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**Economic migration, social cohesion
and development: towards an integrated approach**



THEMATIC REPORT

Economic migration, social cohesion and development :
towards an integrated approach

THEMATIC REPORT

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EXECUTIVE SUMMARY

Migration is a central theme in contemporary European policy because it is intrinsically connected with the most formidable challenges facing Europe: development, economic growth and productivity, demographic change, maintaining social security systems, ensuring social cohesion and intercultural dialogue, and upholding human rights and the rule of law.

This report was prepared as a main reference for the 8th Council of Europe Conference of Ministers Responsible for Migration. It presents main aspects and characteristics of migration in the member states of the Council of Europe, analyses policy challenges raised by contemporary migration, and identifies an appropriate and integrated policy agenda.

The introduction and the first chapter on *migration and economic and social well-being* review reasons for the growth of economic migration, its scale and characteristics, and the impact on the economies as well as on policies and practices of member states.

The second chapter on *migration and development* discusses the impact of migration on the development of countries of origin and destination. It identifies main challenges to strengthening the contributions migration makes to development, including return of skills, remittances, the "brain drain", the investment of migrants in countries of origin, *co-development*, and the role of diaspora.

The third chapter on *migration and social cohesion* identifies main policy issues regarding equality of treatment and integration of migrant workers and their families, and policies and practices on integration promote social cohesion.

The fourth chapter describes *an integrated policy agenda* and examines the specific policy factors to effectively regulate migration. It identifies the main policy components comprising an integrated approach and outlines roles of government and non-governmental stakeholders in implementing this agenda.

1. Competence of the Council of Europe

The Council of Europe has a unique role, competence and capacity in addressing migration. Its European Committee on Migration (CDMG) incorporates operational participation from all member countries. It represents the full spectrum of migration experiences, from those of primarily origin countries to those of primarily destination countries as well as transit countries, with many member countries being all three today. The composition of the committee reflects the breadth of government institutions charged with addressing migration concerns, including ministries of immigration, labour/employment, interior or home affairs, foreign affairs, integration, and others.

This composition is unique in the world and in particular allows policy development and elaboration in the Council of Europe to take account of distinct national migration experiences and the diverse branches of government in addressing migration and its consequences.

The CDMG and its various working groups facilitate the building of relationships of trust and mutual co-operation with and between the operational institutions and actors of the member countries.

Over the last two decades, the CDMG has conducted studies, developed recommendations, contributed to elaborating normative standards and delineated policy guidance covering most issues of migration governance. Many of these policy lines were subsequently endorsed by the Council of Europe Conferences of Ministers on Migration Affairs, thus giving the political impetus at the highest level to ensure their implementation by member states. The evolution of policies of many member states demonstrates that Council of Europe policy guidance has been especially relevant to shaping consistent national policies and to encouraging co-operation among member countries.

Other bodies of the Council of Europe address migration issues. The European Commission against Racism and Intolerance (ECRI) is tasked with combating racism, xenophobia, antisemitism and intolerance from the perspective of protection of human rights; its 2008 annual seminar focused on discrimination and integration regarding persons of immigrant origin. The current Council of Europe Commissioner for Human Rights, serving in an independent capacity, has given particular attention to rights of migrants as a major theme under his mandate.

The Parliamentary Assembly of the Council of Europe (PACE) plays an important role, particularly through its Committee on Migration, Refugees and Population. This Committee elaborates policies for protection of the rights of migrants, refugees and displaced persons and the improvement of their living conditions and, secondly, proposes political solutions consistent with the humanitarian values of the Council of Europe. Recent PACE resolutions and recommendations are listed in the report.

2. Challenges for Europe, economic well-being, development and social cohesion

International migration in Europe is characterised by a growing number of short-term, long-term and permanent migrants. On the one hand, this is the consequence of higher international labour mobility in the époque of globalisation resulting from changing needs and structures of national labour markets and increasingly internationalised labour demand and supply.

On the other hand, Europe needs migrants today, and many countries in the region will need even more in future in order to meet changing labour-market requirements, counter work force decline and population ageing, and help social security systems stay in balance. Immigration is clearly a palliative at times of labour shortages in host countries.

Evidence shows that immigration has generally positive effects on economic growth and employment. However, it is only one element of solving the challenges of demographic, labour market and economic changes in Europe.

Migrants often have high motivation for hard work, success, earning, and saving. Their productivity is often higher than among local workers in similar occupations and positions.

The fundamental policy challenge today is to capitalise on this and to ensure economic and social benefits from international migration. Current migration trends are primarily

about facilitating labour and skills mobility through democratic means and regulatory instruments while avoiding overemphasis on restrictive control measures.

