



Rue de Pascale 4
B-1040 Brussels
info@caritas-europa.org
www.caritas-europa.org



Rue Joseph II 174
B-1000 Brussels
info@cme.be
www.cme.be



Commission of the Bishops'
Conferences of the European
Community
- Secretariat -
19, Square de Meeûs
B-1050 Brussels
comece@comece.org
www.comece.org



International Catholic
Migration Commission
Rue de la Charité 43
B-1210 Brussels
secretariat.be@icmc.net
www.icmc.net



Jesuit Refugee Service Europe
Rue du Progrès, 333/2
B-1030 Brussels
europa@jrs.net
www.jrseurope.org



Quaker Council for European
Affairs
Square Ambiorix 50
B-1000 Brussels
info@qcea.org
www.quaker.org/qcea

RECOMMENDATIONS FOR THE MIGRATION AND ASYLUM POLICIES IN THE EU “STOCKHOLM PROGRAMME” (2010 – 2015)

Our organisations represent Churches throughout Europe – Anglican, Orthodox, Protestant and Roman Catholic – as well as Christian agencies particularly concerned with migrants, refugees, and asylum seekers. As Christian organisations we are deeply committed to the inviolable dignity of the human person created in the image of God, as well as to the concepts of the common good, of global solidarity and of the promotion of a society that welcomes strangers. We also share the conviction that the core values of the European Union as an area of freedom and justice must be reflected by day-to-day politics. It is against this background that we make the following suggestions for the “Stockholm Programme” which shall determine the directions of the EU policies in the area of Freedom, Security and Justice for the next five years.

RESPECTING HUMAN RIGHTS OF MIGRANTS AND REFUGEES

1. The governing principle must be that all policies acknowledge the inalienable dignity of every human being. Consequently, the human rights of all human beings, irrespective of their nationality or citizenship and immigration status must be respected so as to allow for the full enjoyment of these rights.
2. EU policies must be based on the recognition of economic, social and cultural benefits of migration for the societies in the receiving countries as well as in the countries of origin. In its policies and programmes the Union should devise ways and instruments to address dealing the challenges inevitably arising from migration and to counter the negative perception of the migratory phenomenon as a mere threat.
3. Respect for human rights must be universal. Border management measures must not lead to the deaths of hundreds of men, women and children. They must effectively guarantee that human rights, including the “non-refoulement” obligation, are respected under all circumstances. In this regard training of border guards in the rights and obligations pertaining to international protection can be of great importance. Above all, border management structures must become more transparent and accountable. Instead of simply strengthening capacities and funding, a procedure must be put in place that proficiently ensures that those who are committing abuses will be held accountable. To this effect, the mandate and the activities of EU agencies such as FRONTEX should be clarified with respect to international obligations of the Union and its Member States towards persons in need of international protection. Furthermore we encourage the European Parliament to tighten and enhance its control over activities of the FRONTEX Agency and the envisaged European Asylum Support Office. The active involvement of UNHCR and NGOs (including Church-related organisations) is vital for the success of these bodies.
4. Within the EU, the human rights of all migrants must be respected regardless of immigration status. Therefore, the Union must put in place rules that ensure all migrants can effectively enjoy fundamental human rights such as the right to social assistance, shelter, education and access to health care as well as to religious counsel.

5. The use of administrative detention deprives individuals of their right to freedom. Hence, in accordance with international and European legal norms, detention must be used only in cases of last resort. In practice, the detention of migrants, including asylum seekers during their determination procedure, is widespread in EU Member States. This is a clear violation of human rights and the Member States must modify their detention policies. The Union must simultaneously develop a common set of sustainable alternatives to detention. Those who are detained and do not have sufficient resources must be entitled to free legal aid. Detention centre staff must be educated on issues pertaining to asylum seekers and must ensure that detainees can exercise the full realm of their human rights.

LEGAL MIGRATION

6. A truly pro-active and common immigration policy, among others (e.g. family policies), can be a key element in the context of the demographic challenge and it can also offer viable alternatives to irregular migration. Such a policy would develop clear and transparent common channels to enter into the EU as a labour migrant. This would apply to persons with varying qualifications. In order to combat exploitation, a common set of rights needs to be granted to all labour migrants. The interests of the “sending countries” should be taken into consideration by developing guidelines for ethical recruitment especially in professions where qualified employees are scarce (e.g. medical doctors). Agreements with countries of origin should also enable the free movement of workers between the EU and their country of origin. Policies and instruments concerning low qualified migrants should also be devised.
7. The European provisions on family reunification must be revised so that they effectively guarantee the right to family life and are not used as a migration management tool. More generally, family unity should be regarded as one of the guiding principles of migration and asylum policies.

