

Consolidated version of the Treaty on the Functioning of the European Union

PART THREE

UNION POLICIES AND INTERNAL ACTIONS

TITLE V

AREA OF FREEDOM, SECURITY AND JUSTICE

CHAPTER 2

POLICIES ON BORDER CHECKS, ASYLUM AND IMMIGRATION

Article 77

(ex Article 62 TEC)

- 1 The Union shall develop a policy with a view to:
 - a ensuring the absence of any controls on persons, whatever their nationality, when crossing internal borders;
 - b carrying out checks on persons and efficient monitoring of the crossing of external borders;
 - c the gradual introduction of an integrated management system for external borders.
- 2 For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures concerning:
 - a the common policy on visas and other short-stay residence permits;
 - b the checks to which persons crossing external borders are subject;
 - c the conditions under which nationals of third countries shall have the freedom to travel within the Union for a short period;
 - d any measure necessary for the gradual establishment of an integrated management system for external borders;
 - e the absence of any controls on persons, whatever their nationality, when crossing internal borders.
- 3 If action by the Union should prove necessary to facilitate the exercise of the right referred to in Article 20(2)(a), and if the Treaties have not provided the necessary powers, the Council, acting in accordance with a special legislative procedure, may adopt provisions concerning passports, identity cards, residence permits or any other such document. The Council shall act unanimously after consulting the European Parliament.
- 4 This Article shall not affect the competence of the Member States concerning the geographical demarcation of their borders, in accordance with international law.

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Article 78

(ex Articles 63, points 1 and 2, and 64(2) TEC)

1 The Union shall develop a common policy on asylum, subsidiary protection and temporary protection with a view to offering appropriate status to any third-country national requiring international protection and ensuring compliance with the principle of *nonrefoulement*. This policy must be in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees, and other relevant treaties.

2 For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures for a common European asylum system comprising:

- a a uniform status of asylum for nationals of third countries, valid throughout the Union;
- b a uniform status of subsidiary protection for nationals of third countries who, without obtaining European asylum, are in need of international protection;
- c a common system of temporary protection for displaced persons in the event of a massive inflow;
- d common procedures for the granting and withdrawing of uniform asylum or subsidiary protection status;
- e criteria and mechanisms for determining which Member State is responsible for considering an application for asylum or subsidiary protection;
- f standards concerning the conditions for the reception of applicants for asylum or subsidiary protection;
- g partnership and cooperation with third countries for the purpose of managing inflows of people applying for asylum or subsidiary or temporary protection.

3 In the event of one or more Member States being confronted by an emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, may adopt provisional measures for the benefit of the Member State(s) concerned. It shall act after consulting the European Parliament.

Article 79

(ex Article 63, points 3 and 4, TEC)

1 The Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings.

2 For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures in the following areas:

- a the conditions of entry and residence, and standards on the issue by Member States of long-term visas and residence permits, including those for the purpose of family reunification;
- b the definition of the rights of third-country nationals residing legally in a Member State, including the conditions governing freedom of movement and of residence in other Member States;

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- c illegal immigration and unauthorised residence, including removal and repatriation of persons residing without authorisation;
- d combating trafficking in persons, in particular women and children.

3 The Union may conclude agreements with third countries for the readmission to their countries of origin or provenance of third-country nationals who do not or who no longer fulfil the conditions for entry, presence or residence in the territory of one of the Member States.

4 The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures to provide incentives and support for the action of Member States with a view to promoting the integration of third-country nationals residing legally in their territories, excluding any harmonisation of the laws and regulations of the Member States.

5 This Article shall not affect the right of Member States to determine volumes of admission of third-country nationals coming from third countries to their territory in order to seek work, whether employed or self-employed.

Article 80

The policies of the Union set out in this Chapter and their implementation shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States. Whenever necessary, the Union acts adopted pursuant to this Chapter shall contain appropriate measures to give effect to this principle.