbours’, Speech to the JHA Ministerial Council in Vienna, 4 May 2006, available at www.libertysecurity.org/article907.html [20 January 2008].

deliver on many aspects of the European Neighbourhood Policy if the ability to undertake legitimate short-term travel is as constrained as it is currently' (⁶⁸).

Indeed, Ukraine was the first ENP country to conclude a visa facilitation agreement with the EC. Already the February 2005 EU-Ukraine Action Plan called for a 'constructive dialogue on visa facilitation' (⁶⁹) and accordingly negotiations on a VFA began in late 2005, those on a readmission agreement having already begun in late 2002. Parallel negotiations between the EU and Ukraine on both a VFA and a readmission agreement were concluded in mid-2006 and the agreements were initialled at the 10th EU-Ukraine Summit in Helsinki on 27 October 2006 (⁷⁰).

The provisions of the EC-Ukraine VFA are modelled on the VFA with Russia: quicker procedures, simplified requirements for supporting documents and easier issuance of multi-entry visas of up to five years' validity for certain categories of travellers, fee waivers for certain categories of applicants, including students, relatives and official delegations, a fee of EUR 35 for all other applicants. However, the ramifications are different in that, unlike Russia, Ukraine unilaterally exempts EU citizens from the visa obligation since May 2005. The VFA is thus non-reciprocal and is instead part of a package whereby the EU offered visa facilitation to *bona fide* Ukrainian citizens in return for the Ukraine accepting the readmission of illegal immigrants onto its territory, but also as a 'sign of good will' after the Orange revolution and an encouragement for further political reforms.

In July 2006, the Czech Republic advocated visa facilitation also for citizens of Moldova, in the interest of regional coherence, arguing that the very institution of Moldovan citizenship would otherwise be undermined by the prospect of Russian and Ukrainian passport-holders gaining access to visa facilitation (⁷¹). Indeed, many Moldavians claimed Romanian citizenship, entitling them to free movement throughout the EU, especially in the light of Romania's introduction of a visa obligation on Moldovan citizens from 1 January 2007 (⁷²). The EU responded at the last minute when, on 19 December 2006, the Council adopted a mandate authorising the Commission to open negotiations on visa facilitation and readmission agreements with Moldova (⁷³). Doing so before the end of 2006 was significant in that the impending visa fee increase

⁶⁸ European Commission, *Strengthening the European Neighbourhood Policy*, op. cit., p. 5. *Common approach on visa facilitation*, op. cit., Point 2.

⁶⁹ EU-Ukraine Cooperation Council, *EU-Ukraine Action Plan*, 21 February 2005, p. 4, available at ec.europa.eu/world/enp/pdf/action_plans/ukraine_enp_ap_final_en.pdf [20 January 2008].

⁷⁰ EU-Ukraine Cooperation Council, *Joint Press Statement on the 10th EU-Ukraine Summit*, Helsinki, 27 October 2007, available at www.europa.eu/rapid/pressReleasesAction.do?reference=PRES/06/297&format=HTML&aged=0&language=EN&guiLanguage=en [20 January 2008].

⁷¹ Czech Republic Permanent Representation to the European Union (website), 'The Czech Republic suggests EU visa facilitation with Moldova', 21 July 2006, available at www.mzv.cz/wwwo/default.asp?id=40952&ido=13925&idj=2&amb=3 [13 May 2007].

⁷² *BBC News*, 'Romania tackles Moldova visa rush', 16 January 2007, available at news.bbc.co.uk/1/hi/world/europe/6268853.stm [20 January 2008]. For further analysis of the situation faced by Moldova see Dura, George, 'A tale of two visa regimes – Repercussions of Romania's accession to the EU on the freedom of movement of Moldovan citizens', *Eurojournal.org*, 27 January 2006, p. 13, available at eurojournal.org/files/visas.pdf [20 January 2008].

⁷³ European Commission press release, 'Commission welcomes the adoption of mandates for visa facilitation and readmission agreements with Moldova', IP/06/1833, 19 December 2006, available at www.europa.eu/rapid/pressReleasesAction.do?reference=IP/06/1833&format=HTML&aged=1&language=EN&guiLanguage=en [20 January 2008].

did not apply to Moldova, because ‘until 1 January 2008, [the fee increase] will not affect the visa fees for third countries in respect of which the Council has given the Commission, by 1 January 2007, a mandate to negotiate a visa facilitation agreement’⁽⁷⁴⁾. After very swift negotiations, an EC-Moldova agreement on visa facilitation and readmission was initialled on 25 April 2007⁽⁷⁵⁾.

1.3 Common Application Centres

Also on 25 April 2007, the EU’s first ‘Common Visa Application Centre’ was opened. This pilot project hosted by the Hungarian Consulate⁽⁷⁶⁾, anticipates the introduction of Common Application Centres (CACs) envisaged in a Commission proposal⁽⁷⁷⁾ of May 2006. CACs imply that consular staffs from several Member States are pooled in the same building in order to process visa applications, thereby avoiding the duplication of equipment required to enrol biometric data. The cost-sharing motives underlying this idea do not only concern the implementation of costly new technologies and equipment. More generally, in countries where Member States lack resources and do not provide consular services, CACs may be a promising solution allowing smaller or poorer Member States to be represented at a lower cost.

The first CAC in Chisinau is intended to ease the difficulties faced by Moldavians when applying for Schengen visas since most of the competent consulates are located in Ukraine or in Romania: ‘[This] Centre will allow them to submit their applications for the participating countries and undergo the necessary interviews in Chisinau, instead of being obliged to go and submit visa applications abroad’⁽⁷⁸⁾. Placing the first CAC in a wider ENP framework, External Relations Commissioner Benita Ferrero-Waldner argued that ‘the initialling of the visa and readmission agreement and the opening of the visa centre are concrete examples of what benefits our European Neighbourhood Policy can bring to the people of Moldova’⁽⁷⁹⁾.

2) Shortcomings

Although the EU has sought to tackle the adverse consequences of the Schengen enlargement through visa facilitation agreements, local border traffic arrangements and a pilot Common Application Centre, some visa policy shortcomings remain pending. These shortcomings concern two different but interrelated questions. Firstly, there are remaining

⁷⁴ Council Decision 2006/440/EC, op. cit., Art. 2.

⁷⁵ European Commission press release, ‘The first EU “Common Visa Application Centre” opens in Moldova’, IP/07/561, 25 April 2007, available at www.europa.eu/rapid/pressReleasesAction.do?reference=IP/07/561&format=HTML&aged=0&language=EN&guiLanguage=en [20 January 2008].

⁷⁶ On the initiative of Hungary, this pilot project involves several other Member States, namely Austria, Denmark, Estonia, Latvia and Slovenia.

⁷⁷ European Commission, *Proposal amending the Common Consular Instructions on visas for diplomatic missions and consular posts in relation to the introduction of biometrics including provisions on the organisation of the reception and processing of visa applications*, op. cit.

