



MIGRANTS, REFUGEES AND HUMAN RIGHTS

ANNE VON OSWALD
ANDREA SCHMELZ (ED.)

RESOURCE BOOK

IMPRINT

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NETZWERK **MIGRATION** IN EUROPA

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**MIGRANTS,
REFUGEES
AND HUMAN
RIGHTS
IMMIGRATION
IN EUROPE**

ANNE VON OSWALD
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BOOK**

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»Let us remember that migration is not essentially about economics, it is about people. Migrants are not an economic resource, a form of capital – they are husbands, wives, mothers, fathers and children. At its most basic level, migration is a result of the efforts of individuals and families to survive and improve their lives. The problems caused by migration have an impact on individuals and their families, people with faces and names.«

*Lesley Anne Knight, Secretary-General,
Caritas International*

INTRODUCTION

This resource-book is targeted at NGOs, practitioners and students in the field of European Citizenship Education who require educational materials and want to learn about human rights and migration with a particular focus on the European Union.

This resource-book gives an overview of the European and international legal framework and Human Rights Law concerning refugees and migrants. Further, it offers a policy glossary on immigration (SECTION I–III). It provides background information on basic facts, an overview and critical debates on European immigration and asylum policy and the new concept of »Circular Migration« (SECTION IV). SECTION V informs about European research centres, initiatives and networks regarding migration and human rights.

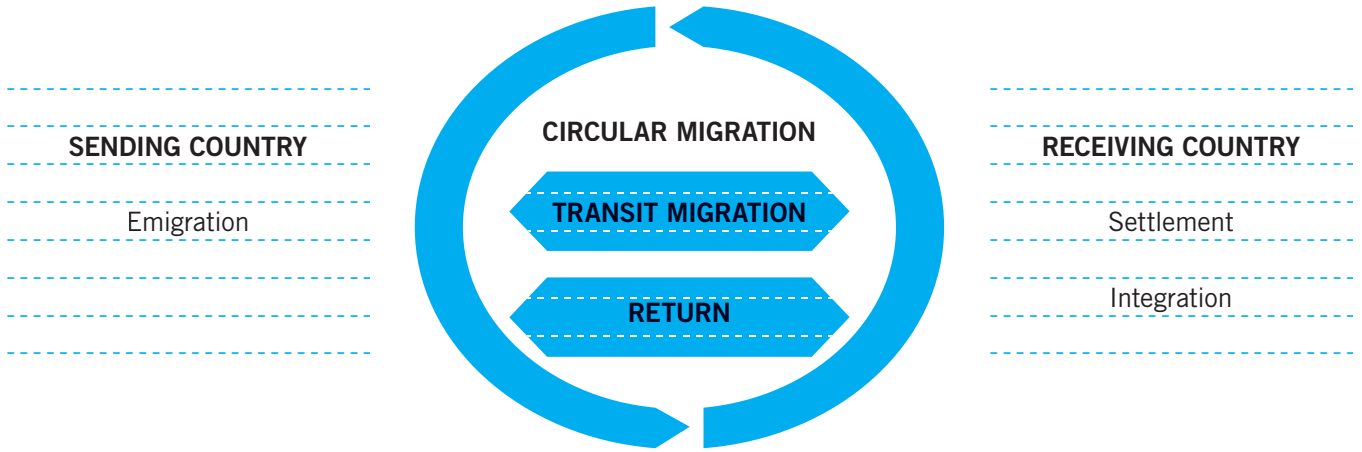
The resource-book is intended to provide an introduction, background and perspective for those interested in understanding how European policy deals with migrants and refugees in the light of the human rights protection. The resource materials are an outcome of workshops and seminars on »(Forced) Migration, Minorities and Human Rights in Multicultural European Societies« with students and young professionals from European countries, funded by the European Union and the Remembrance and Future Fund, Berlin.

Our special thanks go to all our partners and funders for the project and to all participants for their fruitful discussion. Last, but not least we thank Sergio Cortés, Vera Hanewinkel, Sarah Van Horne, Karina Schnatter and Karin Leiter, who assisted with the editing process.

Berlin, February 2009

Anne von Oswald
Andrea Schmelz

TABLE 1
RELATIONSHIP BETWEEN MIGRATION AND HUMAN RIGHTS



Migration is divided in

VOLUNTARY MIGRATION

FORCED MIGRATION



ECONOMIC MIGRATION

- >> Migrant workers
- >> Skilled transients
- >> Guest workers
- >> Migrants for family reunification

POLITICAL MIGRATION

- >> Refugees
- >> Displaced and stateless persons
- >> Undocumented migrants
- >> Migrants for family reunification

Protection under

- >> International Labour Organization (ILO)
- >> International Human Rights Law: Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 2003

Protection under

- >> UN High Commissioner for Refugees (UNHCR)
- >> International Human Rights Law: Geneva Refugee Convention, 1951

1. POLICY GLOSSARY ON IMMIGRATION

Introduction

There is a lack of universally accepted definitions in the field of international migration. Terms and concepts are political, social, historical and cognitive constructions serving the fulfilment of certain needs of different countries and are subject to ongoing conceptual development and redefinition.

Definitions in the area of international migration are often vague, controversial or contradictory. This stems to some extent from the fact that migration is a phenomenon which has traditionally been addressed at the national level. Therefore, the usage of terms referring to migration differs from country to country. Furthermore, within a country, terms can vary in meaning or implication. Definitions may also vary according to a given perspective or approach. The following glossary represents a selection of key concepts, policies and trends in the current debate on (im)migration and human rights in Europe.

Borders

The development and strengthening of the EU border management strategy has been officially framed as a key policy priority in the European agenda. Today, most EU countries are part of the Schengen area, where passport checks and border controls have been abolished. Signed in 1990 and coming into effect in 1995, the Schengen agreement abolished the internal borders of the signatory States and created a single external frontier. The Community Code on the rules governing the movement of persons across EU borders, known as Schengen Borders Code, took effect in 2006. In December 2007, the Schengen area underwent a historic eastward expansion, including the new EU members Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovenia, Slovakia and the Czech Republic. The area also includes two non-EU Members, Iceland and Norway; a third, Switzerland, joined in late 2008. Britain and Ireland have chosen to maintain their border controls indefinitely, while Bulgaria, Cyprus and Romania are not yet ready to join.

In addition, the Dublin Agreement between EU States (adopted in 1990, taken effect in 1997) determines which European Union Member State is responsible for examining an application for asylum lodged in one of the contracting States. The Agreement prevents the same applicants from being examined by several EU Member States at the same time, as well as ensuring that an asylum seeker is not redirected from State to State simply because no one will take the responsibility of handling their case.

In the field of »borders«, the EU has so far managed to construct the first generation of IBM (Integrated Border Management). This includes a common codification of the *acquis* on internal and external borders (the Schengen Borders Code), the creation of FRONTEX and an agreed definition of what IBM means at the European level. The EU-border policy institutionalised a close interrelationship between an integrated management of the common European external borders and a global approach to migration. The EU's Southern Maritime Borders and the sort of irregular mobility of third country nationals emanating from this constructed area represent the main item targeted by the »EU integrated and global approach«. It has been largely criticised by researchers and by NGO representatives that the discursive nexus between the IBM and the global approach to migration legitimises and reinforces the practice of security as coercion on the EU external territorial border. The EU model of border management presents FRONTEX as the main institutional actor in charge of putting the integrated and global paradigm into practice.

FRONTEX is an overly-politicised body whose compliance with the principle of legality and human rights is contested in the European civil society's discussion. The operations HERA I and II deal with the situation on the Canary Islands and the joint actions there which at present constitute the longest-running operations coordinated by FRONTEX. HERA is rooted in a very strong »external dimension« consisting of an extra-territorialisation of control and a prevention of mobility of third country nationals from outside the common European territory. The pre-border surveillance activities arouse a number of human rights considerations concerning, in particular, the respect of the guarantees included in the 1951 Geneva Convention related to the Status of Refugees. The external dimension prevents the distinction between those persons in need of international protection from all »the Others« who may fall within irregularity.

The EU needs a strong community legal framework to protect those third country nationals subject to this new form of border management. Before moving onwards in the European integration process in the field of »borders« (towards a second generation of IBM), there is an urgent need to address the vulnerabilities and relevant contradictions concerning human rights with regard to the substantial and institutional mechanisms of the EU model of border management.

Environment, climate change and migration

In migration research a new type of forced migration has emerged in recent discussions. It is caused by climate change and will supposedly go along with violent conflicts and wars. In 1990, the Intergovernmental Panel on Climate Change (IPCC) has already noted that the greatest impact of climate change could be on human migration – with millions of people displaced by shoreline erosion, coastal flooding and agricultural disruption. Since then various analysts have tried to estimate the numbers of future flows of climate migrants (sometimes called »climate refugees«) – the most widely repeated prediction being 200 million climate migrants by 2050.

But repetition does not make the figure any more accurate. While the scientific argument for climate change is increasingly confident, the consequences of climate change for human population distribution are unclear and unpredictable. With so many other social, economic and environmental issues to be taken into account, establishing a linear, causative relationship between anthropogenic climate change and forced migration has, to date, been difficult.

The meteorological impact of climate change can be divided into two distinct driving forces for migration; climate processes such as sea-level rise, salinisation of agricultural land, desertification and growing water scarcity, and climate events such as flooding, storms and glacial lake outburst floods. But non-climate driving forces, such as government policy, population growth and exposure to natural disaster are also important. All these factors contribute to a rising vulnerability of people living in more marginal areas. It is a matter of time (the speed of change) and scale (the number of people it will affect).

Temporary migration as an adaptive response to climate stress is already taking place in many areas. The ability to migrate is a function of mobility and resources (both financial and social). In other words, the people

most threatened by climate change are not necessarily the ones who are most likely to migrate. Predicting future flows of forced climate migrants is complex, constrained by a lack of baseline data, distorted by population growth and reliant on the evolution of climate change as well as the quantity of future emissions.

Forced climate migrants fall through the cracks of international refugee and immigration policy – and there is considerable resistance to the idea of expanding the definition of political refugees to incorporate »climate refugees«.

Gender and migration

Since 1990, female immigrants in Europe have outnumbered their male counterparts. The States of the European Union are the main destinations for immigrant women from countries of the former Soviet Union and from various Latin American and African States.

Due to the so-called feminization of migration in the European Union, political attention has been drawn in recent years to migrant women, with emphasis on two negative aspects: the low labour market participation and the growing phenomenon of irregular migration and trafficking. However, highly skilled migrant women are rather neglected in the public debate. The concept of »migrant women« refers to a wide range of different circumstances. It may apply to women of various generations of immigration and different forms of legal status (legal residents or undocumented migrants or refugees). Despite the gender mainstreaming aspects, issues related to gender and ethnic minorities tend to be covered by separate policies instead of being addressed by an integrated approach.

Family reunification used to be the main possibility for women to be legally admitted to the EU. Although women's migration has been associated with dependence and the male breadwinner model, in more recent years there has been an increase in women migrating alone and practising long-distance parenting. A growing number of women, in some countries more than 50% of all admitted immigrants, are now migrating in their own right as labour migrants, students and researchers.

Many obstacles to the empowerment of migrant women in the host country derive from the legal status they hold when arriving in the EU. The main obstacle relates to the dependency created by their status, for example with migrant women being dependent on their husband in case of family reunification. As undocumented migrants do not have any legal status, there are no official statistics

on the number of undocumented migrants living in the EU. Undocumented migrants are criminalized and marginalized on the one hand, while used as cheap labour force and often exploited on the other. Though undocumented migrants have rights recognized in various international human rights treaties, these rights are systematically abused. Undocumented migrant women predominantly work in sectors of the shadow economy which are hardly regulated and characterized by exploitative wages and difficult working conditions.

There are two most important areas to be addressed in order to empower migrant women. First, these include measures promoting the access to the labour market and education as well as the improvement of working conditions. A second area is the strengthening of migrant women's participation in democratic life and the protection of basic human rights. Therefore, knowledge and awareness about social rights is one important precondition of social inclusion.

The demand of cheap labour in the service sector and the demand for domestic workers, in particular, is growing in the EU as a result of increasing women's employment and the aging population. Therefore, it is indispensable that pan-European NGOs, such as PICUM and Respect, lobby for minimum standards and their enforcement and that they fight for the social rights of undocumented migrants.

Migration and development

The migration-development nexus plays also a decisive role on the agenda of the EU migration policies. On the level of the EU Member States we can observe that countries facing post-colonial migrations such as France, Great Britain, the Netherlands and Italy are much more involved in co-development activities than EU Member States with fewer migrants from Africa, Asia and Latin America. In particular, return and readmission policies and border management in the European Pact on Migration (2008) and in the Hague Programme (2005–2009) are connected to development rhetoric and action targeted at sending countries especially on the African continent. In recent development aid initiatives, the diaspora is identified by the EU Commission as a new key actor. The concept of diaspora commonly describes a community of expellees and exiles who are connected to and orientated towards their »lost homeland«. The concept does not have a standard definition, but its meaning varies according to individual countries. Africans in the diaspora consist of various ca-

tegies: (1) the so-called victim diaspora trafficked in the slave trade, itself a heterogeneous group; (2) those in the diaspora who, as a result of taking permanent residence or naturalisation, have been part of the brain drain or non-returning African students; (3) the recent development of those who joined in family reunification.

Consequently, it is an oversimplification to regard e.g. the African diaspora as one big homogeneous group of Africans living outside the continent who perceive the African continent as their »homeland« with which they all keep and wish to keep cultural, economic and political ties.

Development funders consider migrant and diaspora organisations to be potential agencies for a more active role in development cooperation, based on the belief that migrants are well informed about their home countries and are therefore »capable« of contributing to development processes through projects in their countries or areas of origin. Remittances are also a key factor in development perspectives: migrants privately transfer remittances to (extended) families. These remittances have huge potential to alleviate poverty and promote the development of poorer countries. According to estimates, each year, migrants all over the world send more than 400 billion dollars of remittances to their home countries. That is four times the West's development aid.

TWO OPPOSING VIEWS ON THE MIGRATION-DEVELOPMENT-NEXUS

Optimists

According to the optimists' point of view, international migration has positive effects on the development of the sending countries (e.g. de Haas). Today, we are faced with discourses of creating »win-win-win« scenarios, in which migration can be profitable for the country of origin, the destination country and the migrants themselves. Migration has a positive impact upon all stakeholders – taking into account the fact that sending countries and migrants themselves benefit from migration, because migrants find jobs, develop their skills, earn money and remit part of it to their countries of origin, while destination countries benefit from the skills and labour they receive from migrants.

Pessimists

Alongside the optimists, there is a group of pessimists who particularly emphasize a number of negative aspects

and threatening dangers. Until the 1990s the prevailing consensus was rather pessimistic and migration was evaluated as both a symptom and cause of continuing underdevelopment. As a result, slowing down the rate of emigration has been an implicit or explicit aim of many development initiatives and a decrease in migration has been regarded as an indicator of success.

Emerging consensus

Apart from these opposing viewpoints, there is an emerging consensus that international migration can contribute to poverty reduction and development provided that appropriate policy measures are taken. Nevertheless, international migration does not automatically imply favourable effects. There are many different initiatives on the global level (UN, IOM, ILO etc.), on the EU-level and on the national level which aim at maximising the link between international migration and national development. Most of the initiatives are set up in the receiving countries in the North and seem to be mostly dominated by the political will to control and restrict migrations and to protect the countries' borders.

