

Opinion of the Committee of the Regions on the Green Paper on an EU approach to managing economic migration

(2006/C 31/09)

THE COMMITTEE OF THE REGIONS,

Having regard to the Commission's Green Paper on an EU approach to managing economic migration (COM(2004) 811 final),

Having regard to the Commission's decision to consult the CoR on the subject under the first paragraph of Article 265 of the Treaty establishing the European Community,

Having regard to the decision of its President of 22 February to instruct the Commission for Economic and Social Policy to draw up an opinion on the subject,

Having regard to the Conclusions of the Tampere (1999), Nice and Lisbon (2000) and Seville (2002) European Councils,

Having regard to its Opinion on the Amended Proposal for a Council Directive on the right to family reunification (CdR 243/2002 fin) ⁽¹⁾,

Having regard to its Opinion on the Communication from the Commission on a common policy on illegal immigration (COM(2001) 672 final) and on the Communication from the Commission on an open method of coordination for the Community immigration policy (COM(2001) 387 final) of 16 May 2002 (CdR 93/2002 fin) ⁽²⁾,

Having regard to its opinions on a Community immigration policy and a common asylum procedure (CdR 90/2001 fin) ⁽³⁾ and on the Proposal for a Council Directive laying down minimum standards on the reception of applicants for asylum in Member States (CdR 214/2001 fin) ⁽⁴⁾,

Having regard to its Opinion on the Proposal for a Council Directive concerning the status of third-country nationals who are long-term residents (CdR 213/2001 fin) ⁽⁵⁾,

Having regard to its Opinions on the Proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activities (CdR 386/2001 rev. 1) and on the Proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purposes of studies, vocational training or voluntary service (COM(2002) 548 final) (CdR 2/2003 fin) ⁽⁶⁾,

Having regard to the Communication from the Commission on integrating migration issues in the European Union's relations with third countries (COM(2002) 703 final),

Having regard to its opinion on the Commission Report requested by the Stockholm European Council: Increasing labour force participation and promoting active ageing (COM(2002) 9 final) (CdR 94/2002 fin) ⁽⁷⁾,

Having regard to the Opinion of the Economic and Social Committee on Immigration, integration and the role of civil society organisations (CES 365/2002 fin) ⁽⁸⁾,

Having regard to Article 13 of the EC Treaty, and to Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation and Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin,

⁽¹⁾ OJ C 73 of 26.3.2003, p. 16

⁽²⁾ OJ C 278 of 14.11.2002, p. 44

⁽³⁾ OJ C 19 of 22.1.2002, p. 20

⁽⁴⁾ OJ C 107 of 3.5.2002, p. 85

⁽⁵⁾ OJ C 19 of 22.1.2002, p. 18

⁽⁶⁾ OJ C 244 of 10.10.2003, p. 5

⁽⁷⁾ OJ C 287 of 22.11.2002, p. 1

⁽⁸⁾ OJ C 125 of 27.5.2002, p. 112

Having regard to the Council of Europe report of July 2000 on Diversity and Cohesion: new challenges for the integration of immigrants and minorities,

Having regard to the Commission Staff Working Paper on the Extended impact assessment on the Communication on immigration, integration and employment (COM(2003) 336 final) SEC(2003) 694,

Having regard to its Opinion on the Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on immigration, integration and employment (CdR223/2003 fin) ^(*),

Having regard to the Communication from the Commission to the Council and the European Parliament — Area of Freedom, Security and Justice: Assessment of the Tampere programme and future orientations (COM(2004) 401 final),

Having regard to the UN Convention on the protection of the rights of all migrant workers and members of their families,

Having regard to its draft opinion (CdR 82/2005 rev. 1), adopted on 3 May 2005 by the Commission for Economic and Social Policy (rapporteur: **Mr Alvaro Ancisi**, Member of the municipal council of Ravenna (IT-EPP),

Whereas

- 1) widespread economic migration is not in itself a solution to the demographic problems of the ageing population and the falling birth rate, nor is it the only possible answer to the needs of the labour market. Notwithstanding the need to absorb the potential labour force of the EU whilst facilitating the immigration of highly-skilled workers in particular sectors, more sustained immigration flows are increasingly required to meet the needs of the European labour market and to ensure the economic competitiveness of European businesses;
- 2) one of the key points of the Hague programme — the new EU agenda for developing immigration and asylum policies, adopted in 2004 — is legal migration and the fight against illegal employment; and although responsibility for determining the level of legal immigration lies with the individual Member States, the Commission is invited to present a policy plan on legal migration by the end of 2005;
- 3) the aim of this Green Paper is to launch a pre-legislative consultation process involving the EU institutions, the Member States and civil society on the most appropriate forms of Community rules for admitting economic migrants and on the added value of adopting a Community approach;
- 4) the new Constitutional Treaty further extends the EU's competences (Article III-267) and provides for the EU to develop a common immigration policy aimed at ensuring the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States and measures to combat illegal immigration and trafficking in human beings, and for EU law to lay down conditions of entry and residence, and standards on the issue by Member States of visas and residence permits;
- 5) the new Constitutional Treaty also provides for European laws or framework laws to 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' (Article III-267(4)). In this context harmonisation of the laws and regulations of the Member States is excluded. The CoR underlines the fact that responsibility for arrangements in respect of access by third-country nationals to the labour market lies with the Member States;

unanimously adopted the following opinion at its 60th plenary session, held on 6-7 July 2005 (meeting of 7 July):

