



European Economic and Social Committee

SOC/223
Migration and
international protection

Brussels, 20 April 2006

OPINION

of the

European Economic and Social Committee

on the

**Proposal for a Regulation of the European Parliament and of the Council on
Community statistics on migration and international protection**

COM(2005) 375 final – 2005/0156 (COD)

On 15 November 2005 the Council decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

*Proposal for a Regulation of the European Parliament and of the Council on
Community statistics on migration and international protection
COM(2005) 375 final – 2005/0156 (COD).*

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 22 February 2006. The rapporteur was Ms Sciberras.

At its 426th plenary session, held on 20 and 21 April 2006 (meeting of 20 April 2006), the European Economic and Social Committee adopted the following opinion by 131 votes in favour with 3 abstentions.

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1. **Introduction**

- 1.1 In 1999, the Treaty of Amsterdam came into force. One of the objectives of this Treaty is the maintenance and development of "... the Union as an area of freedom, security and justice, in which the movement of persons is assured in conjunction with the appropriate measures, with respect to external border controls, asylum, immigration and the prevention and combating of crime"¹.
- 1.2 This signified a revolutionary milestone, in that migration policy was transferred from the third pillar of the European Union, based on intergovernmental cooperation to the first pillar, where policies are initiated by the European Commission. First May 2004 also marked the beginning of a new phase in the field of migration policy in the 25 Member States, as this gradual change from national policy to a collective policy was further extended.
- 1.3 On 17 December 2005 the British Presidency was successful in concluding an agreement on the financial perspective for 2007-2013, the framework for the Union's finances over the next period².

¹ Article 1-B.

² EESC opinion of 19.1.2006 on Fundamental Rights and Justice, rapporteur: Ms King (OJ C 69 of 21.3.2006).
EESC opinion of 14.2.2006 on Management of migration flows, rapporteur: Ms Le Nouail-Marlière (OJ C 88 of 11.4.2006).
EESC opinion of 14.12.2005 on Proposal for a Council Decision establishing the specific Programme Prevention, Preparedness and Consequence Management of Terrorism, for the Period 2007-2013, rapporteur: Mr Cabra de Luna (OJ C 65 of 17.3.2006).

- 1.4 Under the heading, "Citizenship, Freedom, Security and Justice", the security of the EU citizens in the 25 Member States is being seen to with an expected expenditure on various initiatives in such fields as border protection. The expenditure under this heading is expected to increase significantly in the next eight years. However, there are also initiatives in the field of social policies reflected in social projects such as the European Refugee Fund and the integration fund, aimed at improving the service provision to immigrant populations of Member States.
- 1.5 The Thessaloniki European Council of 2003 also urged the exploration of "legal means for third country nationals to migrate to the Union, taking into account the reception capacities of the Member States"³.
- 1.6 Deliberations in this regard, particularly the assessment of the reception capacity of individual Member States, must take into consideration not just the population, land area and economic size of the individual State but also the existing migrant population and current migration flows. These in turn cannot be correctly assessed without the harmonisation of statistical meta-data (data collection rules) across the Member States, to assure the internal consistency of EU-wide statistics.
- 1.7 The lack of harmonisation of statistics is partly the result of differences in definitions of migration, that may in turn be related to differences in legislation relating to migration. There are also inefficiencies and deficiencies in data collection which hinder the establishment and development of gradual harmonisation.
- 1.8 In addition, illegal immigration and undeclared work are common and on the increase, prompted in part by the restrictions on legal channels for legal migration. Such unrecorded migration is an area where statistical measurement is more likely to be inaccurate. Particularly in this case the extent and method of statistical calculation are likely to vary between different national statistical authorities, making meta-data harmonisation between the Member States all the more essential. In the United States, for example, the issue of the underreporting of illegal immigrants came up in the form of a discussion concerning whether census figures should be adjusted by use of data on unrecorded residents collected through sampling techniques. There are also other methods apart from sampling techniques that can be applied for statistical collection. In France, for example, the local authorities are involved in the area of data collection.
- 1.9 The draft of the Constitutional Treaty recognises "the right of Member States to determine volumes of admission of third-country nationals coming from third countries to their territory in order to seek work, whether employed or self-employed"⁴. The EESC has expressed the

³ Point 30 of Presidency Conclusions.