Irregular migrants, irregular immigration

The term irregular immigration is preferred by some to undocumented or unauthorised migration and is also used by the Council of Europe, the International Labour Organization (ILO), the International Organization for Migration (IOM), the Organization for Security and Cooperation in Europe (OSCE), and the United Nations High Commissioner for Refugees (UNHCR). The UK-based Institute for Public Policy Research defines irregular migrants as people who are liable to be deported for matters related to their immigration status, including those who enter by avoiding immigration inspection (often using smugglers); enter using false documents; overstay visas or violate visa conditions (including students working more hours than permitted); have a rejected asylum claim but remain in the country; have no papers (i.e. their passport has been destroyed or taken by an employer); have applied for asylum elsewhere described as »irregular secondary movements«.

In this regard, the status is temporary and the degree to which it is irregular or regular can change in different contexts and over time. The use of the term »can«, in the context of undocumented work, serves the specific dominant political or public discourse, distinguishing between regular – or good – and irregular – meaning bad – immi-

grants. The term »illegal«, on the other hand, is widely used in many European countries (e.g. Spain), without necessarily having a negative connotation.

The label »illegal immigrants« is commonly used to describe foreign nationals who are not able to legitimise their residence or work or both in accordance with the legal rules of the specific country. For many reasons, however, the terms undocumented, unauthorised, irregular, non-compliant or semi-compliant migrants are preferred to »illegal immigrants«.

The term »illegal« in connection with migrants has political and/or societal consequences, which can lead to denying humanity or basic human rights of a person or a group of people from outside a specific country. The term »illegal migrant« also suggests a close linkage to, and maintains a connotation of, criminality. Moreover, labelling asylum seekers who find themselves in an irregular situation as »illegal« may further jeopardize their asylum claims as it encourages a political climate of intolerance towards those seeking asylum.

Since 2005, the governments of EU Member States have argued over a law to ban illegal immigrants arrested in any Member State from re-entering the EU. The Commission argues that this »returns directive« is central to EU efforts to establish a common approach to illegal immigration. But Member States' attitudes show that they believe that EU institutions should have little say in how they expel non-EU-citizens.

EU governments focus on developing other tools for tackling illegal immigration such as negotiating so-called readmission agreements. These outline the procedure for returning illegal immigrants to where they came from, which could be a transit country, rather than their home country. Over the years, countries with high numbers of illegal migrants – notably France, Germany, Greece, Italy, Spain and the UK – have negotiated several such bilateral deals. The Member States welcome the EU's collective weight to negotiate better readmission pacts on EU-level. When the EU as a whole negotiates a readmission agreement, previous bilateral arrangements are superseded. In particular, France and the UK are experimenting with a different approach: encouraging illegal immigrants to return to their home countries voluntarily by offering them lump sums of money and benefits to establish a new livelihood there.

Integration

The EU will only be able to cope with a growing number of immigrants if Member States improve their efforts towards integration at the national and local level. Nonetheless, Member States do have some stake in each others' integration strategies. The mistreatment of minorities in one European country could quite easily fuel unrest and instability in another or push migrants to move to another EU country where they are better treated.

Arguably, the best way to integrate immigrants is to provide a clear route to citizenship – and the sense of being a stakeholder – in the country of settlement. But some EU countries effectively block access to citizenship for migrants. In others, migrants have to wait up to ten years before they are eligible to apply for citizenship. Even then, they can be required to prove that they pose no financial burden to the State. Moreover, the legal status of their spouses and children can remain insecure for many years.

The »migrant integration policy index« (MIPEX), a survey of European integration policies funded by the European Commission, ranks EU countries depending on the effectiveness of their integration laws. These include laws on family reunification, residence rights, labour market access, political participation, access to nationality and anti-discrimination practices. Finland, Sweden, the Western Mediterranean, the Benelux and the UK head the index. The policies of the Baltic republics, Denmark, and the countries of the Eastern Mediterranean and Central Europe come last.

The arrival of millions of foreigners in the EU over two decades has coincided with a rise in racism and xenophobia that has at times spilled over into the political arena. Since the attacks on September 11th 2001, most attention was given to a »clash of cultures« resulting from political Islam. But other racist trends predated these tendencies. Since the 2007 accession of Bulgaria and Romania, for example, the number of Roma among the EU citizens has risen to around 8–10 million, a number that exceeds the population of many small Member States. For centuries, this group has been subject to ongoing discrimination all across Europe.

The EU's Fundamental Rights Agency is responsible for monitoring levels of racism, xenophobia and anti-Semitism in Europe.

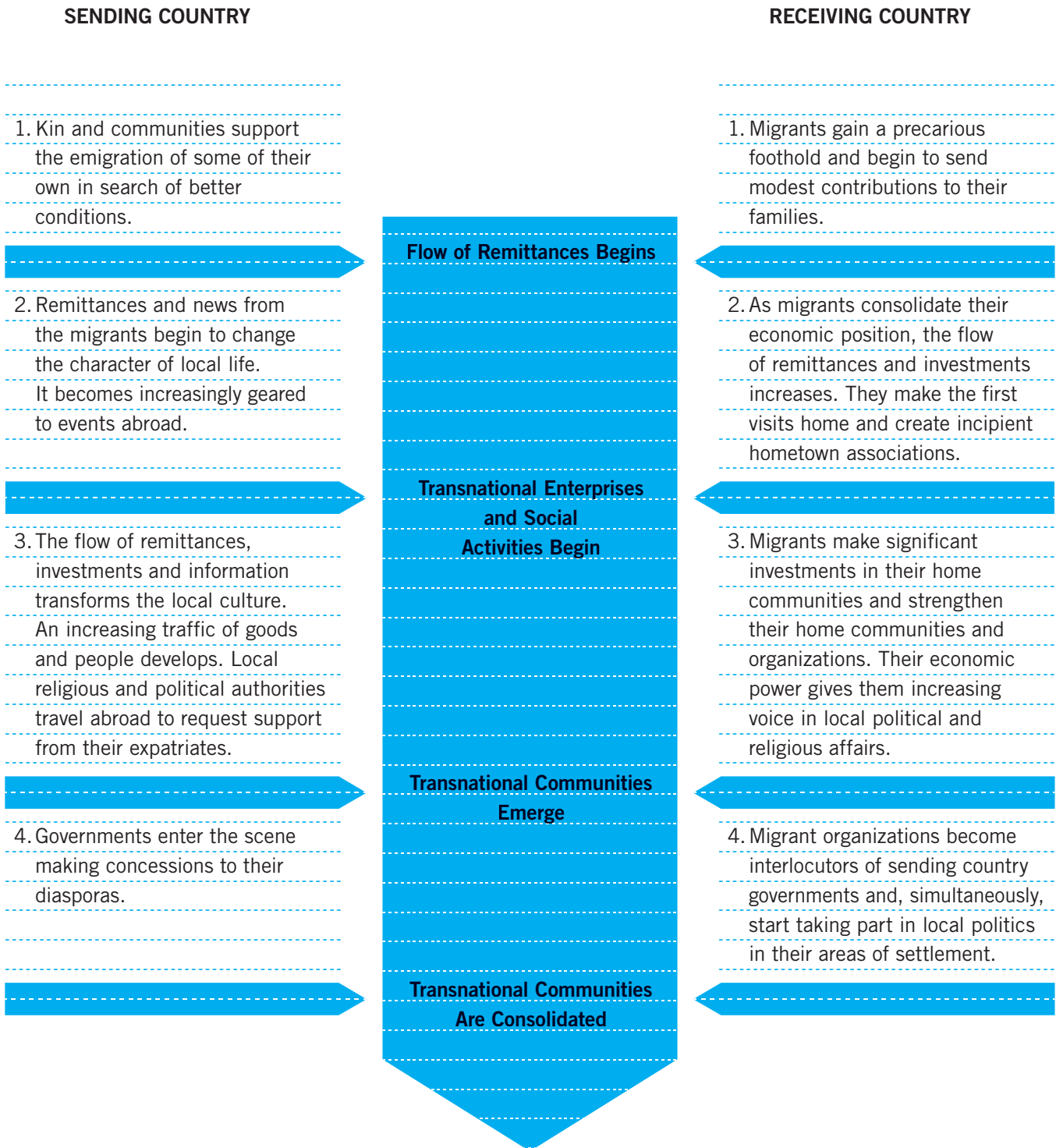
Article 7 of the current EU Treaty allows the Member States to suspend the voting rights of governments which fail to respect EU principles of democracy, the rule of law

and human rights, including the rights of minorities, refugees and immigrants. Also, European legislation requires each Member State to have its own commission for racial equality. But EU efforts are merely supplementary to national ones.

The Racial Equality Directive and the Employment Equality Directive, adopted by the European Union in 2000, provide a common minimum level of protection against discrimination on the basis of racial or ethnic origin, religion or belief, disability, age and sexual orientation for all people in the EU. It is an important part of Europe's response to combat the threat that discrimination poses to the economic and social cohesion of the Union. The Directives had to be implemented by the Member States by 2006.

In a globalized world with increasing numbers of migrants, the concept of transnationalism is of growing importance in the integration debate. Transnational communities represent a powerful challenge to the traditional ideas of belonging to a certain nation-state. The idea of the person who belongs to just one nation-state or at most migrates from one State to just one other (whether temporarily or permanently) is undermined by the increase in mobility, growth of temporary, cyclical and recurring migrations, cheap and easy travel, etc. In the context of globalisation, transnationalism can extend previous face-to-face communities based on kinship, neighbourhoods or workplaces into remote virtual communities, which communicate at a distance. The development of transnational communities challenges dual or multiple citizenship concepts in European countries.

TABLE 2
THE PROCESS OF IMMIGRANT TRANSNATIONALISM



See: Portes, A./DeWind, J. (ed.): *Rethinking Migration. New Theoretical and Empirical Perspectives*, Berghahn Books: New York/Oxford, 2008, p. 12.

Labour migration

Labour migration is generally defined as a cross-border movement for purposes of employment in a foreign country. The term »economic migrant« is sometimes used as an equivalent to the term labour migrant or migrant worker. However, the two concepts may cover different categories. The term »labour migrant« can be used restrictively in order to only cover movement for the purpose of employment. »Economic migrant«, on the other hand, can be used either in a narrow sense, which includes only movement for the purpose of employment, or in a broader sense that includes persons entering a State to perform other types of economic activities. Here it applies, for example, to investors or business travellers. Classification of labour migration is usually based on the duration of activities, as well as on the distinctions made by the receiving countries in their regulatory framework where conditions of admission and stay are established.

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) (short: Migrant Workers Convention), the most important international treaty on the rights of migrants, has not yet been ratified by any European country. According to this convention, a migrant worker is a person who is to be engaged, is engaged, or has been engaged in a remunerated activity in a State of which he or she is not a citizen. A »migrant worker« is defined in the ILO instruments as a person who migrates from one country to another (or who has migrated from one country to another) to be employed by someone else, and includes any person regularly admitted as a migrant for employment. While in the Migrant Workers Convention self-employed workers are included, they are not covered by the ILO instruments related to migrant workers' protection.

The concept and definition of labour migration often reflects current national policy perspectives and varies between countries and over time. One reason for confusion about who falls under the category of »migrant worker« results from ambiguous definitions of »employment« or »remunerated activity« in the receiving country.

While the liberalization of international flows of goods, capital, and information is well underway, progress towards a freer movement of persons is harder to achieve. Indeed, the impact of migration on the countries of origin and destination is more controversial, and States are more concerned about losing their sovereignty in this matter. Labour migration into EU countries will continue

to increase due to: 1) differences in employment opportunities and living standards between countries; 2) increased education and broader access to information on living conditions and employment opportunities abroad; 3) established inter-country networks based on family, culture, and history. On the demand side, changing demographics and labour market needs in all EU Member States will put pressure on many governments to consider more open approaches to labour migration.

Many European countries have no proper system for attracting legal migrants. Of those that do, most operate quota systems to issue work visas based on the country's need for migrant labour, according to information provided by local bodies, employment and social affairs ministries and employers' associations; for example, from 2004 to 2006, Italy expected to admit 79,500 foreign workers. Since 2000 Germany, Czech Republic and the Netherlands have used »green card« or work permit systems, in cooperation with employers, to attract and select highly skilled workers. In 2008, the UK became the first European country to introduce a »points-based' system, modelled after those in Australia and Canada. Under the new system the UK will allocate work visas depending on the skills and qualifications that are lacking in its labour market. Those accumulating the highest points will not even require a job offer to be granted a visa. Some economists have criticised points systems as ineffective and bureaucratic. But advocates argue that such schemes are a much more sophisticated method than quotas for identifying, attracting, and retaining workers.

The European economy needs more highly skilled workers, such as information technology specialists, business managers, doctors and nurses. But the EU is currently losing the global competition with Australia, Canada and the US to attract such workers. An overwhelming majority of EU immigrants from Africa and Asia are unskilled. In contrast, 50 percent of migrants from these regions going to the U.S. are highly skilled. The Commission estimates that the EU will need to attract 20 million skilled migrants over the next 20 years to address skill shortages in Europe's engineering and computer technology sectors. The EU Commission's solution is the »blue card« – a common working visa – to attract young, highly qualified workers to Europe.

Minorities

Commonly, the term minority refers to a group of people living in a territorial unit in which they are outnumbered by another population group, the majority, which may or may not hold power. Usually, the minority is characterized by distinct characteristics, such as its own language, religion, ethnicity. The majority, furthermore, possesses the consciousness of a common origin and common cultural heritage and aims at preserving those specific characteristics. The recent EU enlargement and the migration /influx from abroad over the last several decades have brought about a significant cultural diversification. In the 27 Member States of the EU, minorities constitute 8.8% of the total number of inhabitants.

Minority rights are an essential part of fundamental human rights, but they are distinguished from individual human rights as they can only be exercised collectively – culture can merely be preserved on the group level. This is why minority protection requires a combination of collective and group rights. Minority rights are increasingly recognized as an integral part of the United Nation's work for the promotion and protection of human rights. Likewise, the protection of cultural diversity is one of the core values within the Council of Europe's system, as stated in the 1992 European Charter for Regional or Minority Languages.

In 1998, the first comprehensive minority rights document adopted within the Council of Europe, the Framework Convention on the Protection of National Minorities, entered into force. The Framework Convention established a list of legally binding standards in the field of minority protection, particularly related to minority language, culture, religion and identity, but provisions on these rights are quite weak, and the enforcement mechanisms clearly inadequate. It leaves the state parties a large measure of discretion in the implementation of the Convention's goals, and allows a rather flexible interpretation concerning the definition of minority as well as their rights and the measures to be implemented by the single States.

At this point, there is no internationally agreed upon definition regarding which groups constitute minorities. The term minority as used in the UN human rights system refers to national or ethnic, religious and linguistic minorities. The Framework Convention of the European Council clusters the different types of minorities among the term »national minorities«, leaving it up to the single

signatory States to define more in depth what they consider to be a minority on their territory.

To date, the approach to minority protection within the European Union's borders is still too minimalistic, especially if we consider that the Framework Convention does not grant an explicit collective right of political participation to national minorities. No procedural mechanisms to integrate minority ambitions into the decisional processes of States are established. Additionally, most of the provisions contained in the Convention are not liable to trial before a court.

It is clear that the shortcoming of an effective system of monitoring the implementation of minorities' rights in the European Union Member States causes the Framework Convention to remain largely ineffectual when it comes to solving concrete disputes.

Refugees and forced migration

According to the *International Association for the Study of Forced Migration* (IASFM) the concept of forced migration refers to »the movements of refugees and internally displaced people (those displaced by conflicts) as well as people displaced by natural or environmental disasters, chemical or nuclear disasters, famine, or development projects.« IASFM views forced migration as a complex, wide-ranging and pervasive set of phenomena. The study of forced migration is multidisciplinary, international, and multisectoral, incorporating academic, practitioner, agency and local perspectives.