^(*) OJ C 109 of 30.4.2004, p. 46

1. The Committee of the Regions' comments

The Committee of the Regions

With regard to the following key issues raised in the Green Paper:

The degree of harmonisation that future Community legislation should aim at

1.1 **notes** that the aim in developing a migration policy is, *inter alia*, to provide a short- and medium-term economic response to Europe's demographic decline and to create an area of freedom, security and justice for all citizens; this is a priority objective for the Committee of the Regions;

1.2 **points out** that there is a clear link between the difficulty for migrants to use legal channels for economic migration, the lack of coordination between Member States' policies in that field and the levels of illegal migration;

1.3 **stresses** that the interdependence of economic, employment and social policy is a feature of the European social model, which seeks to promote better-quality jobs, modernisation of economic structures and greater social cohesion;

1.4 **notes, however**, that while, in some European regions, the population is falling and there is a labour shortage, in other regions the rising population is putting pressure on local services and housing;

1.5 **considers** that any future Community legislation should establish a comprehensive legal framework covering all immigrants into the EU, although initially it could begin by taking a sectoral approach, focusing on specific groups of migrant workers such as seasonal workers, workers with particular skills, workers transferred within a company, or service providers;

supports, therefore, the option proposed by the Commission in its Green Paper concerning the creation of a common framework of minimum standards governing the admission of non-EU nationals wishing to take up paid employment or to work on a self-employed basis;

regrets that the proposal for a directive on the conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activities, which the CoR welcomed in its Opinion 386/2001 of 13 March 2002 ⁽¹⁰⁾, has not been endorsed by the Council;

1.6 also **considers** that common fast-track procedures could be adopted by agreement between a number of Member States where there are skills gaps; any Member State carrying out such procedures should have the obligation to inform, and coordinate them in advance with, the remaining EU Member States;

Admission procedures for migrant workers; work and residence permits

1.7 **reiterates** the importance of a visa and residence and work-permit policy which facilitates the entry of migrant workers; suggests, therefore, that individual Member States provide a single national application procedure leading to a combined title, encompassing both residence and work permit within one administrative act, in order to simplify and harmonise the diverging rules currently applicable in Member States;

1.8 **reiterates** the points already made regarding the principle of encouraging the mobility of migrants who are long-term residents and already part of the Community labour market (CdR 337/2004 rev. 1);

1.9 **given that** Council Directive 2003/109/EC gives mobility rights to long-term immigrants as of 2006, **considers it important** also to explore the possibility of adopting minimum common rules facilitating the mobility within the EU of workers who have not lived in a Member State for a long period of time, as soon as free movement of workers is introduced for the Member States that joined the EU in 2004, e.g. by issuing job-seeker residence permits which would enable job-seekers to find and apply for vacant posts. Moreover, it would be a good idea to introduce basic training in third countries of origin, as this can be a decisive factor in some sectors, and adopt minimum common rules for certifying skills possessed or acquired in the country of entry into the EU;

1.10 **believes** that the admission of individual workers should in principle be conditional upon specific job vacancies.

However, in certain specific labour market sectors where it is more difficult to disseminate information in the country of origin about specific job vacancies, Community legislation for legal admission of migrants could include a temporary residence permit for seeking work, which would be valid for a limited period of time and managed by each Member State.

Any future legislation should also address possibilities for changing the place/sector of work, stipulating maximum unemployment periods applying up until the expiry of the job-seeker permit, after which a migrant worker would have to return to their country of origin. However, such a stringent requirement would result in many immigrants continuing to resort to smuggling mafias. Therefore, there should be some flexibility which on the one hand provides migrants with hope and leads them away from the mafias, and on the other hand provides Member States with the flexibility to admit third-country nationals based on foreseeable labour needs. Any future legislation concerning maximum unemployment periods before a migrant worker would have to return to their country of origin must take into consideration the degree of integration of the worker, e.g. presence of family members, schooling of children, period of residence, number of years employed prior to the unemployed period, amongst other considerations;

⁽¹⁰⁾ OJ C 192 of 12.08.2002, p. 20

1.11 **notes** that entry systems which are more flexible than 'individual assessment', such as green cards, intended to respond to variable and long-term labour requirements, can be addressed by Community legislation only if an information system for publishing and consulting job offers at European level is adopted and if minimum common selection rules are laid down for the admission of migrant workers;

1.12 **believes** that, under the subsidiarity principle, the question of whether to combine work and residence permits should not be regulated at European level but should be left to the individual Member States to decide.

