

Community Immigration Policy, (COM (2000) 757 final) Contribution to the debate on the Communication by the Commission

The organisations mentioned below represent Christian churches throughout Europe, Roman Catholic, Orthodox, Protestant and Anglican, as well as church agencies particularly concerned with migrants and refugees.

From our biblical and Church traditions, migration and welcoming of strangers are not new phenomena. As Christian organisations, we are deeply committed to the dignity of the human individual. We therefore welcome the opportunity to comment on the EU Commission's Communication on a Community Immigration Policy, COM (2000) 757 final.

This paper focuses on (1) the need for a policy shift and a welcoming society, as well as (2) additional considerations regarding effective cooperation with countries of origin, the context of enlargement and irregular migration. Specific comments (3) are made on the immigration policy framework, on the common approach regarding admission, equal rights and free movement, on enhanced integration policy and the need for information and monitoring. A last chapter (4) draws conclusions containing practical proposals.

1. A necessary policy shift: from preventing migration to active immigration

We sincerely welcome the Communication's new approach, which constitutes in fact a policy shift towards a pro-active immigration policy. The Communication clearly recognises the need for a change in the overall conception of migration. Migratory movements have become a permanent global phenomenon. They are closely related to the EU's relationship to the countries of origin, for example to development co-operation, world trade policy, arms exports and military policy where the Union bears a strong responsibility.

In comparison to previous attempts to launch a similar discussion, both the political scene and public opinion have become more open to the subject. The concept of zero immigration, as an underlying principle of policies existing during the last decades, has been misleading. Moreover, the adaptation of other policy areas to the logic of this underlying principle has produced lamentable effects in areas such as irregular immigration, trafficking and smuggling in human beings etc. In our view, a thorough review of all related policy areas seems necessary.

Global migration will continue to be a reality which no Member State can face alone. The reasons are manifold. Oppression, war and internal conflicts force people to leave their homes; poverty and drought, environmental disasters cause people to seek a secure place; a lack of trade and job opportunities lead many to look for a better place to make their living. In some ways, global migration is an expression of inequality which ought to be addressed also in view of establishing just relationships.

We wish to reiterate the Churches' recognition of migration as a twofold right, to leave one's country and to look for better conditions of life in another country. We are aware that an "open door policy" is not conceivable and, certainly, migration (policy) will not solve the challenges of global imbalance. The exercise of such a right needs to be seen in the context of the global common good and justice. In this context, however, it is important to prevent unilateral decisions that are harmful to the weakest.

A Welcoming Society

The Communication rightly emphasises a welcoming society as an essential element of a pro-active immigration policy. By being able to welcome – and integrate – foreign cultures and traditions, Europe can show that it is faithful to its history of permanent exchange between people of different origin. In a world which is coming closer together, a European continent which would not be able to welcome migrants from outside its own continent would entirely deny its own history.

We wish to recall that European colonialism – as an important part of its history – can be seen as a root cause of still existing economic, political and cultural domination in various areas throughout the world. For centuries, Europeans have migrated to all parts of the globe, often without any ambition to integrate into existing societies. We recall this history, because it is against this background that many people from other regions in the world meet Europeans. It is important to be aware of this history also when we talk about integration of foreigners into our European societies.

At the same time we notice that people in European societies are concerned about their security. As one of the consequences, xenophobia and racism have been rising throughout Europe. This can certainly be dangerous to the societies, but we are also convinced that comprehensive social and integration policies are able to counter these phenomena. In this context, media play an important role. They bear a responsibility to avoid distorted images and to provide comprehensive information on migration.

However, as the Commission rightly states, the governments of Member States need to work openly and actively on these measures. If third country nationals are accorded equal rights and enabled to participate also in policy development, particularly on local level, joint efforts of European and immigrant persons will be far easier. Integration is not a one-way road: it is a task of citizens as well as migrants.

We would like to recall that important work in these fields has already been accomplished on various international levels which ought to be taken into account like the International Covenants on Economic, Social and Cultural Rights and Civil and Political Rights, ratified by all EU Member States. More recently these rights have been integrated and consolidated into the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

The following more detailed remarks may contain several repetitions, which underline the complexity and the inter-relatedness of the different aspects of migration.

2. Additional considerations towards a comprehensive immigration policy

2.1. Effective co-operation

In the context of a partnership with the countries of origin, which we strongly welcome as a principle, several questions arise in relation to the current practice of these partnerships.

