



## **Churches' Commission for Migrants in Europe**

Commission des Eglises auprès des Migrants en Europe

Kommission der Kirchen für Migranten in Europa

Report

on the Conference

“Irregular Migration: a Challenge to  
European Migration and Asylum Policies”,  
1<sup>st</sup> November 2002 in Athens, Greece

Organised by CCME in cooperation with the Integration Centre for  
Migrant workers (KSPM) of the Holy Synod of the Church of  
Greece

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## Introduction

It is with great pleasure that we present the report on the proceedings of the international conference “Irregular Migration: a Challenge to European Migration and Asylum Policies.” The conference took place in Athens on 1<sup>st</sup> November 2002 and was co-organised by the Integration Centre for Migrant workers (KSPM) of the Holy Synod of the Church of Greece and the Churches’ Commission for Migrants in Europe (CCME).

The choice of time and location of the conference was inspired by two events at the same time: the upcoming Greek Presidency of the European Union in the first half of the year 2003 and the 15<sup>th</sup> General Assembly of CCME, which took place on the island of Aegina from 1<sup>st</sup> to 4<sup>th</sup> November 2002.

The reality of irregular migration has over the last years become an ever more burning issue. The arrival of irregular migrants and boat people at the borders of EU members states and in particular on the Southern European shores has reached alarming heights. The fate of these irregular migrants is often characterised by the desperate wish to escape situations of conflict or economic deprivation, by the immense difficulties to reach EU territory legally and - as a consequence - the need to resort to illegal means of entry. As a result, irregular migrants find themselves in extremely vulnerable and precarious situations – they become affected by trafficking and new forms of slavery, they often risk their health or even their lives in their attempt to reach their country of destination, or they find themselves in exploitative work situations in the host country.

It was thus both timely and necessary that KSPM and CCME tried to get different actors together to discuss the challenges posed by the reality of irregular migration. The Greek Minister of Interior presented his government’s priorities for the Greek Presidency, the representative of the Council of Europe contrasted this with an input on the wider European context, speakers from Church-related services gave an insight into the situation of irregular migrants in their countries and representatives of Churches and NGOs formulated responses. His Beatitude Archbishop Christodoulos of Athens and All Greece appealed to all parties involved to “contribute to the creation of those presuppositions necessary for the decent and creative integration of foreigners, from which our society will certainly benefit”.

CCME took up this call during its General Assembly and underlined in its work programme 2003-2005 that “CCME will advocate that irregular migrants are treated with dignity.” It is with this appeal that we commend this report to all readers.

Last not least, we wish to thank all those who made the conference possible – the Holy Synod of the Church of Greece for the invitation, the team of KPSM for the preparation and implementation, the Foundation Goulandri-Horn for hosting the conference as well as the Greek Ministry of Culture and the Deputy Minister of Public Order, Mr Malesios, for their sponsorship of the conference. CCME is grateful to Dr. Torsten Moritz for compiling this report.

Doris Peschke

Brussels, March 2003

## Conference Programme

CCME Conference Friday, 1 November 2002, Athens

“Irregular Migration: a Challenge to European Migration and Asylum Policies”

The Conference was public, it was sponsored by the Greek Ministry of Culture and the Deputy Minister of

Public Order Mr. Evangelos Malesios

10.00 Welcome by Rev. Dr. Martin Affolderbach, Moderator of CCME

Opening by His Grace, Bishop Yoannis of Thermopylae

10.20 The Greek European Union Presidency and the issue of Migration and Asylum.

Mr Constantinos Skandalidis, Minister of Interior, Public Administration and Decentralisation of Greece

10.50 An Area of Freedom, Security and Justice in Europe, a comprehensive approach – the balance between opening Immigration channels and restrictive measures

Mrs Eleni Tsetsekou, Council of Europe, Dept. for Social Cohesion/Migration and Roma/Gypsies

Discussion

Be

12.00 Address by His Beatitude, Archbishop Christodoulos of Athens and All Greece

12.15 Churches facing the Phenomenon of Irregular Migration in Europe

Mrs Doris Peschke, General Secretary of CCME



14.15 Migration and Security Policy  
by Mr Evangelos Malesios, Deputy  
Minister of Public Order

14.30 Irregular Migration in the case of  
Greece  
Mrs Maria Papantoniou, KSPM ,  
Greece

The “Sans Papiers” in France,  
Mr Jean-Marc Dupeux,  
Cimade/France

The Platform for International  
Cooperation on Undocumented  
Migrants PICUM,  
Dr Pieter Muller, Netherlands

Discussion

16.00 Closing, departure

## I. Opening

### a) Welcome by Rev. Dr. Martin Affolderbach, Moderator of CCME

I would like to welcome all of you to this conference on “Irregular Migration: A Challenge to European Migration and Asylum Policies”.

This issue is becoming a more and more important topic in countries all over Europe. We are not only concerned by the problems caused by irregular migration, but by the large number of individuals who live – for different reasons - amongst us in a non regular status and the fate of these people.

My name is Martin Affolderbach and I am the chairperson of the Churches' Commission for Migrants in Europe. CCME – founded in 1964 - is an organisation of

churches, ecumenical councils and church related agencies in more than 14 European countries.

It's a great pleasure and honour for us to hold this conference together with the Holy Synod of the Church of Greece and its Integration Centre for Migrant Workers. It is also a great honour for us to have in our midst His Beatitude, Archbishop Christodoulos of Athens and All Greece who will address us later this morning, and his Grace, Bishop Ioannis of Themopylae, who will speak next to me and open this conference.

I convey my sincere gratitude and my thanks to the Ministry of Culture and the Deputy Minister of Public Order, which support this conference considerably. Mr. Constantinos Skandalidis, representing the Greek Minister of Interior, Public Administration and Decentralisation is amongst us and will also contribute to our theme today.

It is also a great pleasure for me to welcome Ms. Eleni Tsetsekou, representing the Department of Migration

and Roma resp. Gypsies of the Council of Europe.

Unfortunately, a representative of the European Union, who was also expected for our conference, had to cancel his participation.

I am happy that the General Secretary of CCME, Ms. Doris Peschke, will contribute to our conference from the perspective of our work in CCME.

I would like to welcome Ms. Maria Papantoniou, a researcher working with the Integration Centre for Migrant Workers here in Greece; Mr. Jean-Marc Dupeux from CIMADE, a church related refugee organisation in France and Mr. Pieter Muller from the Netherlands, former General Secretary of CCME, who will also contribute this afternoon from their respective countries. Welcome!

This conference takes place in conjunction with the 15<sup>th</sup> General Assembly of the

CCME which will be opened tonight on the island of Aegina. We are very pleased and happy that we got an invitation by the Holy Synod to hold our General Assembly after 20 years again in Greece. I am sure that we will have a good and fruitful Assembly on Aegina in a very beautiful and pleasant surrounding.

Last not least I would like to thank Mr Antonios Papantoniou, and those who opened this conference hall for us today and all who contributed to the preparation and the welcoming atmosphere of this meeting. We already experienced your warm hospitality and the one of this nice country.

I hope that the contribution to our conference and our exchange will not only improve our understanding of the issue “Irregular Migration” and promote public awareness and better strategies but also serve in particular the people we are talking about, their well being and their hope to live in security and dignity”.



b) Welcome by his Grace, the Rt. Rev. Ioannis Thermopylae, Abbot of the Monastery of the Dormition, Pendeli

Your Excellency,  
Mr. General Secretary,  
Rev. Fathers,  
Ladies and Gentlemen,

Allow me to begin by welcoming you all to today's Conference, and especially our distinguished guests, the 45 representatives of Churches and Church Organizations from 18 European countries, members of the Churches' Committee for Migrants in Europe, who are with us today.

In the name of His Beatitude, Archbishop Christodoulos of Athens and All Greece, I welcome you to Greece; I welcome you to Athens; I welcome you to the Church of Greece, and especially to the Church of Athens, and I wish you a pleasant and blessed stay. I also welcome you to this Conference and ask for your active participation in its work.

I also wish to thank all of you who willingly responded to His Beatitude's invitation, not only to listen, but also to contribute, with your invaluable knowledge and experience, to the issues that will occupy the attention of today's Conference. On behalf of the Archbishop I should like to thank especially their Excellencies, Mr. Skandalidis, Minister of Internal Affairs, and Mr. Malesios, Deputy Minister of Public Order, for the readiness with which they accepted the Church's invitation to set aside some valuable time from their heavy schedule and to be with us here today in order to share with us their thoughts and their programs on the issue of migration, especially in light of the forthcoming assumption of the European Union's Presidency by Greece.

I also thank Ms Tsetsekou, the representative of the Council of Europe, who, by the way, is of Greek descent, and

who graciously accepted to share with us today her invaluable experience and knowledge of migrant issues. I also thank all other speakers, Greeks and foreigners, who will present us with the quintessence of their long experience and knowledge and discuss it with us.

Today's Conference is being organized on the occasion of two events: a) the 15<sup>th</sup> General Assembly of CCME, which is to begin this evening in Aegina, and the forthcoming Greek Presidency of the European Union. The Church of Greece decided to take advantage of the opportunity offered by this concurrence and by the presence of 45 distinguished CCME representatives from 18 countries, experienced in the field of migration to provide a forum for the exchange of information and for dialogue that could prove useful not only to those who daily labor in facing the needs and problems of migrants and refugees, but also to those representatives of the Greek Government and State who are burdened with the responsibility for issues concerning Migrants and Asylum, and for issues concerning the fostering and creation of a "new space for freedom, security and justice" in Europe, especially on the eve of Greece's assumption of the European Presidency.

It will be important for those who work in, and contribute to, the field of ministering unto Migrants and Refugees, to know the intentions and the program that the Greek Presidency intends to implement to further shape the European policy on Migration and Asylum. I also believe that the representatives of the Hellenic Republic will equally be interested in hearing your views, concerns and proposals, given that these views and proposals are the quintessence of decades of experience from daily contact with all categories of the "uprooted". It is therefore my conviction that today's Conference will be most useful to all.

In concluding allow me to express the opinion that it is most important for the future of Europe that decisions be taken with transparency, with dialogue, with respect to certain historically and culturally formed particularities and with the democratic participation of society's citizens. If today's Conference succeeds, even in a small measure, in contributing towards this goal, it will be a cause for great joy on the part of its organizers.

On behalf of His Beatitude, the Archbishop, I thank all of the collaborators of the Integration Centre for Migrant Workers (KSPM) of the Holy Synod who labored to organize this Conference. I thank the Executive Committee of the

CCME for accepting to organize this Conference together with us. And to the staff of the CCME go our warmest thanks for their participation in its organization. Special thanks go to Ms Trakada, Counselor of the Deputy Minister of Public Order, for her contribution, which Dr. Papantoniou tells us was invaluable towards the success of the Conference. I thank the sponsors who covered part of the costs of this Conference and more specifically the Ministry of the Interior and the Deputy Minister of Public Order, Mr. Malesios who is also hosting today's dinner and wish all success in the work of this Conference. Thank you.





II. The Greek European Union  
Presidency and the issue of  
Migration and Asylum

Mr Constantinos Skandalidis, Minister of  
Internal Affairs, Administration and  
Decentralisation

a) The problem and the challenge

Your Grace,  
Reverend Fathers,  
Honourable Guests,  
Ladies and Gentlemen,

I should like to begin by congratulating the Church of Greece and the Churches' Commission for Migrants in Europe (CCME) on their initiative to organize this Conference. It is my belief that such initiatives greatly contribute to the broader dialogue that has begun on a global level over the great issues of our times. And indeed for a Church whose anthropocentric ideology enables her to take always a humanistic stand vis-à-vis these problems, it is my opinion that her contribution to the solution takes on a very decisive character.

I shall divide my speech into two parts:

The first part deals with the dimensions of the problem and with its description on a global, European and Greek level.

The second part concerns the policy applied to this truly important problem by the Greek Government - a problem that is, at the same time, a great challenge for the contemporary world.

The deep changes that have taken place during the last years are not simply an opening up to a new age. They are also shaping the new face of the world to come. They adorn in new colours, situations of former times, already familiar to and experienced by mankind. The opening up of borders and global interdependence, a result of technological

and economic developments, has served as a catalyst in developments that have taken place in a time-transcending, social, economic and cultural phenomenon: the migration of populations.

We all recognize that we live in an age of great migratory movements. Unequal development intensifies ethnic, economic and social inequalities. The demographic explosion in many areas of the underdeveloped or developing countries, the devastation of large areas of our planet, increasing urbanization, the languishing of large populations under totalitarian and intolerant regimes, flash-points of geo-strategic clashes and geopolitical interests increase by geometrical progression the pressure upon people to migrate and make all the more complex the combating of this phenomenon.

Alongside the traditional flows of migrants that usually have to do chiefly with economic migrants and migration in the frame of the family, new types of migration are emerging, such as those of political refugees, repatriated, seasonal migration and the migration of high skilled labour. Thus, along with the large migration of populations, we are experiencing the appearance of multiethnic and multicultural areas and cities. This lends to the phenomena of migration an international dimension of such significance similar or even greater than it possessed during the period of trade in raw materials, in that of great discoveries and in that of industrial competition. And, of course, beyond the economic indices, beyond the factors of production and the popular macro-economic figures currently en vogue, beyond the issues arising from the globalization of markets and the new economy, the face of human need and suffering, the problems of social integration and the procedures for the issuance of residence permits and legalization become all the more dramatic

and complex. These problems become all the more acute and difficult to be solved, when combined with procedures of illegal migration, that take on huge dimensions and test the balance between the defence of legal order and the well intended national interests on the one hand and the expression of social solidarity that must govern a humanitarian approach and policy.

