



Churches' Commission for Migrants in Europe

Commission des Eglises auprès des Migrants en Europe

Kommission der Kirchen für Migranten in Europa

Irregular Migration: a Challenge to European Migration and Asylum Policies

Churches facing the phenomenon of irregular migration in Europe – Position paper adopted by the CCME Executive Committee, 17 January 2003

The Mediterranean EU Member States are 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 on 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.

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

1. 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.

2. 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 counseling would be needed, but this is not yet the rule, it is rather the exception.

3. 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.

4. 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. An other 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.

5. 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 wellorganised 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.

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 counseling services. A prerequisite on this is however that a common, comprehensive and transparent European immigration policy is developed.

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 Counseling in countries of origin may be more efficient than dissuasion counseling which is the aim of information campaigns, which have failed in many instances. Churches are willing to contribute expertise in comprehensive personal emigration counseling 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 counseling 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 counseling 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 this 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.

CCME is an ecumenical agency on migration and integration, asylum and refugees, anti-racism and anti-discrimination. Members of CCME are churches, Councils of churches and church-related agencies in presently 16 European countries. CCME works in cooperation with the Conference of European Churches and the World Council of Churches.