The free movement of goods, capital, technology and services facilitates economic integration processes and interconnection. However, destination countries continue to implement restrictive provisions on the movement of people, as do certain countries of origin. A central policy challenge is therefore to reconcile economic pressures that urge constraints on human and labour rights protections for foreign workers in order to sustain labour cost competitiveness with the need to uphold equality of treatment and non-discrimination as guarantors of labour market coherence, work force productivity, and social cohesion.

A major policy conundrum for governments is how to confront widespread adverse public perceptions, opinions and resentment against foreigners, particularly migrant workers, especially where they are commonly portrayed as competing for scarce employment and housing, unfairly or illegally drawing on public welfare resources, and associated with criminality.

For Europe, migration undeniably presents new challenges for integrating immigrants economically and socially. The aim must be to have immigrants genuinely participate in the labour market, the economy and society. Proper integration in the host country helps strengthen identity, promotes civic participation and increases social cohesion.

The overarching goal is achieving a comprehensive, integrated and credible approach to regulating migration with a pan-European relevance. Equally at issue is generating the political will, social partner co-operation and popular support to extend, apply and consolidate rights protections and equality of treatment to foreign workers and populations as guarantors of economic progress and social cohesion.

3. *Migration and economic and social well-being*

Economic factors in respect of migration flows are gaining weight in terms of both 'push' and 'pull' factors. Segmentation of national labour markets in the majority of EU member states and in Russia, provokes further demand for imported labour. The profile and distribution of migrants is closely related to the structure and demands of the national labour markets in receiving countries.

Ageing of population and a growing percentage of retired persons is another important stimulus to migration as a means to cover labour shortages and increase production as well as stabilise social security systems. Rapid shifts in the age structure of the European population are taking place. For example, by 2050 every fourth or maybe every third European will be of pensionable age, while half of the population will be over 50 years old. The need to ensure stability in labour markets is particularly pressing in the light of current concerns about a possible global recession and emphasises the need for an integrated and flexible approach.

Many European countries, among them Germany, the United Kingdom, Austria, Denmark, Belgium, and Portugal, are important labour migration countries, with substantial stocks of temporary foreign workers and 30-40% of permanent immigrants arriving for work-related reasons. In Central and Eastern Europe, the Slovak Republic, Hungary, the Czech Republic and Poland are new destination countries for migrants driven by economic reasons from further east. Russia hosts over 3 million registered migrant workers and at least a twofold greater number of unregistered migrants mainly from other CIS states.

Migration in Europe is a long-term phenomenon but is now diversifying. Former countries of emigration such as Portugal, Italy, Spain and Greece have now become host countries. Others like Romania and Turkey are becoming countries of net immigration. Romania, Bulgaria and Poland are attracting workers from neighbouring countries including Belarus, Moldova, and Ukraine. The Council of Europe member states thus comprise countries of destination, origin and transit, with many characterised by all three dimensions.

Most contemporary research demonstrates that immigration supports economic growth and development. The impact of immigration on the wages and employment levels of native workers in host countries is generally found to be insignificant. However, there may be more of an issue in certain sectors or in relation to particular indigenous categories. Generally, immigrant workers complement rather than replace the existing workforce although again there are exceptions in particular sectors..

Migrants' input to host countries' human capital is significant; generally, recent immigrants' level of education is higher than the average education level of the indigenous populations.

A statistical analysis of the economic impact of migration in 15 European countries from 1991 to 1995 found that every 1 per cent increase in a country's population through immigration led to a 1.25 to 1.5 per cent increase in GDP, a strong correlation although not necessarily proving causality. Some more recent country-specific studies have shown slightly lower, but still positive, net benefits. Other recent studies have shown that the benefits received by immigrants are invariably outweighed by their net contributions to the economy.

The general consensus from research is that the effect of immigration on wages is minimal. Regarding unemployment, results from an OECD study of selected countries between 1984 and 1995 concluded that there was no evidence of a negative impact of immigration on local unemployment. While labour deficits could numerically be covered by employment of the unemployed, unemployment in native work forces is most often related to structural imbalances in labour markets. Even in countries where the population is highly mobile, increases in employment opportunities do not result in equal declines in unemployment.

The World Bank has argued that the gains from international migration, especially for developing countries, surpass the expected gains from liberalising trade in merchandise. Thus it is now asserted that freer international mobility of labour would both increase global income and make its distribution more equitable.

Gender differences in labour migration flows are diminished by the growing demand for female labour particularly in the service sector: childcare, elderly care, healthcare, domestic service, hospitality, and entertainment and well as hotel and restaurant industries. In Europe, women now comprise 53% of all migrants; the highest rate in comparison to other regions.

4. *The migration development nexus*

Migration has the potential to serve as an engine of growth and development for all parties involved - host and source countries and the migrants themselves. In destination countries, migration has rejuvenated workforces, rendered economically viable traditional sectors like agriculture and services, promoted entrepreneurship, supported social security and welfare schemes, and met the demand for skills for emerging high tech industries. In migrant origin countries, positive contributions of migration are

reflected in capital inflows through remittances and investments, transfer of technology and critical skills through return migration, and increased exports and international business facilitated by transnational community relations.