PROTECTION FOR THOSE IN NEED

8. The system of dispersing asylum seekers under the Dublin II Regulation must be thoroughly reviewed. It currently creates more problems than solutions. The needs and interest of the persons concerned must play a more significant role. At least the list of cases, in which the Member State where an asylum application was filed has the duty to conduct the asylum determination procedure, must be extended. Moreover in this context the recent initiatives of some Mediterranean Member States should be taken up and a coherent responsibility sharing policy should be devised, in the sense that other Member States assume responsibility for dealing with a certain number of asylum applications. Additionally the Union must develop a procedure of immediate suspension of the Dublin II Regulation when a Member State cannot comply with its duties under international and European law to ensure a fair procedure, decent reception conditions and effective protection. Nevertheless Member States must comply with their obligations under EU asylum legislation.
9. The Union must concentrate its efforts on ensuring that all persons claiming to be in need of protection have access to determination procedures in Europe, even if they are intercepted at borders. Additionally the asylum procedures in all Member States must meet the standards of a fair and effective process. This includes free legal and interpretation services and the possibility to appeal, with suspensive effect. Accelerated procedures without access to information and legal assistance, and the *safe third country* concept undermine the rule of law. The explicit right of all asylum seekers to remain in the asylum country pending a final decision (effective remedy) should be laid down in EU legislation.
10. The common minimum standards on reception conditions to be applied in all cases of asylum seekers should be further improved. Currently, the relevant directive is neither strong enough nor completely implemented in all Member States. A recast of the directive must ensure that Member States establish procedures to identify vulnerable persons (including children, pregnant women, elderly, victims of torture or other violence, victims of female genital mutilation, victims of trafficking, and persons with physical or mental disabilities) as soon as the request for international protection is lodged, and to sufficiently meet their specific needs. Common minimum standards should provide for social welfare assistance in all stages of the determination process, to be granted in kind or in an amount that would allow the asylum seeker to live a decent life. In order to avoid dependence on public allowances, asylum seekers should be allowed access the labour market as soon as possible.
11. Following experiences with resettlement programmes (e.g. most recently of refugees from Iraq), the Union must develop together with the United Nations High Commissioner for Refugees (UNHCR) a more coherent and sustainable policy of resettlement replacing the rather impromptu measures that are currently used. This could include common EU resettlement schemes with ambitious quotas to be pledged on the UN level. It is also important that resettlement retains a complementary nature and that it is not used to favour policies aimed exclusively at having a strictly selected intake of persons in need of international protection. Wherever possible it should be complemented by policies addressing risks to ethnic or religious minorities in the respective regions.

12. The negotiation of readmission and other agreements with third countries concerning the treatment (especially the return) of third country nationals must be transparent and subjected to close scrutiny by the European Parliament and the general public. Agreements are only acceptable if they ensure that the human rights of all persons concerned are completely and effectively respected.
13. The Union's asylum and migration policies need to include an external dimension, as laid down in the 1999 Tampere Programme: "The European Union needs a comprehensive approach to migration addressing political, human rights and development issues in countries and regions of origin and transit."
14. The human rights of all persons must be upheld during forced removals. Furthermore such removals must be subject to the scrutiny of independent bodies as foreseen in the Return Directive.
15. Combating trafficking in human beings should constitute a specific policy area in itself. Victims of trafficking should be offered safe, viable and long-term solutions in order to enable them to live self-sufficiently, irrespective of their cooperation with judicial authorities. In order to gather a comprehensive understanding of the phenomenon, more resources should be invested in research and collection of data, and cooperation between relevant authorities and civil society organisations should also be enhanced.
16. Human trafficking and exploitative migration practices such as smuggling, debt bondage and forced labour, must be addressed both at internal EU as through external programmes. In all such situations migrants are victims of serious human rights violations and in need of protection, shelter and assistance to reconstruct lives and livelihoods.

INTEGRATION

17. The importance of integration policy has increasingly been understood in recent years. While in that context it has correctly been recognised that integration is a two-way process, in many instances policies focus exclusively on the new arrivals. A EU exchange of best practice on integration in the coming years needs to familiarise European citizens with an increasingly diverse ethnic, religious and cultural society. We would warmly welcome a better coordination with the EU strategy on social inclusion and social protection. New ways and methods to effectively fight against racism and xenophobia should be explored.

FINANCIAL RESOURCES

18. Allocation of funds plays a central role in promoting the Union's asylum and migration policies. The increase of certain financial instruments in this area is a necessary and important development and expression of practical solidarity. It is debatable however whether or not the current allocation of funds between measures mainly aiming at preventing migratory moves (external border fund, return fund) and those measures addressing the social impact of migratory moves (refugee fund, integration fund) support a balanced policy. It is regrettable that the nature of the support granted gives the impression that migration can be "managed" by putting in place technical infrastructure rather than addressing it as a social and political phenomenon. A revision of the allocations in the budget title "solidarity and management of migratory flows" is therefore necessary.

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