

COM-7/034

Brussels, 28 September 2001

OPINION

of the

Committee of the Regions

of

20 September 2001

on the

**Communication from the Commission to the Council and the European Parliament
on a Community immigration policy**

(COM(2000) 757 final)

and the

Communication from the Commission to the Council and the European Parliament:

Towards a common asylum procedure and a uniform status,

valid throughout the Union, for persons granted asylum

(COM(2000) 755 final)

The Committee of the Regions

HAVING REGARD TO the Communication from the Commission to the Council and the European Parliament on a Community immigration policy (COM(2000) 757 final) and the Communication from the Commission to the Council and the European Parliament: Towards a common asylum procedure and a uniform status, valid throughout the Union, for persons granted asylum (COM(2000) 755 final)

HAVING REGARD TO the Decision taken by the European Commission on 1 February 2001 to ask the Committee of the Regions for an Opinion on this matter under Article 265, 1st paragraph of the EC Treaty;

HAVING REGARD TO the decision taken by its Bureau on 13 June 2000, to draw up an Opinion

on this matter and to instruct Commission 7 for Education, Vocational Training, Culture, Youth, Sport and Citizens' Rights to undertake the preparatory work;

HAVING REGARD TO Articles 61-63 of the Amsterdam Treaty;

HAVING REGARD TO the conclusions of the Tampere European Council of October 1999;

HAVING REGARD TO the "scoreboard" to review progress on the creation of an area of freedom, security and justice in the European Union (COM(2000) 782 final);

HAVING REGARD TO the Opinion by the CoR on Migratory flows in Europe (CdR 227/1999 fin)¹;

HAVING REGARD TO the draft Opinion (CdR 90/2001 rev. 2) adopted by Commission 7 on 29 June 2001 (rapporteur: **Mr Theodoros Georgakis** (EL/PSE));

adopted unanimously the following opinion at its 40th plenary session on 19-20 September 2001 (meeting of 20 September):

1. The Committee of the Region's views and recommendations on the proposal on immigration policy

The Committee of the Regions:

1. emphasises the completely different nature of the problems of economic migrants and of refugees who come within the scope of the Geneva Convention relating to the Status of Refugees. However, these two questions are closely linked. At all events, a Community policy must have common objectives in the areas of migration and asylum. Nonetheless, conflicts may arise between the two aspects of the policy, and efforts must therefore be made to avoid such an eventuality;
2. welcomes the Commission Communication as a starting point for establishing a dialogue with a view to creating a uniform European immigration policy. In addition to the humanistic ideas which are accepted in the societies of the EU and lead to feelings of solidarity and open-door policies, the demographic and consequently labour- and pension-related problem of the ageing population of the EU renders inevitable the need to apply a common immigration policy. The CoR endorses the Commission's proposal for the creation of a minimum common legal framework which would lay down the conditions for the admission of third country nationals and their residence in the EU. At the same time, however, it stresses the need to combat illegal immigration by drawing up special programmes both to support the countries of origin and to guard the external frontiers of the EU;
3. agrees with the Commission's position on the need for integration of third country nationals at national, regional and local levels. However, it stresses the undeniable need for local societies to participate in this two-way process. For local societies to succeed in this process a distribution of costs between national, regional and local level should be allocated in relation to the participation involved in the whole procedure respectively. Moreover, this is absolutely essential to ensure acceptance of these people by the societies concerned. The success of this policy will help not only to maximise the general contribution of the migrant to the economic development of the region, but

also to minimise crime, xenophobia and racism; one could then describe the immigration policy as successful;

4. supports the Commission's position on the principal of granting basic rights to third country nationals. Basic respect for human rights would demand no less. However, on this point the CoR thinks that its own role is particularly important, since in the final analysis the local authorities are those which are responsible for guaranteeing such rights to immigrants and ensuring their smooth integration into local society;
5. agrees with the need to create partnership relations with the countries of origin and transit, and to take measures to stamp out the trafficking and smuggling of human beings;
6. takes the view that beyond the creation of a common legal framework for admission and residence, an important aspect of the formulation of a common immigration policy is access to information on the needs of the European labour market for skilled or non-industrial manpower;
7. is convinced that specific planning to flesh out a national framework plan should be formulated and implemented at local and regional level in order to ensure the realisation of social integration. In this way account can be taken of the specific features and priorities of the local community in the interests of the effective economic and social implementation of immigration policy, so that the economic and social cohesion of each local community is not disturbed;
8. emphasises the need to grant full basic rights to third country nationals who have entered the Member States without having followed the planned procedure. This would be a way of eliminating phenomena such as exploitation, bad treatment and provocative discrimination, which are unacceptable in European society;
9. endorses the Commission's aim of stamping out racism and xenophobia. The CoR can play a decisive role to this end, given that any such efforts must proceed from local society level;
10. thinks it necessary for the CoR's opinion to be sought in each case so as to draw the EU's attention to the potential problems and the best practice, in order to guarantee basic rights to immigrants, taking account of the fact that local and regional authorities play a decisive role in these matters;
11. thinks it essential to extend this Committee policy to the sensitive sector of the mass media. Observance by these media of a minimum ethical code prohibiting the incitement of xenophobic behaviour ought to be an objective of a uniform Community policy.