Within a comprehensive approach to the phenomenon of migration, the development of the local situation in the countries of origin is of particular importance. The contribution of migrants' remittances to the development of their country of origin should not be underestimated, as the examples of the Philippines and Mexico have shown during the last decades. This economic contribution of migrants is, however, not complemented by

legal guarantees for their rights and social standards by the host or by the countries of origin.

Joint debates and action by both the Councils of Justice and Home Affairs and of Development Co-operation Ministers as started in the year 2000 would therefore be an essential element of this future policy. Within these debates, it should be taken into account that both policy areas have until now been guided by entirely different approaches: global development is a middle or long term perspective while the protection of borders and public order (Home Affairs) can be seen as a rather short term policy. Development policy considers the needs in other countries, while home affairs naturally focus on domestic concerns.

Another aspect is to regard migrants and migrants' organisations as actors of immigration and also as a link to their country of origin. The choice whether they regard their life in an EU country as permanent or short-term should be left open to migrants themselves. This determination requires that third country nationals be granted rights accordingly to facilitate such a decision.

Currently migrants often hesitate to travel back and forth between their country of origin and residence, because such travels might endanger their residence status. Another aspect is the lack of recognition of already acquired pension rights in other countries.

It would be of great value for future integration, if comprehensive information as well as preparations for the country of destination, language courses etc., were already offered in the countries of origin.

The EU Council's High Level Working Group on Asylum and Migration has touched on some of these issues in its analysis of some countries of origin. However, the implementation of measures in co-operation with the countries of origin is not yet living up to the expectations.

Of particular concern is the elaboration of repatriation clauses, currently a condition to all bilateral EU treaties. Although we recognise that repatriation would remain one of the elements of a comprehensive immigration and asylum policy, we recall that any repatriation policy should be based preferentially on the concept of voluntary return. In any case, the human dignity of the person who needs to be returned must always be respected and preserved. Special attention needs to be given to victims of trafficking, especially in the case of sexual or workforce exploitation (slavery). Priority must be given to their protection needs before and when repatriation is considered.

2.2. Enlargement

It is surprising that in the context of a Community Immigration Policy for the coming years, thus a middle term view, the issue of "internal" migration (between present EU Member States and candidate countries who will be part of the Union) has not been addressed in a more comprehensive way. Taking into account the current debate on restrictions to free movement for citizens of new Member States, we believe the EU should apply the same principles as for previous enlargements. Access to the labour market and the free movement of persons are among the fundamental freedoms of the EC treaty. They should be facilitated as early as possible. For public opinion in the candidate countries, this is an extremely important aspect of integration in the European Union. In the current political debate the possible East-West migration within the enlarged Union is often exaggerated. Perspectives for economical development as well as potential gains are not sufficiently taken into account. People's fears should be taken

seriously. A transparent information strategy should be put in place. Scientific studies like the Final Report "The Impact of Eastern Enlargement on Employment and Wages in the EU Member States", carried out on behalf of the European Commission, may not have been adequately communicated or are not yet recognised sufficiently.

Another aspect is the dramatic demographic decline in most Central and Eastern European countries. While demography is a central element of the immigration debate in the present EU Member States, there is no sufficient recognition of these developments in the enlarged Union.

Whenever the future immigration policy gets into effect, many countries of Central and Eastern Europe will be members of the Union. Presently, these countries are supposed to adopt the EU acquis, suggesting a rather repressive approach to immigration, while the demographic situation may require increased immigration into these countries as well. At the same time, there is little experience with migration phenomena, which is especially delicate in countries which are in the process of reaffirming their national identity. These aspects make it urgent to include Central and Eastern Europe in the debate from the beginning. Our common immigration policy for the future should be discussed and decided by all present and future EU members. We consider such a broad debate as essential for public opinion in East and West.

2.3. Irregular migration

As many immigrants in search for a better life currently either have to enter the EU irregularly or to resort to the asylum channel, the first step to achieve a coherent and more pro-active immigration policy is the opening of legal channels for immigration. Due to the current lack of sufficient legal possibilities to immigrate, society is facing the increasing problem of irregular migration and critical employment situations. New forms of slavery can be observed. This does not only include the exploitation of women as prostitutes, but also of domestic workers or of workers on construction sites. Paradoxically, these appalling circumstances could logically be seen as the living proof that the clandestine labour market is actually able to absorb the influx of these migrants.

