

RELEX - 004

Brussels, 18 October 2002

OPINION

of the

Committee of the Regions

of 20 November 2002

on the

Green Paper

on a Community return policy on illegal residents

(COM(2002) 175 final)

The Committee of the Regions,

HAVING REGARD TO the European Commission Green Paper on a Community return policy on illegal residents (COM(2002) 175 final);

HAVING REGARD TO the decisions of the Tampere, Laeken and Seville European Councils (October 1999, December 2001 and June 2002 respectively);

HAVING REGARD TO the European Commission's decision of 11 April 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 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 its opinion¹ of 16 May 2002 on the Communication from the Commission to the Council and the European Parliament on a common policy on illegal immigration², the Proposal for a Council Decision adopting an action programme for administrative cooperation in the fields of external borders, visas, asylum and immigration (ARGO)³, the Communication from the Commission to the Council and the European Parliament on an open method of coordination for

the Community immigration policy⁴, the 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 protection⁵, the Commission Working Document – The relationship between safeguarding internal security and complying with international protection obligations and instruments⁶, and the Communication from the Commission to the Council and the European Parliament on the common asylum policy, introducing an open coordination method⁷;

HAVING REGARD TO the draft opinion (CdR 242/2002 rev. 1) adopted by the Commission for External Relations on 26 September 2002 (rapporteur: **Mr Van den Brande** (B-EPP), member of the Flemish Parliament);

WHEREAS the Committee of the Regions emphasises the importance and necessity of common standards and measures on the return of illegal residents in the European Union within the context of a coherent Community asylum and immigration policy;

WHEREAS a refugee and migration policy must be conducted against the backdrop of a macroeconomic policy that is geared towards sustainable growth and a more balanced distribution of wealth worldwide;

WHEREAS local and regional authorities are key players in receiving and providing services for asylum seekers, refugees and immigrants;

Unanimously adopted the following opinion at its 47th plenary session held on 20 and 21 November 2002 (meeting of 20 November):

1. **The Committee of the Regions' views**

The Committee of the Regions

1. **is pleased** that the Commission Green Paper is seeking to open a discussion on such a complex and sensitive subject as the return of illegal residents in the Union;
2. **agrees** that the common return policy is an integral part of the Community asylum and immigration policy and that a return policy is necessary to secure a legal and humanitarian admission policy. Laying down common standards for expulsion, detention and removal is a precondition for the adoption of a binding system among the Member States for the mutual recognition of return decisions;
3. **regrets**, however, the failure so far to develop an approach – or take measures – in the field of legal migration, despite the fact that this could help curb and discourage illegal immigration;
4. **feels** that, as part of any return policy, particular importance must be attached to respect for human rights and human dignity and to fundamental freedoms. The 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, the 2000 Charter of Fundamental Rights of the European Union and the inclusive terms of the 1951 Geneva Convention should be applicable in this context. In order to give more concrete form to the return policy, account should be taken of the recommendation on this issue of the Council of Europe Parliamentary Assembly⁸;