Migrants sustain development and partnership through the monetary, human and social capital they supply, the international flows of finance and trade they bring about, their involvement in social networks and their contributions to exchanges between cultures.

The UN Secretary-General's report on International Migration and Development for the UN High Level Dialogue 2006 stated: "We are only beginning to learn how to make migration work more consistently for development. Each of us holds a piece of the migration puzzle, but none has the whole picture. It is time to start putting it together."

Whether or not emigration contributes to development varies according to what forms of migration take place, where to, and on how well countries put in place policies to take advantage of benefits and address adverse consequences of migration. Migration can contribute positively to development where a country is already poised to develop; it cannot, however, create such a condition.

Excessive emigration of workforce and skills, as well as the inability of the unemployed potential workforce to emigrate, is clearly harmful to sustainable development in countries of origin. There is also huge potential for enhancing development in countries of origin through diaspora contributions and by return and circular migration, providing that the infrastructure allows it.

Migration and the return flows it generates are one of the most important means for sustaining the economy in some emigration countries. Recorded remittances are now more than double the level of official development assistance (ODA) of \$104 billion, and about two thirds of foreign direct investment (FDI) flows of \$325 billion in 2006. For some countries remittances constitute the main source of foreign exchange. Migrant remittances usually go towards improved housing, nutrition, schooling and health care. Remittances therefore create human capital by financing education of children, and meeting health expenses while improving food security for poor households.

Migrants who return to their countries of origin possessing enhanced skills, knowledge, ideas and capital can make substantial contributions to development. Nonetheless, return migration contributes to development only where the country of origin has created a propitious social and economic environment for using skills acquired abroad or investing migrant savings. However, empirical evidence indicates that such conditions are not often met.

Diaspora contacts - the activities of groups of expatriates directed towards their country of origin - are often considered valuable links to support development. Diaspora can convey "social remittances" to the country of origin, thereby contributing to overall development.

Core elements for maximising development benefits include facilitating mobility – both emigration and return - ensuring protection and decent treatment for migrants, optimising the benefits of remittances, encouraging return of skills, supporting skills training and education in origin countries, and enhancing diaspora organisation and entrepreneurial activity, among others.

Explicit partnerships between origin and destination countries are a newer arrangement where migration and development are explicitly interconnected in political and aid initiatives. Their intent is to develop and sustain levels of co-operation that will

contribute to the equalisation of benefits of migration between two or more countries concerned (source and destination) and to minimise potential drawbacks.

5. *Integration and social cohesion*

The influence on social cohesion of large scale migration is one of the major challenges for Europe's future. Successful integration of immigrants is a prerequisite for social cohesion and economic progress.

Immigrant origin populations now represent a significant proportion of national populations in most countries of Western Europe, ranging from 12% to nearly 20%. The proportions in Central and Eastern Europe while smaller are growing and will continue to do so.

The proportion of foreign born (“first generation”) migrants is some 10% or more across Western Europe. Immigrant populations in Eastern Europe as a region represented 1.9% of the total population in 1985, 7.3% in 1995 and 7.5% in 2005.

Migration has a profound impact on receiving societies; it can change society and its institutions. This to a large extent explains the controversies that surround migration policy. The composition of migration rarely mirrors that of the receiving society, with a considerable portion having different or lower education and many experiencing greater disadvantages in the labour market, thus it can lead to changes in social stratification.

The entry of migrants, often recruited or attracted to employment in the “3-D” jobs shunned by native workers, often exacerbates the segmentation of the labour market and contributes to fragmentation in the working classes. The growth in numbers of migrants in an irregular situation has tended to exacerbate this trend. Migrants, however, have experienced markedly different rates of social mobility and different degrees of integration in different countries, suggesting that integration policies, as well as social and economic conditions, determine the overall consequences of migration.

The significant numbers of immigrants in Europe contribute to its cultural diversity as well as to its economic and social development. Their economic, social, cultural and political integration has a bearing on social cohesion in receiving countries. However, in most European societies, the ethnic and cultural diversity brought by immigration challenges traditional, often mono-cultural and mono-racial definitions of national identity and bases for cohesion. Cultural diversity is one of the main factors that have to be taken into account for greater levels of social cohesion to be possible in Europe.

The rights-based approach of the Council of Europe articulated in the European Convention on Human Rights and the Revised European Social Charter affirm that social cohesion must be built on human rights, social justice and respect for democracy. Social cohesion establishes a link of cause and effect between integration and protection mechanisms on the one hand and the individual's sense of belonging to society on the other. The principles of equality of treatment and non-discrimination and the notion that diversity should be considered as an asset have repercussions on migrants' individual and collective sense of inclusion, and thus are starting points in the journey towards effective integration. Ultimately, social cohesion derives from respect of human and labour rights of all members of society as well as from equitable access for the whole population to the benefits of economic progress.