⁷⁸ European Commission press release, ‘The first EU “Common Visa Application Centre” opens in Moldova’, op. cit.

⁷⁹ Ibid.

problems regarding visa procedures, their management as well as a risk of corruption entailed in the abovementioned visa facilitation and local border traffic agreements. Secondly, there are concerns regarding the effects of visa facilitation agreements on the ENP's goals. These mainly relate to third-country nationals' perceptions of the EU and the further divide created by differentiation among the ENP partner countries.

2.1 Shortcomings relating to visa procedures

Regarding visa procedures, the first and most problematic issue is consistency. In fact, although a uniform Schengen visa now exists, its delivery remains the competence of Member States. As a result, the implementation of rules still varies greatly. There is no uniform procedure, which increases the feelings of uncertainty of applicants but also the risk of visa shopping. Without uniform procedures, there is a higher chance that applicants try to choose those consulates where issuance rates are higher or where procedures are quicker.

Linked to the question of consistency, there is also a question of service quality. Here there are again significant differences between Member States, although across the board most applicants complain about the length and costs of the visa application procedure. Regarding the length, the proposed Regulation on a Community code on visas foresees a maximum time of 10 days (with the possibility to extend it to 30 days) to issue a decision⁽⁸⁰⁾. However, the period after the application is lodged is generally not the main problem, since decisions can usually be made relatively quickly. Indeed, the shortcoming of the proposal resides rather in the void left regarding the period before the lodging of the full application. This phase is usually ignored by consulates but actually represents more time and efforts for applicants. Most of them have to travel to the consulate several times and this implies queuing for a many hours without any assistance provided by officials⁽⁸¹⁾. Besides, in some countries this has led to the development of fraudulent practices, such as selling slots in the queue or presenting forged documents⁽⁸²⁾. These inconveniences are increased by the lack of information provided to applicants. The impossibility to know which the required supporting documents are, forces many applicants to present themselves at the consulate several times. This is especially problematic for those people having to travel far within their country or even needing to go abroad to apply for a visa. The case of Moldova is especially problematic, due to the scarcity of EU Member States' consulates and the pending integration of Romania into the Schengen area.

Apart from these inconveniences, the issue of fees is also regarded by third-country nationals as deteriorating the previous situation. Indeed, even if the EU has insisted on the benefits of visa facilitation agreements regarding fees (maintained at EUR 35 instead of EUR 60), for citizens of Ukraine, the very introduction of fees worsens the situation prevailing before the enlargement of the Schengen area, when Poland and Lithuania were able to issue visas free of charge. Besides, some consulates now

⁸⁰ European Commission, *Draft proposal for a Regulation establishing a Community Code on Visas*, op. cit., Art. 20.

⁸¹ Boratynski & Szyborska, *Neighbours and Visas – Recommendations for a Friendly European Union Visa Policy*, op. cit., pp. 23-24

⁸² Boratynski et al., *Visa Policies of European Union Member States – Monitoring Report*, op. cit., p. 12.

supplement these fees to cover further administrative expenses and other costs. For instance, the French, Belgian and Spanish consulates in Ukraine now ask applicants for EUR 5 to obtain a code in order to call the consulate and lodge the visa application. Moreover, some consulates also charge EUR 30 to cover application fees, in addition to the usual visa fee of EUR 35⁽⁸³⁾.

To this phenomenon of supplementing fees, there is a parallel trend towards outsourcing the reception of visa applications. According to its website, the Indian contractor VFS Global⁽⁸⁴⁾ has opened visa application centres in Ukraine to receive the applications to the German, French, Dutch, Italian, Spanish, British and Belgian consulates. It appears that the usual fee charged in these centres is around EUR 25. The question here is whether these external contractors will prove to be as efficient as the embassies claim. Until now, their performance has received different assessments. Some are sceptical about their capacity to deal with visa procedures faster and better than consulates and advance that outsourcing increases the number of unjustified refusals⁽⁸⁵⁾. On the other hand, the Dutch diplomatic services have affirmed that this system has helped to reduce queues in their consulate, to speed up the process and to unburden them from part of their work. Therefore, the issue of outsourcing has to be assessed in an open debate, since there are too few indicators yet to measure its efficiency.

Added to these difficulties, applicants are often confronted with a lacking transparency of the procedure and its great complexity. Thus, interviews are carried on without a clear basis and justifications for refused visa applications are not always clear. It would appear that interviews are used to screen applicants and test 'suspicious' cases, such as unemployed men⁽⁸⁶⁾. Transparency is also debatable in regard to the right of appeal and the protection of personal data. Applicants do not always have a right of appeal nor are they informed about this possibility. Concerning personal data, it is not clear which data protection rules apply and how much information is actually transmitted to other agencies. The complexity of the system adds to the lack of transparency. As mentioned, the lack of information regarding which documents are needed, as well as the necessity in some cases to provide information on the host (especially regarding their residence status and income), hinder applicants from obtaining visas. These difficulties are perceived very negatively by applicants, especially if they are faced with unhelpful or insensitive consular officials. The effect of this negative perception is difficult to calculate but since it is the first impression that most third-country nationals form of the EU, the experience may result in a permanent image of unfriendliness and rejection on the part of the EU as a whole.

Apart from these procedural shortcomings, visa procedures are made more complex through their link with policies fighting illegal immigration. Efforts to prevent the entry of unsolicited migrants affect the number of visa refusals, which seems to vary largely from Member State to Member State with little rational explanation. As

⁸³ Sushko, Oleksandr, 'EU visa/migration policy towards Ukraine – steps ahead?' (Conference paper), EU Neighbourhood Policy and Justice and Home Affairs, Centre for European Policy Studies (CEPS), Brussels, 30 November 2007.

⁸⁴ VFS Global, available at www.vfsglobal.com/index.html [20 January 2008].

⁸⁵ O'Donnell, Peter, 'Ukrainians hit by increase in obstacles to EU visa applications', *European Voice*, Vol. 13, No. 13, 4 April 2007.

⁸⁶ Boratynski et al., *Visa Policies of European Union Member States – Monitoring Report*, op. cit., pp. 34, 38.

mentioned, interviews serve mainly to detect inconsistencies in the motivation to travel to the EU, especially among the group regarded as representing the greatest risk: the unemployed (especially men) and people without a regular source of income⁽⁸⁷⁾. To detect security risks, Member States use data stored in the Schengen Information System (SIS)⁽⁸⁸⁾. Besides, in order to diminish the risk of illegal immigration, some Member States apply preventive measures, such as demanding a cash deposit or a duty to report back after applicants return from their stay in the EU. This system forces applicants to again travel to the consulate upon their return, with the resulting difficulties and costs. Although some justify these measures as a means of diminishing the risks of human trafficking, it is also arguable that the efficacy in respect to human trafficking is questionable since these networks usually obtain forged documents or smuggle their victims without a visa⁽⁸⁹⁾.

