

Integration: An Ever-Closer Challenge

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Stefano Bertozzi

Abstract

This article argues for closer integration to be a key part of the EU's migration policy. It accepts that migration is necessary for a prosperous Europe and looks at the role of the EU and how best to integrate immigrants. Countries' experiences and the need for better aligned policies among member states are examined. The European Commission's role in sharing experiences and best practices is considered, as well as the need for the many stakeholders involved to work together. Integration is a complex and delicate process, and ultimately the EU must be bolder in its promotion of integration if it is to benefit from migration.

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INTEGRATION: AN EVER-CLOSER CHALLENGE

STEFANO BERTOZZI*

Introduction

Migration in Europe has become a very complex issue, not only in terms of the number of immigrants,¹ but above all in terms of the multifaceted cultural, social and economic dynamics of immigrants who live in Europe. Thus, the need to develop integration policies that reflect the complexity of migration flows in Europe has become even more pressing. The objective of this article is to take stock of the Community's *acquis* in the field of immigration and to underline the most important integration initiatives already undertaken by the European Commission. This paper also takes a 'fresh look' at the evolving challenges thrown down by integration, which is a crucial aspect of the Community's legal migration policy.²

Table 1 presents statistics on the flow of immigrants to EU countries. These figures show that the total percentages of immigrants are not likely to cause the kind of unrest in the societies of the host countries that some media and political groups try to 'stoke up' with their reports of stereotypical episodes involving marginal groups of people of immigrant origin. On the contrary, given the growing numbers of low-skilled workers, the number of legal migrants would seem to be compatible with the absorption capacity and needs of the European labour market, especially for jobs not requiring special qualifications or skills.

As of 1 January 2007, the European Commission has another tool at its disposal: a fully-fledged integration fund. These additional resources, amounting to €25 million for the period 2007-13, will make local capacity-building in member states a clear priority and thus ensure that introductory programmes and language courses are made available to all newcomers. It is also worth noting that the establishment of this fund was preceded by a series of preparatory actions, called INTI, which financed projects on a European scale developed by local authorities, the social partners and civil society. This fund, which builds on the Common Basic Principles³ and ties in with the principle of subsidiarity, will help member states to put concrete integration measures into practice at national level. Another objective of this fund is to foster teamwork between member states and to increase the exchange of information and best practices. Particular attention will be devoted to the integration of minors. This issue is particularly acute in certain member states, notably France, Italy and Spain.

* Stefano Bertozzi is a member of the cabinet of Franco Frattini, Vice-President of the European Commission. The ideas contained in this article are entirely those of the author and do not necessarily reflect the views of the European Commission.

¹ According to an analysis carried out by the Population Division of the United Nations Department of Economic and Social Affairs, in 2005 there were some 191 million people not living in their country of origin. About 115 million of these migrants (60%) live in developed countries (1 in 5 in the United States), almost 40 million of them in the EU-27 (12%). Half of these migrants are women. Between 1990 and 2005, the number of immigrants in developed countries grew by 33 million, 4 million each going to Germany and Spain, and 15 million to the United States.

² For more information, see S. Bertozzi (2007).

³ Council document 14615/04 of 19 November 2004. See also the communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on a Common agenda for integration – framework for the integration of third-country nationals in the European Union - COM(2005)389 final, 1 September 2005.

Table 1. Flows of immigrants to EU-27, 2005

Country	Total population 2005	Number of migrants	Percentage of population
Austria	8 189 000	1 234 000	15.1%
Belgium	10 419 000	719 000	6.9%
Bulgaria	7 726 000	104 000	1.3%
Cyprus	835 000	116 000	13.9%
Czech Republic	10 220 000	453 000	4.4%
Denmark	5 431 000	389 000	7.2%
Estonia	1 330 000	202 000	15.2%
Finland	5 249 000	156 000	7.8%
France	60 496 000	6 417 000	10.7%
Germany	82 689 000	10 144 000	12.3%
Greece	11 120 000	974 000	8.8%
Hungary	10 098 000	316 000	3.1%
Ireland	4 148 000	585 000	14.1%
Italy	58 093 000	2 519 000	4.3%
Latvia	2 307 000	449 000	19.5%
Lithuania	3 431 000	165 000	4.8%
Luxembourg	465 000	174 000	37.4%
Malta	402 000	11 000	2.7%
Netherlands	16 299 000	1 638 000	10.1%
Poland	38 530 000	703 000	1.8%
Portugal	10 495 000	764 000	7.3%
Slovakia	5 401 000	124 000	2.3%
Slovenia	1 967 000	167 000	8.5%
Spain	43 064 000	4 790 000	11.1%
Sweden	9 041 000	1 117 000	12.4%
United Kingdom	59 668 000	5 408 000	9.1%
TOTAL EU	488 824 000	39 971 000	12.22%

Source: Population Division, Department of Economic and Social Affairs, United Nations.

From Tampere to the Common Agenda for Integration

The Tampere Council explicitly called for “a more vigorous integration policy” which “should aim to grant legally resident third-country nationals rights and obligations comparable to those of EU citizens”⁴ to help them integrate in the host society. In carrying out its political mandate, the Commission presented a communication in June 2003 on immigration, integration and employment,⁵ which analyses the role of immigration in the light of the Lisbon objectives and demographic change in Europe, in particular the gradual ageing of the population and the lack of qualified personnel in high demand.⁶ On the subject of integration, the communication draws

⁴ Conclusions of the Presidency, point 18.

