

Amendment of the migration policy and visa regulation

The current situation

The lists of third countries whose nationals should be in possession of a visa when crossing the external borders and those whose nationals are exempt from that requirement have been amended on several occasions. When introducing or lifting a visa obligation for a third country the current procedure can take several years. It has become clear that further technical modifications to the main text of the Regulation (EC) No. 539/2001 are needed. Such a mechanism would provide the European Union with a tool to be used for offsetting any possible serious adverse consequences of visa liberalisation and, in particular, the arrival in the EU of a large number of irregular migrants or asylum seekers without well founded claims.

According to the communication from the Commission to the European Parliament, the Council and the Economic and Social Committee dated 4 May 2011, since the beginning of the year there has been a massive displacement of populations from several North African countries and, in particular, from Libya. The latest estimates demonstrate the migration of more than 650,000 persons who have left the territory of Libya to flee the violence in their country. To cope with this crisis, the EU had to take short term measures in order to handle these significant flows, which include unaccompanied minors, and which have also placed additional strain on the health system of the Member States, now required to provide health care to migrants including medical screening and preventative medicine. Certainly, it is crucial to differentiate the different categories of irregular migrants, who in the main, are economic migrants trying to cross EU borders illegally, refugees or persons seeking asylum, or even people who are temporarily displaced due to the current political instability of their country.

A new Common European Asylum System (CEAS)

Under the Stockholm programme the Commission has the political responsibility to establish a comprehensive common European asylum system by 2012. In 2008, the Council and the European Parliament discussed and modified the two directive proposals on the reception conditions and asylum procedures. The proposed improvements include faster and fairer common asylum procedures in all Member States and, at the same time, reducing the cost and advancing to more coherent reception systems. There are five legislative proposals which complete the work of the CEAS, and two modified proposals put forward on 1 June 2011, which consist of the amendment of the Directive 2003/109/EC by the new Directive 2011/51/EU concerning the extension of the long term residence directive to beneficiaries of international protection; the EURODAC Regulation for the collection of fingerprints of asylum seekers through a biometric IT system in support of the asylum policy; the Dublin II Regulation offering guarantees and legal protection to asylum seekers; and the qualification directive of 2009 concerning the duration of residents permits, the access to social welfare, healthcare and the labour market.

Need for new financial framework

In the current context, the financial resources available under the general programme “Solidarity and Management of Migration Flows” are inadequate to respond to the present requests for assistance because these funds cannot be mobilised easily and they are designed to intervene in a stable situation and not to tackle emergencies in periods of crisis. Consequently, the multi-annual financial framework has to be redesigned so that EU funding can be mobilised much more rapidly and flexibly under the creation of trust funds and the creation of EU pilot projects. Specifically, the control of the EU’s external border must be continuously improved in order to respond to the new migration and security challenges. It is necessary to adopt a risk based approach and to establish a modern technology platform for the control of the land and sea borders. In parallel, national authorities must improve the mechanism of continuous cooperation which would provide exchange of operational information concerning incidents at the external borders. Furthermore, Frontex’s legal framework needs to be updated in order to allow operational capacity at the external borders.

Last but not least the prevention of irregular immigration should be examined under the scope of the EU’s readmission policy for the repatriation of irregular migrants. The reinforcement of such cooperation with third countries is of great importance together with a consistent policy on mobility of third country nationals.

The next step

These initiatives, following the communication on migration adopted on 4 May 2011, have paved the way for discussions and negotiations on the European asylum and migration policy at the upcoming Justice and Home Affairs Council on 9 June 2011 and the European Council in Brussels on 24 June 2011.

Author: Christos Floridis
Law Firm: Andreas Neocleous & Co LLC
Website: <http://www.neocleous.com>