

**Guidelines for a
Community policy
on migration**

*Commission communication transmitted to the Council on 7 March 1985
(COM (85) 48 final)*

**Council resolution of 16 July 1985
on guidelines for a Community policy on migration**

*Commission Decision of 8 July 1985
setting up a prior communication and consultation procedure
on migration policies in relation to non-member countries*

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contents

I. Introduction	5
II. Brief summary of Community action on migration	5
III. Trends in migration policy within Member States and basic Commission guidelines	6
IV. Sectors for intervention	7
– The field of Community legislation	7
– The field of consultation and experimentation	9
– The field of information	14
– Means of Community financial support	15
V. Summary of priority actions	15
<i>Council resolution of 16 July 1985 on guidelines for a Community policy on migration</i>	17
<i>Commission Decision of 8 July 1985 setting up a prior communication and consultation procedure on migration policies in relation to non-member countries</i>	19

I. Introduction

1. Since the Treaty of Rome was signed in 1957 there have been two key dates with regard to the Community's policy on migration: 1968, when the free movement of workers came fully into effect¹ and 1976, when the Council adopted its resolution on an action programme for migrant workers and members of their families on the basis of a proposal from the Commission.² Further initiatives are now necessary to deal with the fundamental problems faced by migrant workers and their families in the much changed circumstances of today.

The economic and social conditions of the mid-80s are quite different from those of a decade earlier, with a shortage of jobs, the introduction of new technologies and structural changes in European society. The character of the migrant communities has also changed: the level of migration between member countries and from outside the Community has fallen considerably, but the communities themselves are longer established, often in the second or third generations. The accession of Spain and Portugal will introduce new potential for intra-Community migration.

It is clear that, from a legal point of view, Community nationals have a special position, in that their rights as regards migration are protected by Community legislation under the Treaty of Rome. However, migrant communities, whether of Community or non-Community origin, face much the same problems in their social and working life. It is a constant factor of the Community approach to these problems that the aim should be equality of treatment in living and working conditions for all migrants, whatever their origin, and workers who are nationals.

2. The policies advocated in this communication are designed to deal with the problems of the migrant as a worker and as a citizen. They draw on the 1974 action programme and on the existing policies of Member States, with further stimulus from the European Parliament's resolution of 18 November 1983 on migrant workers;³ the conclusions of the Council of 22 June 1984 on a Community medium-term social action programme,⁴ which the Commission has been asked to carry out by the Fontainebleau European Council (25-26 June 1984)⁵ and the opinion of the Economic and Social Committee on migrant workers.⁶

Also, these policies must be seen in the perspective of both the cooperation agreements concluded between the Community and certain non-member countries, as well as the Joint Declaration relative to the principles governing the living and working conditions of migrant workers, adopted at Damascus in 1978, within the framework of the Euro-Arab Dialogue.

3. The Commission intends to be active in three main areas:

- development of Community legislation for migrants who are citizens of Member States;
- consultation between Member States and the Commission on problems faced by migrants and introduction of Community guidelines to deal with such problems;
- information for migrants and action to make them aware of their rights.

II. Brief summary of Community action on migration

4. The free movement of people, and of workers in particular, between Member States, together with the freedom to provide services and the free movement of goods and capital, are part of the foundations of the Community.

The period of high economic growth of the 1950s and 1960s, during which the free movement of workers was gradually achieved, was accompanied not only by the migration of hundreds of thousands of Community workers, for whom equality of treatment with national workers had to be ensured in fact and in law, but also by the recruitment of a large number of workers from non-member countries.

5. Around 1973/74, with the first alarming signs of rapidly rising unemployment, measures were taken to ban, or at least strictly limit, the recruit-

¹ OJ L 257, 19.10.1968.

² OJ C 34, 14.2.1976.

³ OJ C 342, 19.12.1983.

⁴ OJ C 175, 4.7.1984.

⁵ Bull. EC 6 - 1984, point 1.1.9 (section 5).

⁶ OJ C 343, 24.12.1983.

ment of workers from non-member countries. Migrants already established, however, tended increasingly to stay.

A number of Member States had to face similar problems: inadequate social and education infrastructure and housing shortages as migrant families were increasingly reunited, difficulties in cultural assimilation, uneasy relationships between the national and foreign communities, and potential competition on the labour market. The focus shifted from the new arrivals to already legally established immigrants and their families.

6. In order to respond to these problems, the Commission presented on 18 December 1974 an action programme for migrant workers and members of their families, on the basis of which, on 9 February 1976, the Council adopted a resolution.¹

In addition, at its meeting on 22 November 1979, after examining a Commission communication concerning consultation on Member States' migration policies *vis-à-vis* non-member countries, the Council confirmed the importance it attached to appropriate consultation, which would facilitate the adoption of common positions by the Member States.

7. Furthermore, an important step had been taken in education by the adoption of the Council Directive of 25 July 1977,² which made it compulsory to teach the language of the host country to children of Community migrant workers, and to encourage the teaching of the language and culture of the country of origin within the framework of normal education and in cooperation with the country of origin.

III. Trends in migration policy within Member States and basic Commission guidelines

8. Migration policies within Member States have reflected the changing character and problems of migrant communities. The numbers of men and women are now more or less equal, the proportion of young people of the second and third generations is growing steadily, a significant number have become naturalized and the longest-established migrant populations are ageing. These are character-

istics of a situation which shows every sign of establishing itself permanently.

