



European Network Against Racism
Réseau européen contre le racisme
Europäisches Netz gegen Rassismus

Concept Paper

ENAR Policy Seminar “Framing a positive approach to Migration”

6 and 7 November 2008
Paris - France

This conference is supported financially by the Directorate General for Employment, Social Affairs and Equal Opportunities of the European Commission



Table of Contents

1. Introduction and Objective of the Policy Seminar.....	2
1.1 Overall Objective	2
1.2 Specific Objectives	2
1.3 Anti-Racist Civil Society Priorities on migration.....	2
2. Migration in Europe	3
2.1 Measuring European Migration Trends	4
2.2 Migration in the public eye.....	5
3. EU Policy on Migration.....	8
3.1 EU Policy on Migration 1999 - 2010.....	8
3.1.1 A utilitarian approach?	9
3.1.2 Securitisation of the Migration agenda.....	10
3.2 Reaching 2010 and beyond: Future Policy Development.....	10
4. Partnerships.....	12

1. Introduction and Objective of the Policy Seminar

1.1 Overall Objective

At a time when the EU institutions are considering a new programme for the design of EU policies in the area of home affairs after 2010 and the European Council has underlined “the need for a renewed political commitment” on a common immigration policy¹, the Policy Seminar will enable anti-racist civil society to proactively define the frame of reference for debate on an EU approach to migration. It will consider the practical realities of EU migration policy, but also the less tangible ‘shape of the debate’ that underlies the approach taken and leads to these practical realities. It will argue that the foundation stone for migration policies must be the human rights framework and that migrants’ rights should not be dependant on the shifting sands of public opinion.

1.2 Specific Objectives

In pursuit of the overall objective of ‘framing a positive approach to migration’ and to influence the forthcoming work of the European Union in bringing forward a renewed political commitment on a common immigration policy the ENAR Policy Seminar specifically aims to:

- a) Set the debate into the context of ENARs mandate on migration;
- b) Examine the dominant rhetoric on migration and challenge the common misconceptions;
- c) Critique and analyse developments in the field of migration policy from an anti racism and human rights perspective;
- d) Bring into the debate the main priorities and issues on migration and human rights from a rights based and NGO perspective and enable detailed dialogue on priority areas;
- e) Consider the implications of the Lisbon Treaty in increasing policy coherence, including the role of the EU Charter of Fundamental Rights;
- f) Enable participants to strategically understand, debate and influence the debate on migration, including the linkages between migration and social policy, in the EU at it’s formative stages;
- g) Define recommendations for principles that can underpin a positive approach to migration in Europe;
- h) Empower civil society and policy makers to act as a driving force to positively influence the formation of a common immigration policy for the European Union.
- i) Build partnerships with key actors in civil society, including NGOs, Trade Unions, Local Government etc.

1.3 Anti-Racist Civil Society Priorities on migration

The priorities of anti-racist civil society are defined through the Vision and Mission of ENAR.

¹ Brussels European Council, 14 December 2007, Presidency Conclusions

*“ENAR’s **vision** is of a Europe without racism, where each individual has an equal opportunity to participate in society. It believes that the coordinated cooperation of NGOs could contribute significantly to the fight against ethnic and religious discrimination.*

*ENAR’s **mission** is to foster a collective civil society voice and to influence decision-making in the European Union in order to:*

- *Redress the negative consequences of discrimination based on colour, ethnicity, national origin, religion or culture*
- *Promote diversity and create the conditions for equal participation in a community characterised by a plurality of values*
- *Ensure that anti-racism and anti-discrimination are mainstreamed across all sectors of European public policies.”*

The adoption of the new Strategic Plan of ENAR in 2007 further refined this mandate as:

Strategic Plan Strategic Goal 2: Promote the development of progressive migration and integration policies

ENAR’s strategic goal is to promote the rights of third country nationals and to ensure that migration, and related policies and practices, do not undermine ENAR’s vision.