Millions of people each year flee or are expelled through war, disaster or persecution at home in search of protection elsewhere. International law defines the rules for treating newly arrived refugees and assessing their claims under the 1951 Geneva Convention on the Status of Refugees. According to the definition of the Geneva Convention, a refugee is a person who »owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country ...«. A person is not entitled to seek refugee status – also called asylum – for being poor. However, migrants often try to claim asylum after having been denied a work visa, or because there is no way of migrating legally to their intended destination.

Governments face a conflict between being as open as possible to those fleeing persecution and fearing the misuse of the asylum system as a channel for economic migration. They also worry about »asylum shopping« – the practice of lodging applications in several European countries at once, in the hope of being accepted somewhere. Consequently, only around half of the European asylum applications are approved. EU Member States are basing their asylum policies on a single set of rules, in line with their shared interpretation of the Geneva Convention.

The main EU law underpinning this policy is the so-called Dublin regulation. Entered into force in 1997, the regulation requires potential refugees to be looked after by the EU country in which they first arrive. As a result, an economic migrant cannot use permissive asylum laws in one country to enter the EU with the aim of getting to another which may offer better working conditions or social security. In order to enforce this rule, immigration officials have access to an EU-wide database called EURODAC in which applicants' fingerprints are stored.

This allows them to detect and return so-called asylum shoppers and denied applicants who re-apply to the EU country in which they first arrived. Some countries also want EURODAC to be adapted to detect illegal immigrants who, having been returned to their home country, may attempt to re-enter the EU via other Member States.

A common asylum system should require all EU Member States to provide refugees with the same essential services on arrival, assess their claims the same way, and use the same rules to grant and withdraw refugee status. Yet the treatment of refugees still varies greatly between the Member States. Part of the problem is poor implementation of existing EU asylum legislation. Only six EU-States – Austria, Britain, Bulgaria, Germany, Luxembourg and Romania – have implemented EU standards for processing refugee applications. The UNHCR as a powerful UN agency is an important player in making sure that EU aid reaches the worst refugee crises. However, the agency has also been a fierce critic of the establishment of a single European asylum system. It holds the belief that EU procedures for returning failed asylum-seekers set the bar too low for determining whether the receiving country is safe for the rejected claimants.

Human trafficking / people smuggling

Trafficking in people and the smuggling of migrants are rapidly increasing phenomena which have become major topics of international governmental attention. To illustrate the magnitude: the International Labour Organisation (ILO) estimates that, at any given time, 2.5 million people are in hands of traffickers around the world, with over 100,000 victims being trafficked into Western Europe every year (especially by organizations from Albania, China, Romania, Russia and Turkey).

The tightening restrictions of European migration policy, with the emphasis placed on combating criminal activities without any alternative means of legal immigration, have obviously contributed to the strengthening of the business related to trafficking/smuggling.

As the EU's willingness to receive and grant refugee status to people fleeing from their countries is dramatically dropping, there is some evidence that a very large number of asylum seekers reaching one of the EU Member States has been trafficked or smuggled, facing possible abuses as a prize for survival. In fact, all countries that generate refugees are subject to visa restrictions, and people originating from such countries have been the main target of European anti-trafficking and anti-smuggling activities.

Following the UN Convention against Transnational Organized Crime, two distinguished protocols were issued relating to human trafficking and smuggling. The distinction made between them is as follows: human trafficking defines the act of forcing a person into a situation of slavery-like exploitation, while smuggling always grows out of the voluntary partaking of the migrant and ends once the destination point is reached.

A similar definition attributes a criminal responsibility to migrants who engaged the help of smugglers. It does not consider that dramatic economic or environmental situations infringe basic economic and social rights, de facto forcing people into migration. It does not take into account that a smuggled migrant can be forced into an exploitive situation such as debt bondage, their illegal status rendering smuggled people highly vulnerable to the constraints of their agents. Even if smuggled, migrants may face human rights' abuses during the transfer, such as being crowded into airless containers or overfilled boats, the Smuggling Protocol includes no protection principle.

An analogous approach ignores the fact that all migrants, regardless of the legality of their entrance and duration of stay in a country which is not their own, do have

human rights. This was legitimated in the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), which entered into force in 2003.

It is clear that the EU's policy must start to develop legal migration opportunities if it aims at successfully weakening the international traffickers' and smugglers' networks. As long as there is a demand for labour force in the destination countries and a lack of adequate policies regarding this matter, smuggling and trafficking are most likely to persist.

Glossary on Immigration Policy by Andrea Schmelz, Karin Leiter, Network Migration in Europe e.V. Adapted from the following sources: Hugo Brady, EU migration policy: An A-Z, London: Centre for European Reform 2008; Undocumented Migration. Glossary, prepared by Roskilde University and Working Lives Research Institute 2008; www.migrationeducation.org (migration and development; gender and migration by Andrea Schmelz).

---2. CENTRAL HUMAN RIGHTS CONVENTIONS OVERVIEW RELATED TO MIGRATION

The overview summarizes the most important human rights treaties of the United Nations and the Council of Europe that affect migrants, refugees and minorities, their life and process of integration in the receiving societies.

United Nation's human rights conventions

- the 1948 Convention on the Prevention and Punishment of the Crime of Genocide;
- the 1951 Convention Relating to the Status of Refugees;
- the 1965 International Convention on the Elimination of All Forms of Racial Discrimination;
- the 1966 International Covenant on Civil and Political Rights;
- the 1966 International Covenant on Economic, Social and Cultural Rights;
- the 1979 Convention on the Elimination of All Forms of Discrimination against Women;
- the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- the 1989 Convention on the Rights of the Child;
- the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Council of Europe's human rights conventions

- 1995 Framework Convention for the Protection of National Minorities;
- 2005 Council of Europe Convention on Action against Trafficking in Human Beings.

The most relevant of these treaties are

- **1.** Regarding the rights of migrants the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
- **2.** Regarding the rights of refugees the 1951 Convention Relating to the Status of Refugees and
- **3.** Regarding the rights of minorities the 1995 European Framework Convention for the Protection of National Minorities.

TABLE 3

OVERVIEW ABOUT PRINCIPAL UN AND EUROPEAN HUMAN RIGHTS CONVENTIONS CONCERNING MIGRATION AND MINORITIES

SELECTED COUNTRIES	UNITED NATIONS CONVENTIONS				
	Convention on the Prevention and Punishment of the Crime of Genocide (1948)	Convention Relating to the Status of Refugees (1951)	Convention on the Elimination of All Forms of Racial Discrimination (1965)	International Covenant on Civil and Political Rights (1966)	International Covenant on Economic, Social and Cultural Rights (1966)
					DATE OF
Austria	1958	1954	1972	1978	1978
Belarus	1954	2001	1969	1973	1973
Belgium	1951	1953	1975	1983	1983
Bosnia and Herzegovina	1992	1993	1993	1993	1993
Bulgaria	1950	1993	1966	1970	1970
Croatia	1992	1992	1992	1992	1992
Cyprus	1982	1963	1967	1969	1969
Czech Republic	1993	1993	1993	1993	1993
Denmark	1951	1952	1971	1972	1972
Estonia	1991	1997	1991	1991	1991
Finland	1959	1968	1970	1975	1975
France	1950	1954	1971	1980	1980
Germany	1954	1953	1969	1973	1973
Greece	1954	1960	1970	1997	1985
Hungary	1952	1989	1967	1974	1974
Ireland	1976	1956	2000	1989	1989
Italy	1952	1954	1976	1978	1978
Latvia	1992	1997	1992	1992	1992
Lithuania	1996	1997	1998	1991	1991
Luxembourg	1981	1953	1978	1983	1983
Malta	*	1971	1971	1990	1990
Moldova	1993	2002	1993	1993	1993
Netherlands	1966	1956	1971	1978	1978
Norway	1949	1953	1970	1972	1972
Poland	1950	1991	1968	1977	1977
Portugal	1999	1960	1982	1978	1978
Romania	1950	1991	1970	1974	1974
Russian Federation	1954	1993	1969	1973	1973
Serbia	*	*	2001	2001	2001
Slovakia	1993	1993	1993	1993	1993
Slovenia	1992	1992	1992	1992	1992
Spain	1968	1978	1968	1977	1977
Sweden	1952	1954	1971	1971	1971
Switzerland	2000	1955	1994	1992	1992
Turkey	1950	1962	2002	2003	2003
Ukraine	1954	*	1969	1973	1973
United Kingdom	1970	1954	1969	1976	1976

See: <http://www.migrationeducation.org>, last update December 2008.

* No ratification and no signature

(Sig) No ratification, but signature

				COUNCIL OF EUROPE CONVENTIONS	
Convention on the Elimination of All Forms of Discrimination against Women (1979)	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)	Convention on the Rights of the Child (1989)	Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)	Framework Convention for the Protection of National Minorities (1995)	Council of Europe Convention on Action against Trafficking in Human Beings (2005)
RATIFICATION OR SIGNATURE					
1982	1987	1992	*	1998	2006
1981	1987	1990	*	*	*
1985	1999	1991	*	2001 (Sig) ¹	2005 (Sig)
1993	1993	1993	1996	2000	2008
1982	1986	1991	*	1999	2007
1992	1992	1992	*	1997	2007
1985	1991	1991	*	1996	2007
1993	1993	1993	*	1997	*
1983	1987	1991	*	1997	2007
1991	1991	1991	*	1997	*
1986	1989	1991	*	1997	2006 (Sig)
1983	1986	1990	*	*	2008
1985	1990	1992	*	1997	2005 (Sig)
1983	1988	1993	*	1997 (Sig)	2005 (Sig)
1980	1987	1991	*	1995	2007 (Sig)
1985	2002	1992	*	1999	2007 (Sig)
1985	1985	1991	*	1997	2005 (Sig)
1992	2000	1992	*	2005	2008
1994	1996	1992	*	2000	2008 (Sig)
1989	1987	1994	*	1995 (Sig)	2005 (Sig)
1991	1990	1990	*	1998	2008
1994	1995	1993	*	1996	2006
1991	1988	1995	*	2005	2005 (Sig)
1981	1986	1991	*	1999	2008
1980	1989	1991	*	2000	2005 (Sig)
1980	1989	1990	*	2002	2008
1982	1990	1990	*	1995	2006
1981	1987	1990	*	1998	*
2001	2001	2001	2004 (Sig)	2001	2005 (Sig)
1993	1993	1993	*	1995	2007
1992	1993	1992	*	1998	2006 (Sig)
1984	1987	1990	*	1995	*
1980	1986	1990	*	2000	2005 (Sig)
1997	1986	1997	*	1998	*
1985	1988	1995	2004	*	*
1981	1987	1991	*	1998	2005 (Sig)
1986	1988	1990	*	1998	2007 (Sig)

3. BACKGROUND AND DOCUMENTATION ON HUMAN RIGHTS AND MIGRANT WORKERS

3.1. INTRODUCTION TO THE INTERNATIONAL CONVENTION ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND THEIR FAMILY MEMBERS (1990)

The most relevant of the international and European human rights protection systems for the rights of migrants is the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), which entered into force in July 2003. It breaks new ground by extending the protection for migrant workers and members of their families world-wide. However, as of December 2008, only 40 countries have ratified the Migrant Workers Convention.

The Convention advances how the international community conceives the application of human rights in its provisions for »equality of treatment« between female and male migrant workers, between documented and undocumented workers, and between nationals and non-nationals.

Today, about 200 million migrants, including migrant workers, refugees, asylum seekers, permanent immigrants and others, live and work in a country other than that of their birth or citizenship. In all, they represent two percent of the world's population. Persons who qualify as migrant workers under the provisions of the Convention are entitled to enjoy their human rights regardless of their legal status. The Convention reflects an up-to-date understanding of migratory trends as seen from the point of view of both the countries of origin and the host countries of migrant workers and their families.

The Convention recognises the specifically vulnerable lives of migrant workers and the subsequent need to strengthen legal protections in a more comprehensive fashion. It brings together a number of international norms in a way which responds directly to the needs of migrant workers and the realities that many face on a daily basis.

The Convention seeks to establish a framework for migration management through the promotion of equitable, humane and lawful conditions for international migration. Among other things, it requires cooperation between States in order to prevent and eliminate illegal movement and employment of migrants in an irregular situation.

The Convention therefore fosters the establishment of a comprehensive system of migration management within a framework of respect for fundamental human rights.

Overall, the Convention seeks to play a role in the prevention and elimination of the exploitation of all migrant workers and members of their families throughout the entire migration process. In particular, it aspires to put an end to the illegal or clandestine recruitment and trafficking of migrant workers and to discourage the employment of migrant workers in irregular or undocumented situations.

3.2. KEY PROVISIONS OF THE MIGRANT WORKERS CONVENTION

For the full text of the International Migration Convention go to Office of the High Commissioner for Human Rights (OHCHR):

<http://www2.ohchr.org/english/law/cmw.htm>

The Convention on Migrant Workers defines the rights of migrant workers under four main headings:

Part I: Scope and Definitions

Part II: Non-discrimination with Respect to Rights

Part III: Human Rights of migrant workers and members of their families: applicable to all migrant workers (undocumented included)

Part IV: Other Rights of migrant workers and members of their families: applicable only to migrant workers in a regular situation.

The Convention is not proposing new human rights for migrant workers. Part III of the Convention is a reiteration of the basic rights which are enshrined in the Universal Declaration of Human Rights and elaborated in the international human rights treaties adopted by most nations. The Convention seeks to draw the attention of the international community to the dehumanization of migrant workers and members of their families, many of whom are being deprived of their basic human rights. Indeed, legislation implementing other basic treaties in some States utilises terminology covering citizens and/or residents, de jure excluding many migrants, especially those in irregular situations.

Basic freedoms

Applying these fundamental rights to migrant workers and members of their families, the Convention provides for their right to leave and enter the State of origin (Art. 1). The inhumane living and working conditions and physical (and sexual) abuse that many migrant workers must endure are covered by the reaffirmation of their »right to life« (Art. 9) and prohibition of cruel, inhuman or degrading treatment or punishment (Art. 10) as well as slavery or servitude and forced or compulsory labour (Art. 11). Migrant workers are also entitled to basic freedoms like the freedom of thought, conscience and religion (Art. 12), and the right to hold and express opinions (Art. 13). Their property must not be confiscated arbitrarily (Art. 15).

Due process

The Convention then goes on explaining in detail the need to ensure due process for migrant workers and members of their families (Art. 16–20). Investigations, arrests and detentions are to be carried out in accordance with established procedures. Their right to equality with nationals of the State before the courts and tribunals must be respected. They must be provided with necessary legal assistance, interpreters and information in a language understood by them. When imposing a sentence, humanitarian considerations regarding the person's migrant status should be taken into account. The arbitrary expulsion of migrant workers is prohibited (Art. 22).

Right to privacy

A migrant worker is entitled to his or her honour and reputation and also to privacy, which extends to one's home, family and all communications (Art. 14).

Equality with nationals

Migrant workers are to be treated as equal to the nationals of the host country in respect of remuneration and conditions of work [overtime, hours of work, weekly rest, holidays with pay, safety, health, termination of work contract, minimum age, restrictions on home work, etc. (Art. 25)]. Equality with nationals extends also to social security benefits (Art. 27) and emergency medical care (Art. 28).

Transfer of earnings

On completion of their term of employment, migrant workers have the right to transfer their earnings and savings as well as their personal effects and belongings (Art. 32).

Right to information

They have the right to be informed by the States concerned about their rights arising from the present Convention as well as the conditions of their admission, and their rights and obligations in those States. Such information should be made available to migrant workers free of charge and in a language understood by them (Art. 33).

3.3. OTHER RIGHTS OF MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

Providing additional rights for migrant workers and members of their families in a regular situation, the Convention seeks to discourage illegal labour migration as human rights problems are worse in the case of irregular migration.