⁵ Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on immigration, integration and employment, COM(2003)336 final, 3 June 2003.

⁶ See also Communication from the Commission to the Council and the European Parliament on a Community immigration policy, COM(2000)757 final, 22 November 2000.

attention to the various categories of migrants who could benefit from integration measures geared not only to migrant workers, but also to their families, to refugees and to people under international protection. The approach proposed is of necessity multi-disciplinary and provides for the active involvement and participation of immigrants in social and cultural life. These are measures and initiatives designed to integrate people in the labour market, to help provide access to training and the acquisition of language skills and to give access to accommodation and health and social services.

The Thessaloniki European Council of 19-20 June 2003⁷ stressed the need for “a comprehensive and multidimensional policy on the integration of legally residing third-country nationals who, according to and in order to implement the conclusions of the European Council of Tampere, should be granted rights and obligations comparable to those of EU citizens”. It is worth remembering that the conclusions emphasise that the responsibility for the formulation of integration policy should remain with the member states, while stating that “such policies should be developed within a coherent European Union framework, taking into account the legal, political, economic, social and cultural diversity of Member States”.

This Community strategy was followed up in the Hague Programme of November 2004, and, in this context, integration is the fifth strategic objective. The actual wording is that it is necessary, in terms of integration, to “maximise the positive impact of migration on our society and economy” and it is essential to “develop supportive measures to help Member States and deliver better policies on integration so as to maximise the positive impact of migration on our society and economy and to prevent isolation and social exclusion of immigrant communities. This will contribute to understanding and dialogue between religions and cultures, based on the fundamental values of the Union”.

The Justice and Home Affairs Council of 19 November 2004 approved the common basic principles of the European Union’s immigrant integration policy,⁸ confirming that “the development and implementation of integration policy is therefore the primary responsibility of individual Member States rather than of the Union as a whole”. The Council thus defined the role of the Commission in the field of integration as one of a “service provider” rather than making it the main driver in this complex, multifaceted process.

This strong political position was then ‘toned down’ in point 4, where the Council states that “the failure of an individual Member State to develop and implement a successful integration policy can have in different ways adverse implications for other Member States and the European Union. For instance, this can have an impact on the economy and the participation in the labour market, it can undermine the respect for human rights and Europe’s commitment to fulfilling its international obligations to refugees and others in need of international protection, and it can breed alienation and tensions within society”.

These conclusions epitomise the ‘ambivalent’ attitude of EU member states to *all things European*. On the one hand, it is stated that responsibility for integration policy lies solely with the member states. On the other, given that the degree of trust between member states is not always high, reference is made, albeit veiled, to the need to harmonise certain aspects of integration policy so as to prevent some countries from adopting provisions that might harm others; a line that has already been pursued in the area of immigration when regularisation measures at national level were taken without prior notification of the other member states.

⁷ Thessaloniki European Council of 19 and 20 June 2003, Conclusions of the Presidency, point 28, p. 9.

⁸ 2618th Council Meeting on Justice and Home Affairs, 19 November 2004, pp. 15-24.

This ‘Cartesian dualism’ is what led to the common basic principles,⁹ which are a good compromise between legitimate and natural national concerns and the need to develop a European framework for this thorny issue. These principles set out, among other things, to “assist Member States in formulating integration policies by offering them a simple non-binding but thoughtful guide of basic principles against which they can judge and assess their own efforts. They can also use these basic principles to set priorities and further develop their own measurable goals. It is up to the individual Member States to determine whether these principles assist them in formulating policies for other target groups for integration. The principles will be relevant both for Member States with considerable experience of substantial immigration as well as for those that more recently have become destinations for significant numbers of immigrants”.

The European Council of 1-2 December 2005¹⁰ stressed the need to consolidate Member States’ integration policies and welcomed “the presentation of the Commission’s Communication of 1 September 2005, A Common Agenda for Integration: Framework for the integration of third-country nationals in the European Union”. The European Commission can thus count on the support of the member states in defining a reference framework to foster the integration of third-country nationals residing legally in Europe. This framework for cooperation needs the exchange of good practices across Europe, by way of both the network of national contact points on integration coordinated by the European Commission and the “Handbook on integration for policy-makers and practitioners” in the sector.

At the same time, important steps have been taken to engage local stakeholders – and in particular urban communities – in shaping integration initiatives. To this end, a major conference was organised on 9 October 2006 by the city of Rotterdam in conjunction with the European Commission and Eurocities.¹¹ This event signalled a further development at European level and gave greater visibility to the topic of integration, which is usually covered by experts, and to the commitment of the European Commission. It involved the four Commissioners with responsibilities relevant to integration,¹² operators in the sector, academics and civil society. The idea was to bring people together around a particularly delicate subject, as illustrated by the work performed by President Barroso’s group of advisers (BEPA) in this sector.¹³ This *forum* in Rotterdam enabled ideas to be aired and gave greater political relevance to integration, which is still all too often seen exclusively as a local and not as a European problem. Europe can and must make its contribution and will certainly draw on the experiences of local entities. Europe has to be the driving force behind “integration building”¹⁴ and must not leave itself ill-prepared for a challenge that the composition of its future population will make unavoidable. It can and must do this on the basis of subsidiarity, where the public hand is closer to the people and action

9 See Hywel Ceri Jones, Cristina Pineda Polo, Françoise Pissart, Thierry Timmermans and Stephen Pittam, *Beyond the Common Basic Principles on Integration: The next steps*, Issue Paper No. 27 (revised), European Policy Centre and King Baudouin Foundation, Brussels, 15 April 2005 .