⁴ Article III-267-5.

opinion that this constitutional constraint does not prevent the Union from reaching a high level of legislative harmonisation for the admission of migrants. The EESC has emphasised the need for an active EU policy on economic migration, and for harmonised legislation⁵.

- 1.10 The further development of the legal framework for immigration is justified in part by demographic realities and the pursuit of the Lisbon strategy. The EESC has noted that "demographic trends in the EU and the Lisbon Strategy mean that Europe will need to adopt active policies for admitting economic migrants. Although each country has its own needs and specifics, the opening of channels for economic migration is a characteristic common to all Member States"⁶. The European Union and the Member States require legislation that allows labour migration through legal and transparent channels. The Committee acknowledges that although the emphasis here is on the economic aspect of migration, this is on its own a reductive approach and acknowledges that Member States also need to adopt active policies for the entry of non-economic migrants.
- 1.11 Large migratory flows also bring about adjustment difficulties in the receiving countries, as a result of the resulting pressure on public services and also possible consequences on labour market conditions. These consequences vary with the absorptive capacity of the receiving country. An informed public opinion on the implications of migration flows requires accurate statistical information that is consistent across the Member States. The presence of statistical accuracy can also contribute to challenging xenophobic tendencies which may exist as part of public opinion, such as attitudes like "immigrants are taking the jobs of locals" and "they are invading us".
- 1.12 Reliable statistical information can help promote a common legal framework, which would contribute to the protection of the rights of migrants. The Committee encourages the Commission to place an emphasis on the importance of the accurate collation and interpretation of statistical information so as to avoid mis-interpretation of data.
- 1.13 Since migrant workers constitute such an important part of the labour force, pursuit of the objective of labour market mobility across the EU has to take into consideration the implications of restrictions on intra-Member State movement and relocation of migrant workers who originate outside the EU. Moreover such intra-EU flows would alleviate the adjustment difficulties faced by migrant-receiving communities that have a lower absorptive capacity.
- 1.14 The Committee is proceeding from the position that in order to guarantee human rights respect and protection of human dignity of every individual, each process of personal data

⁵ EESC Opinion of 9.6.2005 on Green paper on an EU approach to managing economic migration, rapporteur: Mr Pariza Castaños (OJ C 286 of 17.11.2005).

⁶ See footnote 5, point 1.5.

collection/processing for statistical reasons or/and any other official use of personal data, collected in this way, should be highly protected against any misuse of procedure or other violations.

2. **Importance of statistical data within a legal framework**

2.1 Statistical information reflecting the political, social and economic position as well as the national attitude of EU countries in relation to the migration issue can influence and contribute to the formulation, analysis and review of migration policy in these countries.

2.2 Accurate statistical data is very important in mapping out the migrant populations of EU States, including size and other demographic characteristics, among others. The Committee urges the Commission to emphasise the need for accurate statistical data in this area, so that Member States recognise the importance of this subject and place more resources here.

3. **Data on migration**

3.1 The features of the migration scenario have to be kept in mind. First the east-west direction of migration in search of better living conditions prevails. Secondly, there are more immigrants to the new EU states from outside the European Union, obviously attracted by the potential advantages resulting from EU membership of these countries, with the added bonus of using these countries as a stepping stone to the West. Statistical information about the patterns of the migration is essential for Member States to analyze past and current migration flows, as well as forecast future ones; and analyze the impact upon and potential for demographic, social and economic aspects, which in turn will influence policies in these areas.

4. **Benefits of statistical data**

4.1 Most EU Member States have developed thorough statistics on the country of origin of the asylum seekers. However, there is still a great need for a more in-depth statistics based on consistent criteria between the members for future transnational comparisons.