Right to be temporarily absent

Migrant workers should be allowed to be temporarily absent, for reasons of family needs and obligations, without effect on their authorization to stay or work.

Freedom of movement

They should have the right to move freely in the territory of the State of employment and they should also be free to choose where they wish to reside (Art. 39).

Equality with nationals for access to educational, vocational and social services

In addition to the areas mentioned in Article 25, migrant workers and members of their families shall enjoy equality with nationals of the State of employment in the following areas: access to education, vocational guidance and placement services, vocational training, retraining, housing including social housing schemes, protection against exploitation in respect of rent, social and health services,

co-operatives and self-managed enterprises, access to and participation in cultural life (Art. 43). Members of the families of migrant workers also shall enjoy equality with nationals of the State of employment in having access to these services (Art. 45). Migrant workers shall enjoy equality of treatment in respect to protection against dismissal, unemployment benefits, access to public work schemes intended to combat unemployment and access to alternative employment in the event of loss of work or termination of other remunerated activity (Art. 54).

Employment contract violations

When work contracts are violated by the employer, the migrant worker should have the right to address his or her case to the competent authorities in the State of employment (Art. 54 (d)). They shall have the right to equal treatment with nationals and be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law (Art. 18.1).

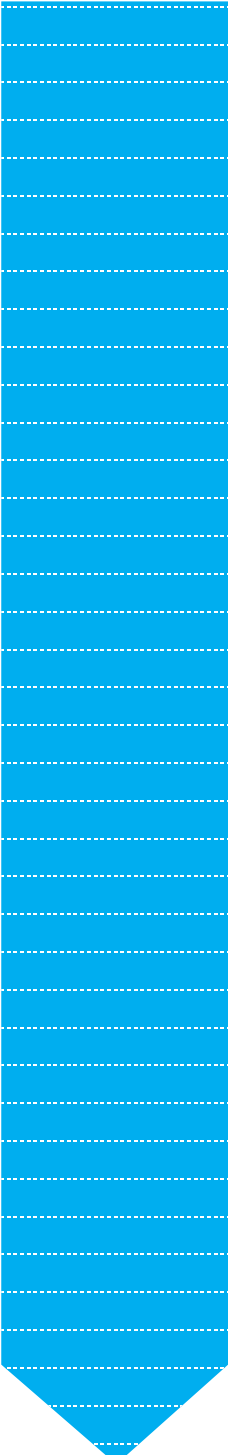
Rights of undocumented («illegal») workers

The Convention recognizes that »the human rights problems involved in migration are even more serious in the case of irregular migration« and the need to encourage appropriate action »to prevent and eliminate clandestine movements and trafficking in migrant workers, while at the same time assuring the protection of their fundamental rights« (Preamble). As measures for preventing and eliminating illegal labour migration, the Convention proposes that the States concerned should collaborate in taking appropriate actions against the dissemination of misleading information relating to emigration and immigration, to detect and eradicate illegal or clandestine movements of migrant workers and impose sanctions on those who are responsible for organising and operating such movements as well as on the employers of illegal migrant workers (Art. 68). However, the fundamental rights of undocumented migrant workers are protected by the Convention (Art. 8–35).

3.4. CENTRAL ILO CONVENTIONS CONCERNING MIGRANTS

The International Labour Organization (ILO), the UN specialized agency on labour issues, has been dealing with labour migration since 1919. It has pioneered international conventions to guide migration policy and protection of migrant workers. All major sectors of ILO – standards, employment, social protection and social dialogue – work on labour migration within its overarching framework of »decent work for all«. ILO adopts a rights-based approach to labour migration and promotes tripartite participation (governments, employers and workers) in migration policy. It provides advisory services to Member States, promotes international standards, provides a tripartite forum for consultations, serves as a global knowledge base, and provides technical assistance and capacity-building to constituents. ILO has recently developed a multilateral framework on labour migration to guide its constituents in labour migration policy. It is important to note that the instruments' provisions are also intended to cover refugees and displaced persons in so far as they are workers employed outside their countries

The ILO Instruments concerning migrant workers call for measures aimed at regulating the conditions in which migration for employment occurs and at combating irregular migration and labour trafficking, and measures to detect the illegal employment of migrants with the aim of preventing and eliminating abuse.

TABLE 4**PRINCIPAL ILO CONVENTIONS RELEVANT TO MIGRANTS**

Equality of Treatment (Accident Compensation) Convention, (No. 19)	1925	1930 Forced Labour Convention, (No. 29)
Employment Service Convention, (No. 88)	1948	
Migration for Employment Convention (Revised) (No. 97), ratified by 47 countries (Source: ILOLEX – 08.09.2008)	1949	1949 Protection of Wages Convention, (No. 95)
Social Security (Minimum Standards) Convention, (No. 102)	1952	1951 Equal Remuneration Convention, (No. 100)
Discrimination (Employment and Occupation) Convention, (No. 111)	1958	1957 Abolition of Forced Labour Convention, (No. 105)
Employment Policy Convention, (No. 122)	1964	1962 Equality of Treatment (Social Security) Convention, (No. 118)
Migrant Workers Convention (Supplementary Provisions) (No. 143), ratified by 23 countries (Source: ILOLEX - 8. 9. 2008)	1975	1973 Minimum Age Convention, (No. 138)
Private Employment Agencies Convention, (No. 181)	1997	1982 Maintenance of Social Security Rights Convention, (No. 157)
		1999 Worst Forms of Child Labour Convention, (No. 182)

See more: ILO, International Labour Standards:
<http://www.ilo.org/ilolex/english/convdisp1.htm>

STATEMENT ON INTERNATIONAL MIGRANTS DAY 2008

The 9th International Migrants Day coincides with the 60th anniversary of the adoption of the Universal Declaration of Human Rights (UDHR). Many UDHR provisions vividly relate to some of the threats – racism, xenophobia, labour and sexual exploitation, arbitrary detention and other injustices – and hopes – freedom of movement, right to work, to education, to live in dignity – experienced by millions of women, men and children and demonstrate that migrants' rights are human rights.

This year also marks the 5th year of the entry into force of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The decades-long gap in the adoption of a treaty and other human rights tools for the protection of migrant workers is about to have particularly dire consequences. For scores of migrants, the world financial crisis will expose their existing vulnerability to stronger hardship and exploitation. It will also result in diminished remittances to those left behind in their home countries. Ironically, while migrants have often been the invisible architects of many striving economies, least benefited from financial investment and related wealth generating products, they will be amongst the worst hit.

It is thus essential that civil society actively monitors respect for the Convention, engages with the UN Committee on Migrant Workers and renews the call for universal ratification. But the fact that major countries of destination did not ratify this convention does not mean that they should not or cannot be held accountable. Other international instruments do apply to migrant workers and it is up to migrants' organisations, civil society and the international community to make use of them.[...]

However, the UDHR and other human rights norms and standards evolved since then and have slowly been integrated in some international, regional and national government responses to migration, including, albeit timidly, in some migration management initiatives. More than ever, civil society, migrant and human rights organisations will need to remind governments of their commitments and highlight the relevance of the Preamble of the UDHR which declares that:

»[...] recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in

the world, [...] disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people, [...] it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law, [...] it is essential to promote the development of friendly relations between nations.«

Adapted from the December 18 statement:

<http://www.december18.net/web/general/start.php>

Contact: René Plaetevoet, Director, December 18,
rene@december18.net

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SECTION II:
IRREGULAR MIGRANTS, TRAFFICKED PEOPLE AND
HUMAN RIGHTS

1. PRINCIPAL INSTRUMENTS FOR THE
PROTECTION OF IRREGULAR MIGRANTS AND
TRAFFICKED PEOPLE

1.1. THE DIFFERENCE BETWEEN IRREGULAR
MIGRANTS AND TRAFFICKED PEOPLE

Human trafficking is a crime against the person through the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, [...], for the purpose of exploitation. It can occur in the context of a legal, voluntary migration or by the kidnapping or abduction of a person which afterwards is subjected to forced migration.

Trafficking can take place within the territory of a State or involve the crossing of national borders. It deprives the victim of her fundamental right to freedom of movement and often implies a number of additional offences against the person and violations of human rights (physical violence, sexual abuse, unlawful confinement, etc.). In distinction to human trafficking, migration, regular or irregular, refers to displacement mostly due to natural disasters, conflicts or economic reasons.

In response to stricter border control measures in the destination countries of international migration, the number of irregular migrants who rely on smugglers to cross borders has risen significantly. Due to their illegal status, smuggled migrants are highly exposed and may be tricked or coerced into exploitive situations, and thus become victims of human trafficking. The key element which allows distinguishing between smuggled migrants and trafficking is the aspect of exploitation. Restrictive immigration policy opens more possibilities for irregular employment, often under prohibitive working conditions. This can turn irregular migrants into human trafficking victims.

TABLE 5
DIFFERENCE BETWEEN MIGRATION AND TRAFFICKING

MIGRATION	TRAFFICKING
<ul style="list-style-type: none"> >> Work conditions of a regular migrant may be discriminatory and exploitative because of the person’s marginalized economic situation, nationality, ethnic and gender status 	<ul style="list-style-type: none"> >> Ends up with the exploitation and usually involves deprivation of liberty
<ul style="list-style-type: none"> >> Regular immigration status affords greater protection than a trafficked person 	<ul style="list-style-type: none"> >> Continuing violence is a necessary part of the trafficking process to ensure continued compliance and control of the victims
<ul style="list-style-type: none"> >> Displacement due to natural disasters and conflicts, gendered cultural practices and violence, and job demand in specific economic sectors 	<ul style="list-style-type: none"> >> Never voluntary – where there is consent to move for work, consent is nullified through coercion, deception and exploitation >> Trafficking is non-consensual and entails a lack of knowledge

Table developed by Milica Zupunski, Belgrad, 2008

1.2. INTRODUCTION TO THE UN PROTOCOL TO PREVENT, SUPPRESS AND PUNISH TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN (2000)

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, was adopted by the UN in Palermo (Italy) in 2000. It is part of the United Nations Convention against Transnational Organized Crime. Moreover, it is one of the two Palermo protocols, the other one being the Protocol against the Smuggling of Migrants by Land, Sea and Air.

The Trafficking Protocol entered into force on 25 December 2003. It contains the first international definition of the crime of trafficking in human beings and proposes measures meant to combat trafficking in persons, protect and assist victims of trafficking and promote co-

operation among States in order to meet those objectives. Human trafficking is a complex phenomenon which requires States to legislatively arm themselves to confront it as a serious crime, committed by criminals. The Protocol to Prevent, Suppress and Punish Trafficking in Persons requires the implementation of laws which can properly respond to trafficking, in as nuanced and effective a way as the crime is complex and injurious. As of December 2008, 117 countries have signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons.

For the full text of the UN Trafficking Protocol see:
<http://www.unodc.org/unodc/en/human-trafficking/index.html>
 and
http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf

1.3. INTRODUCTION TO THE COUNCIL OF EUROPE CONVENTION ON ACTION AGAINST TRAFFICKING IN HUMAN BEINGS (2005)

On the regional level, the Council of Europe adopted in May 2005 the Convention on action against trafficking in human beings, which aims to prevent trafficking and prosecute traffickers, with a special focus on victim's protection and safeguarding of their rights. The Convention intends to develop the standards established by the UN Convention against Transnational Organized Crime and the Trafficking Protocol. According to the document, victims of trafficking shall be granted physical and psychological assistance and support; other standards to ensure the protection of the human rights of trafficked persons include a recovery and reflection period for trafficked persons and renewable residence permits to victims of trafficking.

The Convention sets up a special monitoring mechanism in the form of a technical body. This »Group of Experts on Action against Trafficking in Human Beings« (GRETA) is a crucial element of the Convention's added value: it is a tool meant to ensure the Parties' compliance with the Convention and a guarantee for the Convention's long-term effectiveness. Without limiting its action thereupon, it has to be made sure that GRETA also engages in the assessment of the effects of governmental counter-trafficking measures on human rights. The first GRETA meeting will take place on 24–27 February 2009 at the Council of Europe in Strasbourg.

As of early 2009 the Convention has been ratified by Albania, Armenia, Austria, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Denmark, France, Georgia, Latvia, Malta, Moldova, Montenegro, Norway, Poland, Portugal, Romania, Slovakia and the United Kingdom and has been signed by 20 other CoE Member States: Andorra, Belgium, Finland, Germany, Greece, Hungary, Iceland, Ireland, Italy, Lithuania, Luxembourg, Netherlands, San Marino, Serbia, Slovenia, Spain, Sweden, Switzerland, »the former Yugoslav Republic of Macedonia« and Ukraine.

For the full text of the Convention and Explanatory Report: http://www.coe.int/t/dg2/trafficking/campaign/Source/PDF_Conv_197_Trafficking_E.pdf

see also CoE summary:

http://www.lastradainternational.org/documents/CoE_Convention_info.pdf

1.4. EXTRACTS OF THE UN CONVENTION ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES REGARDING IRREGULAR MIGRANTS (1990)

The Convention recognizes that »the human rights problems involved in migration are even more serious in the case of irregular migration« and the need to encourage appropriate action »to prevent and eliminate clandestine movements and trafficking in migrant workers, while at the same time assuring the protection of their fundamental rights« (Preamble). As measures for preventing and eliminating illegal labour migration, the Convention proposes that the States concerned should collaborate in taking appropriate actions against the dissemination of misleading information relating to emigration and immigration, to detect and eradicate illegal or clandestine movements of migrant workers and impose sanctions on those who are responsible for organising and operating such movements as well as employers of illegal migrant workers (Art. 68). However, the fundamental rights of undocumented migrant workers are protected by the Convention (Art. 8–35).

The UN Migrant Workers Convention innovatively lays down that Migrant Workers and their families, regardless of their regular or irregular status, must be guaranteed access to a minimum degree of protection and to fundamental human rights, as the right to benefit from the same working conditions as nationals: »Migrant workers shall enjoy treatment not less favourable than that which applies to nationals of the State of employment in respect of remuneration and other conditions of work or terms of employment« (Article 25).

The Convention distinguishes between the rights of legal migrants and undocumented migrants, as well as between certain categories of migrant workers, stressing nevertheless that also undocumented migrants must see their fundamental human rights respected.

In this sense, the Convention assures the right to public education for children of migrant workers, even if undocumented (art.30), and of migrant workers and members of their family to receive emergency medical care (art.28). Clarification on this point is important, insofar as many undocumented workers and their families tend to avoid contact with public education or health care institutions in fear of being reported to the police.

Finally, the Convention suggests measures to eradicate clandestine movements, such as fighting against misleading information inciting people to migrate irregularly, and sanctioning traffickers and employers of undocumented migrants.

The Convention points out some important issues and has the merit of addressing, for the first time ever, the particular issue of regular and irregular migrant workers' human rights. Still, the document is cautious in the definition of migrants' rights and keeps their body slighter than do other International Human Rights Treaties. It does not go into the question of migrant women's rights and does not explicitly guarantee the right to family reunification. All in all the rights anchored in this Convention are those already recognized in the context of other international pacts and agreements.

For the full text of the Convention:

<http://www.un.org/documents/ga/res/45/a45r158.htm>

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SECTION III:
REFUGEES AND HUMAN RIGHTS FRAMEWORK

1. BACKGROUND AND DOCUMENTATION ON
HUMAN RIGHTS AND REFUGEE LAW

1.1. INTRODUCTION TO THE CONVENTION
RELATING TO THE STATUS OF REFUGEES (1951
GENEVA CONVENTION) AND ITS 1967 PROTOCOL

The 1951 Convention relating to the Status of Refugees is the key legal document in defining who is a refugee, their rights and the legal obligations of States.