9. A study of national policies reveals the following trends, although they vary in degree:

- a freeze, consolidation and, in certain cases, reduction in the number of immigrants from non-member countries who are allowed to settle;
- determination to combat illegal immigration and the misuse of refugee status;
- the adoption of policies favouring the insertion and integration of foreign residents, together generally with efforts to preserve cultural links with the country of origin; these policies consist of, in particular, increased effort on behalf of the second generation and the family; more intensive programmes of education, training and social advancement; an examination of the nature of the 'participation' of immigrants in the life of the host country; and a fight against xenophobia, intolerance and racism;
- a desire to avoid serious economic and social problems in the event of a return to the country of origin, through the following means: specific schemes to assisted return, possibly within the framework of technical and financial aid programmes for the economic development of the areas of emigration; and a reassessment of relations between emigration countries and Member States;
- expression of the growing need for closer cooperation and consultation at Community and international level.

10. In this perspective, and starting from the assumption that a migration policy at European level may gradually take shape as an integral part of the move towards European citizenship,³ the Commission considers it fundamental that:

- the free movement of persons should gradually become accepted in its widest sense, going beyond

¹ OJ C 34, 14.2.1976.

² OJ L 199, 6.8.1977.

³ Supplement 7/75 — Bull. EC (Commission communication entitled 'Towards European citizenship'. Implementation of point 11 of the final communiqué issued at the European Summit in Paris on 9 and 10 December 1974); Bull. EC 6-1984, point 1.1.9 (section 6) (conclusions of the Presidency of the European Council meeting at Fontainebleau on 25 and 26 June 1984).

the concept of a Community employment market, and opening up to the notion of European citizenship;

- the legal status of immigrants from non-member countries should be adapted with the aim of consolidating foreign communities which have acquired the characteristics of permanence, by reason of their length of stay and above all through the existence of the second and third generations;
- the action taken should aim, at one and the same time, at the removal of obstacles to equal treatment and initiatives in favour of immigrants to catch up and reach a level of quality.

11. Furthermore, the Commission emphasizes that insertion in the society of the host country only succeeds through the double effect of the willingness and effort of the native population, on the one hand, and that of the migrants themselves, on the other. In this context, preserving and even promoting the language and culture of the country of origin is not at all incompatible with a willingness to accept insertion in the new environment.

IV. Sectors for intervention

12. The Commission's proposals can be divided into three main fields of intervention:

- A. the field of Community legislation;
- B. the field of consultation;
- C. the field of information.

The field of Community legislation

13. A body of Community law already exists governing freedom of movement for migrant workers from Member States and their right of establishment, further supplemented and clarified by case law of the European Court of Justice. The purpose of this legislation is to promote genuine equality of treatment with national workers in living and working conditions and in social security provisions. The Commission plans various actions to improve this legislation, to ensure its implementation by Member States and to provide more information about it.

This continuing action to implement the letter and the spirit of the Treaty of Rome also covers improvements in the position of migrant workers from Member States recommended by the European Council in the context of promoting 'a people's Europe'.¹

The *ad hoc* committee set up to prepare and coordinate this action² has now arranged for analytical reports on, *inter alia*, freedom of movement for Community citizens, the extension of possibilities for employment and residence, citizen's rights (including participation in political life) and education (including recognition of diplomas and the teaching of languages).

14. The aims of the Commission in this field will be to:

- (a) improve the existing legislation;
- (b) intensify, at the level of Member States, the supervision of the daily application in practice of rights deriving from Community legislation;
- (c) make Community texts more readily available and comprehensible for the user and for national officials dealing with Community nationals who are exercising their right to free movement;
- (d) adapt and strengthen social security provisions;
- (e) remove obstacles to integration, by exploring the forms of participation in the life of the host country;
- (f) provide greater protection for certain categories of persons not covered, or inadequately covered, by existing instruments.

Improvement in existing legislation

15. After 15 years of free movement of workers it is clear that Community law, like any other legislation, must take account of new migration trends and adjust accordingly.

The Commission intends to put to the Council proposals to amend or complete the provisions of Community law currently in force, particularly as regards the following points:

¹ Bull. EC 6-1984, point 1.1.9 (section 6).

² Supplement 7/85 — Bull. EC.

- adoption, in the appropriate legal form, of provisions defining the precise scope of the exception to free circulation provided by Article 48 (4) of the Treaty, relating to employment in the public service, to take account of the interpretation given by the European Court of Justice;
- the Council Directive of 15 October 1968 on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families¹ will have to be modified to ensure the extension of stay of an involuntary unemployed worker at the end of his sixth year;
- the same Directive will have to be modified to ensure that a worker having held a series of successive jobs at brief intervals with one or several employers — each contract being for three to eleven months — is entitled to a five-year residence permit;
- Article 45 of the Council Regulation of 15 October 1968 on freedom of movement for workers within the Community¹ should be applied so that mutual recognition of qualifications goes beyond the diplomas recognized within the framework of freedom of establishment.²

Furthermore, the Commission will continue its efforts with a view to the adoption by the Council of the proposal for a Directive on the right of residence for nationals of Member States in the territory of another Member State,³ which would complement the provisions on the free movement of workers.

Supervision of application

16. The incorporation of Community provisions into national law by the central authorities is on the whole satisfactory. There are sometimes gaps, however, in the application of Community legislation.

In some cases, the provisions are subject to restrictive interpretation, to the point where the interpretations given by the Court of Justice of the European Communities of one or other element of Community legislation are ignored. Experience has shown that, in a number of cases, there is a lack of familiarity with Community legislation in both the law courts and the administrative departments of Member States and that sometimes general national legislation in respect of foreigners is applied to nationals of other Member States, to the detriment of Community provisions.