¹⁰ 2696th Council Meeting on Justice and Home Affairs, 1-2 December 2005, pp. 36-38.

¹¹ A European network of 115 towns and cities promoting transnational projects and the exchange of local experiences.

¹² Namely, Ján Figel’, Franco Frattini, Danuta Hübner and Vladimír Špidla.

¹³ On 4 October 2006, BEPA issued a document that examines the correlation between migration and the public’s perception of it. The authors rightly highlight the way in which the process of integration is ‘perceived’ by citizens following events published in the press.

¹⁴ As of 1 January 2007, the European Commission has a specific integration fund, which, for the period 2007-13, will amount to €24 million. The establishment of this fund was preceded by a series of preparatory actions, called INTI, which financed projects on a European scale developed by local authorities, the social partners and civil society.

can be more targeted and dynamic. In other words, Europe's approach has to become more proactive and attentive to this political priority. The Rotterdam initiative will not be an isolated event: Vice-President Frattini has called for this first conference to be followed by others, in an effort to encourage the active participation of civil society.

This set of initiatives at political level, be they national, regional or local, and across civil society,¹⁵ have to continue in tandem with the commitment of the member states of the European Union if the integration of third-country nationals is to become a solid pillar of the Community's migration policy based on mutual give and take between the immigrant and the host society. This process of adaptation has to be based on mutual trust, active participation and dialogue and must result in a raft of shared measures that provide new arrivals with all the information they need to decide to become an integral part of the society of the host country. Above all, this process must involve young Europeans, who, as shown by a study carried out by a Spanish institute, have not had positive experiences attending school with their contemporaries from third countries.¹⁶ We must not forget that integrating is above all an individual choice and that that choice can only be made if a person understands and appreciates the values and customs that form the basis of the society of the new host country.¹⁷

The Community *acquis*¹⁸

a. Family reunification

The Tampere European Council stressed that a more vigorous integration policy should be aimed at granting third-country nationals rights and obligations comparable to those of EU citizens.¹⁹ To attain this objective there was clearly a need for greater convergence between national laws governing the conditions of entry and residence of third-country nationals, with equal and fair treatment guaranteed to those residing legally in a member state. The agreement reached by the Council in 2003 on the right to family reunification was one of the most significant steps in that direction. The directive,²⁰ which has been in force since December 2003,

¹⁵ Taken to mean all the various stakeholders, including operators in the sector, trade unions, employers' associations, immigrant representatives, non-governmental organisations and universities.

¹⁶ See article published in *El Mundo*, 23 October 2006, p. 23. The institute for school counselling and assessment interviewed 2,000 students in Madrid schools, asking them if they were happy to have young immigrants in their classes. Only 50% gave positive replies to this question.

¹⁷ For more information, see E. Collett, *One size fits all? Tailored integration policies for migrants in the European Union*, Working Paper No. 24, European Policy Centre, Brussels, April 2006.

¹⁸ Ireland and the United Kingdom have *opting-in/opting-out* facilities on these Community instruments. Ireland has decided to transpose the Directive on a specific procedure for admitting third-country nationals for scientific research purposes (OJ L 289/15 of 12 October 2005). Ireland and the United Kingdom have made known their wish to apply a mutual information mechanism in the area of migration and asylum. Denmark, on the other hand, has no part in policies under Title IV of the EC Treaty.

¹⁹ Tampere European Council of 15 and 16 October 1999, Conclusions of the Presidency, Point 18.

²⁰ Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, OJ L 251 (3.10.2003). The directive was approved on 3 October 2003 and 3 October 2005 was the deadline for transposal of the national laws, regulations and administrative provisions needed to comply with the directive. As of 25 October 2006, 18 member states had notified the Commission of complete or partial transposition: Austria, Belgium, Estonia, Finland, France, Germany, Greece, Latvia, Lithuania, the Netherlands, Poland, Portugal, the Czech Republic, Slovakia, Slovenia, Spain, Sweden and Hungary. Since these measures are currently being examined by the Commission, it is not yet possible to say whether or not the directive has been fully and duly transposed by these member states. The Commission reserves the right to initiate proceedings against countries that have not yet started to transpose the directive, in accordance with its powers under Art. 226 of the EC Treaty (ex-Art. 169).

