



United Nations High Commissioner for Refugees

**TOWARDS A COMMON EUROPEAN
MIGRATION MANAGEMENT POLICY**

**Geneva
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UNHCR observations on the European Commission Communication on a Community Immigration Policy (COM (2000) 757 final)

1. Introduction

1. Europe, particularly Western Europe, has been for many decades a major pole of attraction for migrants from much of the rest of the world. This is for the most part because of the region's relative prosperity and its centuries old tradition of democracy, respect for human rights and the rule of law. However, since the labour immigration "stop" in the mid-1970s, Western Europe has become increasingly control-oriented in its immigration policies.

2. The introduction of immigration restrictions and control measures may have slowed the inflow into Western Europe, but generally have not succeeded in stopping it. As the deep-rooted causes of south-north migration have been left largely unaddressed, control measures have not dissuaded desperate would-be migrants from using alternative means to escape poverty and destitution. Prevention of irregular migration has consequently become one of the top policy priorities of States across Europe.

3. The European debate on migration, while still heavily concentrating on deterrence and prevention of "unwanted" migration, is now widening to include the issues of family reunification, skilled labour shortages and population ageing. With the entry into force of the Treaty of Amsterdam, which has placed the question of immigration and asylum policy under the jurisdiction of the European Communities, the European institutions and the Member States are currently working towards a common migration management strategy. This is of great interest to UNHCR not least because the protection of refugees in Europe has long been beset by difficulties attributable, at least in part, to the complexity of international migration.

4. The present Note seeks to bring UNHCR's contribution to the current debate in respect of a comprehensive European policy approach to migration management. The Note's central focus is on the European Commission's *Communication on Community immigration policy*, issued in November 2000. The Note first sets out a short explanation behind UNHCR's interest in migration issues. It then briefly reviews the key proposals set out in the *Communication*. Finally, building on the ideas and approaches discussed in the *Communication*, the Note attempts to delineate, from a UNHCR perspective, the broad framework for a comprehensive European migration management policy.

5. Issues of asylum policy, including questions relating to access to asylum procedures, the operation of the asylum system in general and the standards of treatment of asylum-seekers and refugees, are beyond the scope of this Note. The European Commission has addressed these issues in a

separate *Communication* “Towards a common asylum procedure and a uniform status, valid throughout the Union, for persons granted asylum.” UNHCR had the opportunity to comment on this *Communication*, as well as on a number of asylum-related legislative measures proposed by the Commission.

2. UNHCR’s Interest in Migration Issues

6. In the contemporary world, more and more people are moving, not only from one country to another, but also from one continent to another. These increasingly long-distance migratory movements are being prompted and facilitated by a wide variety of factors, most of them related to the broader process of globalisation. These include growing disparities in the level of prosperity and human security experienced by different societies; improved transportation, communications and information technology; the expansion of trans-national social networks; and the emergence of a commercial (and often criminal) industry, devoted to the trafficking and smuggling of people across international borders.

7. Much of the international migration currently taking place is uncontroversial, involves no protection or human rights issues, and is therefore of no concern to UNHCR. Leisure, business and student travel, as well as the movement of contracted workers, all fall within this category. Indeed, recognising the economic and social value of such migratory movements, States in several parts of the world – the European Union, West Africa and South America, for example – have taken significant steps to abolish controls on the movement of people and to facilitate the process of intra-regional migration.

8. It is evident that States generally acknowledge the positive value of international migration when it takes place in a regulated and predictable manner. They are alarmed, however, by irregular migratory movements, especially when they involve the arrival of people who come from unfamiliar cultures and who bring little financial or social capital with them. Such fears have contributed to the widespread belief that substantial numbers of people seek asylum in other countries not because they have a valid claim to refugee status, but because they want to improve their standard of living and wish to circumvent established forms of migration control.

9. Confronted with the growing scale of irregular migration, States have introduced a barrage of measures intended to obstruct or dissuade people from gaining access to their territory. But such measures have had only a limited success in meeting their intended objectives. In fact, there is growing evidence to suggest that the imposition of such controls has had the effect of diverting migrants and asylum-seekers alike to new destinations and prompting them to resort to clandestine forms of movement.

