

OPINIONS

COMMITTEE OF THE REGIONS

96TH PLENARY SESSION HELD ON 18 AND 19 JULY 2012

Opinion of the Committee of the Regions on ‘The global approach to migration and mobility’

(2012/C 277/02)

THE COMMITTEE OF THE REGIONS

- underlines that respect for the human rights of migrants and solidarity with countries from which the majority of migratory flows originate must underpin all aspects of the Union's migration policy, including in relations with third countries, fully respecting the principles laid down in Article 21(1) of the Treaty on European Union;
- believes that careful assessment is needed of all the causes of migration, including climate change, with a view to defining a proper legal framework for those fleeing their country of origin as a result of natural disaster or climate conditions that threaten their survival or physical safety;
- believes that the global approach to migration requires multi-level governance in order to guarantee that it is managed at the level most appropriate to the circumstances, upholding the principle of subsidiarity, with a view to ensuring the greatest possible well-being for people both in countries of origin and in countries of destination;
- calls in particular for regional and local authorities to be taken fully into account in the implementation of the global approach, building on existing decentralised cooperation projects and structured dialogues, such as ARLEM and CORLEAP.

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I. POLICY RECOMMENDATIONS

THE COMMITTEE OF THE REGIONS

General comments

1. stresses the importance of the global approach as a reference framework for the European Union's action regarding the worldwide governance of migration and mobility, and as an instrument offering an overall view of migration policies, designed to make the European Union's external relations and development policy activities consistent with its immigration policies;

2. welcomes the European Commission's initiative of presenting an updated version of the global approach which is more structured and centred on migrants and on respect for human rights in source, transit and destination countries alike;

3. reaffirms the human right to leave any country, including one's own, and to return to that country⁽¹⁾, as the legal basis for any discussion of migration, and the need to promote migration by choice, regardless of the reasons underlying it or the specific requirements of the country of destination⁽²⁾;

4. underlines that respect for the human rights of migrants and solidarity with countries from which the majority of migratory flows originate must underpin all aspects of the Union's migration policy, including in relations with third countries, fully respecting the principles laid down in Article 21(1) of the Treaty on European Union;

5. believes that effective protection of human rights must be guaranteed when establishing entry opportunities for third-country nationals and in policies on the reception and integration of migrants;

6. stresses that readmission agreements and visa facilitation agreements, both of the Union and of the Member States, and all actions to combat irregular immigration, must fully respect human rights, in accordance, in particular, with the Charter of

Fundamental Rights of the European Union and the European Convention for the Protection of Human Rights and Fundamental Freedoms, as consistently stated by the European Court of Human Rights;

7. stresses that the need to contain migratory flows must never be allowed to take precedence over anybody's right to seek international protection in the Union, which must remain a place of refuge for people fleeing persecution or in need of protection;

8. notes the risk that the economic crisis affecting most countries of the European Union may exacerbate the inherent tension between border control policies and respect for the human rights of migrants;

9. believes that careful assessment is needed of all the causes of migration, including climate change⁽³⁾, with a view to defining a proper legal framework for those fleeing their country of origin as a result of natural disaster or climate conditions that threaten their survival or physical safety⁽⁴⁾;

10. calls on the European Commission to publish the working paper on migration and climate change originally envisaged in its Communication on migration of 4 May 2011⁽⁵⁾;

11. considers that in order to make the global approach effective it is necessary to strengthen coordination between the European Union and the national, regional and local levels, and with third countries;

12. reiterates what the Committee of the Regions has previously stated, i.e. 'local and regional authorities are first to be significantly affected by a common immigration policy. On the one hand, they are particularly affected by the difficulties of illegal immigration, while, on the other, they are responsible for providing immigrants with a range of services as part of the

⁽¹⁾ Article 13(2) of the Universal Declaration of Human Rights; Article 2(2) of Protocol 4 to the ECHR; Article 12(2) of the Covenant on Civil and Political Rights.