introduces common rules in respect of the right to family reunification and allows third-country nationals in possession of a residence permit in a member state for at least a year to ask for family reunification, thereby confirming, at European level, the principle of protection of family unity and the integration of third-country nationals, a right already recognised for some time in various international legal instruments – such as the Universal Declaration of Human Rights,²¹ the European Convention on Human Rights and Fundamental Freedoms and the United Nations Convention on the Rights of the Child (1989)²² – but often abused by the different interpretations of national legal systems.²³ Despite its undoubted value, the directive has suffered from many of the compromises the Commission was forced to accept to prevent its proposal from being rejected and from the fact that national interests and prerogatives have barely budged on matters of legal migration.²⁴ One of its major weaknesses, in my opinion, is the fact that it limits family reunification to spouses and minor children.²⁵ For other members of the family,²⁶ however, member states have the right to authorise residence at their discretion.²⁷ Actually exercising the right to reunification of the members of the family of immigrants is also subject – even if these provisions are optional – to sometimes insurmountable conditions regarding resources and rules in matters of accommodation, medical insurance²⁸ and waiting periods of up to three years between members of the families of immigrants submitting a request for reunification and the residence permit being issued.²⁹ Persons benefiting from the status of temporary or subsidiary protection³⁰ in a member state are also excluded from the scope of this directive. Many analysts therefore detect a contradiction between the political commitment to granting immigrants equal and comparable treatment to EU nationals, as confirmed in Tampere, and the actual discrimination that exists.³¹

²¹ Art. 16(3) states: “The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.”. The Universal Declaration was adopted and proclaimed by the General Assembly of the United Nations on 10 December 1948.

²² The Preamble to the Convention, signed on 20 November 1989, reads: “Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community”.

²³ The Court of Justice has had a fundamental role, in numerous rulings, in finding a solution to the limits of the European legislator and has gradually defined the rights regarding family reunification of citizens from third countries. For a full analysis of the legal framework and case law in the matter, see Jose Manuel Cortes Martin, “Immigration et regroupement familial dans l’Union Européenne: un droit à géométrie variable”, *Revue du Droit de l’Union Européenne*, No. 4, 2005, pp. 721-760.

²⁴ Council decisions on legal migration are taken by unanimous vote. Title IV, Article 63(2) TEC. For more details, see G. Brinkmann, “Family Reunification, Third-Country Nationals and the Community’s New Powers”, in E. Guild and C. Harlow (eds), *Implementing Amsterdam: Immigration and Asylum Rights in EC Law*, Oxford: Hart Publishing, 2001, pp. 241-266.

²⁵ Art. 4(1)

²⁶ Unmarried partners who present proof of a lasting relationship, children of the applicant or his/her spouse had with another parent who gives his/her consent (in the case of joint custody), dependent parents, unmarried and mentally or physically disabled adult sons and daughters.

²⁷ Art. 4(2) and (3).

²⁸ Art. 7.

²⁹ Art. 8.

³⁰ Art. 3(2).

³¹ See in particular Jose Manuel Cortes Martin, “Immigration et regroupement familial dans l’Union Européenne: un droit à géométrie variable”, *Revue du Droit de l’Union Européenne*, No. 4, 2005, pp. 721-760 (75).

That said, it needs to be borne in mind that the directive takes account of the sensitivities expressed by the member states, which had legitimate concerns regarding the actual application of this legal instrument. It should also be remembered in this context that the Court of Justice recently dismissed (judgment of 27 June 2006, in case C-540/03) the action brought by the European Parliament that the directive did not comply with the obligation to protect fundamental rights, in particular the right to respect for family life and the obligation to take account of the interests of minors.

In this context, I should like to refer briefly to Directive 2004/38/EC on the right to move and reside freely within the territory of the member states, which was approved by the European Parliament and the Council in April 2004.³² This instrument, which first and foremost enables Community citizens to move freely, is also of benefit to third-country nationals married to an EU national, as it affords them the right to move freely within the Community. The directive also extends the right to family reunification and recognises that right for the partner of a Community citizen where applicable under national law.³³

b. Long-term residents

Another important legal instrument to help integrate third-country nationals as anticipated in Tampere is Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents.³⁴ This status is recognised by Member States in respect of third-country nationals who have “resided legally and continuously within its territory for five years”³⁵ and have “stable and regular resources which are sufficient to maintain themselves and the members of their families, sickness insurance in respect of all risks[...]” and that they “comply with integration conditions”.³⁶ This latter point is only where required by the national legislation of the member states. Article 3 sets out the scope of this legal instrument very clearly. It does not apply to anyone residing in a member state on a temporary basis, to refugees, asylum-seekers waiting for a decision on their applications, anyone benefiting from temporary protection or a subsidiary form of protection, or to seasonal or cross-border workers.³⁷ Nor does it apply to persons residing in a member state for study or vocational training purposes. Acquiring this ‘regular’ legal status authorises citizens who have resided legally and continuously for at least five years to live and reside for a period exceeding three months in a second member state where they exercise an economic activity in an employed or

³² European Parliament and Council Directive 2004/38/EC of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC, OJ L 158 (30.4.2004). The deadline for transposition into national legislation expired on 30 April 2006.

³³ Recital 5 states that “The right of all Union citizens to move and reside freely within the territory of the Member States should, if it is to be exercised under objective conditions of freedom and dignity, be also granted to their family members, irrespective of nationality. For the purposes of this Directive, the definition of “family member” should also include the registered partner if the legislation of the host Member State treats registered partnership as equivalent to marriage”.

³⁴ The deadline for transposition by the member states was 23 January 2006.

³⁵ It should be recalled that “only half of the periods of residence for study purposes or vocational training may be taken into account” in the calculation of the five-year period and that this status may be refused on grounds of public policy or public security.