On the other hand the flow of immigrants, despite the problems it may create, contributes positively to many aspects of development and to the productive composition of each country's labour force. Alongside the problems created by illegal labour, unequal opportunities, difficulties in integration and assimilation of immigrants, there is the creative contribution to the labour market, to the meeting of needs, to the regional dispersion of a new and complementary human capital.

Consequently the reception of migrants in a country and the formation of presuppositions for their integration within their new conditions constitutes at the present time a gauge by which to measure the political and social humanism of the developed countries. At the same time it constitutes a very interesting and crucial field in which to apply policies with insight and flexibility so that the negative "balance" of the phenomenon of migration be transformed into a positive one, into a fruitful, and productively renewed and dynamic reality.

In concluding my remarks about the international dimension of the problem, I wish to state that I believe that the Church, by the very nature of the problem, has both, an obligation to European Developments

In regard to European developments managing the influx of migrants, combating of illegal migration, and developing of a better example for

insertion with parallel respect for diversity and multicultural distinctiveness constitute major contemporary challenges on the path to European integration.

From a common awareness of migration as a European problem to the decision to form an integrated common European position and policy, significant steps have been taken.

Even though, from the middle of the 1980's, there began a formal collaboration between the European Member-States on matters regarding migration, migration policy as a distinct, separate policy of the EU was essentially introduced by the Treaty of Maastricht in 1992 and more concretely shaped by the Schengen Treaty. The Treaty of Amsterdam in 1997 for the first time established the European Union's competency in matters of migration and asylum and introduced certain initial clauses, on the basis of which arrangements were agreed upon between the European Union and third countries.

By way of implementation of the articles of the Treaty of Amsterdam, the European Council of Tampere in October of 1999 called upon the European Commission to present, among other things, measures that would contribute to the creation of a "European space without internal borders". Responding to this request, the Commission initially presented a scoreboard of actions with an analytical time table for the implementation of the measures proposed, renewed every six months recording the progress achieved.

This step, extremely urgent for the further development of Europe, is not an easy matter, since its path is strewn with many obstacles chiefly in regard to models, practices, and concepts.

At the European Summits, together with those decisions that in some way unify proclamations and goals and announce common policies, impossible

obstacles also come to the fore, resulting from differences in national policies and practices. Especially at the Seville Summit the political position of the European Union (as expressed in policies and proposals extended over the entire spectrum: From the strengthening of external border controls (i.e. the concept of "Fortress-Europe"), the mass deportation of illegal migrants, and even the imposition of sanctions on the sending countries (proposals of Britain, Spain and the Netherlands), to policies of management and control of migratory needs and influx, as well as social and economic integration.

Beyond these differentiations however, in nearly all the European countries, racist phenomena and xenophobia, often accompanied by extreme acts and manifestations, have been recorded. Since 1994 European public opinion seems to have become aware of the problems that threaten to revive situations that have historically been overcome, ideologies and positions which left an indelible mark on Europe during the period between the two World Wars. During the Gallo-German Meeting on racism and xenophobia held at Mulhouse in 1994 it was decided that the European Union, together with issues of finance, commerce and economy, must create its own identity on the basis of the protection of human rights and on the basis of an ethical stand according to the principles of universal social humanism. The result of these positions was the official establishment at the European Council Meeting in Kerkyra (Corfu) of a Consultative Commission charged with making recommendations on combating racism and xenophobia (the RAXEN Committee) and the Proclamation of Nice in 2000.

Yet another challenge for the Church:

The value of human life, the equality of all men, the defence of difference and pluralism indicating the

trust and self-confidence that the Church should display, certainly leads her to positioning herself on the only correct side of this juxtaposition: on the side of progressive ideas. Here there is a "field for great glory" in dealing with such a great matter.

#### b) The Greek Distinctiveness

The flow of immigrants began to make its appearance in Greece only during the middle of the decade of the 80's but assumed great proportions during the 1990's. We here in Greece have experienced a very deep change. Within only a few years Greece has undergone an important transformation: from a country that for decades sent forth migrants, has changed into a receiving country.

This rapid increase in the mass of immigrants during the decade of the 90's resulted in our country being called, at a difficult time for its economy conjuncture – adaptation of the economy to the ONE criteria - to face urgently a problem, that many other EU countries had plenty of time to deal with.

In the beginning, under the force of the events, our efforts were more along the line of adopting policies restricting entry and working permits and less in the direction of integration and insertion into the local societies and economies.

Our geo-strategic position in South Eastern Europe, our comparative superiority in the Balkans, our proximity to unstable and volatile areas and the geography of our borders, especially in the area of our islands, quickly made our country "privileged" both in its attracting economic migrants as well as in the appearance of illegal migration.

Let me mention a few statistics. Today Greece has:

- One of the highest percentages of migrant population (approx 7-7,5%, including citizens of the EU);
- The highest percentage of illegal immigrants;
- Until recently, the lowest stock of legal immigrants (until the Presidential Decree of 1997 and L. 2190/2001 that legalized the immigrants);
- The largest concentration of sending countries (from the Middle East, Southern Asia, the Balkans, Turkey, and from Northern Africa) leading to the greatest diversities among the migrant groups in regard to their descent, religion and cultural identity. The predominance of groups among the immigrants belonging to “the working age”, whose occupational insertion, as holds true in other Southern European Countries, was connected to the widespread shadow economy.

If along with these facts we take into consideration that:

- according to the estimates of the United Nations, in Greece by the year 2015, 3-3,5 million people out of a total population of 14,5 million will be foreigners,
- already in view of the demographic contraction, the annual percentage of birth of children belonging to migrants is approx. 15%, i.e. approx. twice that of the general percentage of the migrants themselves,
- the rate of growth can be seen in the number of pupils in elementary and secondary schools where the 47.700 alien pupils in 1995 had, by 1997, increased to 67.200,
- it becomes evident that the magnitude of the flow of immigrants and the diverse influence it exerts upon the economy and society make imperative the need to adapt and

enrich the laying out of policies so that they can actively deal with both existing as well as with future migration.

The legal and real status of the aliens legally and illegally residing and working in Greece testified to the need for a specific, explicit and integrated policy to deal with the phenomenon of migration. We desire a policy that will shape mechanisms sufficient to direct the inevitable influx of migrants coming to our country to where the real needs for a labour-force exist, and which needs cannot be met by indigenous workers, and at the same time will discourage migration, when the alien has no prospects of finding legal employment. A policy, however, that will chiefly create a sufficient frame of rights and obligations for the migrants, supported by a suitably organized informative and “educational” campaign, so as to facilitate their smooth insertion into Greek society.

This policy came to be implemented by a series of laws, chief among which is the recent immigration law 2910/ 2001 entitled: “The Entrance and Residence of Aliens in the Greek Domain. The Obtaining of Greek Citizenship through Naturalization and other Regulations.” This law aims to safeguard the basic individual, social and working rights of the illegal immigrants. Also, through the decentralization of the system whereby resident permits are issued, the law seeks to modernize the process by doing away with time-consuming procedures and bureaucracy. At the same time it also offered to the immigrants illegally residing in Greece a second opportunity for legalization. Thus, save the restriction of entrance, with this new law we have for the first time an integrated policy governing the integration of immigrants. Yet, bureaucracy, the lack of coordination and the dysfunctional operation of the State continue to present a discrepancy between expressed political intention and



applied policies. And to these problems, the massive wave of illegal immigration, strong when compared with the percentage of legal immigrants and with the situation in other countries, comes to make its exacerbating contribution.

This so far as concerns the dimensions of the problem. The question is: "What do we do about it?" On this question, also, I wish to make myself specifically clear.

c) Our principles and our aims National Migration Policy covers all the spectrum of the policies and activities relating to the entrance, the residence, the living and working conditions of the migrants who in every case are incorporated into the aims, priorities and needs of the country. It has a clear understanding of the processes that occur on an international and regional level and give rise and sustain the flow of immigrants. And like every policy it must be governed by certain principles.

At the very heart of this policy then, there are two dominant principles. The first is the dedication to an open and democratic society, not only in relation to the type of social organization, both present and future, but also in relation to the social and cultural tradition of Hellenism. Hospitality (philoxenia) and tolerance are two characteristics that the Greek Nation has, throughout history, from the time of its very appearance on our planet, carried upon its shoulders.

The concepts of tolerance and respect for divergence have, from antiquity, permeated our classical civilization and our traditions. These concepts, which have been carriers of ideas even within the Church itself, throughout its historical course, must prevail as the first principle. Moreover, not much time has elapsed since Greece herself experienced, as a sending country, the great flow and currents of migration, and we must never forget that not much time has elapsed

from when our mothers and fathers stood on the piers of the harbours of our islands and waved good-bye, in a manner reminiscent of a funeral and all that it entails, to the migrants leaving en masse for Australia and America.

The second principle concerns the universal application of legality and the rule of justice that imposes respect for the laws and the Constitution through the combating of illegal immigration and the protection of our borders, so that the security and the social cohesion of the country is not endangered. The principal of legality is one thing and the caring for illegal migrants quite another, something for which a progressive State that respects human life must take all suitable measures to ensure.

We are obliged to confess that it is not an easy proposition to maintain a balance between the two principles that I have mentioned. A balance between our duty to manage legal migration and our obligation to combat illegal migration, between the promotion of integration and insertion on the one hand and the discouraging of illegal migration on the other; the creative contribution on the one hand and the control of the migratory flows on the other. The progressive stand that stems from our constant opposition to any policy of discrimination whatsoever, simultaneously dictates to us the need for equality before the law and before the State; this again is reflected in common rights, as well as in common obligations. Illegal migration turns first of all against the legal migrants and overturns social balances and can create a situation that can get out of control.

Within this frame our Migration Policy:

In accordance with international treaties, the Charter of Fundamental Social Rights and the Greek Constitution, respects human rights, and applies the principle of equal treatment to all its citizens and to



all those aliens legally residing in the country.

Is consistently dedicated to combating xenophobia and racism through the acceptance in practice of cultural, racial and religious differences and through the formation of terms and preconditions for the assurance of social adhesion.

Adopts policies of collaboration with the countries of origin for the eradication of the causes that create migratory flow, and with the countries of transit in order to discourage the illicit traffic of people.

Continuously presents the problem of migration as an urgent and dominant issue before the European Union and strives constantly for the adoption of a common stand and policy for dealing with it. The Greek borders, like those of every other Member-State with third countries, are European borders and this makes the regulation of the flow of migrants an issue for the European organs.

Within this framework our aims are clear: We desire an integrated management of the flow of migrants;

We desire a real social integration; this is why we are developing operational programmes for culture, education, labour market, medical care, for all things;

And at the same time we want to strengthen the borders of our country, so as to discourage illegal immigration, both because our country is small and the possibilities of reception are limited. We are not against receiving immigrants. Besides equality before the law however, we want our country to be able to support its population. And this is something most significant for us.

I should now like to briefly refer to the aims of the Greek Presidency.

d) The aims of the Greek Presidency

It is true that recently the European Union turned its attention chiefly towards

combating illegal immigration and towards controlling the flow of migrants, and less towards the policies of social integration. Within these frames, despite the fact that the policy announced was an ambitious one, matters relating to legal immigration and to the strengthening of the policies relating to integration for citizens of third countries and to the formation of common policies is progressing slowly.

More specifically:

+ Proposals for directives for legal immigration have not as yet been adopted.

The European Commission has presented a series of proposals for directives:

- On the family reunion
  - On the status of migrants with long-term residence
  - On the preconditions for entry and residence of citizens of third countries for the purpose of lawful employment
  - On the issuance of resident permits to victims of human trafficking who cooperate with the authorities.
- + The Council and the member-States have focused their efforts mainly upon combating illegal immigration and human trafficking. Already proposals for directives are under development"
- on the liability of those who transport illegal migrants
  - on the illegal entry and residence of aliens
  - on the mutual recognition of decisions of deportation.

+ One of the most significant developments within the last semester has been the recognition, on a European level, of the need for exerting common efforts in order to strengthen the external borders of the European Union and the

rational distribution of the burden among all the Member-States.

The European Commission, in cooperation with the Spanish Presidency, that preceded ours, and the Member-States, assumed a series of initiative towards this end.

Acting upon the conclusions of the Summit Meeting held in Seville, the Danish Presidency drew up a Road Map in which the aims of the European Union in matters of migration are laid out, as well as the specific measures that have to be taken in this direction, including the timetable for its implementation until the European Council in Thessaloniki in June of next year (2003). The Greek Presidency must place before the leaders of the Member-State a Progress Report.

Greece as the next Presidency commits herself to work for the realization of the goals adopted at Seville as they are described in the Road Map issued by the Danish Presidency. By June of 2003 the directives for Family Reunification, most significant for social integration, as well as the directive for long-term residents have to be adopted. The completion of these Proposals for directives will constitute an immediate priority for the Greek Presidency. Moreover, during the Greek Presidency it is expected that much greater steps will be taken towards advancing the proposals for directives for working wages and residence permits for victims of illegal migration, as well as towards advancing a series of other propositions now in progress.