⁽²⁾ Resolution of the European Parliament P6_TA(2006)0319 on Development and Migration adopted on 6 July 2006.

⁽³⁾ CoR Opinion ENVE-V-008 on *The role of regional and local authorities in promoting the sustainable management of water*, 30 June–1 July 2011, point 14; ARLEM SUDEV opinion on *The link between desertification and climate change in the Mediterranean*, 31 January 2012.

⁽⁴⁾ <http://www.unhcr.org/pages/49e4a5096.html>.

⁽⁵⁾ Communication on migration, COM(2011) 248, p. 21.

local integration process. For this reason they must be fully involved in the development of a European framework for legal immigration, in measures to combat illegal immigration and in development cooperation with countries of origin' ⁽⁶⁾;

13. welcomes the considerable progress made on making transfers of money by migrants to their countries of origin more transparent and secure and less costly, and supports the initiatives backed by the European Commission to channel remittances of funds from migrants towards productive investment;

14. is pleased that the global approach stresses the role which third-country nationals living outside their countries can play both in development policies and in the regulation of migratory flows, promoting support measures on departure and integration measures in the countries of destination;

The role of regional and local authorities in the implementation of the global approach

15. believes that the global approach to migration requires multi-level governance in order to guarantee that it is managed at the level most appropriate to the circumstances, upholding the principle of subsidiarity, with a view to ensuring the greatest possible well-being for people both in countries of origin and in countries of destination;

16. considers that regional and local authorities are key actors in the global approach, as both promoters and implementers of social and employment policies, reception and integration policies, and the management of irregular immigration, and also as organisers of in-depth dialogue and varied forms of cooperation with countries of origin and transit ⁽⁷⁾;

17. notes that regional and local authorities already promote dialogue initiatives with their counterparts in third countries, many of which are countries of origin and transit for migrants, and promote decentralised cooperation projects;

18. believes that ARLEM – the Euro-Mediterranean Regional and Local Assembly – and CORLEAP – the Conference of Regional and Local Authorities for the Eastern Partnership – should be seen as ideal fora for dialogue with the regional authorities of the Mediterranean and Eastern Europe on immigration and development policies;

19. believes that the greatest possible compatibility should be sought between Member States' bilateral initiatives and the existing regional and bilateral dialogues, which are viewed as

an instrument of the Union's external policy in the field of immigration, and that one way of ensuring this is through full recognition of the dialogue initiatives promoted by regional and local authorities;

20. urges the institutions to see regional and local authorities as leading players in the global approach, in accordance with their competences in the national context, by means of instruments which allocate Union funds to them, without the intervention of central government authorities, and in accordance with the existing differences within the various Member States;

21. urges the Commission to promote innovative projects to help match employment supply and demand, using regional and local authorities as intermediaries, given their competences in this sector in many Member States, with a view to creating an effective instrument for tackling the skills shortage in certain segments of the labour market;

22. wishes regional and local authorities also to be involved in the updating of the EU immigration portal, thereby ensuring that it offers relevant information for immigrants regarding regions, cities and municipalities of destination;

The relationship between immigration policies and development cooperation policies

23. stresses the importance of ensuring that the Union's migration and development policy and its external immigration and asylum policy are mutually consistent at all times. In particular, the Union's and the Member States' actions in third countries should always be based primarily on the principles of solidarity and co-development, in order to tackle the underlying causes of migration and to defeat poverty, paying particular attention to the mobilisation of domestic resources in those countries, as well as support for strengthening institutions and improving governance and the rule of law, which are key to fostering economic and social change;

24. urges the Commission to distribute resources to developing countries, on the basis of development cooperation principles, priorities and strategies, while also taking account of the 'more for more' principle;

25. believes that the principle of reciprocity must dovetail with development cooperation principles, particularly in the context of mobility partnerships and the common agenda on migration and mobility ⁽⁸⁾;

⁽⁶⁾ Opinion CONST-IV-017 on *A Common immigration policy for Europe*, adopted at the plenary session of 26-27 November 2008, rapporteur: Mr Jostmeier.