In reality today, many migrants remain frequently exposed to exclusion from employment, housing, health and education. They face a large number of obstacles to mere participation in, let alone integration into, many receiving societies. Significant

and pervasive discrimination against immigrants and persons of immigrant origins in access to employment, housing, and public services has been amply documented across Europe. Migrants also face obstacles to obtaining access to education and training and limited opportunities for taking part in civic life. For many immigrants, the combination of these factors can lead to a level of exclusion that precludes any possibility of their integration.

Immigrants are commonly portrayed in communications media, public discourse and private debate as competing for scarce employment and housing, unfairly or illegally drawing on public welfare resources, and associated with criminality. As a result of this, adverse public perceptions, opinions and resentment against foreigners are widespread.

Tensions between migration and social cohesion have been dramatically underscored by civil disorders and violent manifestations of discontent in urban areas of concentrations of immigrant-origin populations in countries across Europe. Violent attacks explicitly targeting foreigners and persons of immigrant origin leading to deaths, injury and/or destruction of property are reported across the Council of Europe member countries.

The extent to which migrant workers can become successfully integrated varies considerably depending on factors such as the degree of vocational specialisation, cultural dynamics of particular groups, duration of stay, and the available forms of community solidarity. Other factors have to do with the social, cultural and political characteristics of the place of residence.

The persistent unemployment, poverty and social exclusion suffered by some migrants and populations of immigrant origin demonstrate the need for greater efforts to address the economic and social aspects of integration as well as issues of cultural and religious diversity and citizenship.

Whilst the definitions of multiculturalism, interculturalism and integration continue to be debated, policy approaches that validate and celebrate cultural and social diversity appear to lead to better integration outcomes than do expectations of assimilation to the dominant cultural identity of the receiving State.

Since the 1980s, the debates on economic integration and the social dimensions of European construction have prompted further advances in European Union approaches to inclusion and social cohesion. These approaches embrace completion of the rules on freedom of movement for people, setting an economic- and social-cohesion objective, a clear definition of integration, the need for more comprehensive European social legislation, and so on. Several EU instruments forming part of European employment and inclusion strategies provide backing for member states' action on cohesion, labour mobility and access to lifelong education and training. A large number of social-security measures are co-ordinating schemes and enabling workers and jobseekers to obtain their entitlements with freedom of movement within the EU.

Other important economic and political integration spaces among Council of Europe countries, such as the CIS, have also begun to give more attention to the social cohesion dimensions of greater human mobility within and into those spaces.

Today, evolving patterns and constraints on mobility, immigration and settlement pose new challenges to elaborating viable approaches to integration and social cohesion. Emerging terms such as circular migration, repeat migration, and "persons settled in their mobility" represent circumstances distinct from the assumptions underlying classic policies. These evolving dynamics are also often reflections of restrictions on mobility,

on settlement in host countries, and on policies of economic, cultural or civic exclusion, that leave migrants no choice but to move between societies that reject them.

At the same time, long term and permanent immigrants increasingly maintain multiple social, economic and political ties and sometimes, dual citizenship with both receiving and home countries, establishing social networks and communities that transcend geographical, cultural and political borders. Additionally, many migrants are developing trans-national activities and multicultural, intercultural and multilingual skills. These evolving features of international migration also need to be taken into account in designing policies and practices to ensure social inclusion and cohesion in European countries.

An integration framework must be based on legislation guaranteeing equality and non-discrimination, be linked to migration policy addressing labour market needs and composition and ensuring decent work opportunities for all, and include institutional and practical measures to ensure its implementation.

A solid basis of relevant international and European norms and legislation provides the necessary and appropriate foundation for integration policy. There is a growing body of national and local legal, administrative and practical experience by government, local authorities, employers, trade unions and civil society organisations. These legal norms, policy guidelines and 'good practices' provide ample guidance for the construction of comprehensive and viable national policy on immigration, integration and social cohesion.

6. *An integrated policy agenda*

Deliberate, sustained and consistent policies and practices by states and concerned stakeholders are required to ensure that migration benefits both host and origin countries and the migrants themselves. As a phenomenon that can involve human beings in situations of potential exploitability and inadequate protection, migration cannot be regulated by market forces alone.

Migration policies and practices can only be viable and effective when they are based on a firm foundation of legal norms, and thus operate under the rule of law. International standards set parameters for the protection of migrant workers and the preservation of States' interests. They also provide a framework for national legislation, policy and practice as well as for co-operation within States and between States at opposite ends of the migration process.

Protection of the human rights of all migrants is a legal, political and ethical imperative in its own right, regardless of economic, financial or other considerations. The protection of migrant workers, equality of treatment, campaigns against discrimination, and encouragement of integration are essential measures for ensuring that migration contributes substantially and positively to economic and social development in receiving and home countries alike.