At the same time, we shall advance initiatives that are still pending and that are related to matters of major interest for Greece, such as:

- Measures for the control of the External Borders of the European Union and for their common administration.

- Measures for the correct distribution of the burden among the Member-States.
- Measures for the creation of a mechanism for funding the deportation and readmission of illegal immigrants to the countries of transit and origin.
- Measures for combating illegal immigration by sea, especially in the area of the Mediterranean.

The immediate promotion of the creation of a European Observatory for Migration, as a basic nucleus for the collaboration of the Member-States for the gathering and exchange of information and for the formation of conclusions concerning the trends in the flow of migrants.

- e) Towards a European Framework for a Common Migration Policy

It is obvious that our national policy on migration is not only harmonized with the analogous European developments, but even more importantly contributes to the acceleration of the steps leading to a European Framework for a Migration Policy.

In regard to these steps our positions are absolutely clear:

We believe that a real Common Policy on Asylum and Migration, in order for it to become a reality by 2004, on the basis of the time schedule of Tampere, demands a speedy development of "a European area without internal borders and with a common will to protect its external borders".

There is an immediate need for The European Charter of Fundamental Human Rights, which constitutes the contents of the panegyric proclamation of Nice, to be incorporated into the body of the Treaties of the European Union with all that this entails for its Member-States, for their institutional framework, for their administrative and legal systems and for

their individual national policies. This incorporation will prove to be the first and decisive contribution of the progressive Europe to the institutional fortification of contemporary Democracy and will drastically weaken the policies of discrimination, racism and xenophobia: factors that constitute a constant threat.

We are for “communitifying” matters that concern the migration policy, by having the European Union’s organs assume complete competency; by instituting purely Communitary and European measures; by adopting decisions taken on most of the issues by special majority; by strengthening the role of the European Court and the European Parliament in dealing with issues of migration; by incorporating the European Policy on Migration in the external Affairs of the European Union and in the resulting common position of the European Countries towards third Countries. This procedure will determine and direct the search for a new balance and distribution of competencies between the Community organs and national options and policies.

This policy takes on a serious economic dimension, since its implementation is not feasible at this time - given the amount of funds available. The European Organs must establish the means and determine the resources to be made available, if they want to talk about a real policy and not to limit themselves simply to rhetoric and to expressing wishes.

The total of these positions could constitute the basis for the formation of that which I have called the “Framework for a Common Policy on Migration in Europe”. Our Country, in light of its assumption of the Presidency of the European Union, will advance this procedure with all its might. It hopes to incorporate within the Conclusions of the European Council in Thessaloniki, concrete directions and commitments for accelerating and completing this procedure.

#### f) Conclusion

Concluding, by way of an Epilogue, and despite the fact that it is well known that I am fanatically in favour of keeping the roles of Church and State distinct and independent, I shall discreetly try to venture into Church affairs. Please allow me to do so.

The role of the Church on this issue can prove to be not only positive but even catalytic. For, anthropocentric ideology is not only that which I mentioned at the beginning of my paper, the care for suffering people, that is a humanism manifested through the philanthropy and care, which is practiced in the Athenian neighbourhoods or in other areas and contributes and can contribute even more effectively in the proper social integration of immigrants. It is my contention that the Church can have a wider contribution in supporting a truly progressive viewpoint. And this contribution refers to democracy, both now and in the future. Because the ideological content of humanitarianism protects Democracy from limiting individual human rights and freedoms; it protects Democracy from restricting obligations. And, of course, it contributes to the welfare of its citizens. I think, therefore, as I said at the very beginning, there is “a field filled with bright glory” for the Church, and for this reason, I should like, once again, to express my congratulations on this initiative to the Church of Greece and to the CCME, and to wish all success in the work of the Conference and of your General Assembly, hoping that with my position paper I have provided fuel for a real discussion on the policies pursued by the Greek Government with an aim for all to achieve the same goal, which is no other than a better life for all people.

Translated from Greek original

III. An area of freedom, security and justice in Europe, a comprehensive approach – the balance between opening immigration channels and restrictive measures

Mrs Eleni Tsetsekou, Council of Europe, Dept. for Social Cohesion/Migration and Roma/Gypsies

The Council of Europe, as a human rights organisation, is very concerned about the extremely dangerous conditions in which many illegal migrants (especially women and children) find themselves. Illegal migrants risking their life to reach a country where they think they will be able to have a better life may in fact be victims on three counts:

- Victims of the economic and political crisis of their country of origin which drives them to seek basic livelihood and social advancement elsewhere;
- victims of traffickers and mafia who take advantage of this aspiration and have found a way of diversifying into more lucrative criminal activities;
- victims of the exploitation to which they might be subjected once they arrive in the country of destination, if they do arrive.

Their clandestine situation in the host country often deprives them of their civil, political and social rights and affects their human dignity. Furthermore, by enhancing national anxieties and xenophobic tendencies, the presence of clandestine immigrants also puts at risk the integration of regular immigrants and, indeed, social cohesion at large.

The European Court of Human Rights has on several occasions dealt with cases relating to asylum seekers, refugees or other migrants and with the compatibility of national admission and expulsion

procedures with certain provisions of the European Convention of Human Rights. Let me just recall a very recent case: *Boutlif vs Switzerland* of 2 August 2001, won by the claimant who had been refused a residence permit although he was married to a Swiss national.

Furthermore, the CPT, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment has visited several detention facilities for aliens deprived of their liberty under the national aliens legislation. It has published several critical reports about its findings, also regarding the conditions of administrative detention of asylum-seekers.

Last year - in the light of the increasing number of cases in our organisation's Member States in which forced expulsion was carried out with a shocking lack of respect for human dignity - the Council of Europe, jointly with the Office of the United National High Commissioner for Refugees, drew public attention to this painful subject. Equally, the Commissioner for Human Rights, Mr Gil Robles, strongly criticised that the methods used before and during deportation in certain cases violate human rights.

The first recommendation of the Commissioner for Human Rights deals with the rights of aliens wishing to enter a Council of Europe Member State and the enforcement of expulsion orders.

The Council of Europe Parliamentary Assembly with the Recommendation 1467 (2000) on clandestine immigration and the fight against traffickers stresses that European countries cannot at the same time increase their restrictions on immigration and reduce their overseas development assistance.

The recent Committee of Ministers' Recommendation on the security of residence of long-term migrants (Rec (2000)15), recommends that member States grant independent secure residence



status for the family members after five years of residence.

It also recommends that family members should be protected against expulsion or deportation based on death, divorce or desertion after three years at the latest. Article 8 of the European Convention on Human Rights, which guarantees the right to private and family life, places strict limits upon the expulsion or deportation of persons with established family or private life in a State. In the absence of any criminal activity, the case law of the European Court of Human Rights suggests that it will be hard for a host State to justify expulsion of a family member.

The Council of Europe Convention for the Legal Status of Migrant Workers is designed to supplement the protection afforded by the European Convention on Human Rights and the European Social Charter and it is based on the principle of equality of treatment between migrant workers and nationals of the host country. After some years in the shadow, the situation of migrant workers from Central and Eastern countries could shed a new light on the text and make it attractive to some of your countries. It is a step forward to European integration since it facilitates negotiations with EU countries. With the Convention on social security (ETS N° 78), it constitutes a 'package' of legal provisions that cover the social rights of the immigrant: residence and work permits, family reunion, housing, conditions of work, the transfer of savings, social security, social and medical assistance, expiry of the contract of employment, dismissal and re-employment, and preparation for return to the country of origin.

Obviously, the restrictions on lawful immigration introduced by European countries increase the recourse to the services of unscrupulous traffickers. Reinforced security measures and control mechanisms at the European borders to apprehend clandestine immigrants should

therefore be accompanied by intensified co-operation among States to effectively combat human trafficking. Only thus can this modern form of slavery be eradicated. Effective action is needed to counter the increasingly international dimension of trafficking, slavery and forced prostitution. It has also recently decided to launch the preparatory work for a Convention against Illicit Trafficking in Human Beings. The Council of Europe is determined to combat this plague.

The management of migration, legal or irregular, is a political challenge. Council of Europe strategy of migration management adopted in 2000 emphasises that the protection of individual human rights is the basis of management. It strongly supports measures to integrate foreign populations, while accepting that integration is a two-way process. At the heart of the strategy is the conviction that many of the migration problems now confronting governments have resulted from a piecemeal approach to specific problems, such as the economy, asylum, illegality or return. This approach is no longer sustainable. A management strategy should be regarded as a comprehensive whole, to be applied over the long term. Measures have to be applied as a complete package: failure to do so will only replicate the mistakes of the past where action in one direction has served only to create new problems from another. A proposal for a European Migration observatory is under active consideration as an instrument for implementing the strategy. The proposed observatory could have an important role to play as an instrument for

(a) observation (coordinating data collection on migratory flows, assessing challenges and trends in the field of migration) and analysis (common understanding and diagnosis of collected data),



- (b) communication and dialogue for partnership (sharing best practices on migration management, exchanging information on the admission regulations, including legal work possibilities),
- (c) action (developing common policy instruments, providing tools for estimating future migration), and
- (d) fund-raising (promoting investment in areas such as the Mediterranean region in favour of migrant populations).

The successful management of migratory flows requires that all parties concerned – including countries of origin, transit and destination, regional bodies, international organisations, and non-governmental organisations – join their efforts in creating a more positive international climate for the effective management of migratory flows.



IV. Address by His Beatitude,  
Archbishop Christodoulos of  
Athens and All Greece

First of all, allow me to welcome you all to our Country and to the Church of Athens and to express my regrets for not being able to be with you from the very beginning of today's Conference. Our Church today honours the memory of the Holy unmercenary Saints Cosmas and Damian, who were doctors and are called "unmercenary" because they offered their medical assistance to the ill free of charge. Duty summoned me to celebrate the Divine Liturgy at the Church of the "Gennematas" Hospital and then to address the doctors. It was for this reason that I asked the Abbot of the Sacred Monastery of Pendeli, His Grace, Bishop Ioannis of Thermopylae, to represent me and to convey my thanks to all those who have made this present Conference possible and to the speakers. I also wish to thank you personally for the readiness with which you accepted my invitation and for the personal contribution of each one of you towards the realisation of this Conference's purpose. This purpose was explained to you by His Grace, Bishop Ioannis, and there is no need for me to repeat it. Also, you were told that this Conference has been organised in view of the forthcoming assumption by Greece of the Presidency of the European Union and on the occasion of the convocation of the Fifteenth General Assembly of the Churches' Commission for Migrants in Europe here in Greece. This is the second General Assembly of CCME to be convened in Greece, the first being CCME's Seventh Assembly which was held at Pendeli Monastery in 1982. At that time the General Assembly was also preceded by a Special Conference dealing with a then contemporary issue: Greek Migrant workers returning home from Western Europe.

During the twenty years that have elapsed since then, many things have changed. Our country, together with other countries from the European South such as Italy, Spain and Portugal, has unexpectedly – and hence without preparation – changed from a country that was a reservoir and exporter of labour force into a country receiving immigrants, legal and irregular, and indeed in such great numbers as to make up from 8 to 10% of its population. According to the official statistics issued by the National Statistics Service, Greece's total population in 2000 was 10,964,020. Of these, 797,091 or 7.27% of the population was composed of foreigners. Unofficial figures provided by NGOs and the scientific community raises the alien population to 10%.

In its overwhelming majority this alien population was originally composed of irregular migrants (the mass media has established the term "illegal immigrants" to describe them), who lived in the shadows and on the margins of Greek Society and were absorbed by the shadow-economy, by those branches of the economy that are not strictly regulated, but also by Greek society at large. During the two great, praiseworthy and relatively successful opportunities offered by the Greek Government for regularisation, approximately 600,000 individuals responded. There is still, however, a significant alien population in our country, the size of which is difficult to estimate, that for various reasons was unable, or did not want, to take advantage of the opportunities provided, and continues to live in an irregular status. To these one must add all those who in tens and hundreds succeeded in illegally entering our Country from the North and the East and in bypassing the legal entry procedures. To a great extent these migrants, among whom should be included many who have the right to seek asylum, were forced to seek the services of "smugglers of misery" traffickers and

slave-traders, who, organised in international networks, carry on without any scruples, their new high profit, low risk occupation. It appears that these networks are successful for many reasons, since despite the strict control measures taken by the Schengen signatory countries, official estimates raise the number of illegal migrants entering the European Union each year to 500,000 in comparison to the 680,000 migrants who enter Europe legally. It is not an exaggeration for one to claim that today there is no country in the European Union that does not host irregular migrants. Europe today, appears to be living in a vicious circle: The stricter border controls become, the more the number of potential migrants or asylum seekers resorting to the services of the trafficking networks or the slave-traders increases. And the greater the number of migrants succeeding in bypassing the existing barriers and controls, the harsher the control-measures become. The victims in these circumstances are the real refugees who have difficulty and at times are even deprived of the opportunity to exercise their right to petition for asylum and protection - a basic right guaranteed them by international treaties; those who surrender their property and heirlooms and who indenture themselves, possibly for life, to slave-traders; and of course all those who lose their lives in their attempt to reach the Promised Land. During the past decade more than 3,000 such instances have been recorded in which lives were lost in attempting illegal entry into Europe, while no one can ascertain just how many such cases remain unrecorded.