10. These problems have been exacerbated by the inability of States, including some in the European Union, to establish expeditious, effective and efficient systems for the determination of refugee status. Such problems have been manifested in the prevalence of asylum backlogs, delays in status determination and the failure to remove unsuccessful asylum-seekers. Public confidence in asylum systems is consequently low, a situation compounded by the widespread confusion between asylum-seekers and economic migrants. Such confusion has been intentionally generated by certain politicians and pressure groups, in both developed and developing countries.

11. The outcome of these factors seems likely to be a growing reluctance on the part of States to tolerate the arrival and presence of asylum-seekers on their territory, especially when those people form part of a larger migratory flow. This trend is particularly pronounced in Western Europe and the other industrialised States, which in many respects set a standard and a precedent for other parts of the world. Unsurprisingly, the restrictive migration and asylum measures introduced by less developed States have frequently been justified in terms of the example set by the world's more affluent nations.

12. In the context described above, UNHCR's primary challenge is to preserve the institution of asylum and to ensure that effective international protection is provided to those people who need it in accordance with the obligations of States deriving from binding international refugee treaties and human rights instruments. At the same time, and for the same reasons, UNHCR has a legitimate interest in ensuring that people are able to experience an acceptable degree of human security without leaving their homeland. Similarly, if people feel obliged to leave their country of origin, then they should be able to do so without resorting to irregular and clandestine forms of movement.

13. The forces which determine the scale, pattern and direction of international migration are extremely powerful. As recent events have shown time and again, control and deterrence measures by themselves will have little lasting impact when the need to move prevails. Some will move from choice, some because they are forced to, and others for reasons that include elements both of choice and coercion. If one door narrows or closes, the pressure is directed at another one.

14. There is an evident tension between the right of people in need of protection to seek and enjoy asylum in another country and the right of States to control migration by regulating the entry, residence and expulsion of foreign nationals. While that tension is not easily resolved, it could at least be mitigated. The challenge is how to manage refugee flows and migratory movements in a way that upholds human rights and humanitarian principles while addressing the legitimate concerns of States. In this respect, it needs to be stressed that while there are obvious inter-linkages between refugee and

migratory movements, they nevertheless each raise fundamentally different concerns and require distinct policy responses. Of course, refugee law and protection principles also play a crucial role in providing the framework of clarity and consistency within which States' migration concerns can be accommodated and addressed.

3. Community Immigration Policy: The Commission Communication

15. The Commission's *Communication on a Community immigration policy* clearly recognises that there is a migration management problem confronting European countries. Indeed, many of the existing migration-related policies at the national and EU levels are generally reactive and pursued piecemeal, rather than in a comprehensive and integrated manner. There is little internal co-ordination between the different governmental departments having varying responsibilities for migration-related matters, nor is there any degree of inter-regional harmonisation of approaches. Another difficulty is the lack of effective dialogue, co-operation and partnership with countries of origin of migrants in a way that links migration management strategies to the overall EU foreign policy framework.

16. Underpinning the European Commission's proposals for a new Community immigration policy are the milestones agreed by the European Council in Tampere to realise an area of freedom, security and justice. The Tampere European Council agreed that "[t]he separate but closely related issues of asylum and migration call for the development of a common EU policy..." This common EU policy would include partnership with countries of origin, a common European asylum system, fair treatment of third-country nationals and management of migration flows.

17. The Commission's *Communication* examines the challenges and objectives of a new immigration policy against the background of the contextual concerns about the consequences of the "zero" immigration policies of the past 30 years, the growing shortages of both skilled and unskilled labour and the projected decline in population in the EU over the next few decades. The Commission argues that the EU's current skilled labour and demographic deficits necessitate a shift to a proactive immigration policy. Such a shift requires strong political leadership and a clear commitment to the promotion of pluralistic societies.

18. The *Communication* highlights that the overall framework within which the new Community immigration policy should be framed and managed must reflect not only the interests of the EU, but also European values of democracy, human rights and economic and human development. To this end, it calls for a responsible EU attitude towards the effects of emigration on the counties of origin, in particular the problem of brain-drain which is only

going to grow in scale with the increasing demands in Europe and other parts of the developed world for highly skilled labour force.

19. The *Communication* calls for an integrated EU immigration policy that takes into account migration of all types – economic, humanitarian and family reunion. It considers effective integration policy aimed at granting migrants rights and obligations comparable to those of EU citizens as the essential corollary of the admission policy. At the same time, the *Communication* stresses the need for coherent and co-ordinated measures for combating irregular migration and especially smuggling and trafficking as an important element of a more open and transparent EU immigration policy.