³⁶ For example, proficiency in the language of the member state could be one of the additional integration conditions required by some member states.

³⁷ Seasonal and cross-border workers may be subject to specific conditions imposed by the member states.

self-employed capacity, pursue studies or vocational training or go there for other purposes under the conditions of the directive. The current figures available suggest there are some 10 million third-country nationals who could benefit from this directive. As of 25 October 2006, 12 member states had notified the Commission of their respective transposition measures.³⁸

This directive guarantees equal treatment throughout the European Union and gives third-country nationals in an EU country the same rights as EU nationals once they satisfy the requirements of the directive in terms of access to the employment market, education and training, and the right to social security.³⁹

As with the directive on family reunification, third-country nationals must prove that they have sufficient resources and medical insurance for themselves and their families not to be a burden on the social welfare system of the state in which they reside. The directive also confirms that, once the status of long-term resident has been acquired, a third-country national is protected against expulsion, which can be justified solely where he/she constitutes an actual and sufficiently serious threat to public policy and public security.⁴⁰ Thus, an expulsion decision cannot be justified by economic reasons, such as the loss of one's job.

c. Directives on the admission of third-country researchers and students

These two important instruments complete the legal framework that the European Commission has so far proposed pursuant to Art. 63 of the Treaty of Amsterdam.⁴¹ The October 2005 directive on researchers,⁴² which is to be transposed by 12 October 2007, took account of the fact that greater global economic interdependence calls for easier movement of researchers, who can make a significant contribution to the technological development of a given country. The Commission estimated the need for additional researchers to be around 700,000 to achieve the objective set by the Barcelona European Council⁴³ of increasing overall spending on R&D, "with the aim of approaching 3% of GDP by 2010".⁴⁴ Even with policies designed to develop research in Europe, it is nonetheless unlikely that the European Union can count on this number of researchers should it decide to limit this 'search for brainpower' to within its own territorial confines.

The aim of these provisions is obviously to increase the mobility of research and to attract the foreign researchers needed by way of a specific admission procedure and under special residence conditions⁴⁵ for researchers who stay longer than three months to complete a research

³⁸ Austria, Belgium, Estonia, Finland, Greece, Latvia, Lithuania, Poland, Portugal, Czech Republic, Slovakia, Slovenia and Sweden have notified full or partial transposition measures, which are currently being examined by the Commission. The assessments made on the status of transposition of the directive on family reunification obviously also apply to this case (see Martin, 2005, op.cit.).

³⁹ Art. 11.

⁴⁰ Art. 6.

⁴¹ See Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on immigration, integration and employment, COM(2003)336 final, 3 June 2003.

⁴² Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research. – OJ L 289/15.

⁴³ Barcelona European Council of 15 and 16 March 2002, Conclusions of the Presidency, point 47.

⁴⁴ The conclusions of the Barcelona European Council state that "two-thirds of this new investment should come from the private sector".

⁴⁵ Art. 8 reads: "Member States shall issue a residence permit for a period of at least one year If the research project is scheduled to last less than one year, the residence permit shall be issued for the duration of the project".

project promoted by an institute in the host member state. This should increase training and exchange possibilities and at the same time enhance the career prospects of young foreign researchers who often have to work under less-than-optimum conditions. Under this directive, researchers will enjoy equal treatment, including the possibility of teaching⁴⁶ and being accompanied by family members. Unfortunately, statistics on researchers are practically non-existent and thus it is impossible to say what the degree of mobility is either among Community researchers or among researchers from third countries,⁴⁷ a failing that Europe will have to rectify in the coming years if it wants to keep abreast of the situation.

The main beneficiaries from this directive should be the very public and private research institutes whose job it will be to develop and consolidate contacts and networks with their partners on the world stage. Research institutes authorised by member states to host researchers will have to give a “special” undertaking, as set out in Art. 5(3) of the directive. Where a researcher remains illegally in the territory, the member state may require the research institute hosting the researcher to reimburse “the costs related to his/her stay and return incurred by public funds”. For the first time, therefore, the responsibility of the institute making use of this specific admission procedure for researchers is clearly stated. Also, paragraph 4 goes on to say that, within two months of the date of expiry of the hosting agreement, the institute must provide the competent authorities with proof that the research programme has been carried out. This directive is therefore an instrument, which, in addition to providing a number of legitimate security guarantees for the member states, should facilitate the movement of brainpower at world level.

Council Directive 2004/114/EC⁴⁸ concerns the admission of third-country nationals for study purposes and sets out to promote education as a means of giving greater visibility to the quality of European universities. As can be seen from the list drawn up by the Institute of Higher Education of the University of Shanghai and published in August 2006,⁴⁹ the quality of European universities is not very high, if we exclude Cambridge and Oxford, which are second and tenth respectively in the world rankings. Like any statistical study, it is open to criticism or we simply may not agree with the ranking methodology used, but it is nonetheless significant, and even alarming, that in the top 20 there are 17 American universities, one Japanese and two European. This signal should not be underestimated if the objectives of the Lisbon Agenda are to remain the target of the member states of the European Union.