Therefore it is in no way strange that the theme of today's Conference is the issue that today, in one way or another, takes up the attention of all of European Society. It engaged the attention of the Spanish Presidency; it occupies the attention of the present Danish Presidency, and it is most certain

to be bequeathed to, and to be seriously dealt with, by the Greek Presidency.

We of course are concerned with the matter as a Church. And as a Church it is our duty to remind those who draw up policies and determine the fate of people, of certain beliefs and values, upon which the spiritual history, the cultural identity and, as we would like to believe, the future of Europe are based. In this particular instance those values that concern us are: our perception of who man and what his society are, and our understanding and attitude towards the "stranger".

The Orthodox Church understands man to be created "in the image of God" and evaluates society on the basis of how close it approaches and conforms to the Church's ideal and model for it: the communion of Love between the Persons of the Holy Trinity. In this loving communion or society of persons there is no room for the usual barriers or prejudices based on sex, nationality, social status, financial situation or religious faith. The Apostle St. Paul in his Epistle to the Galatians (3,28) is quite explicit and categorical on this matter.

As concerns our stand or behaviour towards the stranger, we here in the Southeast corner of Europe are defined by a dual heritage: our legacy from Ancient Greece and that bequeathed to us by our Christian faith.

Greek civilization is famous for its behaviour toward the stranger and the asylum seeker, and its understanding of hospitality and asylum. The stranger is a friend and the asylum seeker or "suppliant" a sacred person. The stranger or *xenos* is protected by "xenos i.e hospitable Zeus" and the asylum seeker or "hiketes" by "hikesios Zeus" or "Zeus protector of suppliants and receiver of supplications". The sacredness of the stranger was further strengthened by the ancient Greek belief that the gods often



wandered through the cities in the form of a stranger in order to discern for themselves in which of these just administration and piety held sway and in which of these “hybris” and impiety were dominant. Law even foresaw the persecution of those citizens who dared to transgress the sacred obligation of hospitality and asylum: hence the well known “court trials for bad hospitality”. Our Christian heritage is even more radical. Christ was born as a refugee, He lived as a stranger, and He taught us, through His Parable of the Good Samaritan, to love our neighbour, who is identified with the stranger. He assured us, through His description of the Last Judgment, that our stand towards the stranger is of decisive importance in determining our justification and salvation. In Christianity the stranger is not merely placed under God’s protection, as was the case in the ancient Greek religion where he was entrusted to the care of “hospitable Zeus”: in Christianity God Himself is identified with the person of the stranger! “I was a stranger and you welcomed me” (Matthew 25,35); “as you did it to one of the least of these, my brethren, you did it to me” (Matth. 25,40). And Christ of course makes no distinctions in His definition of a stranger. A stranger, one’s neighbour, is not only one’s co-religionist or one who shares the same blood; neither is he only a compatriot, one who shares a similar ideology, or someone with whom he is “familiar”; he could also be one who is totally different from us: one who confesses different religious beliefs and belongs to a different faith, adheres to a different ideology, has a different skin colour and is of a different nationality. Towards all these, a Christian owes respect for their persons, acceptance of their diversity, and acknowledgment of their equal honour and worth. For, as an anonymous commentator on Leviticus (19, 33-34) states: The Christian faith does not allow a man to be disparaged or

dishonoured because of his origin, but rather insists that he be honoured because of his human nature. Christians should never forget the words of Christ, that we are not His only “sheep”, and that there are others, which “are not of this fold” (John 10,16), and therefore it is quite possible and natural that they may be different from us.

These principles and values are extremely important for us in carrying on our diaconia towards migrants and refugees, especially today, when our societies and political parties quarrel over which migration policies are to be currently implemented, especially after the tragic events of September 11 and in view of the increasing problem of international terrorism. Those responsible for our security and our freedom, have, in their efforts to combat terrorism, international organised crime, trafficking, sexual and other abuses of women and children - crimes that have to be combated and, if possible, eliminated - turned their attention mainly to imposing controlling measures and restrictions. Without having any intention to contravene in the distinctive roles between Church and State, please allow us simply to refer to our experiences from the exercise of our diaconia: This experience is teaching us that the present policy of “zero migration” and of closed borders, can neither combat the causes of migration nor limit migration as a social phenomenon per se. Present policies have contributed to changing migration into “illegal migration” and have provided ground for the appearance and activities of traffickers. They have rendered the migrants more vulnerable and have pushed them into the nets of international organised crime. They have cultivated among our fellow citizens the misconception that every migrant is a criminal, thereby fostering feelings of xenophobia and racism - fortunately for our country without violent racist acts. Present policies threaten the social

cohesion of our societies and develop a class of people who are condemned to live in its shadow, who have no opportunities to exercise their human rights, and who day by day see their human dignity deteriorating, their hopes for improving their lives through migration failing, and the migratory path upon which they embarked in order to fulfil their life's hopes and dreams and to live in a civilized and Christian Europe and participate in the valuable goods of freedom, equality and justice, terminating at the police detention centres.

- Since I am quite sure that nobody is happy with this situation, and even more so those who are involved in making decisions concerning such policy and especially those who are obliged to implement it;
- Since all these restrictive measures place all of us who labour within the Church before dilemmas and lead us into a conflict of duties, for our faith obliges us to offer help to all those in need, and consequently to illegal migrants also; by so doing, however, we violate the law. Thus, our duty to God which, for us who believe, cannot be negotiated, and our duty to respect the law as law-abiding citizens, as we also wish to be, come into conflict.
- Lastly, since we desire to live in a society that guarantees and offers the preconditions for a peaceful and secure life:

I should like to, as a Church Leader, put before the Greek Government two requests, to which our Church attaches

great importance, with the appeal that, should it consider it to be expedient, it promote them during the Greek Presidency, which Presidency I pray will be successful as far as this is possible, given the existing political climate and tensions at present in Europe.

The first request is that the Greek Presidency bring about a balance in European policy on immigration and asylum. By so requesting it is not our intention to underestimate or dispute the expediency and the usefulness of border controls. We agree that the European Union should be in a position to control the inflow of migrants. We understand that the Council is justified in considering the effective control of its external borders to be of paramount importance. We share its concerns over the increase in



human trafficking and organised crime, causing many to lose their lives and leading many more to dependency and to new forms of slavery. We interpret the fact that at Laeken and

Seville the Council of Europe focused its attention and interest chiefly on the combating of illegal immigration and human trafficking in order to give further impetus to the creation of a space for freedom, security and justice in Europe. It is precisely for this reason that we would like to see Europe follow a more comprehensive, realistic and integrated immigration policy. A policy that does not lose sight of the causes that force people to abandon their homes, friends and family and to flee in search of safety for their lives and a way in which to secure the basic needs for their survival in



foreign, and sometimes, inhospitable countries. A policy that doesn't neglect the obligation to provide social and economic integration, to guarantee basic rights and to ensure psychological balance and well-being for those migrants from countries of the Third World who already reside in the European Union. A policy finally, that takes into consideration the fact that at this very moment there are hundreds of thousands of immigrants who are scattered throughout every country in the European Union and live under a status described by law as being illegal. As a Church we believe that it is both possible and necessary that the European Union find an opportunity to ensure that these people finally gain the right to live with dignity and honour like free and law-abiding citizens in a free and justly governed country. The common immigration policy of Europe now being shaped should be worthy of the cultural and Christian history of our continent, a continent that pioneered in the formation of spiritual civilization and provided the world with the definition and the value of humanism. It should also agree with the vision that we all have for the future of Europe.

The second request is related to the subject currently being discussed regarding the reunion of the families of immigrants from third countries legally residing in the European Union. For us as a Church, the family is of central significance because it is the cradle of life. Moreover, our society, like other societies of the European South and of the Balkans, attaches great significance to the institution and to the life of the family. For the migrant, the presence of his family has tremendous significance. It is considered his moral support and possibly the only effective measure for preventing possible undisciplined behaviour. Even more important is the reunion of families, especially when there are children. Adults have the maturity and strength to suppress their feelings and wait. The

same does not hold true for little children. A great responsibility weighs upon the lawmaker when he decides, for example, that a minor child must wait five years - a quarter of his childhood - before he can be reunited with his family and once again live with his parents. The Integration Centre for Migrant Workers (KSPM) of our Church has faced many family dramas and situations where serious psychological wounds had been inflicted upon families of Greek migrants from Germany when circumstances necessitated that the children be separated from their parents. Many of these wounds have never healed. Our request is that the waiting period for children be reduced as much as acceptably possible.

Allow me to finish with a more general appeal. We are discussing the issue of emigration at a time when sustained unemployment, social and economic exclusion, poverty and organised crime are terrifying the societies of Europe and evoking every kind of racist and xenophobic reaction against foreigners. Even in countries, such as ours, noted for their hospitable feelings, disturbing elements of xenophobic reaction are making their appearance. Our cultural heritage imposes upon us the obligation to provide an effective legal and institutional framework for protecting the fundamental rights of foreigners. However, the legal and institutional regulations, no matter how significant they might be for the foreigners' integration into society, are but only one of the presuppositions and factors for integration. For the effective combating of discrimination against foreigners and for their dynamic social-economic incorporation into the society in which they have chosen to live, beyond legal measures the broad consent, agreement and co-operation of civil society are also necessary. The local self-government, the social partners, the non-governmental organisations, the initiative of the citizens

and most especially the church parishes should join together in a common effort and in a harmonious but also critical collaboration with the institutional organs of the State and of the European Union, in order to withstand the various forms of

emerging racism and to contribute to the creation of those presuppositions necessary for the decent and creative integration of foreigners, from which our society will certainly benefit.

Thank you.



## V. Churches facing the phenomenon of irregular migration in Europe

Mrs Doris Peschke, General Secretary of CCME

Your Beatitude, Your Excellencies, Ladies and Gentlemen, Dear Friends,

Let me first of all express our sincere gratitude to the Church of Greece as well as to the Ministers of Home Affairs, Public Order and Culture of Greece, to host and sponsor this conference at the opening of the 15<sup>th</sup> General Assembly of the Churches' Commission for Migrants in Europe. For us this is an important event, as we have a privileged opportunity to discuss important aspects of the European Migration and Asylum agenda with the upcoming Greek Presidency of the European Union. And, as churches, to express our high expectations for further achievements in the process of European harmonisation of migration and asylum related legislation.

Greece, as the other Mediterranean EU Member States, is struggling with the phenomenon of irregular migration, particularly with the arrival of boat people. It is only one year ago, that the European Commission has issued its Communication a Common Policy on Illegal Immigration. Since then, however, the Action Programme to Combat Illegal Immigration proposed by the Spanish Presidency was already adopted in February 2002.

### a) Irregular Migration

The phenomenon of irregular migration is old and new at the same time. However, irregular migration has dramatically increased over the past decade. In many countries in Europe, churches and their social services are living up to this relatively new challenge, assisting persons in need with medical and social

care, counselling and advice. However, due to very strict immigration rules in Europe, it has become increasingly difficult to find adequate solutions.

### b) Causes of irregular migration

The root causes forcing migrants to leave their home are manifold: War and conflict, political, ethnic or religious persecution, poverty and unemployment as well as natural disasters, droughts or lack of clean water. While this is widely known and acknowledged, international protection is so far mainly granted on the grounds of political persecution, temporarily in cases of war and to a lesser extent in cases of conflict within a country, or when persons have to fear torture or death penalty in their country of origin.

The phenomenon in itself is not new: In European history one can note remarkable migratory movements arising from similar reasons as from other regions today. Hunger and starvation led thousands of people to look for a brighter future in the Americas or in the former colonies in Africa and Asia. Religious persecution was the reason for large relocations within Europe. Political persecution and wars led to thousands of people of European origin now scattered across the globe. Many used means which would be regarded as illegal today, some used even criminal means.

It is against this background that we plead that migration, even if regarded as irregular, is looked at with more passion and sympathy for the persons looking for a better life. We hold the position that migration and looking for a better life is not a crime.

Irregular migrants do not see – and often do not have – a possibility for legal entry and residence in European countries. On the other hand, they do hope for an improvement of their lives when they leave. Often they have heard of others from their region, who are supposed “to



have made it". As for migration generally, the root causes are similar: unemployment and poverty, conflicts and war, political persecution.

Irregular migrants often enter legally, but then continue to stay without appropriate permits. Sometimes this is due to a lack of knowledge of legal requirements, more often it is due to the recognition that, if they applied for an extension of the permit, they would be deported.

Countries North and South of the Mediterranean Sea are transit countries as well as destinations. With the stipulations of the Schengen and Dublin Conventions, Portugal, Spain, France, Italy and Greece are required to take responsibility for these persons as they enter their territory. In order not to provide additional incentives, however, they, like also Austria and the Netherlands, have introduced not only border control measures, but also reduced health and social benefits to potential asylum seekers. As a consequence, irregular migrants, even if eligible for refugee status, are deterred from applying for asylum and feel better off as undocumented. The longer they wait, the more likely it becomes that their asylum application will be disregarded. Here we have a vicious circle leaving many refugees in the orbit.

