

Opinion of the Committee of the Regions on 'A global approach to migration: Developing a European policy on labour immigration in conjunction with relations with third countries'

(2008/C 257/04)

THE COMMITTEE OF THE REGIONS

- considers that the EU must equip itself as soon as possible with a genuine European immigration policy, respecting the powers of the different levels of government, while assuming those which are within its remit;
- welcomes the Commission's initiatives to establish mechanisms to facilitate regular labour migration, insofar as an imbalance exists between the implementation of restrictive measures to combat irregular migration and those intended to promote regular migration, and calls on the Commission to develop a comprehensive European migration policy, ensuring that European-level measures offer added value, as in the case of highly skilled labour;
- agrees that illegal employment is one of the main pull factors for irregular immigration and that, in consequence, the Member States must intensify and improve their work, so that all necessary measures to combat the irregular labour market are taken;
- regrets that the role of the Committee of the Regions is not mentioned in any of the reference documents, and voices its concern at the lack of attention to the territorial dimension, whereas until present the role of local and regional authorities in managing migration had been recognised, as had been the Committee of the Regions' consultative role in this sphere;
- argues that hand-in-hand with the development of the external dimension of the policy and of European instruments for managing immigration, the territorial dimension must also be strengthened, involving local and regional authorities in providing a global approach to migration. To this end, it must be ensured that the European Commission promotes a more proactive role for the Committee of the Regions at the initial stage of Community action;
- welcomes the initiative to promote circular migration, considering that this may make a positive contribution to the Member State labour markets and to development in the countries of origin.

Rapporteur: Anna TERRÓN I CUSÍ (ES/PES), Secretary for European Union Affairs, Government of Catalonia (the Generalitat)

Reference documents

Communication from the Commission on circular migration and mobility partnerships between the European Union and third countries

COM(2007) 248 final

Proposal for a Directive of the European Parliament and of the Council providing for sanctions against employers of illegally staying third-country nationals

COM(2007) 249 final

Proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment

COM(2007) 637 final

Proposal for a Council Directive on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member States

COM(2007) 638 final

POLICY RECOMMENDATIONS

THE COMMITTEE OF THE REGIONS

General recommendations

1. considers that the European Union must equip itself as soon as possible with a genuine European immigration policy, respecting the powers of the different levels of government, while assuming those which are within its remit;

2. welcomes the Commission's initiatives to establish mechanisms to facilitate regular labour migration, insofar as an imbalance exists between the implementation of restrictive measures to combat irregular migration and those intended to promote regular migration, and calls on the Commission to develop a comprehensive European migration policy, ensuring that European-level measures offer added value, as in the case of highly skilled labour;

3. agrees that illegal employment is one of the main pull factors for irregular immigration and that, in consequence, the Member States must intensify and improve their work, so that all necessary measures to combat the irregular labour market are taken;

4. believes that when it comes combating the illegal labour market efforts must be directed primarily at those persons, employers or individuals, who recruit third-country nationals with irregular status in a Member State. Immigrants often find themselves in a very vulnerable position and may be exploited in an immoral or illegal way;

5. considers that a single permit is a valid tool for preventing the type of irregular immigration that has occurred, and recalls

that Article 41 of the Charter of Fundamental Rights of the European Union sets out the right to good administration;

6. considers cooperation with third countries to be crucial for a global and coherent view of immigration, as recognised by the European Council in its 2005 conclusions, recalling that 'migration issues are a central element in the EU's relations with a broad range of third countries, including, in particular, the regions neighbouring the Union' ⁽¹⁾;

7. points out that when it comes to setting up 'partnerships for mobility', priority should be given to third countries which are prepared to take action to tackle illegal migration and human trafficking;

8. welcomes the proposals to develop closer cooperation with third countries by means of 'mobility partnerships' or technical and/or financial assistance, and urges the Commission to devise new forms of cooperation, based on an approach of equality, with countries of origin and transit, creating a climate of trust in which these countries can cooperate in combating irregular immigration and introduce mechanisms to organise regular migration;

9. points to the key role that local and regional authorities play in negotiations and relations with countries of origin and transit, especially in areas such as development and cooperation. It recalls the substantial part local and regional authorities have played in ensuring that the Aeneas, Meda and Tacis programmes, amongst others, have functioned properly, and underlines the contacts with, and knowledge of, the countries of origin and transit acquired thanks to immigrant communities;

⁽¹⁾ Presidency Conclusions. Brussels European Council, 15 and 16 December 2005. Section IV, point 8.