These links to immigration control raise some human rights questions. Although the right to enter a country is not extensively developed in jurisprudence, some authors⁽⁹⁰⁾ draw from the European Convention on Human Rights (ECHR) the right to be given permission to cross the borders. For instance, Art. 8 of the ECHR ensures a right to private and family life, which may oblige Member States to accept applications of those wishing to visit family members (and even friends) in the destination countries⁽⁹¹⁾. Similar issues are raised in respect of Arts. 9, 10 and 11 regarding respectively freedom of religion, expression and association in case the purpose of the visit were to participate in events entailing any of these freedoms⁽⁹²⁾. A more controversial issue refers to the duty of protection Member States have towards asylum-seekers (Art. 3 ECHR and Art. 33 of the Geneva Convention). In this case, visas should be facilitated or even granted automatically to people declaring a wish to escape their country in order to seek refugee protection in a Member State. However, it is unclear how many asylum-seekers actually apply for visas instead of crossing the borders irregularly⁽⁹³⁾.

Finally, while the EU has embraced visa facilitation agreements as a means of squaring the circle by reconciling the conflicting imperatives of free movement and border security, it is somewhat controversial in that it awards privileges on the basis of membership of a professional category, rather than a track record of legitimate visa use. The existing agreements with Russia, Ukraine and Moldova assume for instance that business people and students are *bone fide* travellers by definition. As a result, the new visa facilitation agreements and local border traffic arrangements raise some concerns with regard to corruption. The establishment of privileged categories of visa applicants, such as journalists, business persons or lorry drivers may lead to misuse or even falsification in order to obtain easier access to Schengen visas. In Ukrainian law, for instance, there is no definition of these categories, which makes it easier to expand them and take advantage of this legal void⁽⁹⁴⁾. Similarly, the existence of a local border traffic

⁸⁷ Ibid., p. 44.

⁸⁸ Ibid., p. 45.

⁸⁹ Ibid., p. 46.

⁹⁰ Peers, Steve, *EU Justice and Home Affairs Law*, Oxford University Press, Oxford, 2006 (2nd edn.), pp. 119-123.

⁹¹ Ibid., p. 120.

⁹² Ibid.

⁹³ Ibid., p. 119.

⁹⁴ Sushko, op. cit.

agreement can lead to forged documents of residency or attachment to the area. Moreover, the current definition of the border area, even at its maximum of 50 kilometres, is considered to be too small for countries like Ukraine, as it does not cover any of the bigger cities; this is leading to an increase in demand for and price of housing in the border area.

2.2 Shortcomings relating to ENP goals

In addition to all the remaining problems of visa procedures, the new visa facilitation agreements and local border traffic arrangements introduce further challenges in relation to ENP goals. Most of them have a general character, but some issues are more relevant in respect of either the eastern or the southern partners.

Visa facilitation agreements may cause divisions in third countries' societies. Thus the EC-Ukraine agreement has been criticised for not being sufficiently inclusive, the Stefan Batory Foundation arguing that 'the agreement divides Ukrainian society into two groups, namely the privileged few who can get a multiple-entry visa [...] and the vast majority of ordinary citizens who cannot enjoy such advantages. This can create a feeling of discrimination and lead to the conclusion that the European Union is interested only in the Ukrainian elite' (⁹⁵). The limited scope of the VFA and its asymmetrical nature therefore risk undermining the ENP's objectives in Ukraine.

The introduction of visa fees by the Schengen area's newest members reinforces this effect, since the difficulties and costs of visa procedures are especially onerous for the most deprived groups. If the fees are to be higher due to the incorporation of biometrics and administrative costs, the most impoverished will be excluded from the EU. This will undermine the ENP goal of fostering people-to-people contacts, especially if the growing middle classes, who are now willing to travel to the EU, are unable to afford visa fees (⁹⁶). The consequence is a feeling of discrimination and the impossibility to enter the EU even when one has the money to travel. The effects can be long-lasting and very damaging to the goals contemplated in the ENP Action Plans, since they undermine neighbours' confidence and trust in the EU.

Besides economic divisions in societies, visa facilitation agreements may even exacerbate political and ethnic tensions in the neighbourhood. Thus, the introduction of visa facilitation for Russian citizens has created an incentive for ethnic Russians in South Ossetia to claim Russian citizenship, thereby undermining the institution of Georgian citizenship.⁹⁷ Finally, Belarus is now the only country in Europe whose citizens face the full Schengen visa fee of EUR 60, whereas citizens of neighbouring Ukraine and Russia enjoy a reduced fee and facilitations.

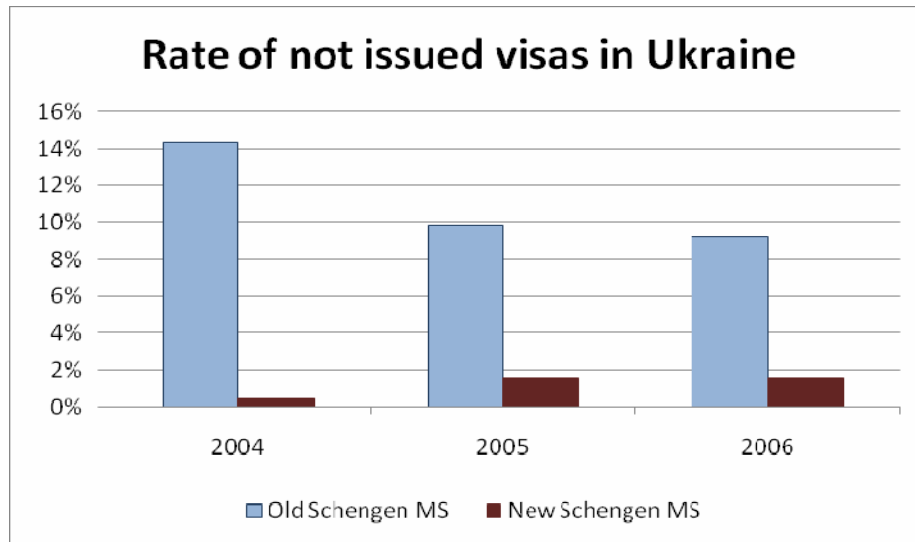
These shortcomings appear mostly in the eastern countries, where visa facilitation has been applied first. There, the effects of these agreements resonate and are amplified by the enlargement of the EU and of the Schengen area. The entrance of Romania into the EU and of countries like Poland and Lithuania into the Schengen area is perceived as

⁹⁵ Boratynski, Jakub et al., *Questionable achievement: EC-Ukraine Visa Facilitation Agreement*, Stefan Batory Foundation, Warsaw-Kyiv, November 2006, p. 2, available at www.batory.org.pl/doc/ec-ukraine-visa-facilitation-agreement.pdf [20 January 2008].