#### c) Smuggling and trafficking

Due to stricter border controls, and for many almost impossible requirements to be met when applying for a regular visa, more and more persons turn to organisations smuggling and trafficking in human beings. The stricter the controls become, the more the price for the journey increases. Not only do persons pay large amounts of money to cross borders, they also risk their lives. Hidden in lorries or boats not equipped for transporting human beings, large groups of persons are carried across borders, and

left by smugglers and traffickers, if controls approach.

In the case of the Mediterranean Sea, boats and ferries are probably the main carriers. When coast guards arrive, persons are simply thrown into the sea. Many have lost their lives over the past years; in the past few weeks, Italy and Greece witness again an increase in deaths at their shores. These deaths from time to time hit the headlines in news, but more often they occur without an outcry. Particularly coast guards, but also other border guards, are placed in a dilemma: They have to implement the strict visa and immigration policy, which means rejecting as many persons as possible. On the other hand, they have to save the lives of persons. For this position, high qualifications and specific training and counselling would be needed, but this is not yet the rule, it is rather the exception.

#### d) Illegal employment

Even if wages in illegal employment are low, for many persons fleeing from poverty they seem high, partly also because no taxes and social security are paid. Employers exploit this opportunity to employ cheap labour and save social security costs. This is detrimental to both, the social security system and the states' income through taxes. In addition, particularly in regions with high unemployment rates, this situation creates problems with local communities. Studies by the International Labour Organisation ILO indicate the paradox situation: The demand for cheap labour is met by irregular migrants, states in their endeavour to regulate and control migration, make it increasingly difficult to meet this demand. Therefore, smugglers and traffickers exploit this labour market demand. And indeed, the majority of irregular migrants do find employment in Europe. Therefore we might have to



address the market mechanisms, if we want to find the right solutions for regulating migration, rather than focussing solely on visa requirements. The ILO thus encourages a programme for decent employment as a means to address these issues.

e) New slavery

Persons who resorted to trafficking organisations as a means to flee, children who were sold to trafficking organisations, or women attracted by false promises of a bright future, often find themselves in desperate situations. Traffickers keep them in total dependence, often also threatening the family in the country of origin. Many women and children are sold into prostitution, but also as domestic servants, offered as potential wives in catalogues, or forced to work on building sites, restaurants and sometimes rather dangerous industries. They are kept in locked rooms and houses, beaten, raped and maltreated. They live in constant fear and despair.

Persons in such desperate situations do not turn to public authorities or police for several reasons: The most important is certainly the threat by traffickers to retaliate on them or their families. Another reason is the fear to meet corrupted officials; this fear might be rooted in experience in their home country, as well as sometimes in the present country of residence.

Apparently, new slave traders even hold markets displaying their "goods", even offering a "guarantee", if the person is not satisfied, he or she may return the person and get an other one.

f) Criminality

While the majority of irregular migrants have only committed the offence to enter illegally, there are some who are used by traffickers for criminal activities. This

ranges from drug and arms trafficking to stealing and shoplifting using children.

Trafficking organisations are well-organised criminal organisations. As trafficking has become a profitable business, profits are now exceeding drug trafficking, assisting victims of trafficking has become dangerous as well. Traffickers regard the persons as their property, and any interference is penalised.

g) Recommendations:

1. Presently the main focus to deal with irregular migration is stricter border control as well as stricter visa requirements. This has contributed to increasing the price for irregular entry. To reduce the possibility of making profits, we would like to encourage exploring alternatives, like easier and transparent access to visa, also short-term for the purpose of seasonal employment. A coordinated European immigration policy with profound information on legal job opportunities in various European countries and at all levels of skills could also contribute to reduce irregular migration.
2. Access to Europe, particularly the European Union should be reviewed. While we are aware of the security aspects, which need to be observed, in many situations visa requirements for family and friends of third country nationals are almost impossible to be met (financial guarantees, personal guarantees, insurances). If these requirements could be made in a more transparent manner and with a possibility to be fulfilled, a fewer number of persons would turn to irregular migration.
3. Particularly for refugees fleeing from persecution, fulfilling visa requirements is extremely difficult. UNHCR has pointed to the fact that quite a large number of refugees had

to resort to traffickers and smugglers to leave situations of high risk and danger. It is therefore of importance to ensure that the asylum system is able to identify refugees and provide necessary protection.

4. Fundamental human rights must be guaranteed for every person regardless of the status. This implies emergency health treatment, a right to education for children and the right to shelter and food.
5. To free persons from slavery, they need to be guaranteed rights. As long as persons have to fear detention and deportation, or worse even retaliation on their family, they will remain dependent on traffickers. We would welcome specific programmes of assistance and protection for victims of trafficking organisations. As traffickers work internationally, protection must be organised internationally as well.
6. Trafficking is only possible with a certain amount of corruption. It is therefore important to address this problem appropriately and at the various levels. Transparent immigration procedures would help to identify arbitrary decisions. If guaranteed protection, victims of traffickers might be ready and willing to assist in uncovering the criminal networks.
7. Particularly for women and children who have become victims of trafficking specific programmes of assistance are required. Education and training are most suitable to help, but also counselling and psychological therapy will be necessary to overcome the traumas of violence and incarceration.
8. Slave trade must be banned and legislation be developed which punishes slave traders. This is not the

case yet in all EU member states, although slavery is prohibited.

9. Humanitarian organisations assisting victims of traffickers and irregular migrants in difficult situations ought not be criminalized and penalised for doing so. We are extremely worried that in recent decisions of the EU on facilitating illegal entry and residence exemptions for humanitarian organisations providing assistance are not considered appropriately and remain optional. The same applies to the measures against trafficking in human beings. While we do agree with the principles to fight trafficking in human beings, there is an urgent need to protect the victims as well as those who help them for humanitarian reasons.
10. Particularly for the Mediterranean region, we would welcome if cooperation programmes would also provide for training and repatriation programmes in various countries. The churches in the Southern European countries and in the Middle East have for some years entered an exchange on the problems of migration and asylum. They would be more than willing to enter a deeper cooperation in these fields, providing information and assistance to migrants and refugees. But they lack the means to enter into needed longer-term projects of e.g. training and offering employment.
11. We are convinced that it will be important to inform a broader public including employers on these issues. The majority of irregular migrants is working in Europe. Most of them are working hard and do a good job. A large number of Europeans are employing domestic workers as well as workers on building sites, renovating houses etc. While we are aware of the difficult balance, which is to be kept and discussed with social

partners, we think that some possibilities and conditions for low-income jobs need to be reviewed in consultation with social partners and migrants' organisations as well as humanitarian NGOs.

12. For persons who have regularly worked and lived for several years in a European country, we would welcome regularisation programmes. For victims of trafficking this option should be considered from the beginning in order to avoid double penalty through immigration regulations. We are aware of the difficulties involved, however, we feel that no person should be criminalized only for the desire to migrate and look for a better life.
13. In this context we would welcome if the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families were ratified by European states. We believe this Convention to be an important tool to guarantee rights and respect for all migrants. The Council of Europe already in 1994 asked member states to sign this Convention.
14. With regard to countries of origin and transit, cooperation and possible agreements on migration (and not only on readmission, as presently envisaged by the EU!) may prove successful. Seeing migration as a global phenomenon, such agreements should contain rights and obligations of all migrants, as well as bilateral agreements on visa, recruitment procedures, migration information and counselling services. A prerequisite on this is however that a common, comprehensive and transparent European immigration policy is developed.

h) Possible Action:

1. Christian organisations have supported the idea of a European Observatory on Migration, which would include analysis and possibly pilot projects. The setting up of a network by the European Union could be a first step towards a more comprehensive Monitoring System. However, we would welcome if this could be linked to the European Labour market information system EURES, to make these services available beyond the EU.
2. Migration Counselling in countries of origin may be more efficient than dissuasion counselling which is the aim of information campaigns, which have failed in many instances. Churches are willing to contribute expertise in comprehensive personal emigration counselling as well as to employ an existing international network. But churches cannot do this alone, they need cooperation with and support by governments and social partners as well.
3. Social, medical and counselling services provided by churches and other welfare organisations must not be criminalized if they extend their services to irregular migrants. Consideration could be given to the establishment of joint committees of immigration officials and NGOs to find possible solutions for migrants in irregular situations. Social, medical and counselling services must be granted the right to treat cases anonymously as this lays the basis of confidence and trust.
4. Fighting trafficking needs to target the criminal organisations, not the persons smuggled and trafficked. In this direction we welcome the willingness for cooperation as expressed at the recent STOP conference on trafficking. We hope that also the legal

framework will take these aspects into account by granting protection to victims of trafficking and a speedy agreement on the draft directive on short-term residence permits for victims of trafficking and smuggling as a first step.

5. Regularisation needs to be seen as a necessary option and not be ruled out as in the EU Action Programme against Illegal Immigration, at least as long as there is no European immigration procedure in place. We are convinced that regularisation would prove beneficial as the result would be that less people are in hiding without any official knowledge. This would also reduce the existing grey zone of insecurity for both the individual and the society.

For churches, every human being is first of all God's creation. We know that similar convictions are shared by other religions. Therefore the dignity of persons must be respected and assistance to persons in need be granted irrespective of their status, origin or belief. These principles are deeply founded in biblical convictions, which we believe are of benefit to the society at large, and to finding ways of living together in community.



## VI. Irregular migration in the case of Greece

Mrs Maria Papantoniou, KSPM , Greece,

### a) Greece turning into an immigration country

Greece turned into an immigration country, all suddenly and all unexpectedly, in the beginnings of 1990, through the influx of a large number of migrants originating from the countries of the ex-socialist bloc. Until then the number of immigrants on its soil was insignificant, about 30.000 legal immigrants and an estimated equivalent number for undocumented. At the end of the decade of the eighties had already started to arrive, in a refugee like situation, people from the Balkan countries fleeing the socialist regimes under collapse. The big change, however, occurred with the coming of Albanians in 1990-1991 that rendered Greece in no time the country in Europe with the largest number of irregulars and the country with the highest proportion of immigrants relative to total population.

For a long time the dominant character of immigration in Greece was that it constituted principally an illegal migration. Until 1998 that regularisation campaigns started to be implemented, the number of legal immigrants never exceeded the figure mentioned above of 30.000.

Concerning the number of irregular migrants, no exact figures are available. There are, however, estimates which differ both on the basis of the source and on the basis of the period to which they refer as there is an intense fluctuation of irregular immigrants due to various reasons.. The official estimates for 1991 provide figures ranging from 250.000-400.000 (Greek Parliament 1991). In 1994 the number put forward was that of

600.000 (Greek Parliament 1994). For the years 1995-1997, all the estimates put forward ranged between 600.000-800.000. On the eve of regularization, that is the end of 1997, the estimates ranged between 800.000 and almost 1.000.000, that is around 10% of the Greek population.

The majority of undocumented migrants originate from the Balkan countries and the republics of former USSR, the dominant nationality being that of Albanians. In Greece, however, arrive people from all over the world, but in lesser numbers. Most of the non-Europeans come from Southern Asia and Middle East, fewer come from Africa. The most numerous ethnic groups are that of Kurds, followed by Pakistanis, Afghans, Bengalese, Indians, Iraqis, Iranians and others. Some of the people belonging to these nationalities arrive as asylum seekers.

### b) The dynamics of irregular immigration in Greece

Though unplanned and uninvited, immigration in Greece grew very quickly to become indispensable both for economy and society. At the same time it was ruled by a very strict alien's legislation. This produces both a contradictory and a confusing situation, as while the Greek society and the irregular immigrants had adjusted to the situation, legislation and its compliance to the to the EU regulations produce insecurity. The tension between these two poles determined to a great extent the situation in relation to immigration in Greece and the condition of the irregular immigrant.

In this framework a number of additional factors, having to do as much with the attitudes of immigrants as with characteristics and reactions of society, are shaping the situation. Without being exhaustive I would like to mention the

following factors that will be taken up in the analysis that follows:

From the side of the immigrants:

- Strong desire to come to Greece under what ever conditions
- Openness towards the receiving society
- Desire to become participants of the cultural and material goods of the western world
- Desire to remain for the next future in Greece, even to establish themselves in Greece

From the side of the Greek society:

- Absence of previous experience with immigrant workers and consequently initially relative freedom from preconceived ideas
- At a later stage development of xenophobic tendencies
- The typical for the Southern countries flexibility concerning the application of rules

c) Conditions of emigration and predispositions towards the western world.

The years following the fall of socialist regimes were the years of a completely spontaneous rushing towards Greece of people that had experienced oppression and were fleeing towards the western world that represented for them freedom and prosperity. The imagery that they had developed about the western world contributed to an attitude of openness towards the receiving society and a willingness to participate to it. These characteristics were more prominent among Albanians, as they were coming from the most isolated and most backward country. Economic and to a certain extent social chaos in their home countries, resulting from the attempt to be rapidly integrated into the free market

economy, sustained these emigration flows.

This migratory context, totally different from the context in which the migration of the sixties has taken place, explains partly the radically different attitudes of immigrants towards the culture and society of the receiving country. In contrast to migrants of the sixties who aspired to employment and to economic improvement but who insisted in remaining foreign to the culture of the country they immigrated, new migrants very frequently show the desire not just to migrate to an other country and find a job, but to migrate to an other world. Inevitably they were deceived, both because the image they had created about this world was right from the beginning illusory, and because their status of irregular migrants did not allow them to have access either to the rights and the freedoms they had opted or to opportunities of an improvement of their situation in the way they had imagined. Despite disillusionment their attitude remained one of openness and they proved particularly adaptable and quick learners. They covered in a very short time span all the distance covered from one generation to the next in the frame of the previous migratory waves.