20. The Commission's central proposal in the present *Communication* is the development of a common policy for the admission of economic migrants to the EU in order to respond quickly and efficiently to labour market requirements. The Commission argues that, although "immigration will never be a solution in itself to the problem of the labour market, migrants [have] a positive contribution to make to the labour market, to economic growth and to the sustainability of social protection systems." In addition to labour admission on the basis of an offer of employment in an EU Member State, the Commission also suggests the introduction of a special "job-seeker visa" scheme for potential migrants.

21. While recognising that the response to the problems posed by today's migratory movements must be coherent and comprehensive enough to cover the full range of international migration issues, the *Communication* from the Commission nonetheless focuses on the development of a Community immigration policy. A normative framework for legal immigration channels, whether for employment, family reunification or studies, is of course an important element of a comprehensive migration management policy. In UNHCR's view, an orderly system of admitting economic migrants could result in an easing or at least a balancing of the pressure which people on the move in search of a better life put on the "asylum back door" and switch the approach to where it should be: managing migration through migration policy and managing the asylum system through asylum policy.

4. Towards A Comprehensive Migration Management Policy: Some Reflections from UNHCR

22. The starting point for a new, comprehensive migration management policy must be acceptance of two realities. Firstly, it must be accepted that Europe is a region of immigration and a multi-cultural society. Secondly, it must be recognised that international migration is today, as it was in the past, one of the most powerful and positive forces of progress and human development. Both countries of origin and of destination stand to gain from orderly movement of people: it supplies human resources where these are

needed; facilitates the acquisition and transfer of skills, know-how and remittances to less developed communities; and contributes to the cultural, economic and social enrichment of host societies.

23. A comprehensive approach, by definition, must address all the essential aspects of international migration within an inter-disciplinary and multi-disciplinary response mechanism, but maintaining the particularities of asylum and refugee protection in contradistinction to the legislative and policy framework applicable to economic migrants. This is quite a challenge in the face of differing national priorities, socio-economic situations and cultural sensitivities, as well as immigration traditions. It is equally a challenge since it is, from one perspective, a response to acute human needs and problems.

24. It should also be borne in mind that regional policies and solutions with respect to international migration necessarily affect other regions. Given the inherently global dimension to the movements of persons across borders, a comprehensive approach must be based on the general principle of international co-operation and solidarity. Members of the United Nations have committed themselves, under Article 1.3 of the Charter, “to achieve international co-operation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.”

25. Finally, at issue when it comes to population movement are the basic principles of international human rights law, international humanitarian law, refugee law and migration law. These principles should therefore provide the backdrop against which States can appropriately determine the scope and content of a comprehensive approach to what are essentially human problems. Basing a comprehensive approach on generally accepted principles and rules of international law governing the movement of persons across international borders would enhance co-operation and partnership not just at the regional level, but also at the global level.

26. The following sections of this Note briefly examine some of the principal broad objectives that a comprehensive migration management policy should pursue.

4.1. Addressing migration pressure

27. Today, more than ever, refugees are part of a complex migratory phenomenon in which people are prompted to leave their own country by a combination of fears, hopes and aspirations that are often difficult to unravel. The immediate causes of refugee flows are, of course, readily identifiable: serious human rights violations, persecution, violent political, ethnic or religious conflict, or international armed conflict. However, these

causes often overlap with, or may themselves be provoked or aggravated by, such factors as economic marginalisation and poverty, massive unemployment, environmental degradation, population pressure and poor governance.

28. International efforts to address the root causes of refugee movements and emigration from less stable and prosperous countries have a chequered history. While many key actors in the international community have given rhetorical support to the notion that prevention is better than cure, it is not very easy to identify concrete initiatives which have sought to operationalise this principle. More often than not, the response to migratory movements (whether or not they involve people of concern to UNHCR) has been to place more stringent obstacles and deterrents in the way of those people who wish or feel compelled to leave their country of origin.

29. While the recent record of achievement in this area might not be particularly impressive, serious attempts are evidently required to deal with the complex factors that prompt people to leave their own country and to seek admission to other States. The intention should not be to prevent or discourage international migration. But action is clearly required to provide individuals and communities with greater degrees of security in their countries of origin, so that if they decide to migrate, they do so out of choice, and not of necessity. The actions required are essentially the same as those identified for many of the most pressing global issues confronting world diplomacy today: respect for human rights and fundamental freedoms; resolution of conflicts; promotion of democracy and the rule of law; eradication of poverty through increased economic co-operation, liberal trade, investment, development aid and debt relief; environmental conservation.

