

RELEX-002

Brussels, 11 June 2002

OPINION

of the

Committee of the Regions

of 16 May 2002

on

Immigration policy:

Communication from the Commission to the Council and the European Parliament on a common policy on illegal immigration

(COM(2001) 672 final)

Proposal for a Council Decision adopting an action programme for administrative cooperation in the fields of external borders, visas, asylum and immigration (ARGO)

(COM(2001) 567 final – 2001/0230 (CNS))

Communication from the Commission to the Council and the European Parliament on an open method of coordination for the Community immigration policy

(COM(2001) 387 final)

and on

Asylum policy:

Proposal for a Council Directive on minimum standards for the qualifications and status of third-country nationals and stateless persons as refugees or as persons who

otherwise need international protection

(COM(2001) 510 final – 2001/0207 (CNS))

Commission Working Document – The relationship between safeguarding internal security and complying with international protection obligations and instruments

(COM(2001) 743 final)

Communication from the Commission to the Council and the European Parliament on the common asylum policy, introducing an open coordination method

(COM(2001) 710 final)

The Committee of the Regions

HAVING REGARD TO the Communication from the Commission to the Council and the European Parliament on an open method of coordination for the Community immigration policy (COM(2001) 387 final), the Communication from the Commission to the Council and the European Parliament on the common asylum policy, introducing an open coordination method (COM(2001) 710 final), the Communication from the Commission to the Council and the European Parliament on a common policy on illegal immigration (COM(2001) 672 final), and the Commission Working Document – The relationship between safeguarding internal security and complying with international protection obligations and instruments (COM(2001) 743 final);

HAVING REGARD TO the decision of the European Commission of 21 January 2002, under the first paragraph of Article 265 of the Treaty establishing the European Community, to consult the Committee on this matter;

HAVING REGARD TO the Proposal for a Council Directive on minimum standards for the qualifications and status of third-country nationals and stateless persons as refugees or as persons who otherwise need international protection (COM(2001) 510 final – 2001/0207 (CNS));

HAVING REGARD TO the decision of the Council of 15 November 2001, under the first paragraph of Article 265 of the Treaty establishing the European Community, to consult the Committee on this matter;

HAVING REGARD TO the Proposal for a Council Decision adopting an action programme for administrative cooperation in the fields of external borders, visas, asylum and immigration (ARGO) (COM(2001) 567 final – 2001/0230 (CNS));

HAVING REGARD TO the decision of the Council of 7 November 2001, under the first paragraph of Article 265 of the Treaty establishing the European Community, to consult the Committee on this matter;

HAVING REGARD TO its Bureau's decision of 6 February 2002 to instruct the Commission for External Relations to draw up an opinion on the matter;

HAVING REGARD TO the draft opinion (CdR 93/2002 rev. 1) adopted by the Commission for External Relations on 3 April 2002 (rapporteur: Councillor **Ruth Bagnall**, *Cambridge City Council* (UK-PES));

WHEREAS the Committee of the Regions welcomes the opportunity for joint consideration of draft directives and programmes on the legally separate but in practice closely related fields of asylum and immigration;

WHEREAS the Committee of the Regions notes that the documents under consideration in this Opinion form part of a package of policy measures being developed in connection with the establishment of a common European asylum system and a common approach to migration, including consideration of human rights and economic, demographic and political developments in both the EU Member States and countries of origin and transit of migrants of all kinds;

WHEREAS the Committee of the Regions recognises the sensitivity of Member States' concern over issues of sovereignty in areas of nationality and national security;

WHEREAS the Committee of the Regions reinforces the value and requirement for common policies and procedures in respect of asylum policy by virtue of our responsibilities towards those seeking asylum under the 1951 Geneva Convention;

WHEREAS the Committee of the Regions reinforces the value and requirement for common policies and procedures in respect of immigration policy on both legal and illegal immigration;

WHEREAS the Committee of the Regions seeks to promote and enhance the capacity of local and regional authorities in the EU, in the candidate countries for EU enlargement and in the countries of origin and transit of migration flows, as direct service providers, partners with other statutory and voluntary service providers, and community leaders, at the point of service provision to asylum seekers and refugee/immigrant communities, and the closest point of political accountability towards our respective electorates;

adopted the following opinion at its 44th plenary session of 15 and 16 May 2002 (meeting of 16 May):