⁹⁶ Sushko, op. cit.

⁹⁷ European Commission, *Non-Paper: ENP – Visa Facilitation*, op. cit., p. 3.

especially burdensome, since it means not only the introduction of visas or visa fees respectively to enter into the new Member States, but also the fear that old Member States will impose a more restrictive attitude on the new ones and that consequently visa refusals will increase.



N.B.: For 2004, no data from Poland

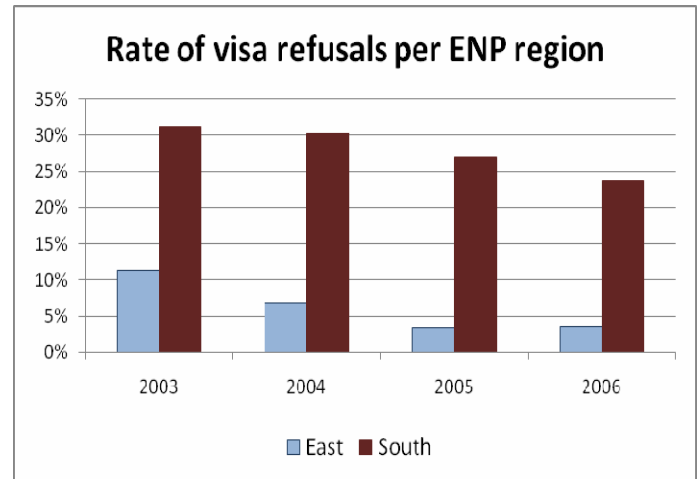
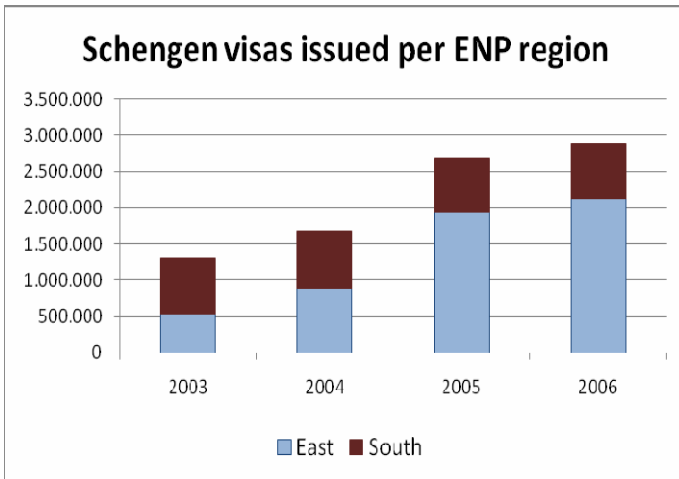
The Schengen consulates' perceived inefficiency in dealing with more visa applications and the perceived restrictiveness of the Schengen system cause an increasing feeling of returning to Soviet times, only with new barriers and a second-class treatment imposed now by Schengen Member States. Neighbours resent being treated as dangerous and suspicious elements and some sectors, mainly lorry drivers, claim that these new requirements hide anti-competition goals⁽⁹⁸⁾.

However, even if the situation in the East is becoming tense, the real risk of visa facilitation and local border traffic agreements lies in the possibility of undermining the ENP as a global strategy towards all neighbours. As some members of the Council have claimed, the first priority is Ukraine, then comes the East and finally the South. As a result, this distinction in the treatment of partners creates a fracture difficult to close, a two-speed process with very distinct goals. If the goal in the East is to secure the land border while at the same time facilitating circulation, with the long-term possibility of liberalising visa requirements⁽⁹⁹⁾, in the South the goals focus almost exclusively on terrorism and security⁽¹⁰⁰⁾ and on securing the help and cooperation of the countries concerned.

⁹⁸ O'Donnell, *op. cit.*

⁹⁹ Tchorbadijska, Angelina, 'The new independent states (NIS) as neighbours: Visa, migration and remittances' (Conference panel discussant), EU Neighbourhood Policy and Justice and Home Affairs, Centre for European Policy Studies (CEPS), Brussels, 30 November 2007.

¹⁰⁰ Wichmann, Nicole, *op. cit.* p. 11 .



This lack of coherence and consistency is reinforced by the complicated geometry offered to these countries from the EU side. The fact that the UK and Ireland are party to the readmission agreements signed but not to the counteroffer of visa facilitation agreements reinforces the security side of the partnership and diminishes transparency and openness towards neighbouring countries.

III) PROPOSALS AND POLICY RECOMMENDATIONS

1) *What is being proposed to improve the situation*

In December 2005, the European Council presented a new global approach to migration, in order to streamline EU migration policies (¹⁰¹). In the framework of this new approach, the Commission has presented two different proposals with a common goal: facilitate cross-border movements and increase legal migration (¹⁰²). Both proposals are linked to visa policy, since they seek to exchange security for legal migration and short-term visas (Schengen visas) (¹⁰³). The first project aims to create new mobility partnerships with third countries in order to better manage illegal migration. The commitments given by the EU and the Member States include the ‘improvement and/or easing of the procedures for issuing short stay visas to nationals of the third country’ (¹⁰⁴). To fulfil this aim, the

¹⁰¹ European Council, *Presidency Conclusions on the Global Approach to Migration: Priority actions focusing on Africa and the Mediterranean*, Brussels, 15-16 December 2005.

¹⁰² European Commission press release, ‘Circular migration and mobility partnerships between the European Union and third countries’, MEMO/07/197, Brussels, 16 May 2007, available at europa.eu/rapid/pressReleasesAction.do?reference=MEMO/07/197 [20 January 2008].

¹⁰³ Migration Policy Institute, ‘Mobility Partnerships, the latest policy fashion’, Issue no. 8, *Top 10 Migration issues of 2007*, Migration Information Source, 3 December 2007.

¹⁰⁴ European Commission press release, ‘Circular migration’, op. cit.

Commission proposes both a ‘better organisation of the consular services of EU Member States in the country in question’ (¹⁰⁵), including longer opening hours, consular cooperation, an extension of multi-entry visas or the creation of common visa application centres (¹⁰⁶) and visa facilitation agreements for certain categories of applicants (¹⁰⁷). The second instrument seeks to extend circular migration, that is, short stays in the EU for the purpose of labour, study and or training, under the condition to return after the agreed period of visit (¹⁰⁸).

