



European Economic and Social Committee

SOC/418
Migration

Brussels, 15 June 2011

OPINION

of the
European Economic and Social Committee
on the
**Communication from the Commission to the European Parliament, the Council, the European
Economic and Social Committee and the Committee of the Regions –
Communication on migration**
COM(2011) 248 final

Rapporteur-General: **Mr Pariza Castaños**

On 4 May 2011, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Communication on migration
COM(2011) 248 final.

On 14 June 2011, the Committee Bureau instructed the Section for Employment, Social Affairs and Citizenship to prepare the Committee's work on the subject.

Given the urgent nature of the work, the European Economic and Social Committee appointed Mr Pariza Castaños as rapporteur-general at its 472nd plenary session, held on 15 and 16 June 2011 (meeting of 15 June), and adopted the following opinion by 109 votes to 2, with 6 abstentions.

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1. **Introduction**

1.1 The European Council plans to discuss a number of aspects of the common immigration policy at its June meeting. The President, Mr Van Rompuy, has proposed to focus the proceedings on:

- Free movement of persons within the EU.
- Rules on asylum.
- Building a partnership with the southern Mediterranean countries and control of external borders.

1.2 On 4 May, the Commission published the Communication on migration¹ in order to contribute to the Council meeting.

2. **General comments**

2.1 Through several opinions (see Appendix), the EESC has worked with the other institutions to give the EU a common policy and common legislation on asylum and immigration. In spite of the progress made, the situation is unsatisfactory. It is proving very difficult for common

¹ COM(2011) 248 final.

legislation on the admission of immigrants and the reception of persons requiring international protection to be adopted by the Council and Parliament.

- 2.2 Common immigration policy must have a shared focus encompassing a range of aspects including the demographic situation and the labour markets; respect for human rights; equal treatment and non-discrimination; legislation on the admission of new immigrants; the reception and protection of asylum-seekers; measures against criminal people-trafficking networks; cooperation with third countries; European solidarity; and social policy and integration.
- 2.3 Recent months have seen a series of events, declarations and political decisions that the Committee has watched with mounting concern, as an ancient and familiar disease among Europeans is on the rise – xenophobia and a form of nationalism that excludes others. Minorities and immigrants are belittled, insulted and targeted by aggressive, discriminatory policies.
- 2.4 In past years, xenophobia and populism were promoted by political groups that while extremist, were in the minority. Today, however, such policies are on the agenda and programmes of several European governments, who brandish anti-immigrant and minority policies as an electoral weapon. The EESC hopes that the June European Council will prevent the European agenda being polluted by xenophobia and populism.
- 2.5 In recent weeks a number of unacceptable situations have arisen and a serious political crisis has been triggered in Europe by a modest increase in arrivals of migrants in the Mediterranean. In previous times, when far more people were arriving, fleeing from war and poverty, Europe acted in a spirit of solidarity, ensuring that human rights were upheld and strengthening the values of European integration.
- 2.6 For the Committee and for most people in Europe, the creation of the Schengen area stands out as one of the most significant achievements of European integration. Some Member States, however, are imposing border controls within Europe that run counter to the Treaty.
- 2.7 The EESC is alarmed that a small migration emergency involving people requiring protection should be bringing the solidity of the values of some of those in government, and of the EU itself, into doubt.
- 2.8 The Committee would call for moderation in political discourse, restoring balance and renewing respect for the principles of democracy and free, open societies. European governments must remember that integrating immigrants is a two-way process which also requires compromises on the part of European host societies, who must adopt an integration-friendly attitude. A society which accepts that its leaders deploy populism and xenophobia against immigrants and minorities during election campaigns and in political decision-making is no friend of integration.

2.9 Europe needs a medium- and long-term vision. The Belgian EU Presidency asked the EESC to draw up an exploratory opinion² on the role of immigration in the demographic situation in Europe. The conclusions were clear: in the next few years, worker mobility within the EU must be increased, and immigration by workers and their families from third countries must also increase. This picture alerts us to new challenges in managing greater diversity in businesses and cities. The Committee urges the Commission to present the new European agenda for integration as soon as possible, taking account of the work of the European Integration Forum.

2.10 Recent events in the southern Mediterranean, and the debates and conflicts within the Union, offer an opportunity to strengthen the EU's values, principles and existing common rules, and to ensure "more Europe" in European policies on borders, free movement, asylum and immigration.

3. **Specific comments**

3.1 Free movement of persons – internal borders

3.1.1 The EESC sees the free movement of people as a principle and a fundamental right within the process of European integration, and one of the main pillars underpinning the area of freedom, security and justice. The EESC agrees with the Commission on the need to develop a clearer and more solid system of Schengen governance through an independent and objective European system to evaluate the application of the Borders Code by the Member States. This system should be directed and coordinated by the Commission, with input from external experts.