This directive aims to bring the diverse national laws closer together to provide third-country students with a broader range of opportunities and to foster mobility outside their national confines. Furthermore, Art. 8 of this directive allows students meeting certain conditions laid down in Arts 6 and 7 to participate in a study programme in another member state where this exchange forms part of studies already commenced in the ‘first’ host member state. Art. 17 also provides for students to be given the possibility of exercising an economic activity, it being left

⁴⁶ Art. 11.

⁴⁷ European Council of 23 and 24 March 2000, Conclusions of the Presidency, Part I, point 12 reads: “Given the significant role played by research and development in generating economic growth, employment and social cohesion, the Union must work towards the objectives set out in the Commission’s communication ‘Towards a European Research Area’. Research activities at national and Union level must be better integrated and coordinated to make them as efficient and innovative as possible, and to ensure that Europe offers attractive prospects to its best brains”.

⁴⁸ Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service, OJ L 375/12 of 23 December 2004. The deadline for transposition expires on 12 January 2007. Denmark, Ireland and the United Kingdom are not bound by this directive.

⁴⁹ For more information, see the internet site: <http://ed.sjtu.edu.cn/rank/2006/ARWU2006TOP500list.htm>

entirely to the discretion of each member state to determine the maximum number of hours per week or days per month.⁵⁰ This should give even less well-off students the possibility of studying in Europe. According to the latest statistics from Eurostat,⁵¹ there are already lots of student exchanges within the EU.⁵²

d. Mutual information mechanism

On 4 November 2006, following protracted negotiations, a mutual information mechanism concerning Member States' measures in the areas of asylum and immigration entered into force.⁵³ This new instrument will allow information to be exchanged on all new measures adopted in the field of immigration and asylum, including regularisation measures,⁵⁴ even if this term is not explicitly used in the legislative text.⁵⁵ More specifically, Art. 2(1) states that “Member States shall communicate to the Commission and the other Member States information on the measures which they intend to take, or have recently taken, in the areas of asylum and immigration, where these measures are publicly available and are likely to have a significant impact on several Member States or on the European Union as a whole”. This means that this provision will not be applied retroactively. In other words, if a given member state has adopted legislation enabling it to issue further regulations without taking new “measures”, that member state has no obligation to transmit any information either to the Commission or to the other member states.

Since the entry into force of this Council Decision, Germany has regularised around 4 200 people, who either used to enjoy international protection or were failed asylum seekers. These people, who were essentially ‘tolerated’ by the German authorities, could not be sent back to their countries of origin for humanitarian reasons.⁵⁶ Hence, Germany decided to regularise the situation of these people who were living in Germany without valid residence and work permits. Obviously, this regularisation was undertaken on the basis of objective and clear criteria. The primary requirements were the existence of a regular work contract before 17 November 2006⁵⁷

⁵⁰ While paragraph 2 gives the minimum as “10 hours per week”, paragraph 3 states that access to economic activities may be restricted “for the first year of residence”.

⁵¹ Eustostat’s *Statistics in focus*, 15/2006 of 13 October 2006.

⁵² Within the European Union, for example, half of foreign students in Belgium are from France, whereas Greek students prefer to study in British universities and Polish students in Germany. This is a positive trend which should be further encouraged by the Member States in the years ahead.

⁵³ Council Decision of 5 October 2006 – OJ L 283/40.

⁵⁴ A first study on the impact of regularisation measures was contained in the Commission communication entitled “Study on the links between legal and illegal migration”. COM(2004)412 final, 4 June 2004, pp. 9-11. In line with the Tampere mandate, the Commission states in its 2000 communication (COM (2000) 757) that “Programmes to regularise the position of illegal migrants, which often give rise to difficult internal political debates, are developing in a number of Member States.”

⁵⁵ The end of recital 5 reads: “administrative decisions affecting a significant number of persons”.

⁵⁶ It is worth noting that many of the regularised people were married and therefore the estimated total number could be around 20,000 people, including family members.

⁵⁷ Although this criterion is objective, it is at the very least strange that the German authorities asked those people to provide a regular work contract signed before 17 November 2006, knowing that these people were not given a work permit. Despite this ‘problem’, 4,200 people proved that they had a regular work contract before that date.

and the absence of a criminal record. Moreover, six years of continuous residence was required, along with a sufficient command of the German language.⁵⁸

For the 100,000 of those people who did not meet the established criteria because they did not have a work contract, the German authorities provided them with job-seeker permits lasting from 17 November 2006 to 30 September 2007, in order to give them the chance of finding a regular job, which was ‘the missing element’ in their application for successful regularisation. Germany has notified this decision to the Commission and other member states, bearing witness to the fact that the mutual information system is already applied by all EU member states.⁵⁹ The Commission had already highlighted the urgent need for a mechanism of this kind some time ago in its study on the links between legal and illegal migration.⁶⁰

What speeded up adoption of this new legal instrument was the process of regularisation introduced by the Spanish Government on 7 February 2005, which involved almost 600,000 third-country nationals⁶¹ residing illegally on Spanish territory. This political decision de facto encouraged member states to establish a joint legal framework, which has further underpinned the area of freedom, security and justice.

After six years of proposals and discussions, Europe now has a system that keeps its member states abreast of all new measures and policies promoted by other states. In the absence of internal frontiers within the Union, this is necessary to avoid any unwanted fallout in other member states. This mechanism hinges on solidarity and trust and embraces “policy intentions, long-term programming, draft and adopted legislation”, to give a number of examples.