30. Tackling the root causes of induced migration is by no means a simple task. Common sense suggests that an improvement in the economic performance of poorer and less stable States should help to remove or at least diminish some of the pressures that induce people to migrate. And few experts would dispute the notion that well directed investment, more equitable trading arrangements, a reduction of the debt burden and intelligently used development assistance can all help to raise living standards and provide the people of low-income countries with less incentive to travel and work abroad.

31. Even so, such strategies do not represent a panacea to the question of international migration. There is now considerable evidence to suggest that economic growth raises expectations and provides people with the resources that they need to migrate. Such short-term outcomes do not invalidate the “development in place of migration” strategy, but they do point to the need for this strategy to be pursued over a considerable period of time. States, international and regional organisations and other relevant actors need to

take a longer-term view of the international migration phenomenon, rather than resorting to the use of short-term and restrictive measures that jeopardise the human rights of migrants, as well as those of refugees and asylum-seekers.

32. Greater attention should be given to the negative consequences of certain macro-economic policies that entail economic liberalisation, the withdrawal of public services, reduction of Government subsidies and increased unemployment and underemployment – factors that have undoubtedly contributed to the scale of emigration from many countries in the developing world. In this connection, Governments and international financial institutions may consider conducting a “migration impact assessment” before embarking on major infrastructure projects and structural adjustment policies. It would also be useful to undertake additional socio-economic analysis of those countries that have made the transition from being migrant-sending to migrant-receiving States, so as to identify the forms of economic intervention which have the greatest impact on people’s livelihood so as to render emigration unnecessary.

33. If UNHCR has a legitimate interest in advocacy efforts related to the migratory consequences of economic policy, then it has an even more explicit concern to advocate on behalf of human rights, democratic values, conflict prevention and the peaceful resolution of disputes. For the necessity for survival will dictate the path elsewhere if people’s security is threatened at home. In the context of a comprehensive migration policy, the EU could therefore make far greater efforts to ensure that the action which it takes in other policy domains are consistent with the Union’s objectives in relation to refugees and the displaced.

34. If the European States really want to make it possible for people in other regions to live safely in their own country, then they should be encouraged to use all means at their disposal to influence the course of events in many refugee-producing countries. For example, they could place respect for human rights and good governance in their trade and investment relations. They might also be expected to provide more consistent support to the work of the United Nations in the area of peacekeeping and peace-building in war-torn States. Recent efforts within the United Nations to implement a global ban on illicit trading in “conflict diamonds” are a clear demonstration of what the international community can do to reduce internal armed conflict causing refugee movements and internal displacement. In the same vein, curbing the sale of arms to regimes which are intent on persecuting their citizens and discriminating against minority groups could be one of the most important steps towards reducing the number of asylum-seekers.

35. UNHCR's role in the creation and maintenance of global human security is clearly a very limited one. It simply does not have the mandate, resources or political leverage to address the root causes of population movement and displacement. If UNHCR has a comparative advantage in relation to the strategies and action aimed at removing the necessity for flight or irregular migration, it is in the area of sustainable return and reintegration of refugees. For unless returning refugees and internally displaced people are able to establish new livelihoods and enjoy a satisfactory standard of living, then there is a risk that they will join the stream of irregular migrants, looking for and moving to new opportunities in other States. UNHCR's reintegration programmes in countries of origin should thus be seen and supported not only in terms of the achievement of durable solutions, but also in terms of averting irregular migration.

36. Likewise, it should be pointed out that in some situations – Bosnia and pre-1999 Kosovo being two examples – UNHCR's work on behalf of the internally displaced might have had the effect of averting the need for some people to leave their own country. However, the organisation's programmes for internally displaced people should not be seen as being undertaken with this intention. Nor should they be used as a pretext for the introduction of restrictive asylum measures in neighbouring and nearby States.

4.2. Managing and controlling migration

37. Clearly, no State, even several States acting jointly with common purposes and objectives (the European Union, for instance) could have all the necessary answers – let alone the technical and financial means – to stop migratory flows at source. The best that States can do is to bring some meaningful order to population movements through flexible and co-ordinated migration management policies that work with the tide rather than against it.