The Convention sets out the rights of refugees and the standards for their treatment in the countries that receive them. It defines »refugee« in Article 1A (2) as »[...]Any person who [...] owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his [or her] nationality and is unable or, owing to such fear, is unwilling to avail himself [or herself] of the protection of that country [...]«.

Since the definition requires that a person be outside his or her country, it effectively excludes internally displaced persons from receiving international protection. Moreover, because it focuses on individualized persecution, it does not recognize situations of generalized violence (such as wars), natural disasters, and large-scale development projects as legitimate causes of flight.

The Protocol was drafted to remove the geographic and time limitations of the earlier instrument, the incorporation of which reflected the post-World War II context in which the Convention was framed. Otherwise, it retains the same language as that used in the Convention. As of October 2008, 144 countries had ratified the 1951 Convention relating to the Status of Refugees and the 1967 Protocol.

The development of a body of international law, conventions and guidelines to protect refugees began in the early part of the 20th century under the League of Nations, the predecessor of the United Nations. It culminated on July 28, 1951, when a special UN conference approved the Convention relating to the status of refugees. The Convention clearly defines who a refugee is and what kind of legal protection, other assistance and social rights he or she should receive from States party to the treaty. Equally, it describes a refugee's obligations to host governments and certain categories of persons, such as war criminals, who do not qualify for refugee status.

This first instrument was limited to the protection of mainly European refugees in the aftermath of World War II, but a 1967 Protocol expanded the scope of the Convention as the problem of displacement spread around the world. The original document inspired further regional instruments such as the 1969 Africa Refugee Convention and the 1984 Latin American Cartagena Declaration.

The United Nations High Commissioner for Refugees (UNHCR) was created in 1951 to assist in the international protection of refugees. The organization's primary objective is to ensure that all persons can exercise the right to seek asylum to secure safe refuge in another State, and to return home voluntarily. The UNHCR currently helps more than 21 million people and the Convention, which has proved to be remarkably flexible in rapidly changing times, remains the cornerstone of refugee protection.

Increasingly, the current majority of world conflicts involve disputes between political or ethnic groups within countries rather than wars between countries. Given this trend, the number of persons caught in conflicts within their own countries who are forced to leave their homes is likely to increase.

1.2. KEY PROVISIONS OF THE 1951 REFUGEE CONVENTION

For the full text of the 1951 Refugee Convention, go to the UN Refugee Agency (UNHCR):

<http://www.unhcr.org/cgi-bin/texis/vtx/protect?id=3c0762ea4>

ARTICLE 1.

Definition of the term »refugee«

...**A.** For the purposes of the present Convention, the term »refugee« shall apply to any person who:

...**2.** As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such

events, is unable or, owing to such fear, is unwilling to return to it.

...**C.** This Convention shall cease to apply to any person falling under the terms of section A if:

1. He has voluntarily re-availed himself of the protection of the country of his nationality; or
2. Having lost his nationality, he has voluntarily reacquired it; or
3. He has acquired a new nationality, and enjoys the protection of the country of his new nationality; or
4. He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or
5. He can no longer, because the circumstances in connection with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality;

Provided that this paragraph shall not apply to a refugee falling under section A (I) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality;

6. Being a person who has no nationality he is, because the circumstances in connection with which he has been recognized as a refugee have ceased to exist, able to return to the country of his former habitual residence;

Provided that this paragraph shall not apply to a refugee falling under section A (I) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to return to the country of his former habitual residence.

...**D.** This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance. When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall ipso facto be entitled to the benefits of this Convention.

...**E.** This Convention shall not apply to a person who is recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country.

...**F.** The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:

1. He has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
2. He has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;
3. He has been guilty of acts contrary to the purposes and principles of the United Nations.

ARTICLE 31.

Refugees unlawfully in the country of refuge

...**A.** The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.

...**B.** The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country. The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country.

ARTICLE 32.

Expulsion

...**A.** The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.

...**B.** The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.

...**C.** The Contracting States shall allow such a refugee a reasonable period within which to seek legal admission into another country. [...]

ARTICLE 33.

Prohibition of expulsion or return (»refoulement«)

...**A.** No Contracting State shall expel or return (»refouler«) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

...**B.** The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that country.«

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...2. OTHER KEY PROVISIONS OF INTERNATIONAL AND EUROPEAN HUMAN RIGHTS TREATIES RELATING TO MIGRANTS AND REFUGEES

For the full text of all international treaties go to Office of the High Commissioner for Human Rights (OHCHR): <http://www.ohchr.org>.

The international legal framework for the protection of human rights of migrants and refugees is very broad. A number of international and European treaties contain provisions that protect the human rights of all human beings, irrespective of citizenship. All of them contain strong non-discriminatory clauses ensuring applicability of many provisions to migrants, refugees and minorities.

The plight of refugees is fundamentally a human rights issue. Human rights treaties are therefore effective tools to use in the international protection of refugees, particularly the 1984 Convention against Torture, which provides for the principle of non-refoulement in Article 3. Similarly, prohibitions against torture in the 1966 International Covenant on Civil and Political Rights (Article 5) and the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (Article 3) have been invoked to protect refugees from being refouled.

Apart from the Universal Declaration of Human Rights, which has served as a matrix for all of the international and European human rights treaties, we will point out selected articles from seven other human rights conventions. These are all essential to ensure the protection of human rights of migrants and refugees in their countries of origin, during their migration and their life in the receiving societies

1948 Convention on the Prevention and Punishment of the Crime of Genocide

»In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- ... a. Killing members of the group;
- ... b. Causing serious bodily or mental harm to members of the group;

- ... c. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- ... d. Imposing measures intended to prevent births within the group;
- ... e. Forcibly transferring children of the group to another group.« (Article 2)

1950 European Convention for the Protection of Human Rights (ECHR)

»...1. No one shall be held in slavery or servitude.

... 2. No one shall be required to perform forced or compulsory labour.« (Article 4, ECHR)

»The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.« (Article 14, ECHR)

1965 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

»...1. In this Convention, the term »racial discrimination« shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

... 2. This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens.« (Article 1, ICERD)

1966 International Covenant on Civil and Political Rights (ICCPR)

»Each State Party [...] undertakes to respect and to ensure to all individuals within its territory [...] rights [...] without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status [...] Everyone lawfully within the territory of a State shall [...] have the right to liberty of movement and freedom to choose his residence. Everyone shall be free to leave any country, including his

own [...] No one shall be arbitrarily deprived of the right to enter his own country. An alien lawfully in the territory of a State Party [...] may be expelled [...] only [...] in accordance with law and shall [...] be allowed to submit the reasons against his expulsion and to have his case reviewed by [...] the competent authority [...] All persons shall be equal before the courts and tribunals [...] All persons are equal before the law and are entitled without any discrimination to the equal protection of the law [...]» (ICCPR, Articles 2, 12, 13, 14, and 26)

1966 International Covenant on Economic, Social and Cultural Rights (ICESR)

»The States Parties [...] recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing [...] recognize the right of everyone to the [...] highest attainable standard of physical and mental health [...]; the right of everyone to education [...] Primary education shall be compulsory and available free to all [...]» (ICESR, Articles 11, 12, and 13)

1984 Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT)

»No State Party shall expel, return («refouler») or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.« (Convention Against Torture, Article 3)

1989 Convention on the Rights of the Child (CRC)

»States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee [...] shall [...] receive appropriate protection and humanitarian assistance in the enjoyment of [...] rights [...] States Parties shall provide [...] cooperation in [...] efforts [...] to protect and assist such a child and to trace the parents or other members of the family of any refugee child [...] for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child [...] deprived of his or her family environment [...]» (Convention on the Rights of the Child, Articles 22)

3. INTERNATIONAL AND EUROPEAN HUMAN RIGHTS PROTECTION BODIES AND INITIATIVES RELEVANT TO MIGRANTS AND REFUGEES

Council of Europe Commissioner of Human Rights (1999)

http://www.coe.int/t/commissioner/default_en.asp

The Commissioner for Human Rights is an independent institution within the Council of Europe, mandated to promote the awareness of and respect for human rights in 47 Council of Europe Member States. The Commissioner seeks to engage in permanent dialogue with Council of Europe Member States and conducts official country missions for a comprehensive evaluation of the human rights situation. The missions typically include meetings with the highest representatives of government, parliament, the judiciary, as well as leading members of human rights protection institutions and the civil society. The Commissioner's reports contain both an analysis of human rights practices and detailed recommendations about possible ways of improvement. The reports are presented to the Council of Europe's Committee of Ministers and the Parliamentary Assembly. Subsequently, they are published and widely circulated in the policy-making and NGO community as well as the media.

Its main activities consist in:

- ... Dialogue with governments and country visits;
- ... Thematic recommendations and awareness-raising;
- ... Promoting the development of national human rights structures.

The Office's most important inter-governmental partners include the United Nations and its specialised offices, the European Union, and the OSCE. The Office also cooperates closely with leading human rights NGOs, universities and think-tanks.

European Commission against Racism and Intolerance of the Council of Europe (ECRI)

http://www.coe.int/t/e/human_rights/ecri/

The European Commission against Racism and Intolerance (ECRI) is the Council of Europe's monitoring body, combating racism, xenophobia, antisemitism and intolerance in greater Europe, from the perspective of the pro-

tection of human rights. ECRI's actions include all the measures needed to combat violence, discrimination and prejudice against persons or groups of persons on grounds of race, colour, language, religion, nationality or national or ethnic origin. ECRI was established by the first Summit of Heads of State and Government of the Member States of the Council of Europe. The decision is contained in the Vienna Declaration which the Summit adopted on 9 October 1993. The second Summit in Strasbourg on 10/11 October 1997 strengthened ECRI's action and on 13 June 2002 the Committee of Ministers granted ECRI its own statute, thereby consolidating its role as an independent human rights monitoring body.

European Union Agency for Fundamental Rights (FRA)

<http://fra.europa.eu/fra/index.php>

The European Union Agency for Fundamental Rights (FRA) is a body of the European Union (EU), established through Council Regulation (EC) No 168/2007 of 15 February 2007. It is based in Vienna and is being built on the European Monitoring Centre on Racism and Xenophobia (EUMC). FRA carries out its tasks independently. It cooperates with national and international bodies, in particular with the Council of Europe and with civil society organisations.

The Agency has documented the situation of migrants, in particular in its Annual Reports and comparative thematic studies on discrimination in employment, education and housing, but also on legislation, racist violence and policing racist crime and violence. In 2008, the FRA launched the first and largest EU-wide survey of its kind to collect comparable data on selected immigrant and minority groups' experiences of discrimination in access to goods and services, including experiences of criminal victimisation. Given the current lack of comprehensive and comparable research on these themes in many Member States, the survey's results will be able to inform policy makers about respondents' experiences of discrimination and victimisation so that these problems can be addressed more effectively.

The Global Forum on Migration and Development (GFMD)

<http://www.gfmd-fmmd.org/>

The Global Forum on Migration and Development (GFMD) is a new initiative of the international community to address

the connection between migration and development in practical and action-oriented ways. It marks the culmination of more than a decade of international discussion on the growing importance of these linkages, and the progressive acknowledgement of the need to address the policy implications and responses in a multilateral framework.

The GFMD was proposed by the UN Secretary-General and his Special Representative on International Migration and Development at the High Level Dialogue on International Migration and Development (HLD) on 14-15 September 2006 within the framework of the General Assembly of the United Nations. Its inaugural meeting was held in Brussels in July 2007 under the chairmanship of the Government of Belgium. The second meeting of the Global Forum on Migration and Development was held in Manila, Philippines in October 2008.

The Manila GFMD revolves around the central theme »Protecting and Empowering Migrants for Development.« It foregrounded two further priorities identified in the initial Brussels survey, namely human rights and the promotion of regular migration.

Global Migration Group (GMG)

<http://www.un.org/esa/population/migration/gmg/index.htm>

The Global Migration Group (GMG) is an inter-agency group bringing together heads of agencies to promote the wider application of all relevant international and regional instruments and norms relating to migration, and to encourage the adoption of more coherent, comprehensive and better coordinated approaches to the issue of international migration. The GMG is particularly concerned with improving the overall effectiveness of its members and other stakeholders in capitalizing upon the opportunities and responding to the challenges presented by international migration. The GMG was established by the United Nations Secretary-General in early 2006 in response to a recommendation of the Global Commission on International Migration for the establishment of a high-level inter-institutional group of agencies involved in migration-related activities.

International Labour Organization (ILO)

<http://www.ilo.org>

The International Labour Organization (ILO), the UN specialized agency on labour issues, has been dealing with labour migration since 1919. It has pioneered internatio-

nal Conventions to guide migration policy and protection of migrant workers. All major sectors of ILO – standards, employment, social protection and social dialogue – work on labour migration within its overarching framework of »decent work for all«. ILO adopts a rights-based approach to labour migration and promotes tripartite participation (governments, employers and workers) in migration policy. It provides advisory services to Member States, promotes international standards, provides a tripartite forum for consultations, serves as a global knowledge base, and provides technical assistance and capacity-building to constituents. ILO has recently developed a multilateral framework on labour migration to guide its constituents in labour migration policy.

International Organization of Migration (IOM)

<http://www.iom.int>

The International Organization for Migration (IOM) is dedicated to promoting humane and orderly migration for the benefit of all. IOM acts with its partners to:

- ... uphold the human dignity and wellbeing of migrants;
- ... encourage social and economic development through migration;
- ... assist in meeting the growing operational challenges of migration management;
- ... advance understanding of migration issues.

It does these by using its long experience and world-wide presence to provide a full range of services and advice to governments and migrants, from projects and practical solutions to policy and broad strategic approaches, from data collection, research and analysis to the provision of a forum for States, intergovernmental organizations and civil society to exchange views and experiences and promote cooperation and coordination of efforts on international migration issues.

Office for Democratic Institutions and Human Rights (ODIHR)

<http://www.osce.org/odihr/13421.html>

The Office for Democratic Institutions and Human Rights (ODIHR) is the specialized institution of the OSCE dealing with elections, human rights and democratization, based in Warsaw, Poland. The primary building blocks of the Office are the Elections, Democratization, and Human Rights departments, as well as the Contact Point for Roma and Sinti Issues and the Programme on Tolerance and

Non-Discrimination. The ODIHR's Tolerance and Non-Discrimination Programme has developed the Tolerance and Non-Discrimination Information System in order to share and promote practical initiatives and to provide information on issues related to tolerance and non-discrimination throughout the OSCE region (<http://tandis.odihr.pl/>).

Office of the High Commissioner for Human Rights (OHCHR)

<http://www.ohchr.org>

The Office of the High Commissioner for Human Rights (OHCHR) is a department of the United Nations Secretariat. It is mandated to promote and protect the full realization and enjoyment by all people of all rights established in the Charter of the United Nations and other international human rights laws and treaties. The mandate includes preventing human rights violations, securing respect for all human rights, promoting international cooperation to protect human rights, coordinating related activities throughout the United Nations, and strengthening and streamlining the United Nations' operations in the field of human rights. In addition to its mandated responsibilities, the Office leads efforts to integrate a human rights approach within all work carried out by United Nations agencies.

The Office of the High Commissioner for Human Rights (OHCHR) promotes a human rights approach to migration throughout its work. In particular, it supports and services

- ... the mandates of the UN Special Rapporteur on the Human Rights of Migrants

<http://www.unhchr.ch/html/menu2/7/b/mmig.htm>

- ... the UN Special Rapporteur on Trafficking

<http://www2.ohchr.org/english/issues/trafficking/index.htm>

- ... the Committee on Migrant Workers

<http://www2.ohchr.org/english/bodies/cmwl/>,

the treaty body supervising compliance with the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

OHCHR also implements a technical cooperation project on trafficking which is guided by OHCHR's Recommended Principles and Guidelines on Human Rights and Human Trafficking. Issues of migration, development and human rights are further addressed and analyzed, including at

the regional and country level, through a variety of other mandates and programmes, such as that of national human rights institutions.