A priority for all governments is to ensure the well-being of migrant workers and to secure the payment of decent wages and basic safeguards. Labour migration policies need to include measures to prevent abusive practices and promote decent and productive work for women and men migrants in conditions of freedom, equity, security, and human dignity. Such policies, legislation and programmes should take into account that women migrants often find themselves in irregular situations, in unregulated sectors of the economy, or as victims of traffickers or smugglers and subject to many forms of violence and abuse.

The social and labour conditions of migrant workers and the degree of migrants' integration determine the levels and degree of economic and social contributions they make to social and economic welfare in receiving countries and to their countries of origin. Specifically, the conditions of migrant workers directly affect both their abilities to remit part of their earnings and to acquire skills and knowledge which will be useful should they choose to return to their countries of origin or for permanent settlement elsewhere. Thus, these conditions have a direct bearing on the level and nature of migrant contributions to social welfare, human capital formation, and development, especially in their countries of origin. For example, the substantially reduced earnings of exploited migrants or earnings which deported migrants are unable to obtain prior to departure are economic resources not only stolen from the affected workers, but in effect expropriated from the countries of origin to which a significant part would have been remitted.

Migration policies and practices have to respond to measured and legitimate needs, which also take into account domestic labour concerns. Regular migration measures must rely on labour market assessments to identify and respond to current and emerging needs for workers, both high- and low-skilled. Policy and practice will need to address such areas as awareness raising, supervision of recruitment, administration of admissions, training of public service and law enforcement officials, recognition of equivalent educational qualifications, provision of social and health services, labour inspection, rights restoration and recovery for victims of trafficking, as well as many other areas.

Migration policy can only be credible and sustainable to the extent that it takes into account the interests, concerns and experience of the most directly affected stakeholders. Key stakeholders are the multiple branches of government concerned, notably ministries responsible for labour and employment as well as those of development, interior and justice, foreign relations, health, education, housing, integration, law enforcement, local administration, and others.

Governments can exercise their regulatory role in respect of migration only in partnership with a range of other actors. Consultation and policy-making thus must also take into account employers' organisations and businesses that provide employment; workers' organisations representing the interests of both migrant and national workers; civil society bodies; and certainly men and women migrants.

Dialogue and co-operation among countries involved in labour migration processes is essential if international labour migration is to benefit.

Crafting a policy for migration needs to take into account the international labour migration environment and should be directed towards meeting three overall objectives:

- (1) protection and welfare of migrant workers;
- (2) optimising the benefits of labour migration and mitigating adverse impact; and
- (3) inter-state co-operation and institutional capacity building.

Effective governance of migration requires coordinated and complementary interventions and regulation. Only a comprehensive and integrated approach to policy formulation, implementation and evaluation covering a broad range of areas will secure the benefits of migration for origin and destination countries alike.

An integrated approach addresses economic migration, development, and social cohesion dimensions at national and international level. This integrated approach involves four main aspects:

- (1) properly and fully assessing policy needs and evaluating their impact;
- (2) coordinating policy and practical measures at local, national and international level;
- (3) establishing multi-sectoral partnerships between states and involving social partners and civil society; and
- (4) promoting synergy and concomitance by all concerned governments, international agencies and non-governmental stakeholders.

Fourteen policy areas comprise an integrated agenda for Council of Europe member States:

Four overarching migration policy and practice areas:

- (1) establishing legal foundations based on relevant international instruments;
- (2) elaborating a policy Framework with stakeholder consultation;
- (3) knowledge and institution building; and
- (4) International co-operation.

Four areas to address economic/labour migration:

- 5) regular migration channels and admissions;
- 6) ensuring protection of human and labour rights;
- 7) labour market regulation; and
- 8) training and recognition of qualifications.

Three areas to sustain social cohesion and integration:

- 9) Integration, non-discrimination and social cohesion;
- 10) social welfare (health, education, housing); and
- 11) social security.

Three areas to take account of the migration-development nexus:

- 12) optimising development impact; co-development;
- 13) resolving irregular migration; and
- 14) return and reintegration.

Implementation of this integrated policy framework by Council of Europe member states will be a major contribution to effectively governing migration, and to securing the economic, social and cultural benefits deriving from well-regulated international human mobility.

INTRODUCTION

1. Challenges for Europe, economic well-being, development and social cohesion

1. This report is prepared for the 8th Council of Europe Conference of Ministers responsible for migration. It presents certain aspects and characteristics of migration in the member states of the Council of Europe, analyses the policy challenges raised by contemporary migration, and identifies appropriate policy and practical responses. The report also examines the extent to which, on the one hand migration affects economic development in both origin and destination countries and, on the other hand, the impact it has on social cohesion in the countries of destination. Particular attention is given to the situation of migrants from the viewpoint of respect for their rights and dignity. The report also explores areas of co-operation in this field between member states as well as with non-member states.