38. Effective management of migration requires integrated policy responses at various levels. Basically it involves, on the one hand, designing positive admission policies once having defined the objectives international migration can serve from the perspectives of both receiving and source countries as well as the migrants themselves and, on the other hand, dealing effectively with irregular migration. It is generally believed that where migration policies offer legal avenues, the clandestine alternatives for entry would lose attraction to a certain extent.

4.2.1. Labour migration policy

39. Transparent and equitable labour migration policies should be seen not only from the perspective of economic imperatives, but also as a means to addressing the asylum issue. The immigration restrictions introduced by Western Europe in 1973 and succeeding years have contributed to the growth

of asylum applications in the 1980s and 1990s in two important ways. On the one hand, they have prompted some would-be migrants to turn to the asylum stream as an alternative means of entry. On the other hand, whereas in the past many refugees made use of the various labour immigration avenues for escaping from persecution, the refugees of the 1980s and 1990s had only the asylum channel available to them.

40. It might, therefore, be assumed that a reopening of such channels might relieve some of the migration pressure in low and middle-income countries, thereby helping to disentangle people in need of protection from the broader flow of economic migrants. As well as reducing the number of non-refugees who feel obliged to make use of asylum procedures, such an approach would also help to encourage a greater understanding of international migration and its value to receiving countries.

41. As highlighted in the Commission *Communication*, the developing Community immigration policy must not contribute to the problem of brain-drain. Substantial investments in support of economic and human development in the migrants' countries of origin would certainly help compensate for the brain-drain problem. Mobility – i.e. a back-and-forth movement of migrants between the country of residence and the country of origin – may also serve as one of the key factors for promoting development in the country of origin. As an additional measure, UNHCR would advocate for effective use of refugee labour migration.

42. Firstly, rather than importing highly skilled personnel from countries that can ill-afford to lose them, labour recruitment could in the first instance focus on refugees present in the EU Member States. Secondly, use could be made of the immigrant labour available within the refugee community in first countries of asylum. In many such countries in the less developed regions of the world, there are highly skilled, educated and talented refugees who simply do not have the opportunity to make use of those skills. Some of these refugees may arrive in Europe in an irregular manner not necessarily in search of better protection, but with the hope to practice a liberal profession or engage in wage-earning employment. Enrolling them into a labour immigration scheme would simultaneously serve economic, humanitarian and migration management objectives.

4.2.2. Addressing irregular migration

43. Irregular migration is of concern to both countries of origin and receiving countries. Dealing effectively with this phenomenon should therefore involve appropriate action at both ends, in a spirit of partnership and with relevant international organisations – especially the International Labour Organisation, the International Organisation for Migration and UNHCR – having a role to play. The challenge for UNHCR is, together with

States, to provide effective protection for refugees within the category of irregular migrants. The International Organisation for Migration has the mandate to provide migration services to individuals, as appropriate, either as regards return to their country of origin or admission to another country.

44. Combating irregular migration is not just a matter of introducing more rigorous legislative and policy measures aimed at strengthening border controls. It should be recognised that the existence of irregular population movements may be a result of certain failures or weaknesses in other policy areas. Therefore, irregular migration should be seen as only a part of a more general global problem of migration management.

45. The current concentration on irregular migration as largely a problem of border control limits awareness of the desperate conditions that migrants have to tolerate to arrive or remain in their destination countries irregularly. There is much silence on the rightless existence that irregular migrants lead in Europe. While some of them constitute an underworld, many live and work in the mainstream of the host societies with governments turning a blind eye to the illicit, cheap labour they provide to fill the less glamorous jobs that nationals are not inclined to take up.

46. There are at present an estimated three to five million irregular migrants in the 15 Member States of the European Union. Finding themselves outside the basic protections of criminal and civil law, they are vulnerable to exploitation, abuse and deception. From the perspective of States, extending basic rights and protections to these irregular migrants unlawfully residing in their territory might conflict with the objective of preventing or reducing the irregular migration phenomenon. It should be possible to strike a proper balance between, on the one hand, humane treatment that an irregular migrant needs and deserves by virtue of his or her humanity and, on the other hand, legitimate State concerns about creating a “pull factor” for more uninvited migrants.