Concerning immigrants from the other continents, they constitute, as is evident, a very heterogeneous group. The conditions of emigration are different and their aspirations too. Nevertheless, due to the globalisation process through which cultural patterns are being diffused to every corner of the world, while the access to the advertised goods remains restricted to only a privileged minority, a certain convergence of aspirations is to be observed, and there are people from even the most remote countries, coming to the west hoping to have access not only to material goods but also to education, freedom and social justice.

d) Crossing the borders under whatever conditions

Emigrants from the Balkan countries and the Republics of ex-USSR enter Greece from its northern borders. Migrants from the other continents come through the Greek-Turkish sea or land borders and are more heavily dependent on smugglers and traffickers. Whatever the entry point or the method used, passing the borders is a very hazardous operation and becomes increasingly so as the controls become stricter. The number of deaths is important, but only part of them becomes known.

Even if migrants manage to enter Greece unnoticed and evade immediate deportation, their irregular situation keeps them liable to deportation at any moment of their stay in Greece. Nevertheless, at whatever moment or under whatever conditions their deportation takes place, in their overwhelming majority they will attempt to enter Greece again. For those depending on traffickers, each time will be increasingly dangerous and the dependence on them will become more absolute. They will be taken advantage of and exploited in different ways, as for example asked to undertake illegal activities for the benefit of traffickers; the most frequent being to carry for them small quantities of drugs. Their situation is thus aggravated as they risk not only being deported again, but also ending up in prison for actions for which they bear no responsibility. Nothing, however, will stop migrants who will try again and again even if they have to go through the same ordeals.

The hypothesis that migrants are lured by traffickers and that, if they knew about the hardships in arriving and the difficulties to be met in the receiving country, they would not undertake the trip is not substantiated by the stories of migrants themselves. Whatever the difficulties, whatever the disillusionment,

migrants will lower their expectations, but will not stop trying.

e) The encounter with Greek society

Immigration: a fresh experience

Greece did not have any previous experience with immigration, did not have a colonialist past and the encounter with immigrants was a fresh experience, relatively free of preconceived ideas. Though not completely, because in some periods of the recent history, conflicts and wars contributed in that Albania and Bulgaria were perceived as a potential danger to the territorial integrity of Greece. The actual development of good relations with these neighbour countries seems not to have completely changed the attitudes of a small fraction of the population.

The absence of previous experience with immigration led in the attitudes towards immigrants being initially rather positive. Indeed in the beginnings immigrants were welcomed in the rural areas where the farmers appreciated this unexpected offer of cheap labour at a time of a serious shortage of labour in the agricultural sector. Immigrants on their side were pleased to have an opportunity to earn some wages and be offered food and shelter. Some settled down in the villages, became part of the local life and developed good relations with the inhabitants. Things have been more difficult in the cities, all particularly in the early days when there were no relatives or friends to receive them, and in the absence of any receiving structures and services. The only reception available was that provided by other compatriots organized to exploit them, using them for illicit activities in exchange for the offer of basic services, such as a place to spend the night, protection from police, mediation

with employers.<sup>1</sup> Things, however improved progressively as employers started to value the work of migrants and recommend them to further employers or offered them more permanent jobs. It is worth mentioning that good relations with employers took in some cases a paternalistic character -reminiscent of the old times in Greece- as the irregular migrant was very vulnerable and the employer had to take complete care of him. The other aspect is of course the exploitation of immigrants, through taking advantage of their cheap labour, exploitation that some times took extreme forms such as employers denouncing migrants to the police to be deported in order not to pay due wages.

#### Negative developments

Various forces in action progressively shaped the attitudes produced spontaneously through the contact with immigrants. Among these factors were the official discourse that treated immigration in a xenophobic way using immigrants as scapegoats for all that went wrong in the Greek society; the rapid increase of unemployment in Greece, that put Greek people on the defensive together with the fear that foreigners will become antagonistic to Greeks to the access of scarce social goods. In the middle of nineties the mass media emerged as a very significant factor in shaping a negative public opinion towards migrants. This is the period of criminalization of foreigners and mass media has played a major role in that. The criminalisation of foreigners and the equation of the irregular immigrant with the criminal is the major xenophobic act in Greece and the most detrimental for the situation of irregular migrant.

To this criminalisation has contributed an unfortunate coincidence: by the middle nineties the number of immigrants had very much increased, while during the same period crime in Greek society was on the increase too. In the consciousness of people these two phenomena have been associated. The fact that the crimes committed by of migrants consisted mainly in 'street crimes' that is the most visible type of crime, as well as the most directly affecting the individual citizen, had a contribution. It is mainly, however, through the sensationalism of the mass media that presented an exaggerated and distorted picture of any offence committed by a foreigner and which searched for a foreigner, an Albanian in particular, behind any crime, that this association developed and the criminalisation of foreigners was initiated. According to the results of a research we conducted at that period, the criminality rate of foreigners was lower than that of the total population<sup>2</sup>. In any way whatever the actual criminality of foreigners what remains true is that the criminalization of foreigners goes far beyond their effective criminality.

Criminality and criminalisation cultivated a feeling of loss of security among the population. The common man felt that the time that he could walk in the streets at night without fear and leave his house open had come to a close. Under the impact of a changing situation and under the influence of the mass media a moral panic arose among the population and a rapid increase of xenophobia and racism occurred. A specific outcome has been the construction of the 'dangerous Albanian'

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<sup>1</sup> Psimmenos, I. 1995. Immigration from the Balkans: Social exclusion in Athens, Athens: Glory Book-Papazissis.

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<sup>2</sup> Papantoniou A., Maria Papantoniou Frangouli and Artemis Kalavanou (1996). "Illegal migration in Greece and the problem of crime". Research Report in the frame of TSER Programme Athens 1998.



stereotype described by Vassilis Karydis<sup>1</sup> which has been haunting Albanians ever since. The repercussions were not only practical, the life of Albanians in Greece having become much harder, but they also felt deeply hurt having continuously to apologise for being Albanians and having to prove that they are not criminals.

Thus we have the constructed image of foreigners superimposing itself on the spontaneous one, signalling in that way

the end of a period of peaceful co-existence between Greeks and foreigners. On the one hand we have an expansion of the group of xenophobic-racist Greeks that increased in numbers and on the other the spreading of a diffuse fear among the population at large. As, however, a large part of the population had pre-existing good relations with illegal Albanians the interesting concept appeared that of 'our own Albanians' in distinction to the unknown 'dangerous Albanian', the one that is hanging around and we do not know who he is. Thus after 1977 many villages in a xenophobic outrage close themselves to the newly arrived Albanians, or use them during the day for work, but force them to stay secluded, after dark, while their 'own Albanians' circulate freely in the village.

f) Greek society bending the rules  
What rendered possible for an irregular migrant to survive in the absolute negation of his rights and even start a process of integration is that Greek people and Greek society keep a 'flexible' relation with the rules and believe that the laws can be bent particularly if it is for a good purpose.

Thus while the alien's law penalises the offer of any services to irregular migrants

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<sup>1</sup> Karydis, V. The fear of crime in Athens and the construction of the 'dangerous Albanian' stereotype. *Chroniques*, V 5: p. 97-104

by the public but also the private sector, individual employees, but also organisations and institutions, have systematically offered their services to irregular immigrants. The most extraordinary example is that of public hospitals: While immigrants were refused by the law the right to health care -with the exception of emergency cases- the hospitals have offered widely their services to irregular immigrants to the point that in certain hospitals foreigners

<sup>2</sup>  
This

constituted the majority of patients is an aspect that has not received the required attention in the discussion about the situation of immigrants in Greece, and which comes to moderate the otherwise gloomy picture of the way irregular immigrants have been treated in Greece. Another example is that relating to the schooling of the children. The only right ever accorded to irregular immigrants has been the right to enrol to school, and this only for restricted periods. In the periods that this right was taken back, school directors usually continued to enrol the children of undocumented migrants

In the first place, however, it is the existence of an extended 'informal' sector in economy that has made possible for such a large number of irregular migrants to remain in Greece. Of course, employment in the underground economy is not the best kind of employment. Thus irregular immigrants employment is characterised by a frequent turn over, with waiting periods in between the jobs, sporadic employment, bad pay, difficult working conditions, positioning at the bottom of the job hierarchy, non recognition of their professional

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<sup>2</sup> This offer of services to irregular migrants came to an end through the circular of the Ministry of Health and Welfare issued in July 2000 that clearly prohibited public hospitals to accept illegal migrants. This circular demanded that police is informed about all illegal migrants that registered to the hospitals.

qualifications and complete exposure to exploitation.

This possibility for things to happen at the margin of the law is for the better and for the worse for migrants and frequently profitable for the Greek people too.

g) The irregular immigrant and the law

Migrants are subjected to a very strict legislation. Since the massive arrival of irregular immigrants two laws have been voted, both are of a very restrictive character, recognising no rights so ever for the irregular immigrants<sup>1</sup>, not even the basic rights guaranteed by the constitution.

The mere presence of the irregular migrant in the Greek territory constitutes, according to the alien's laws, an infraction of the criminal code. This renders them liable to be deported or to stand trial and be sentenced to imprisonment. The other facet of the relationship of the immigrant to the law is that he cannot resort to the law for protection. He cannot denounce an exploitative employer, not even go to the police to lay charges for a criminal act against him, in the fear that his quality of irregular migrant will be discovered and he will be deported. If these negative effects of his illegal status are frequently moderated by the flexible application of the law by the institutions and if the contacts he has developed with Greek people might provide a certain protection to him, he remains dependent on and exposed to the dispositions of others, unable to be his own master.

However, while the law was very strict, it was not always strictly and consistently enforced. It seems that this alien's law was conceived mainly as an arsenal to

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<sup>1</sup> The first is the alien's law 1975/91, the second the alien's law 2910/2001

which the state could have recourse, whenever required. Depending each time on the interests of the state the law was either imposed or not and deportations were intensified or suspended. It was also applied in a discriminatory way, Albanians being the most frequent victims. Thus the condition of the irregular immigrants through all these years is that of living under the threat of deportations; of being frequently deported and finding ways to come back; and of being allowed in the in between periods to live and work in Greece. This situation has been very destabilizing for the immigrants who are not able to make plans for the future, not even plans for the next day. They were forced to live in a continuous precariousness in an environment in the frame of which everything is possible and nothing could be foreseen. Under this incoherent situation a correspondingly incoherent behaviour could be easily understood on behalf of the migrants, in their effort to secure what has been denied to them.

h) The contribution of irregular immigrants

As mentioned in the beginning the condition of irregular immigrants is defined by the tension between a strict and prohibiting law and the contribution of immigrants to Greek society and economy.

Immigrants very quickly became a constant in Greek society; it was not any more possible to imagine Greece without them. If they suddenly disappeared this would be very destabilising. This is particularly true for economy, as they soon became a structural element of it. In general they took over jobs, that the Greek labour force refused, rendering possible the continuation of certain economic activities. Some sectors grew to depend heavily on them: In the agricultural sector they collected the crops and undertook a number of other works in

agriculture and animal husbandry that would remain undone, as they were unprofitable under the conditions of work of the Greek labour power. In the production sector most valuable has been their contribution in rendering viable, through their cheap labour, small enterprises, that are particular important for Greek economy. The competition with Greek workers remains low and can be traced in few sectors only, such as the construction sector. On the contrary it is estimated that they had contributed at the expansion of economy thus creating new opportunities for employment from which Greeks were also to profit<sup>1</sup>.

For the inhabitants of the cities irregular migrants filled in a very important economic, but also social function, through engaging in domestic work, particularly the caring of the children and the elderly. In the case of elderly the availability of foreigners contributes to the improvement of their quality of life, as in the total absence of services for the elderly in Greece, the only alternative for them would be to an old peoples home. This contribution of irregular migrants has been tacitly accepted all through the years and has protected immigrants from the rigid enforcement of the strict provisions of the alien's laws. It is, however, only in 1996-1997 that Greek authorities openly recognised the significance of irregular migrants for the Greek labour market and economy. This is also the period that the official discourse changes and becomes positive towards immigrants.

i) Between irregularity and legal status

By the time of the implementation of the first regularisation campaign in 1998, immigrants, despite the adverse

conditions, had already settled down to a considerable extent. The picture of irregular migrants was not any more that of mainly young males, or women that had come alone to work, but of couples, that had brought also their children in need to be educated and be taken care of. Many were as long as ten years in Greece and hardly distinguishable from the native population in many aspects.

The application of two consecutive regularisation campaigns changed the scenery concerning irregular immigration in Greece. The regularisation campaigns had an impact both on the numerical importance of the category of irregular immigrants and on the condition of immigrants in Greece. We will discuss in the following the two issues.

The combined effect of the two regularisations is that around 550.000 irregular migrants have been regularised or are still under regularisation. As at the eve of the first regularisation the number of irregular immigrants was estimated to be about 1.000.0000, it can be estimated that around half a million have remained out of the procedures. At the same time, in the period since the starting of the first regularisation, Greece has received new influxes of irregular migrants that have come to be added to the already existing stock of irregular immigrants.