Regarding immigration policy, the Committee of the Regions wished to express its views on the following documents:

- *Communication from the Commission to the Council and the European Parliament on a common policy on illegal immigration;*
- *Proposal for a Council Decision adopting an action programme for administrative cooperation in the fields of external borders, visas, asylum and immigration (ARGO;) and*
- *Communication from the Commission to the Council and the European Parliament on an open method of coordination for the Community immigration policy.*

1. welcomes the Commission's commitment to developing a better understanding of migration patterns "in the round", including the effect on asylum seekers and the asylum system of new policies both to develop and promote legal means of migration and take steps to combat irregular migration;
2. welcomes the Commission's commitment to establishing a series of actions and initiatives designed to reinforce the integrity of border controls and step up the sanctions against those who seek to profit from illegal migration through people trafficking and the employment of illegal migrant workers;
3. draws attention to the complementary role of social and economic development in the countries of origin and transit of migratory flows;
4. welcomes consideration of the establishment of safe routes for asylum including provision for the processing of asylum applications outside the EU, but recognises that even so some refugees may need to resort to irregular means of entry into the EU and that this should not prejudice the assessment of their asylum claim *per se*;

5. considers that local and regional authorities should be invited to contribute to the development of national action plans. This will also facilitate comparing and identifying best practice and analysing the real impact and the results of strategies adopted by Member States, and points out that the open coordination method should not take the place of legislative work in areas where the Community has strong powers, but its procedures could be usefully applied in a reduced form in coordinating Member States' policies;
6. welcomes the recognition of the role of local and regional authorities alongside other players in integrating migrant workers into civil society and the labour market in the EU;
7. welcomes the identification of the need to allow the candidate countries to take part as of now in an exchange of information between the Member States and emphasises the need to involve the local and regional authorities of the candidate countries in this process;
8. welcomes the proposal for a Community Action Programme for raising awareness and building the capacity of organisations involved at all levels in the implementation of integration strategies;
9. notes that the differences between EU Member States' legislation on the entry and residence of migrants mean that would-be immigrants are blocked from entering certain Member States;
 - regrets that the result of this situation is to compel neighbouring Member States, through which such migrants pass, to set up long-term reception centres for them;
 - calls upon the European Commission and the Member States to take urgent steps to harmonise their respective laws and to establish proper cross-border cooperation, opening the way to a final resolution of the difficult position in which both migrants and their hosts are placed;
 - hopes that the multi-annual ARGO programme on administrative cooperation in the field of asylum and immigration will soon be implemented;
10. recommends the explicit inclusion in the ARGO programme of local and regional authorities and their national representative networks alongside national authorities, research institutions and NGOs as partners in the implementation of measures outlined in these policy proposals;
11. welcomes the commitment to further involvement of the Committee of the Regions alongside other European institutions in the development and implementation of the Community immigration policy.

Regarding asylum policy, the Committee of the Regions wished to express its views on the following documents:

- *Proposal for a Council Directive on minimum standards for the qualifications and status of third country nationals and stateless persons as refugees or as persons who otherwise need*

international protection;

- *Commission Working Document – The relationship between safeguarding internal security and complying with international protection obligations and instruments; and the*
 - *Communication from the Commission to the Council and the European Parliament on the common asylum policy, introducing an open coordination method.*
12. acknowledges and welcomes the Commission's commitment to the primacy of the 1951 Geneva Convention;
 13. believes that it is absolutely essential to consider the impact of the events of 11 September 2001 in relation to both national and international security;
 14. acknowledges the obligations on local and regional authorities to act as community leaders in respect of the integration of refugee and immigrant communities in the Member States of the EU;
 15. wishes to underline the importance of involving asylum seekers and refugees themselves in the development of services delivered at local and regional level, as a means of achieving relevant and effective services and a first step in promoting the active integration of refugees into civic and working life in the EU Member States;
 16. welcomes the commitment of the EU Member States to establishing common standards for the qualification and content of refugee status;
 17. notes that despite the introduction of legislative and regulatory measures designed to reduce inequalities in provision across the EU, there will still be a continued "clustering" of asylum seekers/refugee communities both in different Member States and in different localities and regions of the Member States due to differential standards, cultural ties and geographical factors. This will have a direct and differential impact on the capacity of local and regional authorities to provide for the needs and entitlements of asylum seekers and refugee/immigrant communities alongside other members of the community in our respective localities. This differential impact reinforces the requirement for Member States to resource local and regional authorities appropriately according to the diversity of their needs, including provision for specific action to set up and consolidate local authority reception centres, with coordination at regional and national level;
 18. welcomes the commitment to draw on existing best practice in Member States and reinforces its call for local and regional authorities to be able to make their contribution to sharing best practice at EU level;
 19. regarding the entitlement of those qualifying for refugee status to have access to the services and opportunities which may be provided or co-ordinated by local and regional authorities in partnership with other authorities and agencies, considers that for the most part the expectation is that those qualifying for refugee status will be entitled to the same access to these services as nationals of EU Member States, but recognises that in some respects those qualifying for subsidiary protection status may have different entitlements, e.g. access to the labour market;