47. The issue of irregular migration is also currently entangled with that of asylum. On the one hand, asylum-seekers are very often treated like irregular migrants until and unless they discharge the ever more stringent burden of proving that they are refugees deserving of the protection of the concerned State. On the other hand, there is evidence to suggest that increasing numbers of persons who would otherwise qualify for refugee status or other forms of international protection, had it not been for the restrictive asylum policies, are opting for a life as an irregular migrant.

48. The most effective approach to addressing the problem of irregular migration is, therefore, the development and implementation of a comprehensive migration management policy. As part of such a policy the EU could take a number of measures, which – although they will not bring

irregular migration to a complete halt – may at least reduce the problem to more manageable levels. These measures would include: providing some legitimate avenues by which aspiring migrants might enter the EU; efforts aimed at preventing and combating trafficking in persons and migrant smuggling; appropriate regularisation programmes (amnesties) for the status-less irregular migrants living in the EU; and measures to deal humanely and effectively with the return of irregular migrants and unsuccessful asylum-seekers.

4.2.2.1. Combating human smuggling and trafficking

49. Human smuggling and trafficking, as well as the increasingly restrictive measures – including interdiction – that States have introduced to counter these growing phenomena have become a compounding feature of the migration landscape. This is an inherently problematic issue. On the one hand, it is evident that many people – including those with a valid claim to refugee status – make use of smugglers because they have no other way of reaching their intended destination. As a result, measures to combat smuggling inevitably have the consequence of limiting access to asylum procedures.

50. On the other hand, it is equally evident that, although some of the smugglers may be humanitarian altruists, there are many evils associated with criminal human smuggling and trafficking. Stealing and forging travel documents, work and residence permits have become an important industry. To get people across borders, it is often necessary to pay bribes to the police, immigration officers and local government officials. Those migrants who manage to reach their intended destination, usually after much exploitation and physical hardship, may find that they have to live underground and turn to crime to pay off their debts. Many of the victims of smuggling or trafficking never actually reach their expected destination, and must resort to irregular movement again in order to leave the country where they have been stranded.

51. UNHCR considers that the distinction between smuggling of migrants and trafficking in persons as set out in the two Protocols to the United Nations Convention against Transnational Organised Crime is evidently a useful starting point for designing the appropriate response to this problem. Furthermore, the need for anti-smuggling and anti-trafficking measures to grant special treatment to refugees and asylum-seekers cannot be stressed enough. And active co-operation between sending, transit and receiving countries is of particular importance, as is the need for States to find appropriate solutions for smuggled or trafficked persons who have been interdicted or apprehended.

52. For its part, UNHCR does have a role to play in the improvement of protection standards in countries of first asylum. There is evidence to suggest

that some refugees and asylum-seekers in developing countries embark upon long transcontinental journeys by irregular means because the standard of protection and assistance available in those countries is so inadequate. To address this dimension of the migration/asylum nexus, UNHCR calls on the world's richer nations to provide, in a true spirit of international solidarity and burden-sharing, meaningful support to low-income countries that host significant numbers of refugees and asylum-seekers. This is the most effective battle against criminal smugglers and traffickers operating out of those countries.

4.2.2.2. Information campaigns

53. One means of reducing the transnational and transcontinental irregular movement of people is to be found in the form of information campaigns, targeted at potential migrants. For there is evidence to suggest that the impetus to migrate is often based on ill-founded perceptions of the conditions and opportunities that exist in other countries, as well as a limited awareness of the dangers associated with irregular migration. Information programmes in countries of origin and transit may help to dispel such misconceptions, discouraging people from moving by illegal and irregular means.

54. More specifically, such initiatives can fulfil a number of different functions: informing potential migrants about any regular migration opportunities that exist, including in-country job-seeker visa processing schemes; warning them about the risks they may run if they put their fate into the hands of traffickers or smugglers; and providing them with details of the likely consequences of exploiting the asylum system to achieve their migration objective for non-refugee reasons.

55. Information campaigns of this kind are a very modest antidote to the rosy images of life abroad which are disseminated by the mass communications industry. They should evidently not be used as a means of preventing the flight of people who are in need of international protection, and must therefore be scrupulously honest, impartial and accurate in their content. And they should always be implemented in conjunction with practical measures to address the root causes of movement.

56. Because information campaigns may be interpreted as a form of deterrence to refugee flight, UNHCR would not normally be involved in their implementation. For the same reason, UNHCR would have to insist that such programmes should be strictly limited to those situations where the great majority of people who are leaving a country are demonstrably not in need of international protection.