There are reasons to believe that with the opening of immigration possibilities less people would be forced to choose these ways as their last means to enter the EU. In this, unfortunately, they are exploited by and unwittingly supporting the work of traffickers. However, it should be remembered in this context that even refugees often have to resort to smugglers or traffickers to escape persecution and reach a safe place.

A comprehensive view of a Community Immigration Policy needs to take into consideration that thousands of migrants are living in irregular situations throughout the Union. The Communication recalls several Member States' efforts for regularisation. Still, many immigrants live among us without basic social rights or even without any rights at all. The recognition of the need for legal channels consequently implies to recognise the presence of migrants who already live on the territory and have arrived here without complying with legal entry obligations. Current policies show a broad variety of approaches, ranging from different regularisation procedures to (occasional) case-by-case considerations. Member States should be encouraged to give account and analysis of their respective situation. An exchange of best practice as well as consequences of these policies might help to find appropriate solutions.

Evidently, criminal organisations gaining from trafficking need to be fought. However, the protection of individual victims, and often also of their family in the country of origin, has to be considered carefully.

A person who exercises his or her right to search for better living conditions by legitimate means should not be considered as a criminal simply for doing so. Regardless of their legal status, their fundamental rights such as education and health-care need to be honoured, which they should be able to demand without fear of being penalised. Current provisions in some Member States where every person can have access to legal proceedings regardless of the status should be regarded as best practice.

Organisations providing assistance in these fields to irregular migrants should not be penalised. We believe that it would be of great benefit to the immigration debate if the skills and qualifications also of irregular migrants were considered.

3. Specific Comments

Regarding several specific subjects addressed in the Communication, we would like to give the following comments.

3.1. Framework for a EU immigration policy

The Commission's Communication rightly re-emphasises the priorities of the Union's Migration policy as defined by the Tampere European Council in October 1999.

It is important to stress that all four main strands of a European migration policy underlined at Tampere are equally essential to a coherent immigration policy: (1) partnership with the countries of origin, (2) a common European asylum regime, (3) fair treatment and increased integration of nationals of third countries who reside legally on Union territory, and (4) better management of migratory flows. Instead of focusing solely on better protection against irregular immigration, this last point especially should now be interpreted in broader terms of a comprehensive immigration policy. Moreover, effective links between the different policy areas should be improved.

A future immigration policy of the European Union should take as a starting point Europe's heritage as an area of exchange and mutual enrichment, recalling the historical benefits of migrants in European societies. A European Union that promotes the freedom of movement and residence inside its borders as one of its guiding principles should not appear as a fortress to the outside world.

Any framework for an EU Immigration Policy must without any doubt include family reunification and the admission of refugees, asylum seekers, and others whose protection needs are recognised. We strongly support the European Commission's approach in this respect.

Family reunification and admission of persons in need of international protection should not be regarded as a burden, but a necessary consequence of the European Union's respect for human rights as well as Member States' international obligations.

We believe that the benefits particularly of family reunification have not yet been adequately assessed and communicated. Not only should family members get work permits as soon as possible, but their qualifications and skills – especially women's, as they usually have less opportunities – should be recognised and developed. Easier access to employment would also be beneficial to a large number of refugees.

3.2. Common European Approach regarding admission criteria, recognition of equal rights and free movement

It is obvious that an Area of Freedom, Security and Justice without internal borders needs a common definition for admission into its territory. We recognise that there are considerable differences concerning Member States' capabilities to deal with migrants and refugees. While these differences need to be taken into account in the context of a Common Policy, they should not justify different standards with regard to visa regulations and admission criteria.

Secondly, we think that a key element to effectively establish such an Area of Justice is certainly a commonly defined minimum set of migrants' rights. The guiding principles of such a policy should be based on the concepts of equal treatment and transparency for both migrants and the society.

It should include freedom of movement as well as establishing the principle of equal treatment also for long-term resident migrants. It should further include a set of rights as outlined in the United Nations' International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families. Naturally, the European Social Charter as well as the Charter of Fundamental Rights of the European Union form the basis to define migrants' rights. A set of rights for long-term residents granted by one Member State should be recognised by the others without discrimination.