This mandate is based on an acknowledgment of two realities. Firstly that the promotion of migrants rights is fundamental to anti-racism. Denial of rights to third country nationals affects a significant proportion of Europe’s ethnic and religious minorities. Secondly, when the debate on migration crosses the line into racism, when the tone and content of the dialogue leads to stereotyping and stigmatisation of migrants, perpetrators of racism and discrimination do not ask to see someone’s passport or residence permit before acting. In this way ‘legally resident’ third country nationals and EU citizen ethnic and religious minorities become the targets of the racism and xenophobia that a negative debate on migration contributes to. Thus in defining the networks’ priorities for the future, ENAR Members placed ‘migration’ as second only in importance to anti-discrimination.²

2. Migration in Europe

Migration is a natural and global phenomenon which is as old as humanity. People migrate for many reasons. Based on personal aspirations, it could be for family reunification, employment, or willingness to live in a different country. However, it can also be due to poverty, war, violation of human rights, inequalities, environmental disasters, violence and discrimination. ‘Migrants’ are a diverse group with diverse backgrounds and migration histories, including third country nationals from outside the European Union and EU citizens from both ‘old’ and ‘new’ EU Member States. Migrants are

² ENAR Membership survey, ENAR Strategic Plan 2007-2011

women and men, children and older people, gay, lesbian, bisexual or transgendered. Some have disabilities, some are religious, some are not.

Migrants make rich contributions not only economically, but also socially and culturally to their host society as well as to their country of origin. Without underestimating the challenges set forth by migration, it remains fundamental to develop a positive approach to it as without this both the human and economic dimensions of international migration will suffer.

2.1 Measuring European Migration Trends

In describing migration patterns to and within Europe care must be taken. Not only must these be seen within the overall global migration patterns, but it must also be recognised that the available data is incomplete and can lead to misleading conclusions. Indeed the use, or misuse, of statistical data is a key mechanism in 'problematizing' migration and, in some instances, certain migrants. Papademetriou highlights that the UN Population Division estimates the global 'stock' of migrants³ at about 200 million. But he goes on to emphasise the limitations of such figures, including that they are regularly based on data that is subject to political determinations:

*"For example, the UN figure includes the roughly 30 million persons (most of them ethnic Russians) who had been internal migrants until the early 1990s but were reclassified as international migrants when the Soviet Union collapsed.... At the same time, most temporary immigrants whose visa lasts more than a year, plus half or more of all unauthorised immigrants, are typically not included in these estimates, because government data systems do not include them."*⁴

Therefore in critiquing the debate that is occurring on migration we must take care with statistics, as they can themselves be influenced by the politics of the debate, representing not the reality of migration but the myths and misinformation that so often surrounds it.

Nevertheless, it is useful to set the debate into the broad context of migration patterns, bearing in mind the need to treat the data with care and not consider conclusions absolute. Migration is a global phenomenon that has increased alongside globalisation. The number of people living outside their country of birth is estimated to have almost doubled during the last 50 years. Women now constitute almost half of all migrants and dominate migration flows to developed countries. They are also vulnerable to exploitation and increasingly represented in the '3 D' jobs - dirty, dangerous and difficult. While people migrate for employment, family reunification, marriage or willingness to live in a different environment, the demand for labour migration has been a major factor in rising levels of migration to developed countries.

³ Defined as those living outside their country of birth for a minimum of one year

⁴ *Europe and its Migrants in the 21st Century: A New Deal or a Continuing Dialogue of the Deaf?* Papademetriou, D. G. (ed) P. XVII

In terms of international migration flows (as opposed to the 'stock', i.e. the number of migrants resident in a country) Papademetriou identifies three components to the estimates⁵:

(a) Legal permanent and longer term temporary stays, including family immigration and work and skills' related streams, international students, temporary workers at all skills levels, business executives and investors and entrepreneurs. In the EU context, this includes EU nationals exercising the right to free movement of workers within the European Union.⁶

(b) Unauthorised entries and stays, which can be incredibly difficult to measure with any degree of accuracy: "The estimates of the total number of illegal migrants in the EU include: two to three million (Global Migration Perspectives 2005); four and a half million (IOM 2000); and, seven to eight million (United Nations' Trends in Total Migrant Stock: The 2003 Revision)"⁷

(c) Asylum seekers, where the statistics are more readily available, but pose significant difficulties in interpreting data in a meaningful way on a European level due to the significant variations across Member States.