Unfortunately, the final text covers the initial proposal of the Commission only in part, which would have liked a more dynamic and ambitious mechanism. The system adopted limits itself to creating “a channel for the exchange of information” between the member state that intends to adopt new measures and the Commission and the other member states; a communication channel⁶² that will not, however, necessarily involve a discussion on the merits of those provisions. As regards the specific case of regularisation, in particular, this system does not allow a serious and honest discussion on whether or not to use this kind of instrument, on the criteria to be established or on the number of people affected by the provision. It is simply a matter of informing the Commission and the other member states “as soon as possible” of decisions taken by another member state. Article 2, however, specifies that the Commission or

⁵⁸ In Germany, since the *Länder* are responsible for implementing the criteria set out by federal law, the language test to verify the command of the language of a given candidate may be easier in one *Land* and more difficult in another. This situation is not new in Germany, as the problem has already arisen with the implementation of the new German law on citizenship, which entered into force on 1 January 2000, where language tests were also required.

⁵⁹ This information has been kindly provided by the German Ministry of the Interior.

⁶⁰ See footnote 56.

⁶¹ This process of regularisation was set in motion by the approval of a new regulation endorsed by the Committee of Ministers on 30 December 2004, which entered into force on 11 January 2005. This regulation sets out the rights and freedoms enjoyed by third-country nationals in Spain and provides for measures for them to be integrated. The process of regularisation began on 7 February 2005 and ended on 7 May 2005. According to the figures provided by the Department of State for immigration, 691 655 applications were received, 58.9% of them from men. Some 575 827 requests were registered. Most of the applicants were from Ecuador, Morocco and Romania. For more information, see www.mtas.es, the internet site of the Spanish Ministry of labour and social affairs.

⁶² Article 3 reads: “The network for the exchange of information in accordance with this Decision shall be web-based.....[...] The Commission shall be responsible for the development and management of the network”. Each year the Commission has to prepare a general report summarising the most relevant information transmitted by the Member States (Art. 4).

another member state may request “additional information”, the member state in question having one month to reply. Given the importance of the subject, the lack of updated information and the request made by the Justice and Home Affairs Council, the Commission, acting on an initiative of Vice-President Frattini, has decided to launch an in-depth study on regularisation measures, which will be completed by the end of 2007.⁶³

Concluding remarks

Integration is one of the main challenges that Europe and its member states have to address with courage and conviction, and one that has to involve all stakeholders. At present, the most intricate question that we have to answer is how. How can we tackle the challenge posed by integration? Which methodological approach should we use?

Putting these two questions immediately shows the scale of the challenge thrown down by integration. I believe that it would be wise to start by trying to identify what methodologies are clearly inadequate for the purposes of pursuing our integration goals.

The first question to answer is how to structure the debate on immigration. As George J. Borjas put it in his famous book *Heaven's Door: Immigration Policy and the American Economy*, debates on social policy tend to frame the issues in ‘black and white’. These two colours can only be useful if a decision has to be taken about two very distinct policy options. But they do not capture the important nuances of integration, which is a complicated, dynamic and growing phenomenon. Thanks to the ground-breaking work of national, regional and local authorities, trade unions, employers' associations, immigrant networks and associations, non-governmental organisations, recruitment agencies and universities, current debates are now structured around productive exchanges of views aimed at spreading best practices and ideas, identifying the most difficult integration challenges so far encountered by stakeholders and devising, where possible, innovative policy options. These efforts have already produced one positive result: all stakeholders understand that it is essential to join forces if lasting and all-encompassing solutions are to be found.

This significant outcome has been achieved despite the fact that integration continues to create deep cleavages in societies and discordant differences of opinion in EU member states. Since ‘miracle solutions’ are beyond the reach of human beings, ‘human solutions’ need to be found; and these call for genuine commitment, time and a certain degree of creativity. In the case of integration, however, this may not be enough. Successful integration means both parties involved in this complex and politically delicate process, namely the host society and the migrants themselves, taking part in a structured and frank dialogue on the formulation of integration policies and measures, which must be jointly defined and agreed. It is ‘common knowledge’ that giving immigrants a voice in the development of policies and activities which directly affect them results in policies that are more in tune with immigrants, stimulate their engagement and generate mutual understanding.

Nonetheless, recurrent episodes of violence, racism and xenophobia in some member states have reminded us that even this structured dialogue between immigrant groups and associations and authorities at various levels have proved to be ill-equipped to achieve the desired result: living together in peace and with full respect for each other. This structured dialogue might have failed to attain the expected outcome because it was pursued with little knowledge of each party's values, religious beliefs and/or traditions and because both sides were only partially open

⁶³ Communication from the Commission on Policy priorities in the fight against illegal immigration of third-country nationals, COM(2006)402 final, 19 July 2006, p. 8.

to paying due care and attention to the arguments of the other. Half-hearted commitment and ready-made prejudices have further inflamed this highly sensitive social debate.