The Commission considers that in order to correct this situation, it is necessary to promote the following actions in Member States both by the Member States and the Community:

- introduction in the legal education of lawyers, magistrates and civil servants, and within universities or specialized institutes, courses in Community law, including that concerning the movement of persons within the Community;
- setting up of retraining courses for local authority staff who deal directly with immigrants;
- holding meetings with social workers and other people with responsibilities for foreign workers, particularly the social partners and the consular offices of the Member States, to provide information on legal theory and practice.

Accessibility of official texts

17. Because of their technical nature, the provisions of secondary legislation concerning free movement of workers require explanatory notes, particularly in the light of the case law of the Court of Justice.

The Commission intends to publish shortly a vade-mecum of annotated texts with comments. It could be supplemented with teaching material which could be used in the training of the information services in the Member States and with the organizations active in migrant circles.

Social security

18. Social security for migrant workers from Member States plays a very important role in

¹ OJ L 257, 19.10.1968.

² See on this subject the proposal of the Commission to the Council on the comparability of vocational training qualifications between the Member States of the European Community (OJ C 264, 4.10.1983) and the request of the European Council meeting at Fontainebleau on 25 and 26 June 1984 for the study of measures to bring about a 'general system for ensuring the equivalence of university diplomas, in order to bring about the effective freedom of establishment within the Community'. On 9 July 1985 the Commission sent to the Council a proposal for a Directive on a general system for the recognition of higher education diplomas (Supplement 8/85 — Bull. EC; OJ C 217, 28.8.1985; Bull. EC 7/8-1985, point 1.4.1).

³ OJ C 207, 17.8.1979.

migration policy as a whole and in the decisions of migrant families about where to have their children educated, the immigration of family members, investment in housing, or their possible return home in the event of unemployment.

Community legislation based on Article 51 of the EEC Treaty secures social security cover for migrant workers and their dependants, comparable with that enjoyed by nationals of the host country. In view of changes in national social security provisions and in the case law of the Court of Justice, the legislation needs to be regularly updated.¹

The Commission intends to complete the review of the system by which pensions are calculated and to propose specific rules regarding 'hybrid' non-contributory benefits (combining the characteristics of social security and social assistance).

Efforts to find ways of simplifying this legislation and to explain it to the public are necessary in view of its complexity, not only for migrants themselves, but also for the social security institutions which have to apply it.

Granting of political rights

19. Migrant workers are at the present moment excluded, with some exceptions, from the exercise of full civil and political rights in the host country, in so far as these rights depend upon the acquisition of its nationality. The right of association, which implies freedom to organize, to assemble, to publish and propagate political opinions, and the right not to be expelled for exercising these freedoms, is of considerable significance in the promotion of the participation of migrant workers in the life of the host country. Municipal consultation committees of migrant workers, access to legal aid, establishment of bodies to enforce legal rights, are all important initiatives in the social and political integration of migrants. The granting to nationals of Member States of a right to vote and to stand for office would, however, constitute a decisive element in this process.

While further reflection and work is necessary at Community level, it will be recalled that the Commission is already committed to the objective of full participation by migrants in local elections.²

Specific categories of people

20. Finally, there are certain categories of people for whom, because of their particular situation, existing Community provisions seem insufficient or inappropriate. This is the case, for instance, for frontier and seasonal workers, teachers, social workers, workers in the cultural sector, seamen, au-pairs and nomads. The same applies to the particular position of refugees established on the territory of one or another Member State,³ who constitute an increasing proportion of the volume of migration from non-member countries. Their social, economic and legal position calls for concern, and, in the case of those admitted under the United Nations Convention of 1951, for examination by the Commission and by Member States, in application of the Joint Declaration of 25 March 1964,⁴ with the aim of the grant of the right of free movement within the Community after a certain period of residence, a right parallel to the Community social security legislation which already applies.

As requested by the European Parliament, the Commission will continue its work of study, documentation and consultation with a view to preparing specific proposals.

The field of consultation and experimentation

21. The patterns of migration from non-member countries and settlement of migrant communities over the last 30 years have been complex and varied, differing between the Community countries and between migrant groups. By the same token the strategies, policies and mechanisms which have been set up by the Member States relating to migration policy and to the position of migrants in their adopted country have also varied widely.

Because of this diversity and because of the overlap between Community and national competence for dealing with the problems of migrants, it is essential

¹ OJ L 230, 22.8.1983.

² Supplement 3/76 – Bull. EC (Action programme in favour of migrant workers and their families).

³ Convention relating to the Status of Refugees, signed at Geneva on 28 July 1951.

⁴ OJ 78, 22.5.1964.

that emphasis be given to consultation on Member States' policies and to pilot schemes to explore new ways of approaching those problems which still deny migrants the rights which they should enjoy in their local communities.

The Commission intends to concentrate consultation and pilot projects on three main themes which characterize national policies:

- within the framework of overall labour market policy, keeping migration of foreign workforce under control;
- measures to promote social and educational integration, together with the maintenance of cultural ties with the country of origin and the intensification of social and vocational promotion schemes directed especially at the second generation;
- various social security measures.

The labour market and the foreign workforce

22. The foreign population in the Member States of the Community is gradually changing. Its presence is most marked in the lowest age groups. Despite the fact that many young people of foreign origin are acquiring the nationality of their adopted country, they retain in sociological terms some of the characteristics of young foreign nationals.

Consequently, even if the flow of immigration has become negligible, there will continue to be a large number of potential job applicants of foreign origin since there are still very few retirements and the numbers returning to the country of origin have been partially offset by movements to reunify families, admissions on humanitarian grounds, the entry of political refugees and the recruitment of specialists, together with a slight but constant intra-Community flow.