A factor that all these groups have in common is that they are all subject to the tone and type of debate that is happening on migration at both the national and the European level.

2.2 Migration in the public eye

The awareness of Europe as a continent of migration has been accompanied by an increasingly visible negative public perception of migration and migrants, to the extent that the Fundamental Rights Agency report 'Trends And Developments 1997-2005: Combating Ethnic And Racial Discrimination And Promoting Equality In The European Union' found that:

*"...as immigration into Europe (both legal and irregular) increased during this period, a corresponding increase was noted in racist violence and crime against vulnerable immigrant communities – notably irregular immigrants, asylum seekers and refugees."*⁸

The European Bureau of Policy Advisors have highlighted that:

⁵ *ibid*, p. XIX

⁶ Eurostat data reveals that Europeans made up the largest group of non-nationals present in most EU countries, accounting for an absolute majority (over 50%) in 19 of the 25 EU Member States for which data was presented (Eurostat Statistical books, *Statistical Portrait of the European Union 2008*, P. 21)

⁷ *Commission Staff Working Document accompanying the proposal for a Directive Of The European Parliament and of the Council providing for Sanctions Against Employers of Illegally Staying Third-Country Nationals, Impact Assessment*, p.6

⁸ At P.42

“European citizens are living through times of strongly felt insecurity. Geopolitical Cold War structures have been replaced by an uncertain environment. Europe is challenged by security threats such as terrorism. Global economic competition is growing and results in fears of job losses. Against this background of felt insecurity, the public presentation of immigrants and migratory phenomena by the media and by politicians is often biased or negative, linking them often almost exclusively to security issues. The terminology commonly in use (such as “bogus asylum seekers” and “welfare scroungers”) has often become pejorative, while in reality migrants consist of different groups with different expectations and opportunities.”⁹

The role of the Mass Media in the establishment of discourse on migration was examined by the EUMC (now FRA) in its report on Racism and Cultural Diversity in the mass media. The report found that:

“A common feature for all countries facing new immigration is the stereotypical language used, in particular the metaphors comparing arrivals of asylum seekers to a natural disaster and military invasions in headlines, to represent immigration as a major threat. This was a common trend registered in Austria, Italy, Ireland, Finland, Sweden and Spain.... In other countries (esp. southern Europe) this was also related to the phenomenon of 'illegal' immigration, where the negative aspects were aggravated by reference to police actions and supposed criminality. ... In Sweden, news about the arrival of asylum seekers was associated exclusively with technical concerns and worries expressed by the police, the immigration authorities and the government.”¹⁰

The report went on to say:

“A general problem with the representation of migrants in the media registered for various countries is that negative images...were not compensated by positive images. The latter was missing completely and any perspective on aspects of daily life and the individual was often absent (in Austria, Italy, Spain, Denmark).”¹¹

The negative portrayal of migration in the mass media can, at least in part, be traced to the dominant political and policy agenda. The EUMC report found a worrying tendency of media to follow rather than question the dominant political discourse on migration, repeating, and legitimising, restrictive policy proposals and xenophobia.¹²

A third problem that has been identified with the media discourse is the problem of reliable information. The report raises the concern that information is not always checked. For example, in Spain negative acts (such as crimes)

⁹ *Migration and public perception*, Bureau of European Policy Advisers (BEPA) 2006, p. 2

¹⁰ *Racism And Cultural Diversity In The Mass Media: An Overview Of Research And Examples Of Good Practice In The EU Member States, 1995-2000*, EUMC, February 2002, P.47

¹¹ *Ibid*, P.47

¹² *Ibid*, P.37

were sometimes attributed to immigrants without evidence and such claims were then later proven false.¹³

An area that shows a disconnection between the EU level discourse on migration and the discourse at the level of Member States is attitudes towards EU Nationals who exercise the right of free movement in the European Union. Evidence shows a worrying increase in racism and xenophobia towards this group, particularly since the accession of the 'New' EU Members from Central and Eastern Europe:

*"Racism and discrimination can also be experienced by EU nationals when they migrate to another member state. The context of intra-EU migration has changed somewhat since the accession of EU10 member states in 2004. A8 nationals are excluded from accessing the labour market by virtue of their EU citizenship in all but three member states. In Ireland, Sweden and the UK where the labour market is open to all EU nationals, there is evidence to suggest that EU10 nationals face barriers that have not affected nationals of EU15 member states to the same extent."*¹⁴

This problem was epitomised by the events in Italy in 2007, described by the European Roma Rights Centre in their submission to the Committee on the Elimination of All forms of Racial Discrimination:

"An extensive campaign -- apparently with the purpose of mobilising racist assumptions about "Gypsies" in the Italian public to active hatred, in order to push the government to clamp down on immigration -- has been carried out by the Italian media since the Spring months of 2007, particularly surrounding the adoption of so-called "Pacts for Security" in 14 cities around Italy.... Features of this campaign have included highly sensationalised accounts of crimes in Italy, as well as imputing blame to "Romanians", Roma or "nomads" (elided as one group) for all unclarified violent or petty crime in Italy.

"In the midst of this sustained campaign, in early November 2007, the Italian government passed an emergency decree amending laws on the expulsion of EU citizens. ... Monitoring of Italian media and first-hand research in Romani camps indicates that the impacts of the "Pacts for Security" and the emergency decrees have been borne primarily on immigrant Romani communities in Italy. The "Pacts for Security" and the emergency decrees have led to whole Romani settlements being dismantled; and Romani-looking persons throughout Italy have been subjected to rigorous document checks, presumably for the purposes of determining whether they should be expelled from Italy. ... There has however been no apparent effort by Italian authorities to apply relevant anti-discrimination law provisions against Italian police actively searching for "Gypsies to expel". As of the end of December 2007, more than one hundred persons had reportedly been expelled from Italy, and at least 1,000 Romani homes in Rome alone had been summarily destroyed by Italian authorities, forcibly evicting the inhabitants. Although the ethnicity of

¹³ *Ibid*, P.40

¹⁴ ENAR Shadow Report 2006, p. 7

the persons forcibly expelled by Italian authorities has not been made public officially, the general feeling in Italy is that such persons have been primarily Romani.”¹⁵

3. EU Policy on Migration

3.1 EU Policy on Migration 1999 - 2010

The Member States of the European Union face a variety of different situations with regard to third country nationals and mobile European Union nationals. However, a common theme is that across Europe migrants are treated as second class persons, socially excluded and subject to various forms of discrimination with regard to access to rights, employment, education, and social services.

During the last decade, the foundations of a common immigration policy have been gradually established under the Tampere and Hague Programme¹⁶. In October 2005, Heads of State and Government identified immigration as a key area for future work, inviting the Union and the Member States to further develop a common approach. This led to the adoption of the Global Approach to Migration by the European Council in December 2005, which was reinforced by the European Council in December 2006.

This framework has encompassed the development of the **Common Basic Principles on Integration**, the development and implementation of the **Policy Plan on Legal Migration** and the **Commission policy priorities in “the fight against illegal immigration of third-country nationals”**, and has provided the basis for the **EU policies on asylum**. While some European developments have had positive implications for the protection of third country nationals, many more have sought to restrict rights, and serve to undermine the integration of all migrants, in particular the most vulnerable groups which include asylum seekers and undocumented workers.

In parallel to this, a key political driver in the EU is the Lisbon Strategy. In March 2000 the European Council agreed to make the EU ‘the most competitive and dynamic knowledge-driven economy by 2010’. In order to achieve that objective, the strategy is driven by the trio priorities of economic growth, more and better jobs and greater social cohesion.

After initial moderate results, the Lisbon Strategy was simplified and relaunched in 2005. The revised strategy did not change the initial intentions but it decided that the future orientation of the strategy should be on ‘Growth and Jobs’. A new Social agenda was also launched for the period of 2005-2010 for modernising Europe’s social model under the Lisbon Agenda. The

¹⁵ Written Comments of The European Roma Rights Centre, The Centre On Housing Rights And Evictions, Osservazione and Sucar Drom concerning Italy for Consideration By The United Nations Committee On The Elimination Of Racial Discrimination at Its 72nd Session

¹⁶ On 4 November 2004, the European Council adopted the Hague programme which set the objectives to be implemented in the area of freedom, security and justice in the period 2005-2010

new Social agenda focuses on providing jobs and equal opportunities for all and social inclusion.