2. Migration is a central theme in contemporary European policy because it is intrinsically connected with several of the most formidable challenges facing Europe: development, economic growth and productivity, demographic change, maintaining social security systems, ensuring social cohesion and intercultural dialogue, and upholding human rights and the rule of law.

3. By en large, Europe needs migrants today, and many countries in the region will need them even more in future, in order to meet labour-market requirements, counter work force decline and population ageing with growing numbers of retired people, and help social-security systems stay in balance¹. Immigration is clearly a palliative at times of critical labour shortage in host countries.

4. However, while immigration may be viewed as having positive effects on economic growth and employment by boosting labour supply and helping overcome shortages, it is only one element of solving the challenges of demographic, labour market and economic changes in Europe.

5. Migration results from a combination of push and pull factors, including notably poverty, absence of decent work, and political and environmental factors in origin countries, and demand for labour and skills, family ties, and better conditions in destination countries.

6. In many cases, migration reflects global economic, social, political or demographic disparities. Sometimes it is a means to access peace and security with respect for human rights. While the proportion of migration at about 3% of global population has remained steady over the last three decades, the absolute numbers of both migrants and population are increasing and will continue to do so over the next three decades.

¹ A. Geddes, "Citizenship and the welfare state in Europe" in S. Spencer (ed.): *The politics of migration: managing opportunity, conflict and change*, (Oxford, Blackwell, The Political Quarterly Publishing, 2003b); C. U. Schiump, P. Hansen and S. Castles, *Migration, citizenship and the European welfare state: a twenty-first century dilemma*, (Oxford University Press, 2006).

7. Migration may also be due to particular social, political and environmental factors, especially because of family reunification or for political reasons (refugees, asylum seekers) or as a result of environmental degradation (people escaping natural disaster, famine, desertification or rising sea levels).

8. From an analytical viewpoint, many factors affect the nature and structure of international migration. Significant factors include geographical distance, demographic structure, historical links between countries of origin and host countries, cultural, economic and family links with the country of origin, strength of migration networks, the range of economic and political opportunities offered by the host country and the size and degree of concentration of immigrant groups.

9. Migrants and immigrants are typically disposed to territorial and social mobility and have high motivation for hard work, success, earning, and saving. Their productivity is often higher than among local workers in similar occupations and positions.

10. The development of new production techniques, the emergence of new technologies, and changes in the forms of organising work are signs of our time. Nonetheless, human capital is still an important economic factor. For this reason, competition in this area is strong on a global scale. Human capital determines not only the progress and competitiveness of a company or an industry, but of countries as a whole.

11. The free movement of goods, capital and services facilitates economic integration processes and interconnection. The globalisation of the economy means that the delocalisation of an entire company from one country to another becomes an option. However, the liberalisation of the world economy is not yet complete. Destination countries continue to implement the restrictive provisions on the movement of people, as do certain countries of origin. Even if major changes can be seen in this field, particularly as regards visa regimes, barriers limiting the movement of persons still remain in place.

12. For the Council of Europe countries, migration undeniably presents new challenges when it comes to integrating immigrants economically and socially. The aim must be to have immigrants genuinely participate in the labour market, the economy and society. Proper integration in the host country helps strengthen identity, promotes civic participation and increases social cohesion.

13. The fundamental policy challenge addressed in this report is obtaining economic and social benefits from international migration --migration that is today primarily about labour and skills mobility-- through democratic means and regulatory instruments while avoiding overemphasis on restrictive control measures.

14. A central concern is reconciling economic pressures that urge constraints on human and labour rights protections for foreign workers in order to sustain labour cost competitiveness, with the need to uphold equality of treatment and non-discrimination as guarantors of labour market coherence, work force productivity, and social cohesion.

15. A major policy conundrum for governance is how to confront widespread adverse public perceptions, opinions and resentment against foreigners, particularly migrant workers, especially where they are commonly portrayed as competing for scarce employment and housing, unfairly or illegally drawing on public welfare resources, and associated with criminality.

16. The goal of this process is establishing a framework for a comprehensive, integrated and credible approach to regulating migration with a pan-European relevance; reconciling the contentions noted above, the broad spectrum of different situations of European countries, and within each, the diverse agendas of different branches of government responsible for the multiple aspects of migration policy and administration, including employment and labour, development, interior and security, foreign relations, health, education, housing, law enforcement, local administration, etc.

17. Equally at issue is generating the political will, social partner co-operation and popular support to extend, apply and consolidate rights protections and equality of treatment to foreign workers and populations as foundation and guarantors of economic progress and social cohesion.

2. *Competence of the Council of Europe*

18. The Council of Europe is an institution founded on the principles of the rule of law, of advancing democratic governance and of respect for human rights. The Council of Europe thus provides all European states with a valuable forum in which to devise migration and integration policies founded on human rights, democracy and the rule of law.