10. regrets that the role of the Committee of the Regions is not mentioned in any of the reference documents, and voices its concern at the lack of attention to the territorial dimension, whereas until present the role of local and regional authorities in managing migration had been recognised, as had been the Committee of the Regions' consultative role in this sphere;

11. argues that hand-in-hand with the development of the external dimension of the policy and of European instruments for managing immigration, the territorial dimension must also be strengthened, involving local and regional authorities in providing a global approach to migration. To this end, it must be ensured that the European Commission promotes a more proactive role for the Committee of the Regions at the initial stage of Community action ⁽²⁾;

12. highlights the work of local and regional authorities in immigrant integration policies, and their role in ensuring that mechanisms for access to the labour market operate properly, and also points to the role they can play in training immigrant workers to join both European labour markets and the labour markets of their countries of origin in the event of return;

13. recalls that local and regional authorities play a key role in providing public services for immigrants (both regular and irregular), reception, health care, education and housing policies being prominent among these. As recalled by the Fifth Conference of Parliaments of EU Capital City Regions (April 2006), for some regions and local authorities immigrations has entailed and continues to entail a significant cost for public services. New methods should therefore be devised that would allow local and regional administrations to play a more important part in implementing national initiatives and strategies regarding access and entry to the labour market;

14. indicates that it prefers the term 'irregular immigration', since in many official languages the term 'illegal' clearly implies criminal behaviour, and in any case urges that use of the term 'illegal immigrant' be discarded;

15. notes that other EU policies that may affect migrants are mentioned, such as development policy, the European Employment Strategy and other social and economic policies, and therefore calls for closer coordination with all those policies affecting the immigrant population;

16. calls on the Commission to take account of the Member States' estimates of labour force requirements, on the basis of information supplied by the Member States to Eurostat and of lists of occupations that are difficult to fill, in order to gain a more detailed view of the actions and estimations of the different Member States. However, in doing so it should

⁽²⁾ In accordance with the Cooperation Protocol between the Committee of the Regions and the European Commission of November 2005.

respect national competences regarding the admission of third-country nationals to labour markets;

17. points to the importance of a reliable, up-to-date statistical system of enabling states to exchange experiences and information concerning employment and labour market policies on a voluntary basis, as set out in Directive (EC) No 862/2007 on Community statistics on migration and international protection ⁽³⁾;

18. highlights the important role that local and regional authorities can play in gathering information and statistical data, and draws attention to the contribution they could make to a European immigration portal, or to extending the services offered by the EURES network, for example. Regional and local authorities already operate many web portals which could complement such initiatives;

19. voices its concern at the lack of clear reference to the international agreements that the Member States have signed under International Labour Organisation auspices, and recalls that they must work in compliance with the Declaration on Fundamental Principles and Rights at Work (ILO, 1998), and the Plan of action on migrant workers (ILO, 2004) and, more broadly, with the fundamental rights of the person, as enshrined in current international conventions;

20. considers it to be extremely important to establish a network of local and regional authorities to develop common statistical tools and indicators that help to provide a more accurate picture of migration;

21. wishes to highlight the importance of promoting the establishment of permanent working groups and forums (conferences, seminars, etc.) for exchanging experiences and good practice in receiving migrants and in integrating them into society and into work;

22. supports the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Their Families by the Member States;