A key problem that has been identified is the lack of coherence between the different policy areas relevant to the debate on migration. Thus in the context of integration policy, it has been argued that:

“The complex policy framework surrounding EU policies on migration and integration must be acknowledged as one of the stumbling blocks of recent attempts to provide comprehensive strategies for the integration of all migrants. At the European, national and local levels, policies in these areas suffer artificial division and fail to adequately address interconnecting and cross-cutting realities. Furthermore, while many policy approaches to integration have recognised that the fight against discrimination is an important element, they have failed to recognise that anti-discrimination and social inclusion are both pre-requisites for, and modus operandi of, successful integration strategies.”¹⁷

3.1.1 A utilitarian approach?

The EU does recognise that larger migration flows may be needed in the future, and in the area of migration policy proposals have been brought forward to enable entry and residence of highly skilled workers, the so called ‘Blue Card’ Directive, and to establish certain basic social and economic rights for third country national workers.

In bringing forward such measures the European Commission recognised that the role of economic immigration assumes even more significance in the context of demographic ageing which European countries are already experiencing and are expected to face in the next decades:

“This ageing of the EU population could have relevant implications on the socio-economic development: apart from the direct effect on pension systems (an increasing difficulty to finance pensions through employment growth should be expected), the stagnation and decline of working age population will substantially affect the potential of economic growth as a whole as it may become a limiting factor for GDP growth. Indeed, unless the fall in the volume of employment is compensated through higher net immigration inflows, in a context of shrinking EU working age population, higher productivity growth will be necessary in order to maintain the same level of GDP growth in the long period.”¹⁸

This presents a clear recognition that not only will inward migration continue, it will become increasingly necessary for the well being of all within Europe and for economic growth. However, too often the dialogue focuses *only* on this

¹⁷ *Realising Integration: Migration, Integration, Social Inclusion and Anti-Discrimination ENAR Policy Seminar*, Background Paper for Participants, March 2007, p. 20

¹⁸ Commission staff working document accompanying document to the Proposal for a Council directive on the conditions of entry and residence of third country nationals for the purpose of Highly qualified employment, Impact assessment.

aspect, with the result that migration is seen as a utilitarian and short-term solution to demographic change whereby migrants will come to Europe for a few years, contribute to the economy, and leave before they become a 'burden'. Thus seasonal workers will be excluded from even the basic social and economic rights on offer. This approach, which treats migrants as economic units and not as human beings, is not consistent with European values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities.

On the other hand, the lack of recognition and value placed on the contribution that can and is made to Europe's economy, society and culture by migrants is a key feature of the debate. This is a feature of the debate for both 'highly skilled' migrants and those defined as 'unskilled'. The utilitarian approach recognises the economic necessity of highly skilled migration, but lacks recognition of the broader contribution to European society. Those not defined as 'highly skilled' are excluded even from recognition of the economic value of migration, excluding recognition of their economic, social and cultural importance to European society, from the Polish plumbers in London to the Lebanese restaurant owner in Tallinn, to the migrant women working in domestic care in Italy, Ireland and many other European countries. The denial of rights to many migrants, including asylum seekers, undocumented migrants and others, not only has a negative effect on the individuals concerned, but also denies society the fruits of their participation in civic, political, social, cultural and economic life.

3.1.2 Securitisation of the Migration agenda

A link has been forged between terrorism and immigration by policy makers, media and in public perception that has resulted in increasingly restrictive and intrusive policies in this area. There may also be a lack of safeguards for the rights of migrants within countries, at borders and in home countries. Examples illustrating this effect include the justification by the Maltese government of detention of migrants on the basis of security, and difficulties obtaining visas where a person is applying from an Islamic country, as highlighted in the ENAR Shadow Report 2006 from Hungary. Such measures have been criticised by International and European Human Rights bodies. For example, the report from the European Commission against Racism and Intolerance (ECRI) of the Council of Europe on the situation in Lithuania observes that national security and public order considerations have been mainstreamed into all aspects of asylum and refugee law and have opened significant space for the indefinite detention of foreigners who are considered to pose a threat.