⁽⁷⁾ CoR opinion CONST-IV-017 on *A Common immigration policy for Europe*, 26-27 November 2008, point 5.

⁽⁸⁾ The Proposal for a Regulation amending Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (COM(2011) 290) is based entirely on this approach.

26. considers that when implementing the global approach, adequate protection must be provided for all vulnerable groups, in particular unaccompanied minors, both by guiding actions properly in third countries and by offering appropriate forms of reception and social integration in Member States, while also fostering the dissemination of the good practices of many regional and local authorities in the Member States; also asks the European Commission to effectively implement the measures contained in the action plan on unaccompanied minors;

27. calls for a bona fide gender-based approach with a view to enhancing the specific role played by women in migration and in the social integration of the whole family group in host countries;

28. points out that the Union's immigration policy could contradict its development cooperation policies, since it seeks to attract talent from third countries in pursuit of the economic and demographic development objectives of the Europe 2020 strategy;

29. questions whether the brain drain caused by the policy of selective migration can be contained by means of circular migration, since it is not yet at all clear how effective it will be and what real impact it will have;

30. believes also that circular migration may be not be compatible with the objective of integrating migrants and that integration strategies should therefore be drawn up which are specifically aimed at these workers, so that they can integrate effectively despite the fact that their stay in the European Union is not intended to be long-lasting⁽⁹⁾;

31. believes that the recognition of diplomas and qualifications under harmonised conditions is crucial in terms of preventing 'brain waste', ensuring the proper integration of migrants and their reintegration into the country of origin in the case of circular migration;

32. calls on the European Commission to back measures to support States in the process of simplifying the recognition of diplomas and qualifications, and to promote informal recognition of skills, with a view to facilitating the movement of third-country workers within the European labour market;

33. trusts that requests for third-country cooperation in containing migratory flows will never lead to the denial of each person's human right to leave a country, including their own, particularly when third countries are asked to control emigration on the basis of the laws of the State of destination;

34. believes that there must be greater investment in development cooperation projects aimed at the education and health sectors, directly involving universities and promoting the mobility of researchers and all academic staff;

35. supports the petition submitted to the European Parliament for the adoption of a Euro-Mediterranean Erasmus and Leonardo da Vinci programme, as a specific instrument for reciprocal mobility between students from each shore of the Mediterranean;

36. wishes the mobility of young people, and of students in particular, to be effectively promoted, including by simplifying the issuing of visas, cutting red tape and allocating sufficient financial resources;

37. believes that the *Erasmus for all* programme should be fostered and supported, as well as the existing good practices in exchanges amongst young people, such as the *Eurodissey* programme promoted by the Assembly of European Regions;

38. considers that more analysis is needed of the migratory pressures caused by economic imbalances, with a view to devising effective responses; these should include schemes which also guarantee mobility for unskilled workers, for whom there is still a great demand in certain Member States, which cannot be tackled solely by means of circular migration;

39. believes that third-country nationals living outside their countries should also be involved in pre-departure measures, making use of existing websites directly managed by immigrants' associations, which provide ad hoc information in a language understood by potential migrants;

40. welcomes the enhancement of pre-departure measures, which require more investment, involving NGOs already operating in the countries of origin of migrants and the local and regional authorities involved in procedures for the reception and integration of migrants and their families;

Combating irregular immigration

41. welcomes the Union's commitment to combating irregular immigration, and in particular the smuggling and trafficking of human beings and measures against employers of irregular workers;

42. stresses the importance of an approach to combating irregular immigration which considers that migrants may be possible victims of illegal human trafficking and must therefore be protected;

⁽⁹⁾ Draft CoR opinion on *The renewed EU agenda for integration*, point 60; draft CIVEX opinion on *The right to family reunification*, rapporteur: Mr Soave, point 11.