Both proposals represent a step forward towards reaching agreements with third countries in order to facilitate legal migration. However, it is not clear how and when these ideas will be implemented. Some proposals referring to circular migration are already on the table (¹⁰⁹) and, more importantly for visa procedures, the Commission presented a new proposal for a Community code on short-stay visas (¹¹⁰). This proposal aims at streamlining visa procedures. It is important therefore to underline the importance of this proposal, which would improve most steps of the visa procedure. There are some key points of the proposal that should be maintained in order to really make a difference, while some others should also be considered as an important step forward. The main points to be preserved in the Commission’s proposal are three-fold. Firstly, the proposal for a common code streamlines the existing Common Consular Instructions, simplifying them but most importantly, giving them a clear legal status, which will improve transparency (¹¹¹). Secondly, the new common code will reinforce procedural guarantees in two different ways. On the one hand, it will require a mandatory motivation of visa refusals (¹¹²). On the other hand, applicants will gain a right to appeal, leaving the procedure to be defined through national law (¹¹³). Thirdly, the proposal strengthens the idea of opening Common Application Centres (¹¹⁴), even if it remains vague. These three elements are probably the main advances presented by the Commission’s proposal and thus should be maintained or even reinforced.

2) Ease legitimate travel to the EU

Beyond the necessary general improvements to visa application procedures outlined above, the EU should retain a degree of flexibility in granting more favourable conditions in line with its ENP objectives. Thus, in order to foster people-to-people contacts, the EU

¹⁰⁵ Ibid.

¹⁰⁶ Ibid.

¹⁰⁷ Ibid., p. 4.

¹⁰⁸ Ibid.

¹⁰⁹ For example, Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research, OJ L 289/15, 3.11.2005. For a complete list of proposals, see *ibid.*

¹¹⁰ European Commission, *Draft proposal for a Regulation establishing a Community Code on Visas*, *op.cit.*

¹¹¹ European Commission press release, ‘Community code on short-stay visas’, MEMO/06/298, Brussels, 19 July 2006, available at europa.eu/rapid/pressReleasesAction.do?reference=MEMO/06/298&format=HTML&aged=1&language=EN&guiLanguage=en [20 January 2008].

¹¹² European Commission, *Draft proposal for a Regulation establishing a Community Code on Visas*, *op.cit.*, Art. 23(2).

¹¹³ Ibid., Art. 23(3).

¹¹⁴ Ibid., Art. 37(1)(b)

should consider granting multiple-entry visas to regular *bona fide* travellers (defined by a track record of legitimate visa use rather than their professional category). This could be modelled on the U.S. practice of issuing ten-year visas, entitling to regular six-month stays, to *bona fide* travellers from countries that are not eligible for participation in the U.S. Visa Waiver Scheme. The forthcoming introduction of the VIS will allow consulates to identify regular legitimate travellers and speed up their visa application procedures. The introduction of multiple-entry visas for this new category of applicant would further decrease the burden on Schengen consulates by eliminating the need for successive applications.

Another type of visa could be introduced for temporary workers, especially in the light of the ‘mobility partnerships’ mentioned above. In order to end the current practice of tourist visas being abused for irregular seasonal labour, a work-visa valid for several countries (a Schengen visa coupled with work permits) could be introduced to take account of the nature of, for instance, seasonal agricultural work. Multi-entry work-visas for regular legitimate seasonal workers would provide economic migrants from ENP countries with a dignified and legal means of contributing to the EU economy, as well as being able to return to their own country and make better use of remittances.

3) Developing a regional approach

While procedures and rules concerning the issuance of visas for legitimate and regular travellers must be made more flexible on an ‘individual basis’, so to say, the EU’s visa policy towards ENP countries should not neglect a broader scale approach, by paying attention to developing a coherent regional strategy and identifying key countries to intensify cooperation with. Recent EU instruments that have been examined previously in this study could be applied more extensively and consistently in this respect. There is also a need for improved coordination between the EU institutions and the Member States, which remain in charge on the ground through their diplomatic services but do not necessarily share the European Commission’s conception of mobility as a key stake of the European Neighbourhood Policy. Finally, though the ENP is a policy based on differentiation, clear and equitable perspectives towards facilitated mobility should be drawn up in a consistent way for all ENP partners.

Tools aimed at facilitating mobility such as LBT agreements or VFAs could be used more consistently and widely, targeting primarily countries where the number of visa applications is high. The automatic link between readmission and visa facilitation should be applied to Morocco, for instance, while feasibility studies for the signature of similar combinations of agreements should be launched in the South focusing on other Maghreb countries, as well as Egypt. Cooperation with Libya and its full integration to the ENP framework must be speeded up given Libya’s status as a major transit country for migrants. Interim arrangements and visa facilitation procedures also need to be considered vis-à-vis Belarus where the recent enlargement of the Schengen area is likely to reinforce the isolation of the country. In this regard, a common approach needs to be developed so as to make the mobility of Belarusian citizens a key political instrument in the EU’s relationship with the Belarusian regime. More generally, the EU should push for the extension of a wide web of agreements involving ENP partners and the neighbours of

the neighbours. Due to their specific geographic situation neighbouring countries are indeed progressively becoming transit countries for migrants and restricting the signature of readmission agreements to a small number of countries is likely to put all the pressure on these with very ineffective outcomes and adverse effects such as the worsening of relationships between ENP countries and their own neighbours. Readmission can only be effective if the burden is shared among many actors: destination, origin and transit countries. Common Application Centres should also be set up more extensively, in ENP countries that are poorly equipped with EU consulates such as the Caucasian republics, as well as in the main cities of larger countries such as Algeria, Ukraine or Morocco.

Mobility is a 'key foreign policy priority' ⁽¹¹⁵⁾ that is not often perceived as such by EU Member States, who usually do not conceive their relationships with the Neighbours in a broader ENP perspective. More involvement from EU Member States in the ENP would help placing visas issues in a broader reciprocal framework of obligations and incentives. When requiring further efforts from ENP partners on border control and the fight against illegal immigration, the EU should in return allow more flexibility for short-term travel if it wants the ENP to be a credible policy, and here the solution lies with the Member States. Dialogue on visas requires a horizontal approach since it impacts on all other aspects of cooperation.

The neighbourhood area is diverse and differentiation is a founding principle of the ENP, however too much differentiation in the way EU neighbourhood citizens are treated when applying for visas can 'excite jealousy' and lead to 'suspicions of favouritism' ⁽¹¹⁶⁾. Thus, the same perspectives must be given to all. A long-term vision is that the network of readmission and visa facilitation agreements with ENP partners could eventually lead to a broad Neighbourhood Community where visas would be abolished. Such a perspective would meet with the Economic Neighbourhood Community project that has recently been sketched out by the Commission ⁽¹¹⁷⁾ and would reconcile with the free movement of persons condition necessarily implied by further economic integration. A similar set of standards and requirements to be met by all countries willing to join this community would then help building a truly coherent, horizontal and credible perspective and give ENP countries not only a role of 'buffer' for the EU but make them genuine partners of an ambitious and comprehensive regional community.

¹¹⁵ European Commission, *A strong European Neighbourhood Policy*, COM (2007), 774 final, Brussels, 5 December 2007.