19. The Council of Europe has a unique role, competence and capacity in addressing migration. Its Committee on migration incorporates operational participation from all member countries. It represents the full spectrum of migration experiences, from those of primarily origin countries to those of primarily destination countries as well as transit countries, with many member countries being all three today. The composition of the committee reflects the breadth of government institutions charged with addressing migration concerns, including particularly ministries of immigration, labour/employment, interior or home affairs ministries, ministries of foreign affairs, ministries of integration, and others.

20. This composition and its results are unique in the world and in particular allow the Council of Europe policy elaboration to take into account and address from the outset reconciling and coordinating interests among distinct national migration experiences and the diverse concerns of the various branches of government addressing migration and its consequences.

21. Through its long history of addressing migration, the Council of Europe has built up a large body of knowledge and experience on migration policy relevant to the spectrum of concerns within and across its member states.

22. Over the last two decades, the CDMG Committee on Migration has conducted studies, developed recommendations, contributed to elaborating normative standards and delineated policy guidance covering most issues of migration governance. Many of these policy lines have been subsequently endorsed by the periodic Council of Europe Conferences of Ministers on Migration Affairs, thus politically commending them at the highest level for implementation by member states.

23. The evolution of policies of many member states demonstrates that the policy guidance elaborated in the Council of Europe context has been especially important and relevant, not only to shaping consistent national policies but also to encouraging coherency and co-operation among member countries.

24. The regular meetings of the CDMG and its various working groups also facilitate building relations of trust and co-operation on migration between the

operational institutions and actors of the member countries, further facilitating common and coherent approaches across the region.

25. Other bodies of the Council of Europe address migration issues and human rights aspects of international migration. The European Commission against Racism and Intolerance (ECRI), set up in 1993 by decision of the 1st Council of Europe Summit of Heads of State and Government, is tasked to combat racism, xenophobia, antisemitism and intolerance at the level of greater Europe and from the perspective of the protection of human rights. Its annual seminar for national specialised bodies to combat racism and racial discrimination in February 2008 focused on issues of discrimination and integration regarding foreigners and persons of immigrant origin.

26. Another important body is the Commissioner for Human Rights,² who serves in an independent capacity to promote the awareness of and respect for human rights in the 47 Council of Europe member states. The Commissioner is mandated to foster the effective observance of human rights; assist member states in the implementation of Council of Europe human rights standards; promote education in and awareness of human rights in Council of Europe member states; and identify possible shortcomings in the law and practice concerning human rights. The current Commissioner as of 2006, Mr Thomas Hammerberg, has given particular attention to rights of migrants as a major theme under his mandate.³

27. The Parliamentary Assembly of the Council of Europe (PACE) also plays an important role in addressing migration, particularly through its Committee on Migration, Refugees and Population. This Committee fulfils a dual purpose: firstly by elaborating policies for protection of the rights of migrants, refugees and displaced persons and the improvement of their living conditions; secondly, by proposing political solutions consistent with the humanitarian values of the Council of Europe.⁴ A number of recent relevant PACE resolutions and recommendations are listed in paragraph 35 below.

3. *Towards a comprehensive, integrated approach to migration across Europe*

28. Today, international migration is not just a relationship between an individual moving for purposes of permanent settlement or work, and a government acting as a gatekeeper for entry into a country and acquisition of its citizenship. International migration is better understood as phenomena requiring *broad and diverse internal and international co-operation*. Under contemporary circumstances, government can exercise its major regulating role only in partnership with a wide range of other actor-stakeholders, including migrants themselves, employers, trade unions, recruitment agencies, migrant organisations, legal and advisory firms, and local civil society institutions.

² The fundamental objectives of the Commissioner for Human Rights are laid out in Resolution (99) 50 on the Council of Europe Commissioner for Human Rights, for more see: http://www.coe.int/t/commissioner/default_en.asp.

³ See feature webpage at: http://www.coe.int/t/commissioner/activities/themes/rightsofmigrants_en.asp.

⁴ See Council of Europe Parliamentary Assembly website at: http://assembly.coe.int/Main.asp?link=/committee/MIG/Role_E.htm.

29. Existing European and International Conventions and Labour Standards provide references and guidance for the shape and content of national policy and relevant national enabling legislation.

30. The Council of Europe with its traditional stress on human rights approach, being concerned with insufficiency of existing migration legislation, policies and practices to deal with the contemporary challenges of international migration, has contributed to elaborating new and more comprehensive approaches to governing and regulating migration for a long time.

31. In 2000, the comprehensive document '*Towards a Migration Management Strategy*' was elaborated by the European Committee on Migration (CDMG) of the Council of Europe, with the main objective to propose a coordinated overall strategy for migration management. This approach moved away from narrowing the migration management agenda to immigration control towards characterising and responding to migration as an important resource that, when appropriately regulated, contributes to the economic and social well-being and development for the countries and actors concerned.