Concerning circular migration and relations with third countries

23. welcomes the initiative to promote circular migration, considering that this may make a positive contribution to the Member State labour markets and to development in the countries of origin;

24. recognises that circular migration may forge a valuable link between the countries of origin and the host countries, and may serve to promote dialogue, cooperation and mutual understanding;

⁽³⁾ Recital (5) of Regulation No 862/2007 recognises that there is '... an increasing need for statistical information regarding the profession, education, qualifications and type of activity of migrants'. Recital (6) also states that 'Harmonised and comparable Community statistics on migration and asylum are essential for the development and monitoring of Community legislation and policies relating to immigration and asylum, and to the free movement of persons'.

25. warns that circular migration must function properly if it is not to become a channel for irregular immigration, by establishing effective channels to ensure migrants' return and facilitating circularity. At the same time, it understands that circular migration cannot replace permanent migration, nor restrict Member States' initiatives regarding immigrant integration policies;

26. advocates a closer connection between immigration policy and other policies of EU scope, with a view to improving the economic and social environment of the countries of origin and contributing 'to reducing the incentives for irregular migration' (*);

27. applauds the mobility partnerships with third countries and recognises the importance of promoting association agreements with the countries of origin. The Commission emphasises in its Communication that the division of competences between the EU and Member States should be taken into account when concluding mobility partnerships. These must contain instruments for the joint management of migration flows, measures to combat irregular immigration and facilitate the readmission and return of irregular migrants, and mechanisms to foster the economic development of these countries;

28. notes the importance of concluding readmission agreements with third countries as part of their commitments, and points to the need to make repatriation of this kind easier while respecting immigrants' rights and internationally-recognised rights;

29. calls for acknowledgement of the role of local and regional authorities in international cross-border cooperation; and encourages the facilitation of local and regional participation in the European Neighbourhood Policy urging local and regional authorities to work together with the regional authorities in the countries of origin, making use, to this end, of the programmes established by the European Commission and in particular the joint pilot scheme for regional cooperation between the outermost regions and neighbouring third countries; as it recalls that these authorities are the most aware of the economic and social impact of immigration and the corresponding repercussions in the regions of origin;

30. recalls that the effects of circular migration on the countries of origin must be analysed, and the impact on them of remittances must be examined. It urges that, in the light of these studies, the necessary instruments be introduced to facilitate the transfer of remittances;

31. calls for consideration to be given to involving the towns and regions of origin and destination of migration flows in the mobility partnerships, since they can facilitate mobility for immigrants and exert a positive influence on the social integration of immigrants;

32. underlines the need to promote mechanisms that encourage mobility within the EU for immigrant workers legally residing and working in a Member State;

33. stresses that third countries which participate in partnerships for mobility must endeavour to effectively promote the return and reintegration of migrants by taking active measures to promote the creation of production infrastructure and decent employment conditions. Host country authorities should remind mobility partner countries of origin of this, and provide them with advisory and other support, without such support involving financial outlay;

34. agrees with the idea of long-period multiple entry visas to facilitate circular mobility, and supports initiatives geared to boosting the activity on Member State labour markets of those third-country nationals previously admitted as students and those who, having taken part in circular migration mechanisms, have met the conditions for return;

35. calls on the Commission to strive to ensure that, following their return to their countries of origin, circular migrants may transfer their accumulated pension rights;

36. takes a positive view of incentives for cooperation with third countries that are complementary with other measures and promote the participation of local and regional authorities in development projects;

37. supports the idea of setting up common visa application centres in third countries, and urges that this initiative should not lead to more red tape, but rather simpler and more straightforward procedures;

Concerning action against irregular work

38. backs the Commission's intentions to combat illegal work by third-country nationals. The application of economic, administrative or, when deemed to be of sufficient seriousness, criminal nature sanctions to secure compliance with EU rules is a matter for the national level, except for sanctions designed to secure the effectiveness of EU law;

39. points to the need to assess whether the word 'employer' or 'entrepreneur' is appropriate in each language version of the directive and considers that, where the legal system of a Member State makes a distinction between the two words, it would be preferable to use 'employer' rather than 'entrepreneur', in order to distinguish the spirit of enterprise from criminal behaviour and to cover situations in which a person may provide regular employment without having the legal status of an entrepreneur;

(*) COM(2007) 248 final.