Administrative conditions should be as simple as possible. For example, we cannot see any reason why a long-term residence permit should not systematically be connected to a work permit. Furthermore, we advocate that all third country nationals who are granted a residence permit be entitled to a work permit to be able to make their living, so that they are not forced to live in dependence on social benefits, or are not pushed into criminal activities to meet their basic needs. We are convinced that this would be important to the migrants, as unemployment has severe psychological consequences on an individual, but also to the perception of immigrants by the society at large.

3.3. Enhanced integration policy

In order to maintain Europe's tradition as a welcoming society, the priority is to combat racism and xenophobia. In this context, already existing programs need strong support by public opinion. An underlying problem is the perception of migrant workers as temporary residents. As the Communication rightly states, the "Gastarbeiter" idea of migrants who leave the society after "they have done their job" has proved an illusion. Furthermore, it has been detrimental to integration. Public affirmation – by some politicians – that migrants will only stay for a certain period of time will not lead to the shift in public opinion which is bitterly needed. An immigration policy cannot be implemented without strong political determination and impetus. The political debate must make a resolute commitment in favour of promoting pluralist societies and fighting the root causes of racism and xenophobia. This implies the open commitment to a durable stay for migrants and, particularly when they have stayed already for five years or more, accepting them as long-term residents. Such a long-term permit should be open also to refugees after some years of residence in a safe country.

Secondly, an important aspect of an area of freedom, security and justice implies equal rights for all who live in it. An effective integration policy should not only start "as soon as possible after admission", but ideally with the individual migrant's admission to the EU. Preparatory information and action in the country of origin (see above) will not only contribute to better partnership, but also constitute an element of enhanced integration efforts. Granting migrants a wide range of rights from the beginning of their stay should also give them the freedom of choice whether or not to enjoy these rights. On the one hand, this would strengthen their position as actors of migration. On the other hand, this

can foster a sense of belonging on the part of the immigrants who would feel themselves not as an economic burden but as contributing members of the wider society whose presence is recognised and needed.

We support the idea of a "civic citizenship" as mentioned by the European Commission, as the enjoyment of the same range of rights would contribute to better integration into society. Such a newly defined concept of citizenship should be independent of the nationality and be based on the recognition of social, cultural and economic rights of each individual resident. It would facilitate participation for migrants and allow them to perceive the Europe they live in as a community of contributors, involving rights as well as obligations towards society. As developed above, this citizenship would include the right to free movement at the latest when the status of long term resident is acquired. Taking into consideration that free movement is not even exercised broadly by EU citizens, competition within the EU's labour market might profit from increased flexibility.

As stated above, we hope that the interpretation of the non-discrimination legislation will cover third-country nationals as widely as possible.

Thirdly, we re-emphasise the importance of family links for integration. As we have expressed before, we share the European Commission's view that family reunification is an extremely important aspect of integration policies. In providing for families to live together, solidarity among family members, thus within a basic element of society, is facilitated and trained. While this is important emotionally as well as socially, it is also beneficial economically. All these aspects are important facets of integration. We would also like to underline that family reunion is not only an integral part of a coherent immigration policy, but important to foster a coherent social policy throughout the European Union.

Last but not least, the Communication rightly states that integration is a two-way process involving adaptation on the part of both the immigrant and the host society. Mutual respect for each other's values and traditions is an important and necessary aspect of this process. Furthermore, tolerance and respect for diversity are part of the cultural, humanist and religious heritage of Europe. These fundamental values should therefore be upheld by all who live here. A measure of the effectiveness of intercultural dialogue is how migrants are welcomed by the receiving society and how well they become integrated into their new environment.

At the same time, we need to be aware that mobility and communication can facilitate two things, (1) the maintenance of migrants' cultural identity and (2) the adoption of multiple identities by migrants and Europeans. With growing mobility and cultural exchange Europeans adopt attitudes, styles, philosophies or traditions from all over the world. It is only natural that cultural practices brought along by immigrants should be respected and accepted, as long as they do not contravene fundamental rights.

In all matters, it is important to remember the principle that immigrants must always be treated with the respect due to the dignity of every human person. They should not be regarded as filling the needs of our continent, but as individuals with personal projects and choices. To prepare for the debate about a future policy of the European Union, it should be reiterated that the benefits of immigration are not limited to the economy. Europe is by nature a pluralist society, rich in its variety of cultural and social traditions, and this diversity has contributed to its success.