3.2 Reaching 2010 and beyond: Future Policy Development

The Hague Programme is coming to an end. This has seen a flurry of legislative activity in the area of migration, both regular and irregular, from the Commission and Council. This is, however, also a time for reflection as well as action. The Hague programme was an important step for the formalisation

of EU Policy in the areas of migration, immigration, asylum and integration. Nevertheless, the period of its implementation has been characterised by an overwhelmingly negative dialogue on migration that has led to the stereotyping and stigmatisation of migrants and their descendants.

In December 2007 the European Commission launched its Communication 'Towards a Common Immigration Policy' which identifies the need for a 'step change' building on the foundations laid "*...to develop a new commitment and build a common European policy on immigration, enhancing economic opportunities and integration measures, based on solidarity and burden sharing.*"¹⁹

At the same time, the European Council has recognised the need to start work on the follow up to the Hague Programme, which comes to an end in 2009. To this end the 'Futures Group' has been established to "*...draft recommendations on European home affairs policy starting in 2010, after the Hague Programme ends, for options to increase the Council's efficiency and to improve or simplify existing EU regulations. In addition, the group is supposed to address the issue of cooperation at EU level, i.e., in which fields greater cooperation would be beneficial, and in which fields more discretion should be given to the Member States. This is intended to make European home affairs policy more efficient, understandable and responsive to citizens' needs. The group is to produce a report with recommendations intended to serve as the basis for a proposal on the post-Hague programme to be presented to the Commission.*"²⁰

The group is mandated to report by June 2008, initiating and starting to frame discussions on what the new programme on Justice and Home Affairs will look like. The French Presidency has clearly stated that immigration is a key priority for its Presidency of the EU in the second half of 2008, outlining proposals for a 'European Pact for Immigration' with the aim of setting a new political agenda on which later EU Presidencies can build.²¹

Again in parallel, in 2007 the European Commission launched the 'Social Reality Stocktaking' consultation exercise to develop a diagnosis on Europe's social situation, which will feed into the mid term review of the social policy agenda due to take place in the course of 2008 and into the preparations for the new social policy agenda for 2010-2015. This has similarly faced criticisms of a lack of recognition of the need for coherence with migration policy and for a lack of recognition of the 'social reality' of migration in Europe.

It is essential, at this stage in the process while the foundations and framework for a renewed strategy is developing, that anti-racist civil society

¹⁹ *Towards a Common Immigration Policy* Communication of the European Commission, December 2007

²⁰ Press Release, *High-level group on the future of European home affairs policy after 2010 meets for the first time* 21.05.2007. www.EU2007.de

²¹ *Audition de M. Brice Hortefeux, ministre de l'immigration, de l'intégration, de l'identité nationale et du codéveloppement, sur la politique européenne de l'immigration* (ouverte à la presse), 23 Janvier 2008

proactively define the frame of reference for debate on an EU approach to migration and establish systematic links between the social agenda and migration. The seminar will consider the practical realities of EU migration policy, but also the less tangible 'shape of the debate' that underlies the approach taken and leads to these practical realities. It will argue that the foundation stone for migration policies must be the human rights framework and that migrants' rights should not be dependant on the shifting sands of public opinion.

4. Partnerships

The proposed seminar will benefit from partnership with other organisations whose mandate covers the field of migration. Potential partners can be drawn from NGOs working in the range of fields concerned, including NGOs, Trade Unions and Local and Regional Government. The concept can be further refined through discussions with key stakeholder and potential partners in advance of the production of the final agenda and research for the background paper.

One option for refining the topics for the workshops is to identify key partners who have expertise in the area covered, and invite them to design and run the workshop. This would provide an opportunity to build strategic alliances with key partners.



European Network Against Racism
Réseau européen contre le racisme
Europäisches Netz gegen Rassismus

43, rue de la Charité
B-1210 Brussels
Belgium

Tel: +32 22293570
Fax: +322293575
e-mail: info@enar-eu.org
web: www.enar-eu.org