43. urges the European Commission to continue initiatives to analyse and combat undeclared employment, which is a scourge for the entire Union's economy and provides an incentive for the entry of irregular migrants, who may then be exploited in the labour market or used as a tool of criminal networks;

44. notes that considerable financial resources have also been invested in measures to combat irregular immigration, not least the border-control operations carried out by the Frontex agency;

45. stresses the need to respect human rights, particularly the principle of *non-refoulement*, at every stage in border control, and the related obligation for the EU institutions – in particular the European Parliament – to closely monitor Frontex's activities;

46. believes that there should be similar checks on international cooperation directly managed by Frontex, which has the power to conclude international agreements of a technical nature with third countries: the content of these should be more transparent and their scope precisely stipulated;

47. considers it necessary to carry out careful cost/benefit assessments of all existing instruments in order to compare their efficiency, including the costs of repatriation procedures (detention and forced removal) and the amount of resources spent by States on voluntary repatriation compared to forced repatriation;

48. believes that insufficient flexibility in national legislation should not mean that foreign nationals residing legally become irregular and increase the number of 'overstayers';

49. believes that the European Union institutions and the Member States should give serious consideration to the possibility of entry into the European Union to seek work, as expressly mentioned in Article 79(5) TFEU;

50. considers that providing regular entry channels is a key instrument for combating irregular immigration and reducing the number of 'overstayers', as well as ensuring a degree of solidarity in relations with countries of origin of migratory flows;

51. urges the institutions to incorporate the readmission strategy in the global approach, in order to ensure that the strategy is underpinned by development cooperation principles and does not become a separate or conflicting aspect;

52. believes that readmission agreements must be subject to periodic assessments, particularly with regard to the obligation for transit countries to re-admit not just their own nationals but

also foreigners who have passed through their country on the way to the Union. These people could find themselves left in no-man's-land, exacerbating the situation in transit countries and putting them at serious risk of human rights violations;

External dimension of asylum

53. considers that strengthening third countries' asylum systems must not be seen as a way to avoid recognising the right to international protection in the EU;

54. welcomes the fact that, in regional protection programmes, the Union has acted in conjunction with the UNHCR, although the protection provided by the Union is greater than that recognised by the Geneva Convention on Refugees, since it also includes subsidiary protection and protection against treatment violating the European Convention for the Protection of Human Rights and Fundamental Freedoms;

55. considers that the Union's action must never be aimed at preventing asylum seekers from leaving a country in order to seek protection in an EU Member State;

56. believes that the Dublin II regulation must be revised, particularly in view of the clear criticism from the Court of Justice of the European Union, in order to guarantee effective solidarity between the Member States, while fully respecting human rights, including the right to family reunification;

57. calls on the Commission to include clauses to protect asylum seekers and refugees in mobility partnerships;

58. urges the institutions, together with the Member States, to make the sea search and rescue system more effective, in particular by improving coordination and setting common criteria for identifying the most appropriate safe location for rescued migrants to disembark;

Final considerations

59. calls on the Commission, the Council and the European Parliament to keep open the debate on the four pillars of the global approach, so that all potential stakeholders can be fully involved in its implementation;

60. calls in particular for regional and local authorities to be taken fully into account in the implementation of the global approach, building on existing decentralised cooperation projects and structured dialogues, such as ARLEM and CORLEAP;

61. calls on the European Commission to continue its analysis of the causes and characteristics of migration worldwide, with a view to devising effective strategies for dealing with it which are based on solidarity with third countries;

62. deplores policies which criminalise migrants and welcomes measures to combat the criminal networks to which they fall victim;

63. calls for a policy to combat irregular immigration which is not based solely on border controls and the interception of migrants on departure, but also on effective legal entry opportunities which are also open to less-skilled workers, taking into account the specificities of the individual Member States.

Brussels, 18 July 2012.

The President
of the Committee of the Regions
Mercedes BRESSO