3.4. Information, research and monitoring

While we fully agree with the need for more information about migration flows as indicated by the Commission, we think that the information chapter should involve at least three different aspects:

3.4.1. We affirm the need of a concise evaluation of harmonised and comparable statistics concerning all existing forms of immigration. This should include estimations of clandestine immigrants and those who have had their situation regularised. The statistics should also reflect the qualifications of immigrants and refugees, which were rarely taken into account in the past. Such an evaluation could play an important role for public perception.

3.4.2. Statistical information is not enough. The creation of a welcoming society where integration should take place in two ways cannot be achieved without clear and transparent information about the challenges of migration. This information, together with a coherent communication strategy, is necessary in EU Member States as well as in the current candidates countries. It is needed in order to create a welcoming society, in which integration is a two-way process between immigrants and the local society. We would suggest that publicity on the history of migration from and to Europe is provided as a tool to change the negative images.

3.4.3. Information about immigration is not only needed in the European Union but also in the emigration countries. A European strategy might include information centres in the countries of origin. These centres should provide information about the possibilities of legal immigration and offer practical help – a "balance between risks and hopes". Ideally, they could even offer orientation courses to provide a decent preparation for the future immigrant. Such an introduction to language, culture, and the social situation in the country of destination could be organised and funded in co-operation with potential employers. The involvement of trade unions in such activities would seem another important element.

4. Conclusions

4.1. It seems most urgent to provide the public in European societies with thorough **information about migration**, from the positive contributions of migrants to societies – not just to the labour market – their traditions and habits to statistics and reliable data. Policy makers bear responsibility to avoid distortion in media portrayal of migrants especially in the amalgamation between immigration and criminal activities. Transparency and information will help to counteract people's fears, which are often fears of the unknown. The Churches commit themselves to engage fully in the debate, to the promotion of solidarity, of integration and mutual respect. In this context, a courageous political commitment is needed, which must be exercised with great care, starting from the language used.

4.2. In order to support the interdisciplinary approach as proposed by the European Commission, **radical coherence between the different policy areas** should be pursued. As a permanent and increasing phenomenon in our societies, the issue of migration needs to reconcile the long term approach which is needed for global development with the short term approach, which has predominated Justice and Home Affairs for too long. Europe's responsibility in the world calls for the development of countries rather than a brain drain, in order to achieve a fair share of benefits and burdens in a global economy. If Europe is now searching for the well-educated and trained persons from the South to meet its needs, as well as for migrants to do unskilled or low-skilled labour, the obligation to facilitate exchange with the countries of origin, including improved and cheaper channels for remittances are vital.

4.3. The **chances of migrants in the society** they live in are at the same time chances for this society. These chances depend on the rights that migrants enjoy and which are an essential element of their integration. We **call for a broad set of uniform rights**, as laid down in the United Nations' International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, which migrant workers and their families should enjoy in all Member States. This will broaden their perspectives as well as their readiness to integrate into the host society, which will more easily become one of their own. As the European Commission rightly stated, integration is a twofold process. This needs to be taken into account by both migrants and the welcoming society, which will be the constituting elements in the process of shaping a multicultural society.

4.4. Migration is a global challenge. It should not only be addressed jointly by the Member States of the European Union, but also at higher levels of international co-operation. As a first step to **more regional co-operation**, the EU activities should involve co-ordination and exchange with – as well as support for – the work the Council of Europe has already done in this area. We would especially support the idea of **setting up a European Monitoring Centre for Migration**, as proposed by the Parliamentary Assembly of the Council of Europe, competent for monitoring regular and irregular migration as well as advising on legal immigration and integration policies.

4.5. In the context of labour migration, we propose to **concentrate at a European level the competence to provide information on labour needs between Member States and to coordinate their Immigration Policy**. Under a potentially extended EURES network, information about labour market needs could be provided to Member States and to third countries. Furthermore, the responsibility for the co-ordination of national quota, the collection of information from national offices and the exploration of employment possibilities in the Member States could be added to this competence.

For many in the churches, practical and pastoral work with migrants is a daily, often challenging, experience. They always strive to respect and affirm the human dignity of every individual.

Christian churches and organisations will be closely monitoring developments in the debate on a Community Immigration Policy in a spirit of constructive dialogue. We are committed to participate fully in the elaboration of a humane, transparent and coherent immigration policy in keeping with the EU commitment to develop and maintain the Union as an area of freedom, security and justice.

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Conference of European Justice and Peace Commissions (<http://www.juspax-eu.org/english/home/indexe.htm>)

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ICMC – International Catholic Migration Commission

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