The severe restrictions on new immigration have led to a longer average length of stay for foreign workers, which now tends to be approximately 10 years or more, implying, in nearly all Member States, the acquisition of additional rights, such as improved conditions related to employment status or right of permanent residence. There still exist, however, numerous problems, such as that of access to employment of the spouse who emigrates to be reunited with the family or that of the migrant worker who becomes unemployed through no fault

of his own and who runs the risk of his residence and work permits not being renewed.

Consultation at Community level might open the way to a consensus as to how the rights of migrant workers in these respects might best be safeguarded. A ratification by Member States of the European Convention on the Legal Status of Migrant Workers of the Council of Europe would constitute an important step in this direction. It would also be appropriate to examine the possibility of ratification of this Convention by the Community as such.

23. National and Community labour markets are sensitive not only to the presence of foreign labour on a long-term basis. They are also affected by other movements which, at present, call for increased attention on the part of the Community, namely: illegal migration, reintegration in the country of origin and the movement of Community nationals to work non-member countries.

Illegal migration and illegal employment of migrant workers

24. The number of illegal migrant workers is, by definition, impossible to determine. It is well established, however, that the volume of this workforce in the Community is considerable, its growth having been fed by, amongst other factors, the development of the 'parallel' or 'submerged' economy and work in the 'black market' in general.

Conscious of the negative effects of these movements on the national workforce, and on foreigners legally resident and of the lot of the victims of these illegal activities, the Commission presented to the Council in 1976 a proposal for a Directive on the harmonization of laws in the Member States to combat illegal migration and illegal employment.¹

The proposal aims at:

- the strengthening of cooperation between the Member States in the campaign against illegal migration and clandestine employment,
- the adoption of appropriate penalties;
- the fulfilment of employers' obligations;
- the protection of workers' rights relating to the work they have already carried out.'

¹ OJ C 97, 22.4.1978.

The Commission considers that these aims are still valid. Whilst taking due note of the difficulties of a political and legal nature in the Council, the Commission intends, nevertheless, to consult with the Member States, in order to arrive at a conclusion.

Reintegration of migrant workers into the economies of their countries of origin¹

25. The Commission emphasizes the importance it attaches to all policies of return migration being operated on a non-mandatory basis and consisting of the provision of aid to those who have made a voluntary choice. Measures to encourage return migration taken or envisaged by certain Member States of the Community should not lose sight of the difficulty of cultural and social reinsertion in the country of origin. Often the migrants concerned cannot find adequate jobs. For young migrants of the second generation, born or at least educated in the host country, a return to their own country amounts to emigration.

In view of the problems of adjustment which this return could provoke, it is essential that the Member States keep open for a limited period the possibility for these young people to come back to the country which they have left.

An improvement in the conditions of return is, for the most part, dependent on a reinforcement of bilateral cooperation between the countries concerned, particularly so as regards access to employment and the safeguarding of capital which has been repatriated.

Community actions in this area could complement those which the Member States introduce bilaterally with emigration countries. These actions should equally form one of the elements of the Community policy on cooperation and be implemented within the framework of the agreements concluded between the Community and those States, several of which contain social provisions. The actions to be undertaken should be defined in close consultation with emigration countries.

In this context, and independently of the setting up of economic cooperation projects which could lead to job creation, consultation ought to focus principally on vocational training, in the first place, in trying to ensure that applicants for return can

acquire a training which answers to the needs of their country of origin including the possibility for training from their ranks of personnel qualified to take part in the implementing of investment projects decided upon within the framework of cooperation with those countries, and in the second place, on the training of instructors to fill the ranks of qualified staff in vocational training centres in those countries.

Community workers in non-member countries

26. In its resolution of 9 February 1976 on an action programme for migrant workers and members of their families,² the Council was already concerned with Community nationals working in non-member countries.

Several forms of contract and recruitment exist either on an individual basis, or in the service of European firms carrying out contracts, or as volunteers working for governmental or non-governmental organizations on national, Community or international projects.

There are several fields in which the situation of such workers, especially development workers, can be considered precarious. Countries offering satisfactory cover generally do so only to their own nationals.

The Commission therefore proposes that consultation deals as a priority with the problems of a social nature arising at the time of departure, at the place of work and especially on the return to the country of origin, on the one hand, by the loss of entitlements, such as unemployment benefit, social security cover in general, pension, retraining, etc., due to extended absence abroad, and on the other hand by the difficulties of re-entering the national labour market.

As regards returning volunteers from non-member countries, the Commission has submitted a draft recommendation to the Council concerning the protection of such workers' rights.³

¹ Whilst the Community migrant is also faced with some of the problems described above, the question of returning within the Community is not discussed here as it comes under free movement of workers and Community labour market policy.

² OJ C 34, 14.2.1976.

³ OJ C 16, 17.1.1985; Bull. EC 12-1984, point 2.1.100.

Social and education integration measures

27. It is only against the background of an improvement and clarification of the status of migrants that action aimed at the social and educational advancement of migrants, particularly of the second generation, can have its full effect. The policies of Member States show the gradual development of a determined policy to integrate the immigrant and his family. This policy must not only overcome tendencies towards discrimination, even racism at times, among the population of the host country. It must also overcome certain obstacles to putting the foreign population on a stable footing, which are inextricably bound up with the very status of being a migrant. This is particularly so as regards the uncertainties which flow from rules for the issue and renewal of residence and work permits, procedures for the reuniting of families, conditions governing naturalization, language and vocational training, education, cultural adaptation, health and housing. Among these, the following are treated in greater detail:

- (a) general cultural and educational aspects;
- (b) social and vocational advancement of children of foreign origin;
- (c) health and housing standards of the immigrant population.

(a) *General cultural and educational aspects*

28. In order to play their part in society and in working life, an immigrant worker and the adult members of his family must first of all acquire an adequate knowledge of the language of the host country.