4.2 The proposed regulation for a common framework for the collection and compilation of statistics is especially necessary in countries where not even a central data-base on migration and asylum is kept, with the various authorities keeping their own data-bases.

4.3 One of the fundamentally important roles that statistics play is the influence in the development and review of policies. For example, where statistics revealed that among the irregular immigrant population there were children, unaccompanied minors, pregnant women and disabled persons, this led to the development of national policies on the release of "vulnerable groups" from detention and on "unaccompanied minors". Hence, the further breakdown of statistics to gather more demographic and socio-economic information,

including the language spoken, apart from just incoming numbers has an impact on policies. Also, the latter can have implications for the integration of migrants in the labour market.

- 4.4 More precise and comprehensive statistic keeping permits better projections to be made, and accordingly provides a platform on which to base future planning for resources, for example. Statistics also provide a solid tool to support the allocation of resources. For example, if yearly statistics show that a steady number of unaccompanied minor irregular immigrants are entering a country, then resources need to be planned/expanded to provide special accommodation facilities and support services for this group.
- 4.5 Good statistics keeping will contribute to ensuring that the services provided are meeting the needs of the service user; and that resource allocation between Member States can be carried out justly and proportionately.
- 4.6 Also, a comparative survey of all immigration laws practised in the EU-25 would definitely help the European Commission to better coordinate immigration policy at EU level. Although immigration falls under the pillar of Justice and Home Affairs, there is an ever-increasing pressure from European citizens, especially from countries hit by this human phenomenon, for this issue to be tackled at EU level. The aim of such a survey would be to work towards statistical harmonisation in order to aid EU policies on immigration become more coherent.
- 4.7 Reliable statistical information and surveys on the characteristics of illegal immigrants would help the EU Member States to analyse the underlying causes of irregular immigration. Such data could include the socio-economic background of these immigrants, their skills base, their aspirations and their reasons for emigrating. These surveys could lead to an improved standard of information being kept about immigrants and the organisation of resources such as educational programmes and training ones for them. The collection of statistics – e.g. on the number of immigrants informed about applying for international protection, the number of applications submitted, approved and rejected for the different types of status (Article 4) – is also crucial for drawing up a policy for the protection of immigrants. The collection and processing of data should be placed under the control of public authorities in the Member States, equipped with new resources in terms of manpower, skills and tools. These authorities would then be given the task of guaranteeing the confidentiality of the personal data collected and producing annual reports for their respective parliaments. The collation of such information and statistical data requires a joint effort among Member States in the recruitment of professional interpreters who could communicate with the immigrants in order to elicit all the data necessary for a successful survey. Such data collection would also assist Member States in implementing appropriate policies. The above-mentioned programmes contribute to the integration of immigrants into the societies of Member States, and funds are available for the collection of data on the social background of immigrants, among other criteria. Such statistical tools would also assist entities as the European observatory in the protection of human rights.

- 4.8 Statistics are also needed on detention centres and open centres hosting illegal immigrants so that the European Commission could propose some form of a common policy on this issue.
- 4.9 Member States should also cooperate on the collation of data regarding the jobs (legal and illegal) and housing of immigrants. This data will provide the EU-25 with trends that could lead to policies aimed at improving the life and conditions of these immigrant workers. Thus Member States would be required to ensure that the confidentiality of the personal data collected is respected in practice and set up appropriate bodies with the remit of drawing up annual reports for their respective parliaments.
- 4.10 Statistics could also be used in awareness campaigns and integration campaigns. Statistical data, especially on the social and educational background of immigrants, could further assist EU citizens to help integrate these immigrants. Hence, the Committee encourages the Commission regarding the adoption of the importance of social and educational data.
- 4.11 Statistics on expenses incurred by the recipient country in the control, detention, return and integration of immigrants are also of utmost importance so that the EU-25 would help in drafting some form of a common fund and policy on immigration based on solidarity. Statistics can also contribute to a better assessment of the need for funding.
- 4.12 The Committee encourages the Commission to introduce new criterion of arrivals, to include those by air, land or sea, in order for more comprehensive statistics on prevention of illegal entry and stay (Article 5) and improvement on data sources and standards (Article 9).