¹¹⁶ Guild, Elspeth, Viktoriya Khasson & Miriam Mir, 'State of the art: the nexus between European Neighbourhood Policy and Justice and Home Affairs', *Case Reports*, No. 73, Centre for Social and Economic Research, Warsaw, April 2007, p.21.

¹¹⁷ European Commission, Non-Paper expanding on the proposals contained in the communication to the European Parliament and the Council on "Strengthening the ENP" - COM(2006) 726 final of 4 December 2006: ENP- A path towards further economic integration, January 2008, available at ec.europa.eu/world/enp/pdf/non-paper_economic-integration_en.pdf [20 January 2006].

ANNEX 1: INTERVIEWS WITH KEY PERSONS

For the purpose of this study, several interviews were carried out with the following officials:

Mr Omar AMGHAR
The Mission of the Kingdom of Morocco to the European Communities

Mr Robert in den BOSCH
Counsellor
Deputy Head of Mission
Embassy of the Kingdom of Netherlands in Ukraine

Mr Bernard BRUNET
Desk Officer Morocco
DG External Relations
European Commission

Ms Daphné GOGOU
Principal Administrator
DG Justice, Liberty and Security
European Commission

Mr Iulian GROZA
Counsellor
The Mission of the Republic of Moldova to the European Communities

Ms Meike de JONG
Attaché
Consular Department
Embassy of the Kingdom of Netherlands in Ukraine

Ms Lali MOROZ
Second Secretary
Justice and Home Affairs Issues
The Mission of Ukraine to the European Communities

Mr Dirk SCHUEBEL
Head of Political, Press and Information Section
Delegation of the European Commission to Ukraine

Mr Pierre SIMUNEK
Counsellor Home Affairs
The French Permanent Representation to the EU

ANNEX 2: TABLE WITH VISA FIGURES 2003-2006

| Total visas issued by EU Schengen Member State consulates in ENP countries in 2003 | | | | |
|--|--------------------------|-------------------------------|------------------------------|---------------------------------|
| ENP Countries | Total A,B,C visas issued | Total A,B,C visas applied for | Total A,B,C visas not issued | Not issued rate for A,B,C visas |
| ALGERIA | 218 723 | 491 582 | 257 354 | 52.35 % |
| ARMENIA | 14 316 | 18 592 | 1 995 | 10.73 % |
| AZERBAIJAN | 13 220 | 14 821 | 931 | 6.28 % |
| BELARUS | 165 034 | 174 991 | 5 252 | 3.00 % |
| EGYPT | 70 941 | 97 385 | 17 816 | 18.29 % |
| GEORGIA | 29 204 | 38 935 | 6 187 | 15.89 % |
| ISRAEL ⁽¹¹⁸⁾ | 11 135 | 15 702 | 1 726 | 11.00 % |
| JORDAN | 24 883 | 34 074 | 3 427 | 10.05 % |
| LEBANON | 62 849 | 78 836 | 5 023 | 6.37 % |
| LIBYA | 25 477 | 28 726 | 2 581 | 9.00 % |
| MOLDOVA | 15 060 | 24 786 | 7 957 | 32.10 % |
| MOROCCO | 246 202 | 402 536 | 93 815 | 23.30 % |
| SYRIA | 30 824 | 58 796 | 8 631 | 14.67 % |
| TUNISIA | 89 224 | 134 776 | 28 957 | 21.48 % |
| UKRAINE | 297 145 | 376 505 | 51 104 | 13.57 % |
| TOTAL | 1 095 514 | 1 991 043 | 398 941 | |

| Total visas issued by EU Schengen Member State consulates in ENP countries in 2004 | | | | |
|--|--------------------------|-------------------------------|------------------------------|---------------------------------|
| ENP Countries | Total A,B,C visas issued | Total A,B,C visas applied for | Total A,B,C visas not issued | Not issued rate for A,B,C visas |
| ALGERIA | 192 859 | 424 943 | 222 081 | 52.26 % |
| ARMENIA | 16 867 | 20 900 | 3 219 | 15.40 % |
| AZERBAIJAN | 14 700 | 17 601 | 1 313 | 7.45 % |
| BELARUS | 269 325 | 381 804 | 14 599 | 3.82 % |
| EGYPT | 80 757 | 104 867 | 19 413 | 18.51 % |
| GEORGIA | 31 976 | 44 892 | 4 900 | 10.91 % |
| ISRAEL | 11 468 | 13 607 | 1 289 | 9.47 % |
| JORDAN | 27 001 | 31 496 | 4 420 | 14.03 % |
| LEBANON | 62 325 | 71 431 | 6 025 | 8.43 % |
| LIBYA | 25 342 | 27 051 | 1 683 | 6.22 % |
| MOLDOVA | 53 284 | 31 126 | 4 199 | 13.49 % |
| MOROCCO | 239 715 | 400 996 | 87 615 | 21.84 % |
| SYRIA | 44 929 | 41 843 | 8 193 | 19.58 % |
| TUNISIA | 93 233 | 132 400 | 26 047 | 19.67 % |
| UKRAINE | 510 194 | 600 503 | 47 496 | 7.90 % |
| TOTAL | 1 673 975 | 2 345 460 | 452 492 | |

¹¹⁸ Citizens of Israel do not require short-term visas to enter the Schengen area. Therefore visa data from consulates in Israel may be considered as 'proxy' figures for Palestinian Authority passport holders. (There are no Schengen consulates within the territory of the Palestinian Authority).

| Total visas issued by EU Schengen Member State consulates in ENP countries in 2005 | | | | |
|---|---------------------------------|--------------------------------------|-------------------------------------|--|
| ENP Countries | Total A,B,C visas issued | Total A,B,C visas applied for | Total A,B,C visas not issued | Not issued rate for A,B,C visas |
| ALGERIA | 160 169 | 309 537 | 139 785 | 45.16 % |
| ARMENIA | 21 007 | 22 226 | 3 132 | 14.09 % |
| AZERBAIJAN | 15 659 | 14 031 | 1 518 | 10.82 % |
| BELARUS | 607 003 | 619 731 | 12 657 | 2.04 % |
| EGYPT | 81 309 | 90 586 | 12 810 | 14.14 % |
| GEORGIA | 37 303 | 37 199 | 5 023 | 13.50 % |
| ISRAEL | 11 491 | 12 588 | 1 337 | 10.62 % |
| JORDAN | 28 878 | 32 575 | 4 257 | 13.07 % |
| LEBANON | 69 673 | 72 469 | 5 475 | 7.55 % |
| LIBYA | 34 260 | 36 017 | 2 127 | 5.91 % |
| MOLDOVA | 60 057 | 64 019 | 3 949 | 6.17 % |
| MOROCCO | 235 200 | 319 507 | 82 330 | 25.77 % |
| SYRIA | 32 919 | 39 804 | 11 034 | 27.72 % |
| TUNISIA | 89 721 | 106 657 | 16 609 | 15.57 % |
| UKRAINE | 1 192 723 | 1 224 805 | 43 330 | 3.54 % |
| TOTAL | 2 677 372 | 3 001 751 | 345 373 | |