The teaching of languages is fairly widespread, but its organization remains random and unsystematic. It also suffers from lack of continuity inherent in unsubsidized courses or those subsidized on the basis of unpredictable annual support.

29. The language training of immigrant women, especially those who stay at home, has not received sufficient attention, despite the praise-worthy efforts of many voluntary organizations and certain local authorities.

The result is that these women experience great difficulty in finding a place in society, depend too much on the head of the family and are unaware of

their basic civil rights. Day-to-day business, travel, health care and dealings with the authorities are difficult for them, and their ability to assist their children with their schooling suffers. Access to vocational training is virtually out of the question, whilst the jobs which they obtain are often restricted to poorly paid positions in the secondary and tertiary sectors.¹

30. These considerations do not diminish the important role played by the language and culture of origin in the social insertion of immigrant workers and the families, where successful integration depends on the interrelationship between the host culture and the culture of origin.

The inherent value of the languages and culture of immigrants is either generally unknown to or is underestimated by the indigenous population. At the same time, large migrant minorities remain attached to their language and culture. In this context, bilingualism and biculturalism represent a necessary instrument in the integration process and a source of enrichment for local cultures.

31. The Commission proposes to organize consultation, with regard to the following fields:

- language training, including regular financial support for bodies organizing such training and dealing with illiteracy;
- additional preparatory training in new technologies and in response to the requirements created by the decline of certain sectors;
- social and occupational integration of immigrant women;
- maintaining links with the language and culture of the country of origin.

(b) *Social and vocational advancement of children of foreign origin*

32. Member States' policies on migration devote particular attention to the problems posed by the second and, by now, the third generation.

¹ Measures are currently in progress designed to 'promote the right of immigrant women to equal access to employment and training', as put forward in the new Community action programme on the promotion of equal opportunities for women (Supplement 1/82 - Bull. EC).

Young people aged under 25 represent between 40% and 50% of the total foreign population. They have new aspirations compared with those of their parents, especially those of them born or educated in the host country. They are also faced with two cultural environments and with the difficulties bound up with the search for an identity of their own.

33. The children born in the host country or allowed entry within the scope of family reunion ought to have an individual right of residence and access to employment, in order to bring an end to a state of legal, social and occupational insecurity.

34. Moreover, the future of the children of immigrants depends essentially on their education at school and on their vocational training. Action on the part of the Community and of the Member States should be aimed at three levels:

- the level of pre-school education;
- the level of compulsory schooling;
- the transition between school and work or vocational training.

From the educational point of view, there is no doubt that a particular effort should be made at the level of nursery school, in improving the child's introduction to the language of the host country. This is the absolutely essential condition of a successful entry to primary education. It is also important that the child's mother tongue should be available in nursery school.

35. The Council Directive of 25 July 1977 on the education of migrant workers' children for whom school attendance is compulsory¹ represents a decisive step towards the statutory recognition of these children's education requirements by granting the child of an immigrant who is a citizen of a Member State a right to free tuition to facilitate initial reception. It also imposes on the Member States a requirement to promote teaching of the language and culture of origin in coordination with normal education and in collaboration with the country of origin, although this does not result in an automatic right to such teaching. In addition, the Member States have undertaken to take the necessary measures for the initial training and the in-service training of teachers responsible for the reception classes.

In adopting the Directive the Council expressed the political will that the Member States should provide the same educational facilities for all migrants' children, whether Community nationals or not.

36. In spite of the efforts of education authorities in the host countries to meet the requirements of immigrant pupils, more than 100 000 immigrant children come to the end of their compulsory schooling each year without qualifications and find themselves to a greater extent excluded from vocational training courses. Special measures are necessary to counter these deficiencies.

As regards vocational training, migrant workers should be included in the general effort to adapt the workforce to new technologies and to the new employment patterns in sectors which are in decline. Special arrangements could be provided, if necessary, taking into account the low level of skill and training of a large proportion of those workers.

37. The effort now undertaken should be pursued. To this end, the Commission proposes that Community concertation should also deal with pre-school education, compulsory education and preparation for working life. For its part, the Commission will see to the full implementation of the Directive of 25 July 1977 and continue to promote the exchange of information and experience.

(c) Health and housing standards of the immigrant population

38. Preventive measures, information and, in general, education in health and hygiene are clearly the corner-stone of any policy aimed at meeting the particular needs of the immigrant population.

The Commission intends to undertake studies and to develop pilot schemes to examine the possibility of greater cooperation between the institutions and agents involved in the medical welfare of migrants, such as polyclinics, medico-social centres, nursing staff, medical interpreters.

39. The conditions in which immigrant workers live are, in general, worse than those enjoyed by nationals with the same income. As a result of discrimination or ignorance of their rights, these

¹ OJ L 199, 6.8.1977.

workers find it difficult to take advantage of the machinery for obtaining loans and subsidies or to enrol on lists of applicants for priority housing.

A sustained information campaign will have to be launched, especially through the social services, aimed at ensuring that immigrant workers join existing national associations or set up new ones with a view to gaining access to the various forms of financing available for the construction of dwellings or the modernization of antiquated or unhealthy housing.

Independently of the promotion of experimental schemes for the housing of migrant workers, the Commission intends to consider the matter further in connection with schemes for the renewal of urban neighbourhoods, which often include a high percentage of migrant workers.

Measures concerning the social security of non-member country nationals

40. The situation of large numbers of workers from non-member countries is regulated by bilateral agreements between these countries and the Member States and/or by association or cooperation agreements between the Community and certain countries.