3.1.2 The Member States must meet their obligations under the Borders Code when reintroducing temporary controls at internal borders in exceptional cases where public policy considerations require immediate action, in particular the obligation to inform the Commission in advance, together with compliance with the procedural safeguards (indication of reasons) laid down in the Code and the principles of proportionality, solidarity and mutual trust.

3.1.3 The Committee accepts the establishment of a mechanism at European level for the coordinated reintroduction of internal border controls in the event of "truly critical situations" or when the external borders are subjected to unexpected and powerful migratory pressures. The negotiations within the Council on such a mechanism should not provide governments with an opportunity to renegotiate and/or amend downwards the common procedural safeguards contained in the Schengen Code.

² OJ C 48, 15.2.2011, p. 6.

3.1.4 The EESC supports the European Parliament's proposal that the Commission should devise a new infringement mechanism (mechanisms for early detection of potential violations of fundamental rights and freedoms in the EU), the main function of which would be to freeze measures taken by Member States within the framework of European law that constitute violations of the fundamental rights and freedoms of individuals while their lawfulness is determined by means of accelerated procedures at the Luxembourg court³.

3.2 External borders

3.2.1 The European Union needs a credible and effective external borders policy that is legitimate and subject to robust democratic scrutiny and independent evaluation. The Committee calls on the Council and the European Parliament to reach an agreement on the Commission's proposal of February 2010 strengthening the Frontex regulation.

3.2.2 The EESC is of the view that the Member States must give more operational powers and more autonomy to Frontex in terms of its work and resources (technical equipment). Joint operations coordinated by the Agency (and their repercussions on fundamental rights and administrative safeguards as laid down in the Borders Code) must, however, be subject to democratic scrutiny by Parliament and the European Union's Fundamental Rights Agency. This must be accompanied by ongoing evaluation, especially regarding Frontex's activities and agreements with third countries, the effectiveness of joint operations and the quality of its risk analyses.

3.2.3 The EESC considers it crucial that Frontex should fulfil its obligations concerning access to international protection, such as the principle of non-refoulement, independent monitoring of respect for fundamental rights and the development of a code of conduct in cases of forced return.

3.2.4 The Committee also agrees that a European border guard service should be developed in the future, comprising a European body of border guards set up by a future centralised European administration. Its principal function would be to apply the common rules laid down in the Borders Code.

3.3 Labour immigration

3.3.1 The EU needs to put its political weight behind a common policy on legal immigration and to facilitate mobility and fair treatment for third country nationals coming to work in Europe. In several Member States, and particularly in certain sectors and occupational categories, businesses need to recruit new immigrant workers, given their skills and qualifications. The EU must adopt a common European-level legal framework on labour immigration that is

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European Parliament resolution of 15 December 2010 on the situation of fundamental rights in the European Union (2009) – effective implementation after the entry into force of the Treaty of Lisbon (2009/2161(INI)) - P7_TA(2010)0483, paragraph 39.

coherent, comprehensive, cross-sectoral and guided by respect for workers' rights, equal treatment and the needs of companies.

- 3.3.2 The EESC has previously drawn up opinions on the directives on seasonal workers, posted workers, highly-qualified workers and researchers. The EU must recruit the new skills it needs for a dynamic, innovative and competitive economy, in cooperation with the countries of origin in order to avoid a brain-drain.
- 3.3.3 The EESC believes there is a pressing need for the Council and Parliament to reach agreement on the directive on a common set of rights and a single permit⁴. The differences between existing rights for various categories of third country worker across the EU must be ironed out. The current common legal framework is marked by its sector-based approach, fostering different and discriminatory treatment between different categories of immigrant worker in terms of entry and resident conditions and rights.
- 3.3.4 The EESC welcomes the European Commission's intention to bring forward a common immigration code in 2013. This code should consolidate legislation with a uniform and transparent framework of rights, safeguards and duties for immigrants. The code should be based on the principles of equality and fair treatment, and the EU should be more active in prompting the Member States to transpose international and European conventions and treaties adopted by organisations such as the UN, the Council of Europe and the ILO.
- 3.4 Dialogue and Mobility Partnerships with third countries
- 3.4.1 The EESC supports the general approach set out by the Commission in its Communication *A dialogue for migration, mobility and security with the southern Mediterranean countries*⁵. The EU must continue to take a comprehensive view of migration, with the priority on facilitating legal channels for migration and mobility.
- 3.4.2 The EESC welcomes the initiative to establish Mobility Partnerships between the EU and Tunisia, Egypt and Libya. An independent study into the effectiveness and impact of existing Mobility Partnerships should, however, be carried out. The EESC supports the Commission's initiative to ensure that the Mobility Partnerships are equipped with an efficient evaluation mechanism. In addition, the Mobility Partnerships, which are joint policy declarations that are not legally binding upon the partner countries, should be converted into international agreements.

⁴ COM(2007) 638 final.

⁵ COM(2011) 292 final.