5. **agrees** with the Commission that absolute priority must be given to voluntary return. Paramount importance must be attached to measures to further sustainable return, with particular regard being given to reintegration into the country of origin. A return policy must also focus on mechanisms that encourage those concerned to return to their country of origin;
6. **attaches** tremendous importance to voluntary return programmes, but is duty bound to note that potential beneficiaries are not sufficiently aware of them. These programmes must offer tangible incentives both to the parties concerned and to the countries of origin (training, economic integration, involvement in development programmes etc.). In order to ensure sustainability of return, follow-up is also needed in the country of origin;
7. **emphasises** that, in cases of forced return – which should only be carried out in cases where people refuse to return voluntarily – particular attention must be paid to protecting vulnerable people such as minors, children and persons separated from their families, pregnant women and the seriously ill. Forced return must take place under transparent conditions so that it can be monitored by the appropriate bodies;
8. **thinks** that an effective return policy is concomitant with a fast, efficient and high-quality asylum procedure;
9. **recognises** that a return policy can only succeed with the collaboration of the countries of origin, and thus endorses the idea of incorporating readmission clauses into association and cooperation agreements. The European Union will have to provide assistance to the countries of origin through various support schemes in order to facilitate the integration of returnees;
10. **notes** that local authorities and regions are involved at a practical level in receiving and providing services for asylum seekers and refugees and make a special effort with limited resources to be of practical assistance. It is therefore not only desirable but also necessary that local and regional authorities should be involved as full partners in the further framing, implementation and monitoring of the common return policy;
11. **notes** that many European municipalities are already liaising with local authorities in the countries of origin and have thus acquired first-hand knowledge that may be of use in reintegrating returnees;
12. **would stress** that information exchange is the first step towards any fully-fledged common return policy. Local and regional authorities, including those from the candidate countries for accession, must be involved in any such exchange.

2. CoR recommendations

1. **calls** for urgent action to develop a European approach and work out common measures in the field of legal immigration, since clarity on this front will, in the short run, discourage illegal immigration;
2. **proposes** that, with a view to approaching the migration process in its entirety, partnership agreements be concluded with the countries of origin and transit, covering political, social, economic and cultural matters and also the relationship between migration and development;
3. **would like** voluntary return to be expressly recognised as a basic principle of the

common return policy, with forced return regarded as an exceptional measure;

4. **urges** that the return of illegal EU residents should show absolute respect for human rights and human dignity. Cases of forced return must be subject to humanitarian monitoring by the appropriate bodies;
5. **would advocate** that, with regard to the removal of illegal EU residents, account be taken of the recommendation of the Council of Europe Parliamentary Assembly (REC 1547(2002));
6. **recalls** the ban on collective expulsions;
7. **deplores** the institutionalised practice of detaining illegal EU residents and considers that the detention period must be limited to the time needed to arrange for departure. It must also be stressed that children and minors have no place in detention centres;
8. **trusts** that local and regional authorities will be involved as full partners in framing, implementing, monitoring and assessing the common return policy;
9. **calls** on the Commission to make use, in connection with return and reintegration programmes, of the first-hand knowledge that European municipalities have acquired through cooperation activities in countries of origin and to diffuse this knowledge and experience as a guide to good practice;
10. **asks** that more studies be carried out and more data compiled on the outcome of ongoing voluntary return programmes, and that these be used to draw lessons for future policy. Clearly, a practical approach and content is crucial to these programmes' success. Consideration must also be given to the extent to which local and regional authorities can play a role in this process;
11. **proposes** that improvements be made in mutual information exchange between Member States with the participation of local and regional authorities, including those from the candidate countries;
12. **urges** that the European Union provide support for Member States' return programmes where these relate to voluntary return and focus on reintegrating returnees. The European Union must also ensure better coordination and approximation of these programmes;
13. **calls** for the provision of reception facilities for returnees in the country of origin and proper support to ease and secure reintegration and guarantee respect for human rights.

Brussels, 20 November 2002.

The President

The Secretary-General

of the

of the

Committee of the Regions

Committee of the Regions

Albert Bore

Vincenzo Falcone

¹ CdR 93/2002 fin – OJ C 278, 14.11.2002, p. 44

² COM(2001) 672 final

³ COM(2001) 567 final – 2001/0230 (CNS)

⁴ COM(2001) 387 final

⁵ COM(2001) 510 final – 2001/0207 (CNS)

⁶ COM(2001) 743 final

⁷ COM(2001) 710 final

⁸ REC 1547 (2002) – 2002 Session – First Part – “Expulsion procedures in conformity with human rights and enforced with respect for safety and dignity”

--

--

CdR 242/2002 fin FR/JP/JKB/hm .../...

CdR 242/2002 fin FR/JP/JKB/hm