The Commission's objective, as it has had occasion to confirm to the European Parliament, is to provide non-member country workers, as well as members of their families residing in the Community, with the same protection in the field of social security as Community nationals, whether or not their situation is regulated by bilateral agreements, association or cooperation agreements or other instruments binding under international law. From the social standpoint, workers in the same objective situation cannot be treated differently on the sole basis of nationality.

Nevertheless, the application of Community provisions would not solve the problems of aggregating periods of insurance completed in the Member States and in the country of origin, nor that of transferring the related benefits to the latter. These questions can only be regulated by agreements between the Member States and other countries founded on the principles established in Community provisions.

An initial step in the gradual extension of Community treatment to workers from other countries will be achieved by the implementation of cooperation and association agreements concluded between the Community and certain countries. The Commission considers that the necessary decisions must be taken forthwith.

Machinery of consultation

41. The Council has already expressed itself in favour of consultation, between the Member States and with the Commission, in the field of migration policies with regard to non-member countries.¹ The Commission intends, therefore, to provide an appropriate framework for such a process of information and consultation.

The field of information

42. The attitude of a part of the population towards immigrants and the difficulties encountered by the immigrants themselves in integrating better in the host country show the need to develop initiatives, whether at Community level or in the Member States, to inform, and promote awareness on the part of the population as a whole or the migrants themselves.

It is in this perspective that the Commission proposes the following initiatives:

- extend to all the countries of the Community the practice, observed by some of them, of organizing annually the celebration of Immigrants' Day;
- adopt at Community level a declaration on the fight against racism and xenophobia, along the lines of the interinstitutional joint declaration on fundamental rights;
- develop, with Community aid, pilot schemes for the organization of information sessions for the staff of local administrations who are in contact with immigrants;
- develop, in liaison with immigrant organizations, some experimental schemes for free legal assistance, in order to put immigrants in a position

¹ Resolution of 9 February 1976; Council conclusions of 22 November 1979 (Bull. EC 11-1979, point 2.1.43).

to give expression to their requirements and defend their rights; the Commission, for its part, would support initiatives aimed at fostering the training of specialists in this field;

- promote the regrouping, at Community level, of migrant associations, in order to facilitate the dialogue between migrant circles and the Community institutions.

Means of Community financial support

43. Most of the proposals for action set out in this communication involve no commitments to incur new forms of expenditure, but could entail an increase in expenditure and a modified use of the funds already available for immigrant populations at national and Community level. There is no means at this stage of assessing either the nature or the amount of these additional charges, which will obviously vary in function of the actions ultimately undertaken.

The European Social Fund whose tasks were reviewed by the Council Decision of 17 October 1983,¹ offers assistance for a very wide range of operations.

In the annual guidelines for the management of the Social Fund, the Commission will take account of concerns in respect of migrant workers and will ensure the necessary flexibility to respond to new needs. At present the Fund supports actions in the vocational training field and actions designed to facilitate the transfer and integration of migrant workers and members of their families, including workers who have become residents in the Community, to take up work.

The Commission also intends to continue to grant Fund assistance to innovatory projects in favour of immigrants, who are among the underprivileged categories in the labour market, in particular those which concern the relationship between the education and the employment of migrant workers.

Lastly, it is necessary to ensure that migrants are not excluded from other actions carried out in Member States with the assistance of the Fund when they fulfil the objective conditions of eligibility.

V. Summary of priority actions

44. The Commission considers that the following actions — many of which will, of course, fit naturally into the growing concept of a 'people's Europe' — should be taken in the short and medium term:

(a) In the field of Community legislation, priority will be given to:

- transmitting to the Council proposals to amend or complete current legislation, in particular as regards the application of Article 48 (4) of the EEC Treaty on employment in the public service and the provisions of the Council Directive of 15 October 1968 relating to the right to stay (cf. para. 15);

- continuing work on the equivalence of vocational training qualifications in the Member States, pursuant to Article 45 of the Council Regulation of 15 October 1968 (cf. para. 15);

- improving the everyday application of current legislation by familiarizing those concerned with the legislation and drawing up a manual to make the official instruments more accessible (cf. paras 16 and 17);

- in the field of social security for nationals of Member States (cf. para 18): adapting Community legislation to take account of changes in national legislation, precedents established by the Court and the employment situation; the review of the system of calculating pensions, and specific rules for 'hybrid' non-contributory benefits; improving information for those concerned, their organizations and social security institutions;

- continuing to analyse the possibilities of wider recognition of political rights, both individual and collective, with regard to Community migrants (cf. para. 19);

- finding practical solutions and, where applicable, adopting legislation for specific categories of people such as frontier and seasonal workers, teachers, cultural workers and gypsies (cf. para. 20);

- examination of the social, economic and legal position of refugees, admitted under the United Nations Convention of 1951 (cf. para. 20).

¹ OJ L 289, 22.10.1983; Bull. EC 10-1983, point 1.3.1 *et seq.*

(b) Development of consultation, which will be aimed primarily at migrants who are nationals of non-member countries and also, in certain areas, at all immigrants. This will in particular be concerned with:

- the safeguarding of the rights of migrant workers, and, particularly, ratification by the Member States of the European Convention on the Legal Status of Migrant Workers of the Council of Europe, without prejudice to the possibility of ratification by the Community (cf. para. 22);
- clandestine migration and the illegal employment of migrant workers (cf. para. 24), the opportunities for and conditions applicable to the reintegration of migrant workers in the economy of the country of origin particularly in the field of vocational training (cf. para. 25), and the situation of Community nationals working in non-member countries (cf. para. 26);
- social and educational insertion of migrants, in particular by working out a common platform with the Member States in regard to language training for adults, both in the place of work and outside; preliminary vocational training; maintaining links with the language and culture of the country of origin; and specific measures on behalf of immigrant women (cf. para. 31);
- continuing priority activities to help second-generation immigrants, and transmitting to the Council proposals relating to pre-school education and to preparation for access to working life (cf. paras 34 to 37);
- experimenting with new ways of promoting the participation of all the necessary operators in improving health education (cf. para. 38);

- providing information on housing standards and on procedures for obtaining financial support (cf. para. 39);

- implementing social security provisions contained in association and cooperation agreements and gradually extending to non-member country migrants the principles governing Community rules relating to Community migrants (cf. para. 40).