4.2.2.3. The return of irregular migrants

57. Clearly, opening up legal opportunities for immigration into the EU will not completely stop irregular migration. Likewise, regularisation programmes (amnesties) that may be implemented from time to time are most unlikely to benefit all irregular migrants present in the EU at any given moment. Therefore, effective management of migration should necessarily include a return component. When it comes to the issue of return, the distinction sometimes made between irregular economic migrants and unsuccessful asylum-seekers serves no useful purpose. What may be needed is focusing on comprehensive return policies and programmes for irregular migrants in general, which by definition include failed refugee claimants.

58. For UNHCR, the primary concern in regard to return migration is, of course, the situation of unsuccessful asylum-seekers. UNHCR appreciates that European states have invested considerably in the development of complex asylum procedures. However, the credibility of these procedures risks to be undermined by the non-return of those who, after a fair and objective assessment of their claims, have been found not to be in need of international protection on any valid grounds. This could also erode public confidence in the effectiveness of the international system of refugee protection.

59. There is, therefore, an inter-dependence between admission policies and return policies. Society's readiness to support the legal admission of non-nationals, whether on economic or humanitarian grounds, depends to a large extent on how governments deal with irregular forms of migration. Yet, the lack of effective return policies and programmes remains a major unresolved problem in virtually all EU Member States.

60. States have faced a number of obstacles to the orderly and humane return of irregular migrants and unsuccessful asylum-seekers with no legal right of residence. They include difficulties of tracing them; lack of co-operation on the part of countries of origin to provide travel documents, or outright refusal to take back their citizens; and logistical problems in enforcing returns, including transit through third countries. Also, the economic importance of remittances and the inadequacy of reception and re-integration facilities in some countries of origin are additional elements hindering return.

61. An essential pre-requisite for successful return programmes is active dialogue and co-operation between the EU Member States and countries of origin and of transit. Such co-operation, at both bilateral and multilateral levels, may need to concentrate on developing long-term, mutually beneficial arrangements for return. Evidently, a comprehensive approach to the question of return migration cannot ignore the causes of original departure

from the country of origin. Likewise, it has to include financial and technical assistance in support of the reintegration of the returnees.

62. From the perspective of the prospective returnee, access to proper and thorough information and sensitive counselling often appear to be keys to a successful implementation of return. It is essential that the persons concerned by a return measure be prepared for such an eventuality. For return to succeed, they must be helped to retain or regain their self-esteem and self-respect. Assisting those in the asylum procedures in maintaining contact with their families and friends in the country of origin may facilitate their return when their asylum claims eventually fail. It may be likewise if they are supported in acquiring or developing skills and knowledge that they can take back home.

63. There are a number of ways in which UNHCR could usefully be involved, in co-operation with other relevant actors, in assisting States to resolve the difficult problem of return of unsuccessful asylum-seekers. These include the following: undertaking the systematic dissemination of information on developments in the country of origin as they affect the process of return; facilitating dialogue and negotiations between countries of asylum and origin; identifying possibilities for post-return re-integration assistance; and “passive monitoring” of the situation of returnees once in their country of origin. The key criterion for UNHCR’s involvement with the return of unsuccessful asylum-seekers must remain the organisation’s full satisfaction with the fairness and accuracy of the refugee status determination procedure. This, in turn, presupposes an effective UNHCR monitoring role in relation to those procedures.

64. UNHCR can also explore with EU Member States the possibility of extending, as appropriate and feasible, its programmes for the voluntary repatriation of refugees to unsuccessful asylum-seekers. The availability of repatriation and initial re-integration assistance provided by UNHCR in the country of origin may encourage unsuccessful asylum-seekers who have no right to remain in the asylum country to comply voluntarily with the obligation to return. It needs to be stressed however that such assistance from UNHCR would be considered only in situations where the organisation implements a voluntary repatriation programme for refugees.

4.3. Effective integration policy

65. The integration of legally resident immigrants is an important concern for both the individuals concerned and the host States. It has an impact on immigration policies in so far as it may influence the receiving societies’ attitude towards immigrants. Successful integration will improve the image of the immigrant in the public eye, thus opening doors to greater understanding and tolerance.