40. argues that action against irregular work must take the form of penalties for those who employ illegally, but also of stepping up labour inspections, improving channels for legal recruitment, and examining alternative systems that enable best practices to be promoted. The results of labour inspections should be made public to allow consumers and potential employees to make informed choices;

41. considers that action against irregular work, one of the main pull factors for continuing irregular migration flows, must be a priority in EU measures concerning immigration policy, and that the legal basis of the directive should focus on action against irregular work leading to a reduction in irregular immigration rather than the other way round;

42. recalls that local and regional authorities, in accordance with the national legislation, can play an important part in implementing labour market control and supervision measures, and that there may be a need to expand human and material resources in order to increase the number of inspections;

43. considers that, as part of the efforts to combat irregular work, particular attention should be given to countering illegal smuggling of migrants and human trafficking, and condemns the role of the mafias and organised criminal networks in sustaining irregular immigration in general, and labour exploitation in particular: this has become a profitable criminal activity;

44. supports the initiatives to combat irregular work, and urges that joint initiatives be promoted between the various levels of administration (national, regional and local) and social actors (principally employers and trade unions, but also NGOs and associations defending rights) in this area. It calls for awareness-raising and information campaigns to be launched in specific employment sectors with the aim of dissuading those who recruit workers by irregular means and informing them of the benefits of employing legally;

45. agrees that it would make no sense to exclude individuals who take on irregular workers within the scope of the directive, but warns that it is impossible to prevent such situations without providing straightforward, additional arrangements for the regular recruitment of staff who are in short supply on the labour market;

46. highlights the importance of making temporary, and especially seasonal, employment more flexible and rapid, and also of defining paths for seasonal immigration in accordance with the 2005 Policy Plan on Legal Migration, as factors that can help to prevent the continuation of irregular recruitment;

47. draws attention to the extremely vulnerable employment and personal circumstances of many immigrant women in the European Union, and urges that greater attention be devoted to this question;

48. supports the decision not to impose sanctions on third-country nationals covered by the proposal, although the requirement for a return or removal decision^(?) may be interpreted as a penalty, and welcomes the economic sanctions to be imposed on offenders, and in particular the payment of the costs of return, to which the board and lodging of the immigrant pending the conclusion of the return procedure could be added; emphasises that the European Union should guarantee the consistency of legislative instruments relating to return measures, and their compliance with fundamental human rights;

49. urges that the necessary measures be taken to guarantee that returned migrants receive any outstanding pay;

50. calls for better protection on the part of the competent Member State authorities for abused workers, and asks that consideration be given to the possibility of granting long-term residency to them, especially in the most serious cases, in line with the provisions of Directive 2004/81/EC on the resident permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities;

Concerning highly qualified workers

51. welcomes initiatives advocating the promotion of legal channels for immigration into the EU, together with attempts to harmonise the various and complex mechanisms for access to the Member State labour markets;

52. believes that there is a need for measures such as the 'Blue Card' with the aim of making the EU more attractive to migration flows of qualified and highly qualified workers, meeting the needs of the European labour markets, and ensuring the implementation of the Lisbon Strategy; however the Commission is asked to provide a clearer definition of what is meant by 'qualified' and 'highly qualified' migrants; further suggests that the definition should take into account a migrant's standard of education, work experience, language skills and other relevant factors;

53. points out that the contribution of unskilled or semi-skilled workers to the labour markets of some European countries should not be underestimated, and reminds the Commission –after it has analysed and evaluated employment possibilities for unskilled and semi-skilled workers– of the Council's commitments concerning the alignment of admission procedures for labour market reasons, as set out in the Policy Plan on Legal Migration;

54. considers that the 'Blue Card' should not only be granted to qualified workers applying for admission to EU territory, but also to those already resident in a Member State;

^(?) COM(2005) 391 and COM(2007) 248.