It is difficult to estimate the number of new entrants. Indications of their numbers are provided by the statistics of arrests and deportations. Thus in 2000 we observe an increase of arrests in comparison to the previous year: In 2000 the number of arrested has been 258.637 against 182.118 in 1999<sup>2</sup>. From the 258.637 arrests in 2000, the 181 994 have taken place at the border or near border area, thus they concern new entries. The number of arrests at the borders however depends on the quality

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<sup>1</sup> Lambrianidis, L., Lymberaki, A. 2001. Albanian Immigrants in Thessaloniki Statistical Data

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<sup>2</sup> Ministry of Public Order.

of controls, which is continuously improving. Entries are also a function of deportations; the more intensive the deportations are the larger the number of new entries. In any case arrests can be considered as only an indication of how many enter the country since many manage to enter undetected. What arrests reveal beyond any doubt is that people insist to come and will come in any way. There are people among the regularised migrants that have made five, six, eight, or even more attempts until they managed for the first time to enter Greece, as well as people that have been deported during their stay in Greece a corresponding or even greater number of times and every time they returned and continued their life in Greece.

Thus we can assume that at the moment in Greece is to be found over half a million irregular immigrants, without being able to provide any more precise estimates.

The second issue is that of the impact of the regularisation on the situation of irregular migrants. The relative question that arises is: Are migrants going to be able to retain their status, or are they doomed to fall back, sooner or later, to an irregular situation? In both regularisations participation was dependent on the capacity of the immigrant to integrate in the labour market. During the first regularisation many migrants dropped out of the procedure as they could not meet the criterion of having a job covered by social security, while others proved unable to renew their permit for the same reason. The second regularisation was presented as a second chance and in fact it was. Due to the unplanned prolongation of the first regularisation campaign in a way that the second caught up with the first, many migrants remained in a regular status or under regularisation for up to four years. This has been very precious to them as they had the chance to establish themselves in Greek society under more

favourable conditions than previously. It is now a political decision what will happen with them after the end of the year, when the validity of all provisory permits ends. Is there going to be a selection of those who were able to find and keep an employer that pays the social contributions for them and a rejection of the rest? Or concern will be expressed also for those that have been socially integrated for a long time, but who may not be able to secure without interruptions the right kind of employer? And further what about the remaining hundreds of thousands that have been excluded from the regularisation campaigns, among whom many are well integrated? For us it is important that those who feel as a part of Greek society have been in Greece for many years, their children go to school, are not betrayed by a society on which they have reposed all their hopes.

In any way we would like to express our satisfaction with the choice of the government to proceed to these two regularisations, whatever were the problems linked with them. The decision to regularise acquires an all-particular importance at a time that Europe puts forward an immigration policy that denies to the illegal entrants access to a stable form of residence and orients itself towards the import of new labour on the sole basis of the needs of its labour market.



## VII. The "Sans Papiers" in France

Mr Jean-Marc Dupeux, Cimade/France

### a) History

The name and reality of "sans-papiers", which in French means "document-less" in the sense of deprived of documents, appears in France after Chirac's first election, in 1995. At that time Jean Louis Debré held the Home Office. Before him, in the years 1993-1995, during the "first cohabitation", The Right party hardened the Migration policy. The former Home secretary, Charles Pasqua led this repression policy against the foreigners in France, combining migration and insecurity themes. Between 1993 and 1995, he achieved the carrying of three fundamental laws in the parliament concerning nationality, identity control and migration

The first law restricts, in matters of nationality, the "Droit du sol" "Ground Right" (capacity to get the nationality of your birthplace country), and increased the obstacle in national recognition procedures.

„ The second one gives legality to preventive police controls "whatever could be the behaviour of the controlled person. This law integrates also into the legislation, the obligation, which formerly was purely regular, for a foreigner to present his Staying card "at any the police officers' requisitioning"

„ And last but not least, the 24 August Pasqua's law on entering and staying conditions of foreigners not only modifies the 2 November 1945 statute on foreigners for the 20th time, but modifies also the Civil Code on civil marriage and the National Health Code.

By adding all this laws, Charles Pasqua, the right Party, but also a part of the left party wanted to give and answer to the

extreme right party. And this answer was: fight against illegal migration. And the arguments for the democrats citizen was: by doing so (fighting against illegal migration), we give the absolutely necessary condition to the integration of residents who have been staying in France for years.. In consequence of the National Front score at the elections, these years are years of fears and winding, with the "Zero migration" slogan.

These Pasqua laws were strictly applied, and make foreigners always more precarious (student, asylum seekers, teachers etc) dramatically threatened in their life conditions .For example we were, in Cimade, at that time overwhelmed by family situations: French - foreigner couple were Husband or Wife cannot be regularised.

Or more difficult French Children or born-in-France Children with parents in irregular situations.

The number of situation increased. Its effect is amplified by the receptivity of the French administration to Xenophobia and this matter of facts adds administrative troubles to the severity of the law.

The Implementing of these texts pacifies a little the political debate on the migration issues but as a consequence, foreigners are more and more suffering of their conditions. The number of foreigners in irregular situations increased dramatically. The "Zero Migrant" policy has failed in reality. For some time the power can give the illusion that this policy has succeeded; but the reality of the "sans-papier" will demonstrate that it was a nonsense policy.

In 1995, a hunger strike of French foreign children's parents, which was held in Cimade, Paris. At the end of this crisis Pasqua began to recognise the "cul de sac" (dead end) in which his laws were

leading. He wrote a circular to regularise these situations of French Children with irregular foreigners parents.

b) The “Sans papiers” movement  
Coming out

As I told you, it is after the presidential election of 1995 that raises the “Sans-Papiers Movement”. It has been a Coming out. The term of “Sans papiers” in itself is the beginning of a revolution. Until this time, these women and men were named “clandestins”, this means clandestine; secret; underground or illegal. The invention off the word “Sans papiers” inverts the classical image: these migrants are no more outlaws but by the name they baptise themselves, victims.

They have change the word but also the practice; Formerly, most of foreigner movement needed the support of NGO's logistic. With this movement foreigners emancipate themselves from this support and discovered not only a new word but also a renewed way of communicating. The choice of the places where they stayed, the place of women and children, and an accurate sense of spokesman and spokeswoman as Ababakar Diop and Madjiguene Cisse.

The “Sans Papiers” Saga began on 1996 March the 22<sup>nd</sup>. This day, at daybreak dawn, some 300 Africans, men women and children, entered quietly in a Church, the St Ambroise church in Paris. They were rapidly evacuated by the Police, and by the will of the Bishop of Paris, then they went to a gymnasium, the Japy gymnasium, then they found asylum in a theatre in Vincennes, then a Railway warehouse, before finally they decided to be received in the famous St. Bernard Church in the north quarters of Paris.

In this place the Christian community and the priest welcomes them and tried to help them. It was a kind of reception/occupation. Many attempts were made to find mediation with the

government; but the prime minister and the Home Secretary refused to listen.

Then, in August, which is in France the month where people are all in holidays, far from Paris, began a hunger strike, in a general indifference.

But, slowly a solidarity movement was built around this St Bernard movement. After the brutal evacuation on August the 23 this solidarity movement will still increase.

The days after the evacuation, Cimade, which is the only organisation allowed to help foreigners inside the retention centres, did a lot with the help of lawyers to prevent the deportation of these “Sans Papiers” of Saint Bernard.

Only a few numbers of “Sans papiers” were actually expelled.

After that episode, Home Secretary Debré had the proof he searched. The law, his law, had to be voted to permit a more efficient action on migrants. But the law he built was so extreme that he crossed the red line; In February 1997, after a civic movement and a 100.000 persons demonstration in Paris, he was forced to change his project on housing certificates. Willing to force the hosts sheltering a foreigner to point out their coming and leaving to the police, the government poured down the drop, which overflowed the basin.

In spite of this experience the Right Party continued to think that it was possible to go with it projects. In April, the National Assembly was dissolved by Chirac expecting to get a new legitimacy, but, as you know, the left finally won and brought Lionel Jospin to the command.

The Left party knew that it had come back, the power on these themes of enlarged vision of citizenship which exists in a large scale of the French electorate. So, Lionel Jospin, through his Home Secretary Jean Pierre Chevènement did proceed rapidly to a regularisation, which

permitted to reduce the number of "Sans Papiers" produced during the Pasqua period. After this regularisation, Chevènement will change, one more time the 2 November 1945 statute on foreigners, reducing the more repressive effects of the Pasqua laws. But this Chevènement law, presenting a moderate face, will not abrogate the more scandalous measure especially on the case of residents who have all their life in France but are expelled after a detention punishment (what we call "la double peine").

After Jospin was named Prime Minister, police administrations have finicky and suspiciously applied the new favourable disposals of the Chevènement law. After the regularisation finished (about 80.000 persons were at the end regularised), the French administration became one more time a Sans Papiers factory, this is an administrative machine which takes liberty to interpret the law always in a restrictive sense, which leads the foreigners to stay for a long time in a kind of purgatory, with hope but without any real answer.

Beyond this reality, a new phenomenon raised in the 1997-2002 period: an increasing number of asylum seekers in France. In 1996, when Germany registered some 100.000 asylum seekers, France only had 17 000. Five Years later, France registers 50 000 Geneva convention applicants and more than 30.000 subsidiary protection applicants (what we call Asile territorial). Due to this fact, it's nowadays a huge number of asylum seekers which are enlarging the number of the "Sans Papiers". The left party had no real will of treating this matter in another way that the humanitarian way. If the right was referring to the myth of "Zero Migration" the left always repeated his slogan of the "Appel d'air" which means that any favourable measure to "Sans-papiers" would bring a violent wind of migration in

our country. That is why nothing really positive has been done on the legal issues.

The left has tried to drown the political issue of migration in humanitarian treatment; and the machine tool to produce Sans-papiers is one more time in full action. Each year, France expels between 10.000 and 15.000 "sans-papiers" while the machine produces more than 50.000 "sans-papiers".

So, there is nowadays a resurrection of the "sans-papiers" movement. They are no more like their elders of the 96's years Africans, but as the result of the new refugee wave: Chinese, North Africans, Kurds, Indians, people from East and Central Europe claiming for justice. This movement is deeply divided in various committees but from time to time it rises like this summer in Saint Denis 'Basilica near Paris.

Churches and Christians, who have very much contributed to help les Sans Papiers, (in 1998 the Reformed Church of France held a synod on his theme, and received a "Sans-Papiers" delegation during the Synod), are looking at the time for other means than churches occupation to help theses movement.

Now the right Party has come back to the power; the discourse changes a little. Home Secretary Sarkozy has told the police headquarters all over France to re-examine the situation of the sans papiers, he makes a regularisation without saying it. This differs from Berlusconi's regularisation in Italy.

But in fact we can see that like in other countries in Europe, France begins to say that we need migrants. So the discourse changes slowly. Discourse is no more an absolute closing discourse. But there is still schizophrenia for the administrative practice has not changed at all. At the same moment where migration policy says that migrants are needed, the "closing the door" policy and bad

treatment policy seems to be still the first item on the European agenda.

Churches and Christian will need plenty of courage and faith to face this schizophrenia, and to continue our diaconal work of accompanying foreigners to real citizenship, and what is the aim, to prepare this dreamed brotherhood, which is the stumbling block to build the life together, the life in peace.

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## VIII. The Platform for International Cooperation on Undocumented Migrants PICUM,

Dr Pieter Muller, Netherlands

### a) Introduction

Undocumented migrants are a major issue in all or most European countries. Governments tend to restrict their numbers by preventing their entry, thereby leaving out of sight that a major part of the 'sans papiers' have entered legally but for a variety of reasons have lost their right of residence:

- 'overstayers' i.e. persons who have stayed on after expiry of their temporary right of residence (for work, study, medical treatment or tourism),
- persons who have submitted a request for asylum which subsequently has been rejected
- persons whose right to stay based on humanitarian grounds or because of violations of their human rights has been withdrawn.

There are, in fact, many more situations in which legal immigrants become undocumented migrants.

### b) Irregular Migration

We want to stress here that the relevance of the so-called fight against irregular immigration for the presence of undocumented migrants in European countries can only be very limited. On the other hand, entry restrictive measures as have been introduced by governments and on the international level have obvious negative effects on the chances of qualified asylum seekers to obtain access to a country of refuge and also induce to smuggling and trafficking of migrants as well as increased criminality.

These aspects of the 'fight' are usually overlooked, which is also the case in the Communication from the EU Commission on a Common Policy on Illegal Immigration<sup>1</sup>. Besides, the focus on entry restrictive measures detracts the attention from the rights undocumented migrants possess in the countries where they reside and from the consequences of their being deprived of these rights. The Communication does not consider the contribution undocumented migrants can make to these societies, in particular in the economic field. The advantages of a regularisation campaign or of a permanent regularisation policy are disregarded as well<sup>2</sup>.

### c) PICUM

The focus on entry restrictive measures detracts the attention from the rights undocumented migrants possess in the countries where they actually live. This is the issue which is the main concern of PICUM, the Platform for International Cooperation on Undocumented Migrants, an independent NGO which started having an office in Brussels two years ago. PICUM is indeed a platform of national NGOs that support and assist undocumented migrants in their countries, convinced that these people should be guaranteed the same rights as every human being living in any country is entitled to. PICUM defends this position on legal grounds, but at the same time it bases its position on social and moral grounds.