2. **The Committee of the Region's views and recommendations on the proposal on a common asylum procedure**

The Committee of the Regions:

1. recognises that both immigration and a policy on asylum and subsidiary forms of international protection (such as humanitarian status), but also using additional forms of protection (such as temporary protection), *are indissolubly linked with local society*

in the host countries and have a direct impact at local and regional levels. Moreover, in the process of drafting legal acts the CoR's opinion must be regularly requested so that it can draw the EU's attention to potential problems and best practice;

2. regards it as essential to draw a practical distinction between asylum seekers and refugees on the one hand and economic migrants on the other. To this end it is necessary first and foremost to establish fair and effective asylum procedures in all the Member States on the basis of a common denominator of harmonisation;
3. believes it necessary to define as soon as possible at Community level the concept of "subsidiary forms of protection" since up to now there have been important divergences in the theory and practice of the Member States, acting as an obstacle to uniform arrangements;
4. is in favour of a uniform asylum procedure, which will reach, through fair and effective practices, correct and reasoned decisions in a short period of time;
5. takes the view that shortening the timescale for procedures and issuing fair decisions which do not allow any margin for doubt will have a favourable effect on local and regional authorities which in many cases have to shoulder the burden of receiving large groups of asylum-seekers;
6. endorses the European Commission's aim of establishing in the short term a minimum level of harmonisation of the rules on asylum procedures, with the prospect in the longer term of creating a common European system with mutual recognition of the decisions taken and, in parallel, simplified application of the mechanism for determining responsibility on the part of Member States;
7. expresses the view that the discussion of a common procedure using the "one stop shop" system, under which all protection needs will be examined by the same authority (a view supported also by the UNHCR) appears to be premature. It is necessary in principle to determine which are the possible forms of protection apart from the Geneva Convention and to examine various related problems (e.g. refugee procedure, evacuation, etc.);
8. stresses that the measures to prevent access must not influence the asylum procedure and must be applied with complete respect for the right of asylum. At all events, the right of asylum necessarily presupposes the physical presence of the asylum seeker on the territory or at the frontier of the Member State concerned in order to submit the relevant request. Consequently it is not possible to accept a request submitted in the country of origin, nor to facilitate the arrival of refugees through resettlement mechanisms;
9. thinks it necessary for the common asylum procedure to be supplemented with a uniform system for admission of asylum seekers: this would help to reduce the secondary migration within the EU;
10. takes the view that admission of asylum seekers to the Member States requires the creation of appropriate reception centres where they can stay while their requests are being examined. These centres must be created and must operate in close cooperation with the local and regional authorities, depending on the needs and special characteristics of each region;
11. is in favour of a policy of encouraging return with an emphasis on voluntary

repatriation in the context of an effective and reliable asylum procedure. To this end there must also be support for relevant programmes of repatriation or resettlement, but also for corresponding integration programmes for those who are eventually accepted and for whom international protection is provided. At the same time unsuccessful applicants for asylum who are not legally entitled to remain in a country should be forcibly repatriated if they refuse to leave voluntarily;

12. recognises that the integration of refugees and of other persons who come under international protection in local communities in the Member States presupposes a full guarantee of their personal and social rights - in particular their rights to health, education and work. To that end, Community rules on these matters must be detailed and must not allow divergences among the Member States;
13. supports cooperation between the local and regional authorities of each state with a view to creating a network of job opportunities in each region, as a way of tackling the problem of the shortage of skilled and unskilled workers currently faced by the EU. This will of course be done in cooperation with the relevant national central authority, with no additional costs, using the existing administrative structures;
14. endorses the idea of improving refugees' specialised skills, thereby increasing the possibility for their integration into local society in the context of better distribution of the workforce;
15. feels that there should be consideration of the option of granting recognised refugees the right to freedom of movement and of establishment on the Community territory;
16. agrees with the Commission's view that a point of reference for the rights of those who gain subsidiary or temporary protection should be the rights granted to third country nationals who are legally resident in the European Union;
17. finally, agrees that there is a need for access to varied sources of information, common analyses/assessments and for the establishment of new cooperation mechanisms between the national, regional and local authorities of the Member States.

Brussels, 20 September 2001

The President

The Secretary-General

of the

of the

Committee of the Regions

Committee of the Regions

Jos Chabert

Vincenzo Falcone

¹ OJ C 57, 29.2.2000, p. 67

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