(c) With regard to information (cf. para. 42), priority will be given to:

- measures designed to increase people's awareness;

- the adoption by the Community institutions, on the initiative of the Commission, of a Joint Declaration against racism and acts of intolerance towards the immigrant population;

- in-depth consultation on: better information and training for the staff of public authorities in daily contact with immigrants, and improving the quality of legal assistance and representation;

- promoting the federation of the associations formed by and for immigrants at the Community level.

45. As regards the means of Community financial support, the Commission considers that the measures proposed will not require new forms of expenditure, but rather an increase in appropriations currently provided for, both at the level of the Community and that of the Member States (cf. para. 43).

COUNCIL RESOLUTION

of 16 July 1985

on guidelines for a Community policy on migration¹

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaties establishing the European Communities,

Having regard to the draft resolution submitted by the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas, pursuant to Article 117 of the Treaty establishing the European Economic Community, Member States have agreed upon the need to promote improved working conditions and an improved standard of living for all workers in the Community;

Whereas point 10 of the final communiqué of the Heads of State or of Government meeting in Paris on 9 and 10 December 1974 advocates the harmonization in stages of legislation on foreigners;

Whereas the Council resolution of 9 February 1976 on an action programme for migrant workers and members of their families² provides for the examination of future developments of that resolution;

Whereas, in its resolution of 27 June 1980 on guidelines for a Community labour market policy,³ the Council emphasized that the integration of the Community labour market should be fostered within the framework of free movement of labour within the Community, in particular by appropriate consultation on migration policies *vis-à-vis* third countries, in accordance with the Council's conclusions of 22 November 1979 which called on the Commission to take the necessary steps to foster cooperation between the Member States in the field of labour market policy;

Whereas Directive 77/486/EEC⁴ is important in this connection since it is aimed at the education of the children of migrant workers;

Whereas the economic and social changes since the resolution of 9 February 1976 and the new situation as regards the foreign population require that Community policy in the field of migration be brought up to date;

Whereas the European Council at its meeting in Fontainebleau on 25 and 26 June 1984 asked the Commission to carry out the work programme referred to in the Council conclusions of 22 June 1984 on the Community's medium-term social action plan,⁵ which confirms the importance of migration problems,

Whereas it is necessary to pursue efforts to realize to the full the right to free movement of nationals of Member States;

Whereas the presence of population groups from third countries is becoming more and more permanent; whereas, therefore, the development of a Community policy on incorporation integration and participation in society should also support the efforts made towards a progressive consolidation of those groups;

Whereas information, consultation and experimental activities must be increased in order to foster the harmonious coexistence of the various populations;

Whereas much closer consultation and cooperation is required at Community level in the implementation of national migration policies *vis-à-vis* third countries;

¹ Published in OJ C 186, 26.7.1985.

² OJ C 34, 14.2.1976.

³ OJ C 168, 8.7.1980.

⁴ OJ L 199, 6.8.1977.

⁵ OJ C 175, 4.7.1984.

Whereas, however, matters relating to the access, residence and employment of migrant workers from third countries fall under the jurisdiction of the governments of the Member States, without prejudice to Community agreements concluded with third countries,

HEREBY ADOPTS THIS RESOLUTION:

1. The Council takes note of the Commission's communication on guidelines for a Community policy on migration.

2. It recognizes that in the area of Community legislation on the free movement of workers of Member States priority should be given to the following measures:

(a) improving the application of current legislation, by making those concerned familiar with it, in particular through the publication of a handbook to this end and by considering whether it is necessary to add to or amend such legislation, particularly as concerns certain categories of migrant workers;

(b) further consideration of rights and procedures in respect of the integration of or participation by migrants, individually or collectively, in the different aspects of the host Member State's life;

(c) adapting and simplifying Community legislation on social security for workers who are nationals of Member States on the basis of Article 51 of the Treaty, to take account of changes in national legislation, and of the case law of the Court of Justice.

3. It recognizes that it is desirable to promote cooperation and consultation between the Member States and the Commission as regards migration policy, including *vis-à-vis* third countries, and notes the Commission's intention of drawing up an appropriate procedure to this end.

4. It is determined to implement the social security provisions contained in association and co-operation agreements.

5. It confirms its desire that, subject to the Community's powers and responsibilities, everyone within it should have an equal opportunity of deriving advantages and making a contribution.

6. It also considers, that with a view to the harmonious coexistence of nationals of the Member States and migrant workers and their families, initiatives should be developed at Community, Member State and local level to inform and to promote awareness, such as:

- the adoption of a joint declaration condemning xenophobia and racism;

- the setting up of pilot schemes for the organization of briefing sessions at local level for staff of local administrations who are in contact with immigrants;

- the improvement of the quality of free administrative assistance in areas such as justice, education and housing, in particular through better information and linguistic help in order that the quality of such services for migrant workers be equal to that available to nationals of the Member States.

It also recognizes the desirability of a dialogue at Community level with associations of migrant workers.

7. It calls on the Commission to take the necessary initiatives to put into effect the measures referred to in this resolution and to submit the necessary proposals to it in this connection.

8. Community financing for the measures referred to in this resolution will be decided on under the budgetary procedure and in accordance with the legal commitments entered or to be entered into by the Council.