Another interpretation of the current ‘integration stalemate’ could derive from what Karl Popper, one of the most influential philosophers of the 20th century, called the ‘myth of the framework’. This brilliant paper is a well-thought-out analysis and critique of cultural relativism which essentially holds that a constructive dialogue between two groups of people is ‘impossible’ unless they share a common set of values⁶⁴ and the same culture.⁶⁵ Popper’s argument is both ‘simple’ and enlightening: while it is true that different languages, diverse values and dissimilar cultures can make fruitful dialogue particularly difficult, this does not mean that dialogue, or should I say mutual understanding, is ‘impossible’. Popper defines languages and previous experiences as ‘prisons’ from which people can escape if they want to. As usual, this means efforts and commitment. The ultimate goal for Popper is ‘intellectual growth, which stems from the collision of two different cultures that can focus on commonly shared issues in the quest for concrete and lasting solutions. In his writings, Popper quoted the example of the coastal colonies of Greece⁶⁶ where philosophy had begun thanks to ‘intellectual growth’ powered by the collision of different cultures. His analysis has provided us with a valuable methodological approach that can be applied to the challenge of integration.

The point that I am seeking to make is far from being a ‘social leap forward’. What I mean to say is that I am convinced that the current ‘barriers of distrust’ must be broken down by enhancing dialogue and cooperation among all integration stakeholders and that the host society and migrants should avoid fixating on existing divisions, which are the very ‘prisons’ described by Karl Popper. They should instead concentrate on common problems that call for joint solutions and Europe can play the role of ‘honest broker’ in this respect. The objective of these efforts should be not only to foster ‘intellectual growth’ but also to promote harmony and genuine respect for each other. It is true, however, that daily work on integration issues can sometimes be unrewarding. However, I firmly believe that integration requires the genuine, daily commitment of all the stakeholders involved, along with mutual trust. In other words, our goal should be to ‘turn outsiders into insiders’. This idea should not be construed as a subtle way of assimilating migrants into the EU’s social fabric. Migrants should be free to live their own lives according to their own cultures, values and traditions while respecting the culture, values and legal norms of the host society. In my view, the teachings contained in the renowned essay “On Liberty” written by the English philosopher John Stuart Mill still hold true today: “.....[...] He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinions of others, to do so would be wise, or even right. These are good reasons for remonstrating with him, or reasoning with him, or persuading him, or entreating him, but not for compelling him, or visiting him with any evil, in case he do otherwise. To justify that, the conduct from which it is desired to deter him must

⁶⁴ The development of cultural relativism has its origins in the German Enlightenment and, more specifically, in the writings of Immanuel Kant. The great German philosopher maintained that human beings were not capable of ‘direct’ knowledge of the world.

⁶⁵ Franz Boas, an American anthropologist and a leading figure of cultural relativism, was significantly influenced by the work of Immanuel Kant. He coined a new definition of culture which included “the totality of the mental and physical reactions and activities that characterize the behavior of the individuals composing a social group collectively and individually in relation to their natural environment, to other groups, to members of the group itself, and of each individual to himself”.

⁶⁶ Reference is made to Magna Graecia, which extended from the coast of Asia Minor to Africa, Spain and southern Italy and Sicily. These colonies had contact with other civilisations and enjoyed more freedom and economic well-being. The Greeks living in these colonies were more numerous than those living in Greece itself.

be calculated to produce evil to someone else. The only part of the conduct of any one, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign". Living together is not an easy thing to do, even under the best of circumstances. The challenge of integration asks migrants and the host society to start to work on a common ground on which they can build and shape their common future.

Europe should continue to make every possible effort to promote integration and any other measure that might favour the inclusion of migrants in the new society. Europe cannot afford the luxury of shutting its eyes to the challenge of integration which, if ignored, could imbue its own societies with the treacherous seeds of racism, xenophobia and other deplorable forms of discrimination. While it is true that capital and people move faster in today's interdependent world, so do the related challenges. Europe and its member states cannot pass the 'integration buck' to the next generation.

A recent study on migration and remittances published by the World Bank in January 2007,⁶⁷ projects that, by 2050, Europe needs to attract some 79 million migrants if current European living standards are to be maintained. To give an idea of the massive scale of this migration, the authors of the study underlined that, between 1990 and 2000, Europe welcomed fewer than 9 million new migrants. In a recent study⁶⁸ of mine, I point out that, by 2050, Europe will have 72 million more people aged 60 and older. This will impinge, inter alia, on the long-term sustainability of public finances in EU member states, thereby forcing EU governments to undertake courageous socio-political reforms of the structure of their respective economies.

Europe's common agenda for integration is a good starting point and has the advantage of already being endorsed by all the EU member states. It includes 11 Common Principles covering the major issues at stake in the area of integration.⁶⁹ In the years ahead, Europe, together with its member states, should be bolder in its promotion of integration policies. Its focus should be more on delivery than on policy-making. Citizens and migrants expect concrete results and Europe can help member states to deliver on their policies and measures.

⁶⁷ See Ali Mansoor and Bryce Quillin (eds), *Migration and Remittances: Eastern Europe and the Former Soviet Union*, World Bank, Washington, D.C. This interesting study can be found at: http://siteresources.worldbank.org/INTECA/Resources/257896-1167856389505/Migration_FullReport.pdf.

⁶⁸ Bertozzi (2007), op. cit.

⁶⁹ See references to official EU documents in footnote 3.

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