Rights, accompanying measures and cooperation with third countries

1.13 **notes** that appropriate Community legislation needs to be introduced to guarantee third-country citizens who are migrant workers fundamental civil and social rights;

1.14 **reiterates** previous comments on the need to limit the brain drain from third countries and to help these countries keep migration to a level which is sustainable and beneficial for both host and home countries (CdR 223/2003): strategies designed to reduce poverty, improve living and working conditions, create jobs and develop training in migrants' countries of origin help in the long term to normalise migration flows;

1.15 **considers** that, within the framework of cooperation measures, measures to promote vocational and other training and recruitment in countries of origin should be supported, and that it would be beneficial to plan specific bilateral or multilateral agreements with bordering or nearby countries or countries most exposed to immigration flows, in order to establish admission preferences;

A key role for local and regional authorities

1.16 **stresses** the fundamental regional and local dimension of economic migration, considering its impact on local labour markets and services provided by local and regional authorities (social services, education, housing etc.); therefore, consideration should be given to these authorities when assigning Community funds for the integration of immigrants;

1.17 **stresses** the essential role of local authorities in ensuring security and social cohesion, which are fundamental aspects of an economic migration policy;

1.18 **points out**, therefore, that, when the kinds and volumes of immigrant labour to be admitted are established, procedures must be laid down which take into account the proposals of local and regional authorities as well as national requirements;

1.19 **considers** that local and regional authorities could play an essential role in the social integration and cultural and

language education of immigrant workers, in helping them to acquire skills and in certifying these, and in cooperation processes with third countries to provide training for workers hoping to emigrate from those countries.

2. The Committee of the Regions' recommendations

The Committee of the Regions

2.1 while **taking into account** the provisions of the future Constitutional Treaty, **stresses** the close connection between immigration policy and employment policy (Title VIII, Article 137 (3) TEC) and therefore **considers** that it should mandatorily be consulted on the legislation developed from the Green Paper;

2.2 **urges** all EU Member States to ratify the UN Convention on the protection of the rights of all migrant workers and members of their families;

2.3 **considers** that issues related to immigration and the labour market can be addressed most effectively at European level but that, at the same time, it must be ensured that (i) entry and residence conditions do not conflict with Member States' rights to regulate the volume of admissions and (ii) these rights do not have an adverse impact on other states. Conditions which are too restrictive would prevent Member States from admitting the number of immigrants they wish to and that could have serious repercussions on their economic competitiveness or that of their regions. It therefore **recommends** measures to ensure that any future legislation on admission criteria is compatible with the various national, regional and local situations;

2.4 while **noting** that common rules can bring added value, in view of the transnational considerations and the effect that one Member State's policy has on another Member State, **recommends** that evidence should be provided of the added value of any future European legislation before it is adopted and that areas be identified which do not have transnational implications and can therefore be regulated more effectively at Member-State level;

2.5 given that the Green Paper (pre-legislative consultation) does not specify the kind of legislative instrument that might be adopted, **considers** that it should be a directive, as this would provide national-policy guidelines but leave each Member State free to decide on certain matters and to cater for specific regional and local characteristics. Furthermore, it would establish guidelines for conditions of entry and residency, in order to avoid one state's immigration policy impinging on that of another. The use of a directive could ensure that Member States have enough flexibility, *inter alia* to cater for specific local and regional characteristics;

2.6 also **considers** that the option of a regulatory instrument to define social and civil rights could be explored;

2.7 **recommends** that the pre-legislative consultation process should be extensive and involve regional and local authorities, given that the Commission itself sees them as major stakeholders in immigration policy;

2.8 given the vague reference to the need to take regional and local considerations into account (page 8 of the Green Paper), **calls upon** the Commission to give greater recognition in the future legislation to the role of regional and local authorities in identifying areas of the labour market which are in need of migrant workers.

Moreover, it **reiterates** the need for a programme promoting the exchange of best practice in migration policy and suggests that the European Union support the establishment of regional contact points for companies interested in the migrant workforce, in order to respond to the fall in available labour and promote economic development.

Brussels, 7 July 2005

It **considers** that a specific assessment of the regional and local dimensions of economic migration policy and of the economic and social impact of the proposed measures, as well as of the financial support needed, would be useful.

The CoR itself should set in motion the measures necessary for an impact assessment (studies, surveys, hearings, conferences, questionnaires) with a view to better regulation and coordination of immigration and integration policies;

2.9 **having noted** the Commission's insistence that any future measures should minimise the administrative burden for Member States and third countries and its failure to make any direct reference to the question of cost, whereas many measures do clearly entail cost, **deems necessary** an assessment of the administrative and financial constraints that such measures may impose on regional and local authorities. These kinds of programmes are costly and so their impact needs to be assessed. They will have to be funded by central government and the EU, without prejudice to local authorities' power to decide on their content and to implement them.

The President
of the Committee of the Regions
Peter STRAUB