United Nations Educational, Scientific and Cultural Organization (UNESCO)

http://portal.unesco.org/en/ev.php-URL_ID=29008&URL_DO=DO_TOPIC&URL_SECTION=201.html

United Nations Educational, Scientific and Cultural Organization (UNESCO) emphasizes the human aspect of migration and addresses the implications of the movement of people in its fields of competence. These include:

- ... the migration education nexus and the challenges raised by brain drain/gain, student mobility and the international recognition of qualifications;
- ... the migration-development nexus, with a particular emphasis on the development of knowledge diasporas through the use of ICTs;
- ... the impact of environmental trends and climatic change on forced migration;
- ... the cultural integration of migrants in host societies, with particular attention to the balance between social cohesion and the respect for cultural diversity;
- ... the research-policy nexus through the creation of research networks and of innovative platforms enabling exchanges between researchers and policy-makers.

It does so by cooperating with a wide range of partners, including intergovernmental organizations, civil society groups and universities.

The UN Refugee Agency UNHCR

<http://www.unhcr.org/cgi-bin/texis/vtx/home>

The UN Refugee Agency UNHCR was established on December 14, 1950 by the United Nations General Assembly. The agency is mandated to lead and coordinate international action on the protection of refugees and to resolve refugee problems worldwide. Its primary purpose is to safeguard the rights and well-being of refugees. It strives to ensure that everyone can exercise the right to seek asylum and find safe refuge in another State, with the possibility to return home voluntarily, integrate locally or to resettle in a third country. Over more than half a century the agency has helped an estimated 50 million people restart their lives. Today, a staff of around 6,300 people in more than 110 countries continues to help 32.9 million persons.

SECTION IV
IMMIGRATION, ASYLUM AND INTEGRATION IN
EUROPE

1. EUROPEAN IMMIGRATION AND ASYLUM
POLICY: CHALLENGES AND TRENDS

Migration is not a new phenomenon in Europe. Europeans have been migrants themselves for a long time. Migrants from both inside and outside Europe – workers who were often joined only years later by their family members – have been arriving in a number of European countries since the mid 1950s. For over two decades refugees from different regions of the world have been coming to Europe in search of a place where they can live in dignity, without fear of persecution and discrimination.

A common immigration and asylum policy has developed during the last one and a half decades among EU Member States, as a result of dramatically changing migration movements and patterns in Europe. This policy area of the EU can be divided into three phases, which characterize the development since the founding of the European Community:

Phase 1: 1957–1990: The European Community has no competences in the field of migration and asylum; policy coordination only occurs in some fields of migration and asylum such as transnational crime and terrorism.

Phase 2: 1990–1999: Intergovernmental cooperation: Given the high numbers of asylum seekers, some European States agree on three important regulations (see below).

Phase 3: since 1999: Asylum and migration policy is a common task in the EU. In order to control the high numbers of asylum seekers with the Treaty of Maastricht (drawn up in 1991, signed in 1992 and implemented in 1993), asylum policy is regarded as a policy task of common interest, to be regulated by the European Union.

The Schengen Agreement (agreed upon in 1995) with its border control mechanisms and the Dublin Convention (1997) with the save-third-country-regulation makes it easy to control and send back undesired migrants entering one of the Schengen Member States. This established mechanisms resulted in decreasing numbers of asylum seekers and increasing numbers of undocumented (so-called illegal) migrants.

EU policies on immigration, asylum, border controls and crime are subsumed under the term »Justice and Home Affairs (JHA)«. In 1997, the EU incorporated the Schengen Agreement on borderless travel (initially concluded among a smaller group of Member States) into the Amsterdam Treaty. As a result, border and immigration

Adapted from articles by Elizabeth Collet: The EU Immigration Pact – from The Hague to Stockholm, via Paris, London: European Policy Center, October 2008; Andrea Schmelz, European Immigration and Asylum Policies, 2007 (www.migrationeducation.org)

cooperation became legally binding, though there was still a requirement of unanimity. Shortly after the Amsterdam Treaty had entered into force, EU leaders agreed on a detailed list of goals for EU asylum and immigration policies, called the Tampere Programme. In 2004, the governments took stock and added some new goals, renaming it the Hague Programme. Shortly thereafter, the Member States used a special passerelle clause in the Treaty of Nice to move decisions on asylum and immigration (except for questions on legal migration) to qualified majority voting. Further changes will be made in the field of JHA under the Treaty of Lisbon.

In October 2008, the European Pact on Immigration and Asylum was enacted by the European Council. The Pact is intended to provide a roadmap for future European immigration policies and sets out five priorities for action: legal immigration and integration, control of illegal immigration, effective border controls, a European asylum system, and migration and development.

None of these are new areas of EU action: both the Tampere (1999–2004) and Hague Programmes (2005–2009) were conceived and articulated with the aim of addressing all aspects of migration to Europe. While ambitions to create a single EU immigration policy have been scaled down in recent years, the dynamics of policy development in each field differ greatly.

Although the Member States differ over details, they all have a common interest in a strong external border. But this consensus has been lacking in almost all other areas, including cooperation on the integration of migrants in various countries. While political rhetoric about demographic change and the role of migration in Europe's future competitiveness has increased exponentially, only the bare minimum has concretely been achieved. Initially, the Hague Programme committed Member States to creating a common asylum system by 2010, but at this point the European Council is more modest about what can be achieved. For example, the joint processing of asylum applications envisaged by The Hague Programme is no longer discussed. Instead, they are now just considering the possibility of a proposal for a single procedure by 2012.

Generally, the European Pact on Immigration and Asylum moves the EU away from specific and ambitious harmonisation projects and towards committing Member States to political objectives. This raises questions about how much impact it will actually have on European policies. Not only does the Pact contain very few specific initiatives, and none on a grand scale, it also defines more

of what cannot be done as opposed to what can. The objectives set out in Tampere and The Hague have not exactly been left unfulfilled, but the final content of the legislation that has been agreed upon is largely unfulfilling.

Equally, integration concerns – fuelled by violence and social problems – have prompted significant policy changes at the national level, including greater focus on language testing and limits on cultural and religious practice. This was not translated into EU legislation, and work in this area remains restricted to articulating general principles and exchanging information. The external dimension of migration – now re-branded as the »Global Approach« – has been given new impetus. In June 2008, the EU agreed on mobility partnerships between several Member States and Cape Verde and Moldova, partly in reaction to the difficulties encountered in harmonising diverse immigration needs and policies.

The panic caused by high numbers of asylum applications in the 1990s, which led to much of the initial work on a Common European Asylum System, has given way to a focus on so-called »illegal« residence and working. This is driving a number of EU initiatives, such as the current proposal on sanctioning employers of third-country nationals working irregularly and the recent agreement on the Returns Directive. Other apparent points of growing convergence are an increased focus on attracting high-skilled workers, along with continued ambivalence towards medium and low-skilled migrants. Regardless of its ultimate role, the Pact clearly heralds a more conservative approach to immigration, in line with changing public and political attitudes.

The future immigration policy in Europe faces multiple challenges, outlined in a recent policy study by Steffen Angenendt. In his recommendations, he emphasizes the need for a coherent immigration policy in Europe. The policy recommendations of churches develop the vision of a »balanced approach« in EU migration and asylum policy based on migrants' human rights.

In order to enforce migrants' human rights, Network Migration in Europe furthermore recommends that all EU Member States ratify the 1990 UN Migrants' Worker Convention. The 1989 UN Convention on the Rights of the Child should also be duly respected. All individuals present on EU territory, be they EU nationals and regular or irregular migrants, should have access to basic social services such as health care and education for their children. However, currently some EU Member States bar access to services such as health care and education to undocumented migrants.

THE FUTURE OF EUROPEAN MIGRATION POLICY – MOTIVATIONS, OBSTACLES, AND OPPORTUNITIES

Executive Summary of a Policy Paper of the Heinrich Böll Foundation *authored by Steffen Angenendt*

Europe faces major migration policy challenges. In many regions of the world, the pressure to emigrate is increasing, and more people than ever are attempting to escape political violence, oppression, lack of economic prospects and environmental changes and seeking a better future for themselves and their families in the EU member states. At the same time, due to aging and shrinking European populations, the need for immigration is growing. To date, however, there is no societal or political consensus on the management of this migration and the growing ethnic and cultural diversity. Uncertainty prevails in regard to the number of immigrants that are needed or wanted, the tools to be used to guide this migration, and the ways in which immigrants should be integrated.

These national uncertainties add up at the European level. In addition, member states still differ considerably, despite growing similarities, with regard to their immigration histories, the extent and structure of immigration, and countries of origin of their immigrants. Reaching an agreement on a common migration policy is therefore difficult.

Nevertheless, over ten years ago, with the Treaty of Amsterdam, the member states already agreed upon a common migration policy. Since then, numerous immigration projects have begun, with completion progressing at different rates. Great advancements have been made towards a common policy on asylum and on joint control of the EU's external borders – with agreement in each case on the restrictive elements of the common policy. However, in regard to the management of immigration, especially labour migration, the governments have been unable to agree upon a common policy. This is where the fear of losing the national capacity to act is most pronounced: for many governments, the decision on who should be allowed to immigrate, under what conditions, and for what reasons, continues to be a core aspect of national sovereignty and state governance.

The member states will not be able to afford such hesitation much longer; the pressure of the problem is increasing too quickly. It can be expected that common asylum and migration policy will remain a balancing act: on the one hand, national powers must be protected, because only in this way policy can do justice to the major differences between national, regional and local levels in the EU. On the other

hand, due to the common European Single Market, the EU member states must agree upon a binding legal framework for immigration and common concepts and tools. Only then can they achieve a coherent, efficient and legitimate asylum and migration policy.

An analysis of current migration trends in the member states, the potential for migration from areas neighboring the EU, the challenges and opportunities connected with migration movements, and the development and current state of European migration policy, allows identification of many thematic areas that the governance of European migration policy must urgently address.

In principle, it must now be understood that there is no alternative to more intensive European cooperation. A problem-oriented, realistic European migration policy must anticipate the economic and demographic need for immigration, frame socially acceptable immigration policies, consider obligations to international humanitarian law and the European states' integration into world politics, and offer a contribution to the fight against the causes of forced migration.

EU humanitarian aid and development cooperation must aim more directly at these issues; member states must further develop international protections for refugees and improve the financial, infrastructural and personnel capacities of international governmental and non-governmental organizations involved in this work.

In order to achieve this, coherent and comprehensive approaches must be pursued in migration and asylum policy. Coherency in this context means three things:

- Collaborative policies need to be established at different levels of government (federal, regional and local), in which civil society (especially non-governmental organizations) is included (vertical coherence).
- Steering tools in different political fields need to be combined; that is, migration policy tools must be more closely linked with the tools of foreign, development, social, and economic policies (horizontal coherence).
- EU member states need to develop and pursue common goals, on the basis of ideas about burden-sharing and solidarity (inner coherence). In addition, in its »Global Approach to Migration« the member states determined that an overall policy should include not only a reduction in irregular migration, but also long-term solutions for refugees and better management of legal migration.

The current European asylum and migration policy is still far from such a coherent and broad policy. What predominates is still an ad hoc policy that is uncoordinated, partially contradictory, not very strategic, and yields to short term necessities. In order to make progress toward a common policy, the coherency on all three levels must be improved.

In designing future policy, the following principles should be central

Recognition of the shortcomings of previous management tools

In most of the EU member states, the regulations on labor migration lack transparency, legitimacy and efficiency. They are usually the result not of strategic planning, but of decades of reactions to current circumstances. National regulations are not designed to manage labor migration in such a way as to use its economic and social potential optimally. Also, the differences prevent member states from using the advantages of the EU market for recruitment – which becomes a disadvantage in regard to highly qualified immigrants, given the international competition. These shortcomings must be recognized.

Demonstrate the need for a foreign work force

In many member states, fighting unemployment remains a central political topic, and many voters judge their government on its ability to handle this problem. This is true even when the government's possible courses of action are limited, given economic globalization and the political and economic integration of the EU. Public acceptance of new regulations for labor migration can only be achieved if the respective workers can be shown to be necessary and not to displace the domestic workforce.

Make labor migration dependent on qualifications

The management of migration should begin with the qualifications of immigrants and should distinguish between three groups: There should be no immigration hurdles for highly qualified immigrants. A human capital oriented approach should be taken, a generous quota should be chosen, and they should be actively recruited. For skilled workers, in contrast, the danger of displacing the domestic work force exists. Here an approach should be chosen that depends on the labor market and permits immigration only if it can be shown that the need cannot be filled by the domestic workforce. For low-skilled workers, only short-term (though not one-time-only) job opportunities should be offered, with domestic workers again taking precedence.

Consider future sources of immigration

Since the new EU member states will lose significance as sending countries due to previous emigration, economic growth and demographic development, the source of future labor migration, should be considered now. Future potential lies in Africa and Asia. In order to use this effectively, strategic decisions and correspondingly broad agreements are necessary.

Consider consequences for development policy

As part of labor migration, the ambivalent development policy outcomes for the sending countries must be considered. Options for improving the effects on development are already being discussed, for example by refraining from recruiting badly needed workers in sending countries (e.g. in the health care field) or easing remittances. In order to prevent the mistakes of earlier recruitment of guest workers, practices must be developed that ease the process of return for immigrants (reintegration programs) and counteract loss of qualifications while abroad (training and continuing education measures by businesses and governments).

Strengthen integration efforts and develop concepts for temporary immigrants

Consequences must be drawn from the integration problems, especially in the second and third generations. In the early phase of recruitment of guest workers, no integration measures were taken in many countries. Today, this mistake can only be offset with great effort, and often it does not succeed at all. Nevertheless, these shortcomings need to be fought with even greater effort than has been the case thus far because none of the member states can afford, over the long term, to have a portion of its population that is marginalized (and growing). Integration measures cannot be limited to language teaching, but rather should aim to improve opportunities on the job market, and particularly better access to the job market. Additionally, given the increasing significance of temporary migration, assistance in integrating these immigrants must be considered. So far, no such concepts exist for »temporary integration.« but they are indispensable for a broad approach.

Strengthen protection of refugees through managed migration

The fragmented and unsystematic migration policy of the member states and the lack of opportunities for legal immigration contribute to the abuse of asylum rights and

the increase in irregular migration. The current proposal to reduce irregular migration by offering limited immigration quotas (mobility partnerships) should be tested as soon as possible. The number of pilot projects should be increased and all EU member-states should participate in them, since quotas that are too small will most likely have no measurable effect on irregular migration and the abuse of asylum rights. Protection of refugees, which currently barely exists, should be strengthened in the upcoming »second phase« of the EU asylum system; in particular, access to the asylum process should be improved. The EU member states should take their responsibility for international protection of refugees seriously and create new opportunities for the absorption of quota refugees, to avoid the destabilization of fragile countries in sending regions through mass exodus, which could itself contribute to refugee movements. In addition, EU member states should take in more refugees as part of resettlement programs by the UNHCR. All of these measures could contribute to a reduction in irregular migration, and they would strengthen the credibility of the EU, which it will need if it expects other countries to take in more refugees.

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http://www.migration-boell.de/web/migration/46_1803.asp

TOWARDS A BALANCED APPROACH IN EU MIGRATION AND ASYLUM POLICY: 12 RECOMMENDATIONS

*by Churches' Commission for Migrants in Europe,
Brussels July 2007*

Ensure Policy Coherence for Migrants' Rights

...1. Migration and Asylum policy must respect the inalienable dignity of each human being and thus ensure respect for human rights. These crucial principles have to be upheld and defended – even in the framework of security concerns - and must not be undermined. The full compliance of European Union policy with international human rights obligations of the EU and its Member States must be ensured in shaping as well as in the transposition and application of EU law on migration and asylum.