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<sup>1</sup> Communication from the Commission to the Council and the European Parliament on a Common Policy on Illegal Immigration, COM (2001) 671 final of 22 November 2001.

<sup>2</sup> PICUM Comments on the Communication mentioned in the footnote above. Full text can be found on the PICUM website: [www.picum.org](http://www.picum.org)

d) Human Rights and Basic Social Rights

Any person residing in a country, regardless of his or her origin or status, is a subject of human rights as enumerated in the so-called Human Rights catalogue<sup>1</sup>. The founding document of international human rights law is the Universal Declaration of Human Rights (UDHR), unanimously adopted by the UN General Assembly in 1948. It was followed by the Covenant on Economic, Social and Cultural Rights (ESCR) and the Covenant on Political and Civil Rights (PCR). In the Universal Declaration the interdependence and indivisibility of these human rights is recognised.

The various rights mentioned in the ESCR have since then been elaborated through a wide range of international treaties, in particular by the 1967 International Covenant on Economic, Social and Cultural Rights (ICESR), which has been ratified by 145 states to date, as well as in treaties protecting the human rights of vulnerable groups, such as the Convention on the Rights of the Child (CRC) and various treaties of the International Labour Organisation (ILO), just to mention a few. In many countries domestic law has been introduced in line with the ESCR but very often the practicing of the rights is neglected.

In recent years, however, a wide range of advocacy groups acting on behalf of

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<sup>1</sup> Apart of the UDHR, the CRC and the ICESR mentioned below there are the International Covenant on Civil and Political Rights (ICCPR), the UN Convention on the Protection of Refugees, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (UCRMW, Convention Nr. 158, not yet operational), the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), as well as the European Convention on Human Rights (ECHR) and the European Social Charter.

affected communities have claimed their social rights and there is an increasing body of jurisprudence on ESCR. The UN Committee on Economic, Social and Cultural Rights has also elaborated the legal content of specific rights. There is a broad consensus now on the basic content of ESCR, but the weakness of its application lies in the fact that certain legal standards have remained vague and have rarely been implemented and enforced. Besides, only lately it has been generally accepted which duties governments have with regard to the application of human rights, viz. the duty to respect, the duty to protect (against third parties) and the duty to fulfil. Yet it sometimes remains unclear what constitutes a violation of human rights, in particular in the social and cultural field. Here a great deal more of advocacy by NGOs is needed.

PICUM firmly stands for a social rights approach in favour of undocumented migrants. It advocates for rules in our democracies which ensure that no one is deprived of the right to an adequate standard of living, including adequate food, clothing and housing, to adequate working conditions, to education, health care and necessary assistance in caring and providing for children. This also means establishing mechanisms for citizens to identify violations of these rights and have them remedied, even where the remedy forces governments to act against their will<sup>2</sup>.

e) Tension between State Interests and Human Rights

Human rights are meant to protect the life and well-being of citizens against the ways States are defending their interests. In the case of undocumented migrants we

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<sup>2</sup> See: Economic, Social and Cultural Rights, A Guide to the Legal Framework, Center for Economic and Social Rights, U.S., January 2000.

see that States sometimes deny them their basic social rights, for instance to shelter and to an adequate standard of living, as well as to legal remedies, indicating that the interests of the State prevail over the human rights of the individual. For instance, we find that in the Netherlands the Government, basing itself on a new Aliens Law and a new Departure Policy, is denying rejected asylum seekers the right to stay in a reception centre and to a minimum allowance. These undocumented migrants then are forced to stay in a hayfield or under a bridge, which constitutes an inhuman treatment. Here the churches and other NGOs defending basic social rights unanimously condemn this treatment and provide assistance where this is possible. It is important that their condemnation is not based on moral or ethical grounds only, but also on the prevalence of human rights over state interests and even national legislation. There is, however, another aspect that should be given attention. The social exclusion of undocumented migrants in our societies obviously leads to their deprivation, marginalisation and possibly to criminalisation, to the wilful creation of an 'underclass' in society, which is socially unacceptable. In the Netherlands, an increasing number of municipalities – at this moment some 80 out of a total of 500 – have understood this problem and are enabling local churches and NGOs to provide accommodation and a minimum allowance to asylum seekers who are awaiting the outcome of a 'Dublin claim procedure'. It is true that this category of asylum seekers have a temporary right to stay in the country, but interestingly, these municipalities extend their approach to rejected asylum seekers who are unable to return and certain other (minor) groups of undocumented migrants. These municipalities understand their legal obligation to guarantee the well-being of their inhabitants in a sense that they openly oppose present national

government policies. It is hoped that this experience will render local councils more aware of the social dimension of the problem and more willing to provide all undocumented migrants in their commune with shelter and means of subsistence. At the same time the national government is forced to rethink its present policy of social exclusion.

#### f) European Legislation

In the report of Working Group 1 to this Assembly it is indicated that In July 2000 the French Presidency of the European Union presented two proposals for a Directive and a Decision to the Council dealing with the unauthorised entry, movement and residence of people. In May 2001 the Council reached political agreement on these proposals. It is expected that they soon will appear in the Official Journal of the EU. Within two years from that moment they will have to be incorporated into the national legislation of member States. We know that in certain countries such as in the Netherlands a bill is already in preparation. In this paper we shall consider the aspect of unauthorised residence in particular<sup>1</sup>.

According to the Directive<sup>2</sup> 'each Member State shall impose appropriate sanctions on ..... any person who for financial gain intentionally assists or tries to assist a person who is not a national of a Member State to reside within the territory of a

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<sup>1</sup> See also: Penalizing and Criminalizing Assistance Provided to Undocumented Migrants, PICUM Consultative Paper for the Council of Europe, Committee on Migration, Refugees and Demography, May 2002. Text is to be found on the PICUM website.

<sup>2</sup> Directive defining the facilitation of unauthorised entry, movement and residence, in conjunction with the Council Framework Decision on the strengthening of the penal framework to prevent the facilitation of unauthorised entry and residence

Member State in breach of the laws of the State concerned on the residence of aliens'. As many churches and church related groups as well as many humanitarian NGOs are involved in providing help to undocumented migrants it will be of importance in which way in national legislation the condition 'for financial gain' will be described and whether the burden of proof will lie with the State or with the provider of assistance. In the way the text of the Directive now reads, it would seem that the public prosecutor will have to prove that the assistance has been given for financial gain<sup>1</sup> – but churches and NGOs are advised to closely follow national legislation and intervene when necessary. Jurisprudence should be followed in order to find out whether a person letting out a room to an undocumented migrant and being paid a normal rent will come under the 'for financial gain' condition. It should be kept in mind that in the near future court decisions in these matters taken in one member state will automatically be binding in other member states.

In certain EU Member States rendering support to undocumented migrants is, in all cases, punishable. Whether the new national legislation based on the Directive mentioned above will introduce the 'financial gain' condition should be a point for particular attention in these countries. g) National Legislation

Another point of attention should be the obligation of citizens, prevailing in several EU Member States such as in Germany, to denounce the presence of undocumented migrants to the authorities. School directors but also medical doctors, lawyers and pastors may find themselves in an ethical dilemma here, but as a rule non-

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<sup>1</sup> On the other hand, in the case of unauthorised entry and transit the optional 'humanitarian clause' will have to be brought up by the provider of assistance as a disqualification ground.

state organs are exempt from this obligation. However, if they want their expenses to be reimbursed by government institutions they may have to mention the names and status of their patients. It is generally known that medical ethics require professional confidentiality and doctors should therefore be encouraged not to give the relevant information. Directors of state hospitals are directly involved in this problem. Churches and other NGOs are advised to consider encouraging those responsible to rather obey to the requirements of human rights (the right to health care) and the ethics of the medical profession<sup>2</sup>. The same is true for school directors who should argue that providing the names and status of their 'irregular' pupils would undermine their right to education). Recently a proposal by a Dutch MP to introduce this obligation for schools in the Netherlands was immediately ruled out by the responsible Minister. It should be noted that this obligation will induce undocumented migrants to refrain from making use of their basic social rights for fear of being denounced.

National legislation is equally at default in the field of work conditions of undocumented migration. In most cases they lack protection of their right to proper conditions of work and find problems in their way if they want to have their earnings and savings fully paid out to them in case of forced or voluntary departure. This matter will be dealt with at an international conference to be organised by PICUM which is scheduled for March 2003<sup>3</sup>.

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<sup>2</sup> See: Conclusions and Recommendations in: Health Care for Undocumented Migrants in Germany, Belgium, The Netherlands and the United Kingdom, report of PICUM seminar in Brussels, May 2001.

<sup>3</sup> International Conference on Undocumented Migrants and Labour, co-sponsored by the King



## h) Regularisation

In the view of PICUM regularisation offers a valid opportunity to undocumented migrants to obtain a legal status in the country where they have come to reside. There are several ways of regularisation. A regularisation campaign is a 'cleaning' operation which is meant to legalise the status of a certain group of undocumented migrants. It is not a final solution to the problem of illegal residents in a particular territory, as such a campaign never reaches all the undocumented migrants. However, in studying recent practices in European countries we find that there are different models of such campaigns based on the underlying intentions of the governments concerned. Churches and NGOs are advised to develop an active advocacy for regularisation campaigns by bringing forward the arguments for a fair and effective regularisation campaign<sup>1</sup>. On the other hand, a permanent regularisation policy is a means to legalise undocumented migrants, usually in small numbers, who for humanitarian or economic reasons should obtain the right to stay.

## i) Return Migration

As in these days migration policies in Europe focus on undocumented migrants in particular, the approach of the European Commission in its Green Paper on a Community Return Policy on Illegal Residents<sup>2</sup> is based on its views on

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Baldwin Foundation in Brussels. More information can be found on the PICUM website.

See also: Participation of Undocumented Migrants in the Labour Market, PICUM Position Paper, 2002, text to be found on the PICUM website.

Green Paper mentioned

<sup>1</sup> PICUM Standpoint on Regularisation, 2002. Text to be found on the PICUM website. See also: Regularization Campaigns in Europe, paper by Dimitry Neuckens, Brussels, 2001.

<sup>2</sup> Green Paper on a Community Return Policy on Illegal Residents, COM (2002) 175 def., 10.4.2002.

irregular migration and the ways this phenomenon should be tackled. Thus the accent is on forced or involuntary return and less attention is given to preventive measures such as investing in the development of economically disadvantaged regions and opening up ways for legal (labour) immigration. The Commission proposals include safeguards for human rights during detention and expulsion but do not consider the possibility of laying claims for compensation after deportation. Return programmes<sup>3</sup> for legal residents are not mentioned<sup>3</sup>.

Recently the Commission has issued a draft Communication on a Community Return Policy on Illegal Residents which is based on its Green Paper<sup>4</sup>.

## j) Solidarity

PICUM is currently carrying out a major inventory of the activities of NGOs in ten European countries that are supporting and assisting undocumented migrants. This 18 months' project is sponsored by the European Commission under budgetline 'Combating and Preventing Social Exclusion' and should be completed in Spring 2003. The resulting 'Book of Solidarity' will, in fact, appear in three parts: Part 1 will deal with NGOs in Germany, the Netherlands, Belgium and the U.K.; its publication is due in December 2002. Part 2 provides information on NGOs in France, Spain and Italy and Part 3 will cover Denmark, Sweden and Austria. The inventory is based partly on written information but mainly on the results of personal interviews with a variety of NGOs (church

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<sup>3</sup> PICUM Comments on the

in the previous footnote, Brussels, July 2002. Text can be found on the PICUM website.

<sup>4</sup> Communication from the Commission to the Council and the European Parliament on a Community Return Policy on Illegal Residents (draft edition, October 2002).



and non-church, organisations and informal groups etc.). This information is analysed by the project staff on the basis of overall themes such as Health Care, Housing, Employment etc., then checked by the NGOs during national workshops. Each part of the Book includes a chapter on the context in which the support and assistance is given: social and economic aspects of illegal residence and general attitudes towards undocumented migrants in the various countries. Each part also provides with information on legal hindrances to solidarity. Part 1 concludes by a chapter containing reflections on motivations for providing assistance. The project is carried out with the help of a number of scientists who are contributing to the Book as well<sup>1</sup>.

#### k) The Ethics of Solidarity

When discussing the motivations of NGOs rendering support to undocumented

migrants PICUM members felt the need to discuss in some depth the ethical aspects of this assistance. An analysis was made of the nature of the relation between client and help provider, conflicts between legal provisions and ethical considerations were carefully considered as well as the tension between reporting criminal behaviour and protecting the client.. This resulted in a draft ethical code for social workers assisting undocumented migrants. However, after further discussion at the PICUM Assembly in Antwerp, October 2002, it was decided to bring this code down to 'Guidelines'. As such the paper was adopted unanimously.<sup>2</sup> It will be used by the member organisations as an instrument for clarifying their role and methods of work with undocumented migrants, possibly for developing their own ethical code.

Pieter Muller  
PICUM Chairman



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<sup>1</sup> Information on the progress made with this project can be found on the PICUM website under 'Book of Solidarity'. Upon its publication the Book will be on sale.

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<sup>2</sup> 'Some Guidelines for Assisting Undocumented Migrants', PICUM, Brussels, 2002. Text on PICUM website.