Specific projects requiring the aid of the European Social Fund will be carried out in accordance with the financing capacity and rules of that Fund.

9. The Council requests the Commission to inform it periodically of progress in implementing the measures provided for in this resolution.

COMMISSION DECISION

of 8 July 1985

setting up a prior communication and consultation procedure
on migration policies in relation to non-member countries¹

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 118 thereof,

Whereas the foreign populations in the Community and the changes which have taken place in their composition are important demographic factors, more especially by virtue of the permanent nature of their presence, the reuniting of families and the fact of their high birth rate;

Whereas there are problems linked with their integration into the workforce, society and cultural life and, more particularly, those encountered in the education, training and employment of the second generation;

Whereas it is important to ensure that the migration policies of Member States in relation to non-member countries take into account both common policies and the actions taken at Community level, in particular within the framework of Community labour market policy, in order not to jeopardize the results; whereas it is necessary to facilitate the exchange of information and views in these areas with a view to adopting common positions, and it is therefore important to organize a consultation procedure ensuring the participation of all Member States;

Whereas, moreover, the Council in its resolution of 9 February 1976 concerning an action programme in favour of migrant workers and members of their families,² and in its resolution of 27 June 1980 concerning orientation towards a Community labour market policy,³ underlined the importance of undertaking appropriate consultation on migration policies in relation to non-member countries, and whereas integration of the Community labour market should be favoured in the framework of free movement of the labour force within the Community, in particular by appropriate consultation on these policies, in accordance with the conclusions

which the Council adopted on 22 November 1979 on this subject; whereas its resolution of 16 July 1985 on guidelines for a Community policy on migration⁴ reaffirmed the need for such consultation;

Whereas, moreover, the final communiqué of the Conference of Heads of State or of Government of 9 and 10 December 1974 in Paris recommends, in point 10, a stage-by-stage harmonization of legislation concerning foreigners; whereas the European Council on 25 and 26 June 1984 adopted conclusions on social policy;

Whereas in its resolution of 9 June 1983⁵ concerning, *inter alia*, the passport union and the suppression of individual controls at Community frontiers, the European Parliament urged the Council and the Commission to make further proposals particularly with a view to harmonization of visa policies and legislation concerning foreigners;

Whereas the role of the Commission, in view of the powers conferred on it by the Treaty, is to promote cooperation between Member States in the field of social policy, in particular in the different areas abovementioned, and to organize appropriate consultations to this end,

HAS ADOPTED THIS DECISION:

Article 1

1. The Member States shall give the Commission and the other Member States in good time and at the latest at the moment they are made public advance information of:

- draft measures which they intend to take with regard to third country workers and members of

¹ Published in OJ L 217, 19.8.1985.

² OJ C 34, 14.2.1976.

³ OJ C 168, 8.7.1980.

⁴ OJ C 186, 26.7.1985.

⁵ OJ C 184, 11.7.1983.

their families, in the areas of entry, residence and employment, including illegal entry, residence and employment, as well as the realization of equality of treatment in living and working conditions, wages and economic rights, the promotion of integration into the workforce, society and cultural life, and the voluntary return of such persons to their countries of origin,

- draft agreements relating to the abovementioned matters, as well as draft cooperation agreements which they intend to negotiate or renegotiate with third countries, when these agreements involve provisions relating to the abovementioned matters,
- draft agreements relating to conditions of residence and employment of their nationals working in third countries and members of their families, which they intend to negotiate or renegotiate with those countries.

2. The Member States shall communicate to the Commission and to the other Member States, in the areas mentioned in paragraph 1 the texts of provisions laid down by law, regulation or administrative action already in force, and also the texts of agreements made with third countries.

Article 2

1. If, within the space of two weeks from the date of receipt of the documents mentioned in Article 1, a Member State so requests, or if the Commission so decides on its own initiative, the Commission shall proceed with a consultation with the Member States on those documents within six weeks of their receipt.

The Commission shall proceed with this consultation immediately, if a Member State requests it to do so as a matter of urgency.

2. The Commission may, at any time at the request of a Member State or on its own initiative, arrange a consultation on the draft provisions and agreements referred to in Article 1, except in the case of questions upon which consultation has already taken place and concerning which no new developments have arisen.

Article 3

The objectives of the consultation procedure provided for in Article 2 shall be, *inter alia*:

- to facilitate the mutual exchange of information and the identification of problems of common interest and, in relation to those problems, to facilitate the adoption of a common position by the Member States, particularly as regards international instruments relating to migration,
- to ensure that the agreements and measures referred to in Article 1, including those relating to development aid, are in conformity with, and do not compromise the results of, Community policies and actions in these fields, in particular as regards Community labour market policy,
- to examine the possibility of measures, which might be taken by the Community or Member States in the fields referred to in Article 1, aimed at achieving progress towards a harmonization of national legislation on foreigners, promoting the inclusion of a maximum of common provisions in bilateral agreements, and improving the protection of Community nationals working and living in third countries.

Article 4

1. Consultation shall be arranged by the Commission. Meetings shall be chaired by the Commission, which shall also provide the secretariat.

2. The consultation procedure established by this Decision shall not affect the responsibilities of Committees already in existence, in particular those of the Advisory and Technical Committee, as determined by Council Regulation (EEC) No 1612/68.¹

3. The Member States shall take all necessary steps to ensure the proper functioning of the consultation procedure, and in particular, where necessary, to safeguard the confidential nature of the information which will be made available to them in that connection.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 8 July 1985.

For the Commission

Peter SUTHERLAND

Member of the Commission

¹ OJ L 257, 19.10.1968.

European Communities – Commission

Guidelines for a Community policy on migration

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