

EU Migration Policy by Jean Lambert,

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The EU's immigration and asylum policy has in the past been characterised as 'fortress Europe': how can it be made as difficult as possible for people outside of the EU to access the territory? Member States have resisted attempts to agree common criteria for the entry of economic migrants and right wing politicians and press alike have distorted the facts and the debate.

While this undercurrent is still there and reflected in the development of re-admission agreements and an insistence on neighbouring countries tightening their border controls, there is a detectable shift in both rhetoric and policy in Commission and Parliament; we wait to see how Council responds.

Migration is now being recognised as a complex, multi-faceted area affecting all countries and all skill levels, and both men and women. We are gradually coming to have different pictures in our heads of who a migrant is - not only, for example, a weak, young African man washed up on a beach, or whatever the prevailing national image has been.

The European Parliament's reports on migration have recognised the need for migrant workers in an ageing Europe, their positive contribution to our societies and the need for an active, two way integration strategy.

First steps towards having a full policy on migration. The Commission is now aiming to deal with the entry of migrant workers through a gradual and sectoral approach - with the eventual aim of having a full policy. The first proposal is for a directive on the entry of highly skilled migrants - the so called 'Blue Card', which aims to make the EU a more attractive destination by reducing barriers. However, many of us doubt whether the limited proposals will really help attract this already highly mobile group. Seasonal workers will be the next group to be tackled, with a proposal likely to give priority for return to those who leave at the end of their work period. Inter-corporate transfers are also in the work programme and this will clarify the position under the GATS agreements(1) on the free movement of service providers, some of the most highly paid and highly skilled migrants around. This will also help to remind people of the wide range of migrants. However, a more general proposal on migrants with other skill levels, probably the largest group, will have to wait.

Other areas, such as dealing with the demand for labour, which is the predominant "pull" factor, are also being tackled. There is a proposal for a directive on tackling employers who take on illegal (sic) workers, which proposes stringent penalties for repeat offenders who exploit such workers. Questions have been raised as to why we need new penalties for exploitation, when it is already supposed to be illegal. DG Employment and Social Affairs(2) has also brought out a Communication on undeclared work. These two proposals have served to highlight the very weak inspection regimes in some member states which have allowed the development of an often exploitative clandestine labour market, which has preyed on people being ignorant of their rights or being unable to find a way to access them. The fact that horrific working conditions in slave-like conditions has also been the experience of EU nationals from the newer member States has helped to publicise the reality for many third-country nationals, especially those in irregular situations. A key message for this year of Equal Opportunities for All was "know your rights" and we have seen the trade unions in a number of countries play a very important role in reaching out to migrant workers.

The increasing co-operation between the parts of the Commission dealing with Justice and Home Affairs and the Employment and Social Affairs sector is a very welcome development in my opinion. It signals a move to seeing migrants as part of society and a concern for their rights. EU legislation already recognises that there should be no discrimination on grounds of race or ethnicity either in the workplace or in access to goods and services. The social exclusion faced by many migrants has also been recognised in the national action plans drawn up under the Open Method of Coordination: it would be interesting to know how migrants are represented and consulted in that process. The EQUAL programme(3) has brought forward many excellent conclusions as to how to directly involve people in the projects and services that claim to provide for their needs. It is essential that these

lessons are not lost with the ending of EQUAL. The conclusions of the 2006 Year of Mobility and that of the 2007 Year of Equal Opportunities for All should also be relevant to the experience of migrants.

FRONTEX border security and control. This year has also seen some tough questions asked about the role of FRONTEX⁽⁴⁾, not least in the question of rescue at sea. The European Parliament was horrified by pictures of migrants left clinging to the net of a tuna fishing boat, while an argument went on as to which country had responsibility for them. There still seems to be no agreement about how to proceed once people are picked up: we are in no doubt that they must be. Member States have failed to deliver on their commitments to provide resources for FRONTEX, just as they have failed to deliver on fishing inspection vessels for West African countries, which are seeing their fishing industries wiped out – is it any wonder people can't make a living and choose to migrate? There is still no real transparency on the FRONTEX mandate. Questions are now being asked about whether the Dublin 2 Regulation concerning which country takes responsibility for dealing with an asylum claim can really be effective, especially for countries such as Malta, which deals with considerable numbers of migrants and does not have the means to assess protection needs properly. Some of us have always questioned the real value and effect of the Regulation.

Pilot Projects in Countries-of-Origin. There are now pilot projects in countries-of-origin, Mali and Ukraine, which are aiming to make migrants more aware of the realities of life in the EU and to offer training programmes in partnership with certain companies to ensure people coming have the right skills as well as the right documents. There are still issues to be resolved concerning the recognition of qualifications for many third-country-nationals. The Commission has also been involved in advertising ventures in countries such as Nigeria to dissuade people from coming to the EU irregularly, pointing out that the streets are not paved with gold.

The Returns Directive: First major piece of co-decision. Also on the table at the moment is the Returns Directive. This is the first major piece of co-decision for the Parliament in the field of migration and asylum policy and is proving very difficult, as can be imagined. The aim is to give a known procedure, including detailing an individual's rights, if compulsory return becomes necessary. Many Member States use detention, some for indefinite periods and some bend their rules to maintain detention beyond their legal limit. So, Parliament is trying to steer a course between the ideal of voluntary return, no detention and no re-entry bans, and the reality of trying to put limits and a real respect for the individual in to what is the current practice.

However, the growing use of co-decision in this field at least gives a greater opportunity for input from organisations and individuals with real experience, rather than just leaving the task to governments alone. The EU is coming to terms with the fact that migration is a reality; it is a global phenomenon in which EU nationals participate. Migrant workers, of all skill levels, are an economic necessity and we have to address the many different aspects of migration – not just border control. The challenge is to see if we can do that and keep an awareness of migrants as individuals and not just cogs in an economic machine. If migration is to work as successfully as possible we need to look at the social dimension and how this interacts with the settled population: how we can establish the closest possible equality of rights and deliver those for all who reside in the EU? We should also be brave enough to examine how EU policies on trade, energy and agriculture for example, impact on development elsewhere. Migration should be a matter of choice, not necessity.

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(1) The General Agreement in Trade and Services (GATS) is one of the central parts of the World Trade Organization (WTO) Agreement. Mode 4 of GATS specifically addresses the temporary movement of individuals as service suppliers.

(2) The European Commission's Directorate-General for Employment, Social Affairs and Equal Opportunities has the task of contributing to the development of a modern, innovative and sustainable European Social Model with more and better jobs in an inclusive society based on equal opportunities.

(3) Funded through the European Social Fund (ESF), EQUAL is being implemented in, and between, the EU Member States up until 2008. Its mission is to promote a better model for working life by fighting discrimination and exclusion on the basis of gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

(4) This EU agency is based in Warsaw. It is a specialised and independent body tasked to coordinate the operational cooperation between Member States in the field of border security.