4. **International protection**

- 4.1 The EESC expects that the Council and Parliament will in 2012 adopt the joint legislation that is needed to set up a common asylum system.
- 4.2 The Committee moreover considers that solidarity between the Member States needs to be enhanced with regard to the reception of people coming to Europe and requiring international protection. It also suggests that the EU might provide resettlement programmes, as proposed by the Commission.

The President
of the
European Economic and Social Committee

Staffan Nilsson

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N.B.: Appendix overleaf.

Appendix

- **Preventing irregular immigration**

EESC opinion on **Respect for fundamental rights in European immigration policies and legislation** - own-initiative opinion
OJ C 128, 18.5.2010, p. 29–35

EESC opinion on **Proposal for a Regulation of the European Parliament and the Council amending Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX)** - COM(2010) 61 final - 2010/0039 (COD)
OJ C 44, 11.2.2011, p. 162–166

- **A properly managed legal migration**

EESC opinion on **Proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment** - COM(2007) 637 final - 2007/0228 (CNS)
OJ C 27, 3.2.2009, p. 108–113

EESC opinion on **Proposal for a Council Directive on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State** - COM(2007) 638 final - 2007/0229 (CNS)
OJ C 27, 3.2.2009, p. 114–118

EESC opinion on **Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - A Common Immigration Policy for Europe: Principles, actions and tools** - COM(2008) 359 final
OJ C 218, 11.9.2009, p. 69–77

EESC opinion on **Respect for fundamental rights in European immigration policies and legislation** - own-initiative opinion
OJ C 128, 18.5.2010, p. 29–35

EESC opinion on **The role of legal immigration in the context of demographic challenges** - exploratory opinion
OJ C 48, 15.2.2011, p. 6–13

EESC opinion on **Proposal for a Directive of the European Parliament and of the Council on conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer** - COM(2010) 378 final – 2010/0209 (COD)

(OJ not available yet)

EESC opinion on **Proposal for a Directive of the European Parliament and of the Council on the right to information in criminal proceedings** - COM(2010) 392 final - 2010/0215 (COD)

OJ C 54, 19.2.2011, p. 48–50

- **Building an inclusive society by integrating immigrants**

EESC opinion on **Immigration, integration and the role of civil society organisations** – own-initiative opinion

OJ C 125, 27.5.2002, p. 112–122

EESC opinion on **Integration and the Social Agenda** - own-initiative opinion

OJ C 347, 18.12.2010, p. 19–27

EESC opinion on **Integration of immigrant workers** - exploratory opinion

OJ C 354, 28.12.2010, p. 16–22

EESC opinion on **The new challenges of integration** - Information Report

See in <http://www.eesc.europa.eu/?i=portal.en.soc-opinions.14740>

EESC opinion on **Cooperation between civil society organisations and local and regional authorities in integrating immigrants** - Additional opinion

(OJ not available yet)

- **Providing international protection to persons in need**

EESC opinion on **Communication from the Commission to the Council and the European Parliament on the managed entry in the EU of persons in need of international protection and the enhancement of the protection capacity of the regions of origin - "Improving access to durable solutions"** - COM(2004) 410 final

OJ C 157, 28.6.2005, p. 92–95

EESC opinion on **Green Paper on the future Common European Asylum System** - COM(2007) 301 final

OJ C 204, 9.8.2008, p. 77–84

EESC opinion on **Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Policy plan on asylum: an integrated approach to protection across the EU** - COM(2008) 360 final
OJ C 218, 11.9.2009, p. 78–84

EESC opinion on **Proposal for a Directive of the European Parliament and of the Council laying down minimum standards for the reception of asylum seekers (recast)** - COM(2008) 815 final - 2008/0244 (COD)
OJ C 317, 23.12.2009, p. 110–114

EESC opinion on **Proposal for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)** - COM(2008) 820 final - 2008/0243 (COD)
OJ C 317, 23.12.2009, p. 115–119

EESC opinion on **Proposal for a directive of the European Parliament and of the Council on minimum standards for the qualification and status of third country nationals or stateless persons as beneficiaries of international protection and the content of the protection granted (recast)** - COM(2009) 551 final/2 - 2009/0164 (COD)
OJ C 18, 19.1.2011, p. 80–84

EESC opinion on **Proposal for a Directive of the European Parliament and of the Council on minimum standards on procedures in Member States for granting and withdrawing international protection (recast)** - COM(2009) 554 final — 2009/0165 (COD)
OJ C 18, 19.1.2011, p. 85–89

EESC opinion on **The added value of a common European asylum system both for asylum seekers and for the EU Member States** - exploratory opinion
OJ C 44, 11.2.2011, p. 17–22

- **Migration in external relations beyond the crisis**

EESC opinion on **EU immigration and cooperation policy with countries of origin to foster development** - own-initiative opinion
OJ C 44, 16.2.2008, p. 91–102

EESC opinion on **European Instrument for Democracy and Human Rights (EIDHR)** – own-initiative opinion
OJ C 182, 4.8.2009, p. 13–18