...2. When developing a global approach to migration, the European Union ought not to limit itself to restrictive measures against migration at and beyond EU borders but take into account the comprehensive external dimension of migration. We encourage the EU and its Member States to commit to the Policy Coherence for Development process, including the links between migration and development.

...3. A European policy approach to the multifaceted phenomenon of migration needs to take into account the potential economic, social and cultural benefits and challenges of migration for European societies as well as for the countries of origin and transit. To ensure coherence between EU policies, home affairs, social affairs and education as well as foreign and development policies are of equal importance. Coordination and cooperation between these policy fields need to be improved and enhanced.

Develop a Proactive and Holistic EU Migration Policy

...4. The EU needs to develop an efficient and effective labour migration policy. This requires an approach that takes into account the demand on the EU labour market for a qualified as well as unqualified labour force and protects the rights of all migrant workers. Therefore, we urge the Member States to ratify the International Convention on the Rights of all Migrant Workers and the Members of Their Families. Family unity should be particularly protected and supported.

...5. The EU needs a common approach to integration policy that promotes integration as a reciprocal process resulting in an inclusive and welcoming society. The increasing diversity should be acknowledged and respect for diversity actively promoted as a positive factor. In order to promote the active role of migrants in local community, political participation is a must. The EU should use its competence in the area of antidiscrimination to promote the social inclusion of all members of society.

...6. Combating trafficking in human beings should constitute a specific policy area in itself. Victims of trafficking should be offered safe solutions and long-term perspectives in order to enable them to live a self-sufficient life independent of their willingness to testify against the traffickers in court. In order to gather a comprehensive knowledge of the phenomenon, more resources should be invested in research and the collection of data. We would strongly recommend the EU and EU Member States ra-

tifying the European Convention against Trafficking in Human Beings of 2005.

7. The fact that restrictive migration policies contribute to irregular migration should be fully acknowledged. Under a set of common criteria, regularisation schemes for undocumented migrants should be seen as a means to improve the individual situation of the undocumented migrant. These criteria should take into account the length of residence, family situation, if the person has a job, if removal is impossible and the potential risks for the person in her or his country of origin. EU legislation should not criminalize migrants in irregular situations. Humanitarian assistance to undocumented migrants provided by Churches, Christian organisations and NGOs or public institutions should be protected from prosecution and administrative sanctioning.

8. A common policy on return and readmission needs to uphold the dignity of the person and provide viable prospects for the migrants. Thus, there should be no forced return after 5 years of legal stay in the country of residence. To support voluntary return to the country of origin, coherent reintegration schemes need to be established. Readmission to a third country is only acceptable if strong personal links to that country exist or the person requests this as an alternative. Any return policy has to safeguard family unity and particularly children's rights. Detention of undocumented migrants and asylum seekers should be avoided.

9. The execution of any removal order or return decision should be carried out within a reasonable period fixed by law. Where removal cannot be effected within this period, the removal order or return decision should be cancelled or suspended and the person should be granted a legal status that allows for the exercise of rights such as access to the labour market, social housing, public health care and education, as well as to social assistance and benefits. If, after a reasonable period defined by law, the removal or the return decision still cannot be executed, the person concerned should have the opportunity to apply for a residence permit. These persons should not be detained.

Create a Common and Coherent Asylum System

10. A European right to asylum and subsidiary protection should be established as soon as possible in the EU Treaty. Existing international law on the protection of refugees must be fully and correctly applied in order to

achieve high standards in a common EU asylum system. Measures in the area of border management should not result in violations of fundamental human rights, such as the right of full access to a refugee status determination procedure within the EU with free and appropriate legal and interpretation services and the possibilities for appeal with suspensive effect.

11. The objective of all asylum policy and of other instruments for refugee protection should be to find durable and fair solutions for refugees. Asylum applications should be processed within 6 months; all asylum seekers should have access to the labour market after the shortest possible time. Refugees and persons granted a complementary protection status should be allowed to move in the EU without restrictions. We thus recommend to speedily amend the EU directive on long-term residence status to cover also refugees and persons with a complementary protection status while safeguarding special needs they may have. The duration of temporary protection status should be limited to two years maximum. We wish to encourage the EU and its Member States to enhance protection of refugees by providing durable solutions also through refugee resettlement.

A Global Approach to Migration Policy for a Triple Win

12. Access to and the organisation of systems for legal migration demand a global approach, taking into account the possibilities and constraints of countries of origin, transit and destination and of the migrants themselves. The social and economic situation in these countries needs to be balanced with the interests of the persons concerned. Safeguarding the rights of individuals, improving their living and working conditions, cheaper and safe transfers of remittances, programmes to fight poverty and injustice require a strong commitment and action to address this wide range of issues. We therefore urge the EU to advocate for greater policy coherence in these areas at the level of the EU, but also on the global level.

Signed by the following organisations: Caritas Europe, Churches' Commission by Migrants in Europe; Commission of the Bishops' Conferences of the European Community - Secretariat, International Catholic Migration Commission, Jesuit Refugee Service Europe, Quaker Council for European Affairs.

Taken from: www.ccme.be

2. CHRONOLOGICAL OVERVIEW: EUROPEANISATION IN THE FIELD OF IMMIGRATION AND ASYLUM

1986 The Single European Act

»The Single Act means the commitment of implementing simultaneously the great market without frontiers, more economic and social cohesion, an European research and technology policy, the strengthening of the European Monetary System, the beginning of an European social area and significant actions in environment« (Jacques Delors).

1985/95 Schengen Agreement ('85) and Convention ('95)

The practicalities of free movement within an area without internal border controls were first set out by the Schengen Agreement in 1985 and the subsequent Schengen Convention in 1995 that abolished controls on internal borders between the signatory countries.

1992 The Dublin Convention

Convention determining which State is responsible for examining applications for asylum lodged in one of the Member States of the European Communities

1992 CIREA

Centre for Information, Reflection and Exchange on Asylum. Since 2002: EURASIL (European Union Network for Asylum Practitioners).

CIREIF: The objective of the »Centre of Information, Discussion and Exchange on the Crossing of Frontiers and Immigration« is to assist the Member States in studying legal and illegal immigration, preventing illegal migration and facilitator networks, better detecting forged documents and improving expulsion practices.

1997 The Treaty of Amsterdam

Under the Amsterdam Treaty, asylum and immigration have been moved from the »third pillar« – where unanimous decisions by all Member States through an intergovernmental decision-making process are required – to the »first pillar« where the EU institutions play a larger role.

It provides for the establishment of an »area of freedom, security and justice« and gives the Union Institutions new powers to develop legislation on immigration and asylum matters. For the first time, one can talk of a meaningful European Asylum Policy.

1997 High Level Working Group on Asylum and Migration

Produces »action plans« for various migrant and refugee-producing regions of the world. They tend to emphasize the need to contain refugees in their region of origin by addressing the causes of flight and by providing aid locally.

1998 SCIFA

The Strategic Committee on Immigration, Frontiers and Asylum is an umbrella organisation composed of officials from the Member States that is charged with the task of overseeing and coordinating the diverse task forces active in the field of asylum and immigration.

1999 Summit in Tampere

The EU declared its intention to establish a Common European Asylum System based on the full and inclusive application of the Geneva Convention.

The five-year agenda from 1999 to 2004 called the »Tampere Programme« outlined the first set of legally-binding EU-level agreements on asylum. These include temporary protection for persons displaced by conflicts, a common understanding of refugee status and »subsidiary« protection, minimum procedural guarantees, minimum conditions for the reception of asylum seekers, and a regulation on deciding which Member State is responsible for assessing which asylum claim.

2001 Treaty of Nice

The Intergovernmental Conference faced the main challenge of setting the bases of a Union enlarged towards the East. The EU has agreed on a Charter of Fundamental Rights, which includes a right to asylum.

2003 Green Paper »Deportation«

The Green Paper of the Commission »on a community return policy for illegal residents« suggested joint procedures and mutual official assistance in the area of deportation.

2003 EURODAC

The very first European Automated Fingerprint Identification System (AFIS) is called EURODAC and will register the fingerprints of asylum seekers and certain categories of illegal immigrants arriving in any of the participating countries. This will make it possible to apply the »Dublin Convention« on the criteria and mechanisms for determining which State is responsible for which asylum application, as well as the Community regulation which will replace it in the course of 2003.

2004 The Hague Programme

The European Commission has acknowledged that »the objectives set at Tampere have not yet all been achieved«, COM 4002 final, 2 June 2004, page 7.

The Hague Programme is a new five-year programme for closer cooperation in justice and home affairs at EU level from 2005 to 2010. It aims to make Europe an area of freedom, security

and justice. The programme focuses on setting up a common immigration and asylum policy for the 25 EU Member States.

In the field of asylum, immigration and border control, The Hague Programme contains the following key measures:

- ... a common European asylum system with a common procedure and a uniform status for those who are granted asylum or protection by 2009;
- ... measures for foreigners to legally work in the EU in accordance with labour market requirements;
- ... a European framework to guarantee the successful integration of migrants into host societies;
- ... partnerships with third countries to improve their asylum systems, better tackle illegal immigration and implement resettlement programmes;
- ... a policy to expel and return illegal immigrants to their countries of origin;
- ... a fund for the management of external borders;
- ... Schengen Information System (SIS II) – a database of people who have been issued with arrest warrants and of stolen objects to be operational in 2007;
- ... common visa rules (common application centres, introduction of biometrics in the visa information system).

... 2005 European External Borders Agency: Frontex

The new Border Protection Agency opened for work in Warsaw. The main duties are the first stage of risk analysis (i.e. the detection of migration routes) and the coordination of the joint deportation of persons from third countries.

... 2007 Green Paper: Future Common European Asylum System

The Common European Asylum System (CEAS), as defined in the Tampere and The Hague Programme, was intended to be built in two phases. The first one, comprising four main legal instruments, is completed (see above: Summit in Tampere, 1999). According to The Hague Programme, the second phase instruments should be adopted by the end of 2010.

The Green Paper presents comprehensively a broad range of issues that will have to be addressed in the second phase. The goal pursued in the first stage was to harmonize the Member States' legal frameworks on the basis of common minimum standards. The goals in the second stage should be to achieve both a higher common standard of protection and greater equality in protection across the EU and to ensure a higher degree of solidarity between EU Member States.

... 2007 European Migration Network (ENM)

The establishment of a European Migration Network (EMN) has the aim to collect, analyse and disseminate objective, reliable and comparable information on migration and asylum. Composed of National Contact Points, it will provide up-to-

date information to EU institutions and Member States for purposes of policy development and decision-making.

... 2007 Framework Programme on Solidarity and Management of Migration Flows for the period 2007–2013

The framework programme is designed to improve the management of migratory flows at the level of the European Union and to strengthen solidarity between Member States. It has four dimensions.

The first concerns the integrated management of external borders, with the setting up of an External Borders Fund. The second concerns asylum policy, with the prolongation of the European Refugee Fund. The third concerns the social, civic and cultural integration of Non-EU Member Country nationals, with the setting up of a European Integration Fund. The fourth concerns the fight against illegal immigration and the return of Non-EU Member Country nationals residing illegally in the EU, with the setting up of a European Return Fund.

... External Borders Fund (2007–2013)

This decision establishes, as part of the General Programme »Solidarity and Management of Migration Flows«, an External Borders Fund for the period 2007–2013 with resources totalling 1820 million.

... European Refugee Fund (2008–2013)

This decision establishes a European Refugee Fund of 628 million for the period 2008–2013, as part of the General Programme »Solidarity and Management of Migration Flows«.

... Return Fund (2008–2013)

This decision establishes, as part of the General Programme »Solidarity and Management of Migration Flows«, a Return Fund for the period 2007–2013 with resources totalling 676 million.

... Integration Fund (2007–2013)

This decision establishes a European Integration Fund of 825 million for the period 2007–2013 as part of the General Programme »Solidarity and Management of Migration Flows«.

... 2008 European Pact on Immigration and Asylum

The Pact, which provides non-legally binding guidelines for future EU immigration policy, asylum and border management, gives priority to national competence over that of the EU in the area of immigration and asylum. Its approach is apparently based on a security rationale. The focus is now on redirecting migration policy towards economic (largely skilled) immigration. The objective is to make the EU more attractive to highly qualified workers and further facilitate the reception of students and researchers and their movement within the EU.

Table: Anne von Oswald, Network Migration in Europe, adapted from the MigMaps, see:

<http://www.transitmigration.org/migmap/index.html>

3. THE DEVELOPMENT OF THE CONCEPT »CIRCULAR MIGRATION«

The first use of the concept: The Report of the Global Commission on International Migration, 2005

The term »circular migration« first appeared in the Report of the Global Commission on International Migration in 2005. The Commission stated an important shift in migration patterns from permanent migration trends to temporary and circular migration. The report points out that States and international organizations should formulate policies and programs that facilitate return and circular migration and maximize their developmental impact in sending and receiving countries. The Commission recommended the promotion of circular migration to countries of destination and of origin: 1. Countries of destination should provide mechanisms and channels that enable migrants to move relatively easily between their country of origin and destination. 2. Countries of origin should enable (e.g. through appropriate working conditions and a favorable business climate) migrants to return to their own country on a regular or occasional basis, sharing the benefits of the skills and resources they have acquired while living and working abroad and reducing the negative effects of brain drain.

Assumption of the concept on the European level: Communication from the Commission of the European Communities, 2005

In the same period the concept of »circular migration« appeared in the context of Migration and Development in the Communication from the Commission of the European Communities. Their report stated that »policies to maximize the developmental impact of temporary migration, in addition to the general recommendations on remittances, should focus on encouraging circular migration, by giving a priority for further temporary employment to workers who have previously worked under such schemes and returned at the end of their contract, and also by offering appropriate rewards to participating migrants.«

This formulation suggests a new consciousness of the strict relationship between mobility and socioeconomic

development. Thus, the aim of EU migration policy can no longer be said to be a reduction in migration, but an effort to maximize its positive effects both in the countries of origin as well as in the receiving countries. The approach adopted reveals the intention to promote a circular migration based on incentives rather than on enforcement and sanctions.

New interpretation of the concept: The German-French Initiative for a new European Migration Policy, 2006

The discussion on the concept of circular migration was revived at the European level by the strategy paper presented by the former German and French Ministers of the Interior, Schäuble and Sarkozy, in October 2006. The document outlines four areas related to immigration in which a more intensive cooperation is necessary: the battle against illegal immigration, development policies, asylum policies and policies for the management of legal migration.

In the last field, the document underlines the importance of circular migration. Still, the emphasis is placed much more on the objectives of controlling and reducing migratory flows, for example through the creation of quotas for migration towards EU-States. In this way, it moves away from a goal of promoting development in the countries of origin. The voluntary return of migrants to their countries of origin is considered to be of main importance. At the same time, the document proposes the facilitation of immigration of specifically selected professional categories or intellectual elites, for example through the assignation of a temporary education visa. On the whole, the German-French Initiative seems to come back to the old guest worker policy providing short-term solutions to labour market shortages. At the same time, the proposition fails to outline concrete indications linked to the countries and professional groups of immigrants to be involved in the concept of circular migration.

A new step: Circular migration and mobility partnerships between the European Union and third countries, 2007

The approach in the EU Commission's proposal for a guideline to circular migration seems to be different, since it confers great importance to those measures intended to increase the positive impact of migration on the development of the sending countries. The Communica-

tion regarding this proposal calls for the establishment of partnerships between the EU and third countries willing to cooperate in the struggle against illegal immigration. In return, EU States should offer legal immigration opportunities for citizens of the involved third countries (for example, through visas for short-term stays). To ensure that migrants return, migration monitoring is suggested.