5. **The necessity of ensuring international protection for immigrants**

- 5.1 In recent years Europe has witnessed an influx of irregular immigrants from sub-Saharan Africa and other African countries. Irregular immigrants and asylum seekers are often persons who have escaped from their country of origin to flee from persecutions based on religion, race and politics, among others, as well as from civil war, famine, poverty, natural disasters and economic reasons. Many have witnessed family members being killed, tortured, suffering other atrocities, and/or have been separated from them. Their experiences throughout their journeys often render them to being traumatised, vulnerable and in need of protection. Quality statistical information on the reasons for emigration can identify the causes of immigration and assist in further developing and evaluating policies on asylum and human trafficking.
- 5.2 Countries receiving irregular immigrants and all persons who will be working with them must comply with international human rights' obligations and domestic immigration and refugee legislation, in order to be able to offer them protection. The security forces (army and police) of the recipient countries are initially obliged to offer rescue and life-saving operations and EU minimum standards of reception. In the latter, medical treatment is offered where necessary, as well as establishing as far as possible the country of origin of the irregular immigrant and other demographic data. The immigrant also has a fundamental right to

information about how to apply for asylum. The collection of statistics such as the number of immigrants informed about applications for international protection, about the number of applications submitted, the numbers of acceptance and rejections of the different types of status (Article 4), is also imperative in the formulation of policies regarding the protection of immigrants.

- 5.3 Receiving countries must observe the international human rights' obligations undertaken by them when they became signatories to international and or regional Conventions/Declarations/Treaties. The European Union requires as part of the core requisites of the Acquis, that Member States are party to the 1951 Refugee Convention, 1967 Protocol and the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). The fundamental document underpinning these Conventions was the Universal declaration of Human Rights, 1948 (UNHR), which includes the right to claim asylum. The Refugee Convention is a vital part of the framework of international human rights. Other conventions have subsequently followed, including the Convention against Torture 1984, and the Convention on the Rights of the Child⁷. Member States must also observe EU directives, notably 2003/9/CE on minimum standards on reception⁸, 2004/83/CE on minimum standards for the qualification and status⁹ and 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status¹⁰.
- 5.4 Therefore, it is essential that receiving countries abide by these conventions to firstly ensure that asylum seekers are offered basic protection, and should not be "refouled" before their application for asylum has been assessed and humanitarian, refugee status or otherwise has been established.

⁷ Mackey, Allan (Senior Immigration Judge, U.K). Paper entitled "Policies serving migratory purposes and the need to assure protection to asylum seekers and refugees", presented at the TAIEX Seminar, Malta, 15-16 December 2005.

⁸ EESC opinion of 7.11.2001 on Proposal for a Council Directive laying down minimum standards on the reception of applicants for asylum in Member States. Rapporteurs: Mr Mengozzi and Mr Pariza (OJ C 48 of 21.2.2002).

⁹ EESC opinion of 13.5.2002 on Proposal for a Council Directive on minimum standards for the qualification and status of third-country nationals and stateless persons as refugees or as persons who otherwise need international protection. Rapporteur: Ms Le Nouail Marlière (OJ C 221 of 17.9.2002).

¹⁰ EESC opinion of 6.4.2001 on Proposal for a Council Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status. Rapporteur: Mr Melícias (OJ C 193 of 10.7.2001).

5.5 Comparative surveys of Member States' application of definitions related to immigration as set out in Article 2 and application of Article 4 as above-mentioned (both Articles from the above-mentioned source), greatly contribute to ensuring the international protection of immigrants.

Brussels, 20 April 2006.

The President
of European Economic and Social Committee

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