66. Experience has shown the deficiencies and long-term negative consequences of the previous general policy of so-called “differential exclusion” that characterised the guest-worker recruitment strategy of many Western European countries. It was a policy largely based on fear of threat by the migrant workers to the economic, social, cultural and political structures of the host societies. Even after a protracted period of stay, they were still regarded as “guest” workers and excluded from establishing a solid relationship with their host societies by way of citizenship, political participation and equality of opportunity for insertion into the shared system of rights and obligations.

67. The treatment of immigrants should not be an all or nothing matter involving either complete assimilation that implies abandoning one’s distinctive cultural, linguistic and social characteristics, or retaining these values but with the consequence of isolation. Between these two extremes lies the integration model that enables immigrants to enjoy equality of rights and opportunities in all spheres of society while preserving their cultural identity. Integration emphasises the value of cultural, national, ethnic and linguistic diversity. Particularly in this era of globalisation in economies, cultures and communication, diversity and pluralism are essential requisites for societal and personal development. But integration is a two-way process, involving rights and obligations on the part of the immigrant as well as the host community; both sides should be willing to adapt to changes in lifestyle.

68. Following the entry into force of the Treaty of Amsterdam, the importance of integration of third country nationals lawfully residing in the European Union has gained momentum. The Tampere European Council stressed that “the European Union must ensure fair treatment of third country nationals who reside legally on the territory of its Member States” and that “a more vigorous integration policy should aim at granting them rights and obligations comparable to those of EU citizens.”

69. The current challenge to the integration of immigrants and refugees alike is to a considerable extent rooted in ignorance and fear. Many people feel that their societies are being flooded by foreigners who make little or no contribution to the life of the country and who represent an alien way of life. At the same time, such citizens appear to have lost confidence in the ability of their States to address the issue of migration and asylum in an effective manner. All of which creates a very negative context in which to advocate for an open door policy for qualifying immigrants or refugees.

70. More could be done to make the public aware of the positive contribution that immigrants and refugees can make to their host country, not just economically, but also socially and culturally. Care has to be exercised on this issue, however, if the distinction between refugees and other migrants is

to be maintained: refugees should be admitted to countries because they are in fear of their lives and in need of protection, not because of the economic contribution they may make to the society where they settle.

71. Effective integration policies necessarily require sustained efforts to eliminate racial discrimination and to combat xenophobia and intolerance against people perceived as “aliens.” This would only be possible through the determination and political will of all States acting on an individual and collective basis to address with sufficient vigour not only the symptoms of xenophobia and intolerance, but equally the economic, political and social causes that give rise to this phenomenon. Given that racism and xenophobia are often symptoms of intolerance of difference, rather than a reaction to the presence of foreigners, restricting immigration will not necessarily solve the problem. Likewise, measures to combat racism and xenophobia should not be used as a justification for restricting the access of lawfully-residing immigrants and refugees to full membership in the social, political, economic and cultural life of the host country.

72. Effective integration also requires that public authorities be made more responsible and accountable for stereotyping certain non-nationals. Racists and xenophobes must not be let to set the immigration and asylum agenda. The media should not be allowed to be used as an instrument to propagate hatred and intolerance. The judicial system must ensure that perpetrators of racist and xenophobic violence are subjected to the full weight of criminal justice. And greater use should be made of such educational vehicles as public service announcements, sports, music and entertainment to promote a positive message about tolerance, pluralism and bridge-building.

5. Conclusion

73. The problems raised by today’s movements of migrants, refugees, asylum-seekers and displaced persons are international issues requiring international responses through a combination of national, regional and global responsibilities and capacities. What makes such responses challenging is the multidimensional nature of international migration. It intersects with issues of demography and labour market, trade and development, human rights and democratic values, environment and foreign policy. It requires a balancing act in reconciling the interests of States with their obligations to implement international standards, whether applicable to refugees, stateless persons, migrants or migrant workers and their family members.

74. Visa regimes, carrier sanctions, interception on the high seas and other control measures may help in the management of migration flows, but only as short-term defensive responses and often with adverse consequences for the international refugee protection regime. And unilateral policies and practices with respect to population movement or displacement necessarily affect other

States and regions. Problems will only be resolved, rather than shifted, if a more holistic, coherent and multi-disciplinary approach to international migration is found to take up a triple challenge: to manage population movements in a way which upholds basic human rights and the institution of asylum; to safeguard the legitimate interests of the States and communities affected by these movements; and to invest the necessary political will and resources in removing or at least diminishing some of the pressures that cause people to abandon their homes with greater or lesser degrees of coercion.

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