Circular migration is intended to be an instrument for the development of sending countries, simultaneously matching the European demand for labour force and avoiding the negative repercussions of brain drain.

Critics (cf. In Search of an Immigration Policy, in »The Economist«, June 2nd, 2007) assert that this approach turns circular migration into a tool for the evacuation of superfluous immigrants. In fact, the communication envisages offering technical and/or financial assistance to developing countries for an improved management of migration flows. The assisted countries, on the other hand, will readmit illegally emigrated citizens and nationals of third countries or stateless people who entered the EU passing through their territory. As a consequence, a considerable increase in the number of expatriated illegal immigrants is to be expected.

European Pact on Immigration and Asylum, 2008

The Pact, which provides non-legally binding guidelines for future EU immigration policies, asylum and border management, is largely inspired by current French legislation and public policies. It gives priority to national competence over that of the EU in the field of immigration and asylum. Once more, its approach is apparently based on a security rationale.

Five commitments are stipulated, and the concept of circular migration appears in two of them: In the first commitment on organising legal immigration, the pact asks to privilege systems for temporary and circular migration, but at the same time it does not mention the conditions of entry and residence of third-country nationals. In the fifth commitment, entitled migration and development, the pact points out that EU Member States should consider offering legal migration possibilities to countries, particularly for temporary purposes (circular migration). In both cases, circular migration is reduced to temporary migration without further explaining the circular character.

Conclusions

There are some positive trends in the changing European approach towards migration: the first is the new importance given to multilateral cooperation which includes countries of origin, transit and destination. A second important tendency is the increase of financial support for migration policies; however, the funds have to be distributed in a different manner in order to generate any prolific effects (the analysis of the financial proposals 2007–2013 shows that border control remains to be a predominant post). Some critics reject the incentivizing of short-term labour migration. They complain that the assumption that workers will leave the country after a short period of time leads to a lack of necessary investments into integration measures – a strategy which has proved to fail in the past decades.

With regard to human rights, concerns arise in terms of family reunification: once a family has migrated, temporary migration tends to become permanent. There is also a contradiction between the different objectives: sometimes, employers prefer to take up long-term employment contracts. A prolonged stay is also necessary to reach the development goals which consist in saving enough money in order to start one's own business. On the other hand, a longer stay lessens the probability of return. It will be a challenge for the legislators to find a compromise between these contrasting objectives.

Overview of the concept of circular migration by Anne von Oswald, Karin Leiter, Network Migration in Europe e.V.

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SECTION V:

RESEARCH AND INFORMATION IN THE FIELD OF (FORCED) MIGRATION, INTEGRATION AND HUMAN RIGHTS

There are a wide range of organisations, research centres and initiatives that work and act in the field of (forced) migration and human rights. The following list presents a selection of organisations which do research in and promote information related to human rights and (forced) migration, mostly on an European level or from an European perspective. In every European country, you will find additional institutions that deal with specific national issues, but they cannot all be included in the following list.

On the one hand, some institutions concentrate mainly on research, while others have created information networks or engaged in civil society activities that focus mainly on information, educational and cultural projects. Some institutions work in both fields.

1. RESEARCH CENTRES

CEFMR Central European Forum for Migration and Population Research, Warsaw, Poland.

The Forum was created in 2002 and specialises in multi-disciplinary research on international migration in Central Europe. It conducts research in demography, population statistics, modeling of migration and population, geography, migration policies, sociology and economics. The area of research focuses predominantly, but not exclusively, on Central and Eastern Europe.

<http://www.cefmr.pan.pl/>

CEDEM Centre d'Études de l'Éthnicite et des Migrations, Liège, Belgium.

CEDEM, created in 1995, is an interfaculty centre which aim is to carry out theoretical and empirical research in the fields of human migrations, ethnic relations and racism. Among others, the Centre is interested in the relations between migration processes and uneven development. These researches are led in a pluri-disciplinary perspective: political science, sociology, anthropology, international relations, law, etc. Moreover, the members of the Centre have the ambition to create an information and reflexion forum which would stimulate research concerning important dimensions such as cultural identity and social dynamics as well as relations with politics. Through seminars and academical meetings, the CEDEM also aims at, on the one hand, stimulating the debate around the different aspects of migrations and ethnic

minorities by introducing it in an international context and, on the other hand, initiating a deep questioning of our analytical tools.

<http://www.cedem.ulg.ac.be/index.html>

CEIFO Centre for Research in International Migration and Ethnic Relations, Stockholm University, Sweden.

The Centre for Research in International Migration and Ethnic Relations' research programme covers international migration, ethnicity, nationalism, xenophobia and racism, ethnic relations, immigration policies and refugee reception models.

<http://www.ceifo.su.se/pub/jsp/polopoly.jsp?d=5990>

CEMES Centre for European Migration and Ethnic Studies, Sussex, UK.

The Centre operated between 1998 and 2002, specialising in policy-relevant research, information and publishing on international migration, ethnic relations and related topics in Western, Central and Eastern Europe. On the homepage you can find a very detailed Survey of Research Centres and Resources all over Europe which comprises more than 300 institutes.

<http://www.cemes.org/homepage.htm>

CMR Centre for Migration Law, University of Nijmegen, the Netherlands.

The Centre provides a forum for exchange of ideas and discussion on issues surrounding migration and minority protection. The work carried out by participants of the Centre is part of its long term research strategy which focuses on migration and minority issues in a European context, for example regarding the European Union, the Council of Europe or the OSCE.

<http://www.ru.nl/law/cmr/>

CMR Centre for Migration Research, Bilgi University, Istanbul, Turkey.

As the first migration research centre in Turkey to carry out large-scale, multi-dimensional scientific researches, CMR aims at strengthening institutional cooperation among researchers through networking activities, supporting new research and producing reliable information to contribute to policy and decision-making processes.

<http://goc.bilgi.edu.tr/index.asp?t=0&lid=en>

COMPAS Centre on Migrations, Policy and Society, Oxford University, UK.

The research Centre focuses on understanding the conditions surrounding migration in areas of origin, transit and destination. On the website a wide range of publications can be found, as well as information to events linked to the theme.

<http://www.compas.ox.ac.uk/about/aims.shtml>

CRER Centre for Research in Ethnic Relations, University of Warwick, UK.

The Centre for Research in Ethnic Relations is the major academic body in the UK for the research and teaching of matters concerning racism, migration and ethnic relations. The Centre is at the forefront of work on race and ethnic relations in Europe and continues to develop and participate in a range of European networks and partnerships.

<http://www2.warwick.ac.uk/fac/soc/crer>

DRC Development Research Centre on Migration, Globalisation & Poverty, University of Sussex, UK.

The DRC's research programme is organised by type of migration, key migration themes and region of migration. The centre is managed by a core team at the University of Sussex and brings together a multidisciplinary team of researchers from Europe, Africa, Asia and the Middle East.

<http://www.migrationdrc.org/>

EFMS Europäisches Forum für Migrationsstudien, Bamberg, Germany.

EFMS investigates the issues of migration and the integration of refugees in Germany and in Europe. The centre does research, gathers documentation, provides a consultancy service and publishes research.

http://www.uni-bamberg.de:80/~ba6ef3/main_g.htm

ERCOMER European Research Centre On Migration and Ethnic Relations, Utrecht University, the Netherlands.

The Centre is oriented towards comparative research in the fields of international migration, ethnic relations, racism and ethnic conflict within the European context.

<http://www.uu.nl/uupublish/onderzoek/onderzoekcentra/ercomer/24638main.html>

EURAC European Academy, Bozen/Bolzano, Italy.

The European Academy is an institute for applied research and further education with various research departments, one of which dedicated to Studies on Minority Rights as well as on Federalism and Regionalism.

<http://www.eurac.edu/index>

IMES Institute for Migration and Ethnic Studies, Amsterdam, the Netherlands.

The Institute for Migration and Ethnic Studies is an interdisciplinary research institute of the University of Amsterdam that has existed since 1994.

The research programme promotes the encounter and – where possible – the integration of different perspectives and therefore cooperates with the Departments of Anthropology, Sociology, Communication Science, Political Science, Social Geography, Economic Geography, Econometrics, and Administrative Law and the Department of Social and Economic History.

<http://www.pscw.uva.nl/imes/>

IMIS Institut für Migrationsforschung und Interkulturelle Studien, Osnabrück, Germany.

Migration, integration and intercultural conflicts are crucial issues in today's world and are concerns for a wide variety of academic disciplines and research institutions. IMIS examines historical and contemporary demographic, geographic, social, economic, political and legislative, psychological and educational issues of migration and integration from an interdisciplinary perspective.

http://www.imis.uni-osnabrueck.de/e_index.htm

IMI International Migration Institute, Oxford, UK

Working with researchers, practitioners and policy-makers in the global South and North, the IMI is committed to developing a long-term and comprehensive perspective on global migration dynamics. The IMI aims to: contribute to the development of new theoretical and methodological approaches to research; strengthen global capacity for ongoing research in order to keep up with the continually changing process and patterns of human mobility across the world.

<http://www.imi.ox.ac.uk/>

IRPPS Institute of Research on Population and Social Policies, National Research Council, Rome, Italy.

The Institute identifies and studies the lines of development and transformation of population and contemporary society. It has a research unit and diverse projects dealing specifically with migration studies and spatial mobility.

http://www.irpps.cnr.it/inglese/HomeIRPPS_english.html

ISMU Iniziative e studi sulla multiethnicità, Milan, Italy.

Fondazione ISMU is an autonomous and independent organization promoting studies, research and projects on multi-ethnic and multi-cultural society, and focusing in particular on the phenomenon of international migrations. ISMU presents itself as a service structure open to cooperation with other institutions, public organizations, the world of voluntary work and non-profit organizations, school institutes of any educational area and level, and scientific institutions both in Italy and abroad.

http://www.ismu.org/ISMU_new/index.php?language=eng

MigRes Migration Resources for scholars and students working on immigration in Europe, Ceraps, Université de Lille 2, France.

MigRes is a site which provides information useful for interdisciplinary research on migration and migrant communities, as well as on asylum, immigration policy and initiatives targeted at the incorporation of migrants. The purpose is to assist academics and students or any person with a specific interest in migration-related issues with research on migration in Europe.

<http://ceraps.univ-lille2.fr/fr/chercheurs/virginie-guiraudon/migres.html>

MIGRINTER Migrations internationales, espaces et sociétés, Faculty of Social Sciences, Poitiers, France.

The research Centre on international migration carries out research activities, produces and disseminates documentation and provides vocational training in the field of international migrations and their effects in sending and receiving countries.

<http://www.mshs.univ-poitiers.fr/migrinter/index.php?text=institutionnel/membres&lang=fr>

RCS Refugee Studies Centre, Oxford University, UK.

The Refugee Studies Centre is part of the University of Oxford's International Development Centre at the Queen Elizabeth House. The Centre carries out multidisciplinary research and teaching on the causes and consequences of forced migration, to disseminate the results of that research to policy makers and practitioners, as well as the academic community; and aims to provide an understanding of forced migration from the perspective of the affected populations.

<http://www.forcedmigration.org>

**SCMR Sussex Centre for Migration Research,
University of Sussex, UK.**

The Centre seeks to influence both understanding of migration and the policies that affect migrants. It provides doctoral and masters-level training in Migration Studies and publishes the internationally recognized Journal of Ethnic and Migration Studies.

<http://www.sussex.ac.uk/migration/index.php>

**SFM Swiss Forum for Migration and Population
Studies, Neuchâtel, Switzerland.**

The Swiss Forum for Migration and Population Studies is an independent research institute affiliated with the University of Neuchâtel. It conducts scientific research in the fields of migration and demographic issues with the aim of contributing to a pragmatic discussion on topics associated with migration.

<http://www.migration-population.ch>

**URMIS Unité de recherche «Migrations et société»,
Paris, France.**

It is a laboratory specialised in the study of migrations and interethnic relations, and unites the CNRS (National Scientific Research Centre) with the universities Paris Diderot, Paris 8 and Nice-Sophia Antipolis. URMIS brings together research groups located in Paris and Nice and has a multidisciplinary approach.

<http://www.unice.fr/urmis/>

2. INITIATIVES AND NETWORKS

**AEMI, The Association of European Migration
Institutions, Denmark, Aalborg.**

Institutions and organisations in Europe, whose field of interest concern migration, research and exhibitions portraying emigration, and who seek to promote understanding of common goals, have joined together in the formation of The Association of European Migration Institutions, (A.E.M.I.).

<http://www.aemi.dk>

**ECRE European Council on Refugees and Exiles,
Brussels, Belgium.**

ECRE is an umbrella organisation of 76 refugee-assisting agencies in 30 countries working towards fair and humane policies for the treatment of asylum seekers and refugees. ECRE is concerned with the needs of all individuals who seek refuge and protection within Europe.

<http://www.ecre.org>

**EMIN European Migration Information Network,
University College London, UK.**

EMIN is a web-based system designed to provide a gateway to information on international migration.

<http://www.emin.geog.ucl.ac.uk/>

**IMISCOE, International Migration, Integration &
Social Cohesion, Amsterdam, Netherlands.**

IMISCOE, founded in 2004, is a Network of Excellence uniting 23 established European research institutes and over 500 researchers from all European countries and of all branches of the economic and social sciences, the humanities and law in pursuit of studies under the themes of international migration, integration and social cohesion.

<http://www.imiscoe.org/about/aims/index.html>

Migrationonline.cz, Prague, Czech Republic.

A specialised website of the Multicultural Centre Prague focusing on migration issues in Central and Eastern Europe. It maps migration reality, research and policy, offers a range of articles, interviews and reports and promotes debate among experts, public administrators, NGOs and the wider public.

<http://www.migrationonline.cz>

migrationeducation.org, MIGRATION CITIZENSHIP EDUCATION, Berlin, Germany.

The webportal is a powerful, user-friendly information platform developed by Network Migration in Europe e.V. and European partners in fifteen countries. It provides free online access to research and learning resources on migration, minorities and human rights in European Citizenship Education on a European and national level. The portal offers support for all those involved in education, politics, culture, media and society, issues involving migrants and migration policies touch all levels of society in an enlarged Europe.

<http://www.migrationeducation.org>

mpi Migration Information Source, Washington, United States.

This portal offers analysis of international migration and refugee trends as well as authoritative data from numerous global organizations and governments and broad information on developments in European countries and on the EU.

<http://www.migrationinformation.org>

MPG Migration Policy Group, Brussels, Belgium.

MPG's mission is policy development on migration and anti-discrimination, in the effort to generate innovative and effective responses to the challenges and opportunities of both migration and diversity. In order to achieve this mission, MPG operates on two parallel fronts: stimulating policy debates and promoting stakeholder cooperation.

<http://www.migpolgroup.com/>

National Human Rights Institutions Forum.

An international forum for researchers and practitioners in the field of national human rights institutions. On network's website you will find: Key global and regional documents, documentation on the work of global and regional fora, information on and from national human rights institutions, bibliography and research materials, capacity building and training resources.

<http://www.nhri.net>

Nordic Network on Transnational Migration.

This is a network of social science researchers in the Nordic countries, working with different aspects of transnational migration.

<http://nntm.dragoeiro.com/>

Odysseus Network, European academic network for legal studies on asylum and immigration in Europe.

The network analyses the legislation of EU Member States and legislation in the EU in the fields of migration and asylum. The network intends to furnish universities, policy-makers, practitioners and NGOs with a deeper insight into the relevant topic-related issues, from a European perspective. The results of their analysis will be addressed to the European Institutions to aid in the preparation of legislation based on the new provisions of the Treaty of Amsterdam. The working languages are English and French.

<http://www.ulb.ac.be/assoc/odysseus/index.html>

NOTES

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