55. considers it essential to obtain reliable, basic information on the need for qualified labour on the Member State employment markets, and asks the Commission to work on an effective, uniform method to compile and present statistics in this area in keeping with Regulation (EC) No 862/2007;

56. calls on the Member States to promote the involvement of local and regional authorities in deciding on the volume of admissions of third-country nationals for highly qualified job vacancies, and regrets that this is not explicitly mentioned in the draft directive;

57. is concerned that the mobility for employment purposes of highly qualified workers may be affected by the requirement to live in the first Member State for at least two years, and urges the Commission to seek alternative formulas to ensure labour mobility and to meet the needs of the national labour markets;

58. takes a positive view of the entry conditions regarding members of the families of highly qualified workers: this can be a decisive element in recruiting highly qualified personnel, as illustrated by the experience of other countries such as Australia, Canada and the United States;

59. recalls the importance of preventing a brain drain from the developing countries, and is concerned to note that, according to the ILO, skilled worker admission programmes (amongst which it points to the Commission's recent initiatives on circular migration) 'tend to intensify brain drain concerns' ⁽⁶⁾;

60. requests that the brain drain and its effects on the countries of origin be analysed using reliable data and statistics, in order to devise joint responses with the countries of origin that prevent, as far as possible, the risks and repercussions it entails;

61. urges the Commission to take all appropriate measures to promote 'brain circulation' as an alternative to the 'brain drain', a concept under which migrants return to their countries of origin and share the benefits of the skills they acquire in the destination countries ⁽⁷⁾, and which allows relations between the communities of origin and of destination to be forged and deepened;

Brussels, 18 June 2008.

Concerning the single residence and work permit

62. welcomes the proposal for a single application for a combined residence and work permit, and calls for administrative procedures geared to processing these permits to be upgraded;

63. applauds all proposals that simplify EU access procedures for work purposes, and calls for the permit application and approval procedures to be streamlined in order to guarantee that the system operates efficiently;

64. considers the single permit to be a useful tool in countering the irregular situations that have occurred and which represent a large-scale problem in the countries of the EU, undermining the right to good administration recognised by the European Union's Charter of Fundamental Rights;

65. welcomes the recognition of a common set of rights for all holders of the single permit, and recalls that these rights should be recognised as being connected with the international framework of labour protection provided by the ILO;

66. recalls that, as recognised in opinion CdR 233/2006 ⁽⁸⁾, it is important to improve mechanisms for recognising the equivalence of immigrants' occupational qualifications and, more broadly, professional skills, with the aim of facilitating their entry onto the labour market best matching their skills;

67. warmly welcomes the inclusion of guarantees in procedure for submitting the single application for the combined permit, particularly regarding the requirement to give reasons for rejecting an application, and the possibility of seeking remedy in the event of rejection;

68. stresses that the Member States, in compliance with the principle of subsidiarity, must involve local and regional authorities in drawing up their immigration policies, especially in areas regarding integration and the labour market, so that they can take part in deciding on the number of third-country nationals to be admitted to their territory, and on their employment profiles.

The President
of the Committee of the Regions
Luc VAN DEN BRANDE

⁽⁶⁾ *Securing the benefits, diminishing the risks of worker mobility*. Issue paper for Session 3: Migration for work, within borders and internationally. ILO forum, 2007.

⁽⁷⁾ ACP-EU Joint Parliamentary Assembly. Draft Report on migration of skilled workers and its effect on national development. ACP-EU/100.012/B/2007.

⁽⁸⁾ Opinion of the Committee of the Regions on the *Policy plan on legal migration, Fight against illegal immigration, Future of the European Migration Network*, CdR 233/2006 of 13.2.2007.