20. considers that specialised services may be required outside the norm of provision to many EU member state nationals, e.g. the provision of information in a relevant language, legal advice, health and psychological care, and services which respond to the vulnerability of unaccompanied minors and those with other special needs, and that local and regional authorities (or other service providers) should have support in bearing any additional costs incurred, through resources such as may be available through the European Refugee Fund;
21. considers that translation and interpretation (including communication of concepts of entitlement to social welfare which may not be the norm in countries of origin) is a critical support service for asylum seekers, refugees and the service providers in housing, health, education and training, social welfare etc. who seek to support these people;
22. considers that in the case of health and psychological care, asylum seekers and refugees who have suffered physical and mental abuse including torture may require services which local and regional authorities and their partner bodies in service provision are unaccustomed to provide. Given that rape may be used as a form of torture and may require specialist services which meet these specific needs, access to women doctors, interviewers and interpreters should be provided for women asylum seekers separately from other family members, in order to facilitate the disclosure of any sexual abuse;
23. considers that the availability of specialist support services is often limited to large conurbations with existing refugee populations. Lack of access to such services is a disincentive to dispersal of refugee communities which tends to exacerbate the concentration of refugee communities in particular localities and regions. The development of specialist support services throughout the regions of the EU Member States would also help facilitate the equal distribution across the EU of people seeking protection;
24. notes the establishment of the European Refugee Fund which can be drawn on to support the development of relevant services for refugees and recommends a programme of promotion of the Fund to the relevant agencies throughout the EU, also drawing in local and regional authorities and their national-level representation networks as partners for the coordination of such services. Other EU programmes such as EQUAL which aims to promote social inclusion through support to disadvantaged groups and those facing potential discrimination in access to education and employment, and which makes explicit provision for meeting the needs of asylum seekers, should be promoted alongside the ERF as resources which can be drawn on by local and regional authorities to support the integration of refugees into society and the labour market;
25. considers that local and regional authorities should be invited to contribute to the development of national action plans. This will also facilitate comparing and identifying best practice and analysing the real impact and the results of strategies adopted by Member States, and points out that the open coordination method should not take the place of legislative work in areas where the Community has strong powers, but its procedures could be usefully applied in a reduced form in coordinating Member States' policies;
26. welcomes the recognition of the role of local and regional authorities alongside other players in developing a common asylum system, but regrets that the elements of the system described in the relevant proposed guideline (the second guideline) relate only to the administration of the asylum claim and not to the support services local and regional authorities are likely to be involved in delivering during the course of the asylum reception period;
27. welcomes the recognition of the role of local and regional authorities alongside other players in developing integration strategies: however, access to support services and preparation for the eventual outcome of either a positive decision on refugee status, or refusal, should be part

and parcel of the asylum reception process;

28. welcomes idea of allowing the candidate countries to take part even at this early stage in an exchange of information and emphasises the need to involve the local and regional authorities of the candidate countries in this process;
29. welcomes the commitment to further involvement of the Committee of the Regions alongside other European institutions in the development and implementation of the Community asylum policy.

Brussels, 16 May 2002.

The President

of the

Committee of the Regions

The Secretary-General

of the

Committee of the Regions

Albert Bore

Vincenzo Falcone

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