| Total visas issued by EU Schengen Member State consulates in ENP countries in 2006 | | | | |
|---|---------------------------------|--------------------------------------|-------------------------------------|--|
| ENP Countries | Total A,B,C visas issued | Total A,B,C visas applied for | Total A,B,C visas not issued | Not issued rate for A,B,C visas |
| ALGERIA | 153 616 | 269 748 | 108 201 | 40.11 % |
| ARMENIA | 20 818 | 24 878 | 4 047 | 16.27 % |
| AZERBAIJAN | 20 038 | 21 445 | 2 965 | 13.83 % |
| BELARUS | 651 187 | 665 360 | 14 173 | 2.13 % |
| EGYPT | 90 652 | 107 219 | 16 302 | 15.20 % |
| GEORGIA | 47 000 | 53 795 | 6 800 | 12.64 % |
| ISRAEL | 10 907 | 13 228 | 2 345 | 17.73 % |
| JORDAN | 29 038 | 34 274 | 5 790 | 16.89 % |
| LEBANON | 64 268 | 76 451 | 12 415 | 16.24 % |
| LIBYA | 42 587 | 65 350 | 4 521 | 6.92 % |
| MOLDOVA | 70 520 | 75 859 | 5 339 | 7.04 % |
| MOROCCO | 250 551 | 321 024 | 69 488 | 21.65 % |
| SYRIA | 31 895 | 44 796 | 12 212 | 27.26 % |
| TUNISIA | 95 191 | 111 047 | 16 722 | 15.06 % |
| UKRAINE | 1 315 301 | 1 359 848 | 47 620 | 3.50 % |
| TOTAL | 2 862 890 | 3 244 322 | 328 940 | |

BIBLIOGRAPHY

- BBC News*, 'Romania tackles Moldova visa rush', 16 January 2007, available at www.news.bbc.co.uk/1/hi/world/europe/6268853.stm [20 January 2008].
- Boratynski, J. et al., *Monitoring of Polish Visa Policy - Report*, Stefan Batory Foundation, Warsaw, November 2004, available at www.batory.org.pl/doc/monitoring-of-polish-visa-policy-2004.pdf [20 January 2008].
- Boratynski, J. et al., *Visa Policies of European Union Member States – Monitoring Report*, Stefan Batory Foundation, Warsaw, June 2006, available at www.batory.org.pl/doc/monitoring-of-eu-visa-policies.pdf [20 January 2008].
- Boratynski, J. & Szyborska, A., *Neighbours and Visas – Recommendations for a Friendly European Union Visa Policy*, Stefan Batory Foundation, Warsaw, September 2006, available at www.batory.org.pl/doc/neighbours-and-visas.pdf [20 January 2008].
- Boratynski, J. et al., *Questionable achievement: EC-Ukraine Visa Facilitation Agreement*, Stefan Batory Foundation, Warsaw-Kyiv, November 2006, available at www.batory.org.pl/doc/ec-ukraine-visa-facilitation-agreement.pdf [20 January 2008].
- Dura, G., 'A tale of two visa regimes – Repercussions of Romania's accession to the EU on the freedom of movement of Moldovan citizens', *Eurojournal.org*, 27 January 2006, p. 13, available at www.eurojournal.org/files/visas.pdf [20 January 2008].
- Fratini, F., 'The role of internal security in the relations between the EU and its neighbours', Speech to the JHA Ministerial Council in Vienna, 4 May 2006, available at www.libertysecurity.org/article907.html [20 January 2008].
- Guild, E., Khasson, V. & Mir, M., 'State of the art: the nexus between European Neighbourhood Policy and Justice and Home Affairs', *Case Reports*, No. 73, Centre for Social and Economic Research, Warsaw, April 2007.
- Meloni, A., *Visa Policy within the European Union Structure*, Springer, Berlin, 2006.
- Migration Policy Institute, 'Mobility Partnerships, the latest policy fashion', Issue no. 8, *Top 10 Migration issues of 2007*, Migration Information Source, 3 December 2007.
- O'Connell, K., 'EU Visa Policy: Squaring the Circle of Neighbourhood and JHA Objectives', in Mahncke, D. & Gstöhl, S., *Europe's Near Abroad: Promises and Prospects of the EU's Neighbourhood Policy*, P.I.E. Peter Lang, Brussels, 2008 (forthcoming).
- O'Donnell, P., 'Ukrainians hit by increase in obstacles to EU visa applications', *European Voice*, Vol. 13, No. 13, 4 April 2007.
- Peers, S., *EU Justice and Home Affairs Law*, Oxford University Press, Oxford, 2006 (2nd edn.).
- Sushko, O., 'EU visa/migration policy towards Ukraine – steps ahead?' (Conference paper), EU Neighbourhood Policy and Justice and Home Affairs, Centre for European Policy Studies (CEPS), Brussels, 30 November 2007.
- Tchorbadjiyska, A., 'The new independent states (NIS) as neighbours: Visa, migration and remittances' (Conference panel discussant), EU Neighbourhood Policy and

- Justice and Home Affairs, Centre for European Policy Studies (CEPS), Brussels, 30 November 2007.
- VFS Global, available at www.vfsglobal.com/index.html [20 January 2008]
- Richard, Y., *Les frontières improbables de l'espace migratoire européen*, Friday 8 July 2005, available at www.peuplesmonde.com/article.php3?id_article=293 [20 January 2008].
- Wichmann, N., 'The intersection between Justice and Home Affairs and the European Neighbourhood Policy: taking stock of the logic, objectives and practices', *CEPS working document*, No. 275, Centre for European Policy Studies (CEPS), Brussels, October 2007.

Official documents

- Agreement between the Russian Federation and the European Community on the facilitation of the issuance of visas to the citizens of the Russian Federation and the European Union*, available at www.delrus.ec.europa.eu/en/p_508.htm [20 January 2008].
- Agreement between the Russian Federation and the European Community on readmission*, available at www.delrus.ec.europa.eu/en/p_509.htm [20 January 2008].
- Common approach on visa facilitation*, Council document no. 15012/05 VISA 297 RELEX 694, available at www.libertysecurity.org/article627.html [20 January 2008].
- Council Decision 2006/440/EC of 1 June 2006 amending Annex 12 to the Common Consular Instructions and Annex 14a to the Common Manual on the fees to be charged corresponding to the administrative costs of processing visa applications, OJ L 175, 29.09.2006.
- Council Decision 2004/512/EC of 8 June 2004 establishing the Visa Information System (VIS), OJ L 213, 15.6.2004.
- Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research, OJ L 289/15, 3.11.2005.
- Council document no. 7496/04 VISA 51 COMIX 195, 10 May 2004 (2003 visa data), available at register.consilium.europa.eu/pdf/en/04/st07/st07496.en04.pdf [20 January 2008]
- Council document no. 9749/05 VISA 134 COMIX 377, 3 June 2005 (2004 visa data), available at register.consilium.europa.eu/pdf/en/05/st09/st09749.en05.pdf [20 January 2008]
- Council document no. 6813/06 VISA 61 COMIX 196, 19 July 2006 (2005 visa data), available at register.consilium.europa.eu/pdf/en/06/st06/st06813.en06.pdf [20 January 2008]
- Council document no. 10700/07 VISA 187 COMIX 556 - 12/06/2007 (2006 visa data), available at register.consilium.europa.eu/pdf/en/07/st10/st10700.en07.pdf [20 January 2008].

Council Regulation (EC) No. 1683/95 of 29 May 1995 laying down a uniform format for visas, OJ L 164, 14.7.1995.

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, OJ L 81, 21.03.2001.

Council of the European Union, *Common Consular Instructions on visas for the diplomatic missions and consular posts*, OJ C 313, 16.12.2002.

Council of the European Union, *The Hague Programme: strengthening freedom, security and justice in the European Union*, JAI 16054/04, Brussels, 13 December 2004.

Council of the European Union, *EU Action Plan on Justice and Home Affairs in Ukraine*, Brussels, 10 December 2001, OJ C 77, 29.3.2004.

Czech Republic Permanent Representation to the European Union (website), 'The Czech Republic suggests EU visa facilitation with Moldova', 21 July 2006, available at www.mzv.cz/wwwo/default.asp?id=40952&ido=13925&idj=2&amb=3 [20 January 2008].

EU-Russia Cooperation Council, *Joint Statement on EU Enlargement and Russia-EU Relations*, Brussels, 27 April 2004, available at ec.europa.eu/comm/external_relations/russia/russia_docs/js_elarg_270404.htm [20 January 2008].

EU-Ukraine Cooperation Council, *Joint Press Statement on the 10th EU-Ukraine Summit*, Helsinki, 27 October 2007, available at europa.eu/rapid/pressReleasesAction.do?reference=PRES/06/297&format=HTML&aged=0&language=EN&guiLanguage=en [20 January 2008].

EU-Ukraine Cooperation Council, *EU-Ukraine Action Plan*, 21 February 2005, available at ec.europa.eu/world/enp/pdf/action_plans/ukraine_enp_ap_final_en.pdf [20 January 2008].

European Commission, *Towards Integrated Border Management of the External Borders of the Member States of the European Union*, COM(2002) 233 final, Brussels, 7 May 2002.

European Commission, *Developing the Acquis on 'Local Border Traffic'*, SEC(2002) 947, Brussels, 9 September 2002.

European Commission, *European Neighbourhood Policy – Strategy Paper*, COM(2004) 373 final, Brussels, 11 May 2004.

European Commission, *Proposal for a regulation concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas*, SEC (2004) 835, Brussels, 28 December 2004.

European Commission, *Proposal for a Regulation of the European Parliament and of the Council laying down rules on local border traffic at the external land borders of the Member States and amending the Schengen Convention and the Common Consular Instructions*, COM(2005) 56 final, Brussels, 23 February 2005.

European Commission, *Proposal for a regulation amending the Common Consular Instructions on visas for diplomatic missions and consular posts in relation to the introduction of biometrics including provisions on the organisation of the reception and processing of visa applications*, COM (2006) 269 final, Brussels, 31 May 2006.

- European Commission, *Proposal for a regulation establishing a Community Code on Visas*, COM(2006), 403 final, Brussels, 19 July 2006.
- European Commission, *Strengthening the European Neighbourhood Policy*, COM(2006) 726 final, Brussels, 4 December 2006.
- European Commission, *Proposal for a Council Decision on the signature of the Agreement between the European Community and Ukraine on the facilitation of issuance of short-stay visas*, COM(2007) 190 final, Brussels, 17 April 2007.
- European Commission, *Proposal for a Council Decision on the signature of the Agreement between the European Community and Moldova on the facilitation of issuance of short-stay visas*, COM(2007) 488 final, Brussels, 3 September 2007.
- European Commission, *A strong European Neighbourhood Policy*, COM (2007), 774 final, Brussels, 5 December 2007.
- European Commission, *Non-Paper expanding on the proposals contained in the communication to the European Parliament and the Council on “Strengthening the ENP”* – COM (2006) 726 final of 4 December 2006: ENP- A path towards further economic integration, January 2008, available at ec.europa.eu/world/enp/pdf/non-paper_economic-integration_en.pdf [20 January 2008].
- European Commission, *Non-Paper expanding on the proposals contained in the communication to the European Parliament and the Council on “Strengthening the ENP”* - COM(2006) 726 final of 4 December 2006: ENP – Visa Facilitation, January 2008, available at ec.europa.eu/world/enp/pdf/non_paper_visa_facilitation_en.pdf [26 January 2008].
- European Commission press release, ‘Proposed Visa Information System (VIS) enhances security and facilitates travelling in EU’, IP/05/10, 7 January 2005, available at europa.eu/rapid/pressReleasesAction.do?reference=IP/05/10&format=HTML&aged=0&language=EN&guiLanguage=en [20 January 2008].
- European Commission press release, ‘Community code on short-stay visas’, MEMO/06/298, Brussels, 19 July 2006, available at europa.eu/rapid/pressReleasesAction.do?reference=MEMO/06/298&format=HTML&aged=1&language=EN&guiLanguage=en [20 January 2008].
- European Commission press release, ‘Commission welcomes the adoption of mandates for visa facilitation and readmission agreements with Moldova’, IP/06/1833, 19 December 2006, available at europa.eu/rapid/pressReleasesAction.do?reference=IP/06/1833&format=HTML&aged=1&language=EN&guiLanguage=en [20 January 2008].
- European Commission press release, ‘The first EU “Common Visa Application Centre” opens in Moldova’, IP/07/561, 25 April 2007, available at europa.eu/rapid/pressReleasesAction.do?reference=IP/07/561&format=HTML&aged=0&language=EN&guiLanguage=en [20 January 2008].
- European Commission press release, ‘Circular migration and mobility partnerships between the European Union and third countries’, MEMO/07/197, Brussels, 16 May 2007, available at europa.eu/rapid/pressReleasesAction.do?reference=MEMO/07/197 [20 January 2008].

European Council, *Presidency Conclusions on the Global Approach to Migration: Priority actions focusing on Africa and the Mediterranean*, Brussels, 15-16 December 2005.

Regulation (EC) No. 1931/2006 of the European Parliament and of the Council of 20 December 2006 laying down down rules on local border traffic at the external borders of the Member States and amending the provisions of the Schengen Convention, OJ L 405/1, 30 December 2006.