32. That same year, the Council of Europe published the book, *Framework for Integration Policies* by Mary Coussey, presenting a comprehensive policy agenda on integration resulting from more than two years work of the CDMG working group on integration policies.

33. Since 2000, the CDMG has elaborated a significant number of reports and recommendations offering common approaches and policy guidance across a spectrum of migration issues:

- 7th Ministerial Conference - Implementation of Action Plan (CDMG (2008) 33);
- Memorandum: *Contribution of the Council of Europe to the Global Forum on Migration and Development* (Brussels, 9-11 July 2007);
- Contribution of the CDMG to the White Paper on Intercultural Dialogue - "*Living Together As Equals in Dignity*"⁵, 2008;
- *Towards a Migration Management Strategy: Challenges for Countries of Origin*. Stéphane de Tapia. CDMG. Strasbourg, 2006;
- *New patterns of irregular migration in Europe*⁶ (2004), Stéphane de Tapia, ISBN 10 92-871-5300-0;
- *Integration Indicators - A User's Manual* - Memorandum prepared by the Committee of experts on integration and diversity ((MG-ID (2004)11).

⁵ Text available on the Committee of Ministers of the Council of Europe website: <http://wcd.coe.int/ViewDoc.jsp?id=1284673&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864>.

⁶ Text available on the Council of Europe migration website : http://www.coe.int/t/dg3/migration/Documentation/Migration%20management/5300-0_New_patterns_of_irregular_migration_in_Europe_en.pdf.

- Evaluation reports on national policies on irregular migrants (CDMG 2007):
 - *Policies on irregular migrants, Volume I - Executive summary, Italy and Germany*, (2008) ISBN 978-92-871-6397-4;
 - *Policies on irregular migrants, Volume II - Republic of Armenia, Greece, Russian Federation* (2008), ISBN 978-92-871-6401-8
- *Access to Social Rights in Europe*, Report prepared by Mary Daly, Queen's University, Belfast, adopted by the European Committee for Social Cohesion (CDCS) at its 8th meeting (Strasbourg, 28-30 May 2002)⁷;
- *Towards migration management strategy*, CDMG Report, Strasbourg, November 2002⁸
- *Framework of Integration policies*⁹, Mary Coussey, Council of Europe, 2000
- Proceedings of the Council of Europe Regional conferences:
 - “*Migrants in Transit Countries: Sharing Responsibility for Management and Protection*”¹⁰ Istanbul (Turkey), 30 September – 1 October 2004
 - “*Migration Policies on the Eve of the EU Enlargement: What Challenges for Future Co-operation within the East European Region*”¹¹, Kiev - 9 and 10 October 2003
 - “*Irregular Migration and Dignity of Migrants: Co-operation in the Mediterranean Region*”¹², Athens - 3 and 4 October 2001

34. Based on the work of the CDMG, the Council of Europe Committee of Ministers has issued several pertinent recommendations over the last five years:

- *Strengthening the integration of children of migrants and of immigrant*

⁷ Text available on the Council of Europe Social cohesion website :
http://www.coe.int/t/dg3/socialpolicies/SocialRights/source/MaryDaly_en.pdf.

⁸ Text available on the Council of Europe migration website :
http://www.coe.int/t/dg3/migration/Documentation/Migration%20management/Towards_Migration_Management_Strategy_en.pdf.

⁹ Text available on the Council of Europe migration website :
http://www.coe.int/t/dg3/migration/Documentation/Series_Community_Relations/Framework_Integration_policies_2000_en.pdf.

¹⁰ Text available on the Council of Europe migration website :
http://www.coe.int/t/dg3/migration/Regional_Conferences/MG-RCONF_2004_9e_Istanbul_conference_Proceedings_en.pdf.

¹¹ Text available on the Council of Europe migration website :
http://www.coe.int/t/dg3/migration/Regional_Conferences/Kiev_Regional_Conference_Proceedings_en.pdf.

¹² Text available on the Council of Europe migration website :
http://www.coe.int/t/dg3/migration/Regional_Conferences/Athens_Proceedings_en.pdf.

*background*¹³ (Recommendation CM/Rec(2008)4)

- *Migrants' Associations and Co-development* and its Explanatory Memorandum¹⁴ (Recommendation CM/Rec(2007)10);
- *Admission, rights and obligations of migrant students and co-operation with countries of origin*¹⁵ (Recommendation CM/ Rec(2006)9)
- *Access of non-nationals to employment in the public sector*¹⁶ (Recommendation CM/Rec (2004) 2)

35. The Parliamentary Assembly of the Council of Europe has also elaborated several resolutions and recommendations on migration issues:

- Resolution 1568 (2007) Regularisation programmes for irregular migrants¹⁷;
- Recommendation 1807 (2007) Regularisation programmes for irregular migrants¹⁸;
- Recommendation 1737 (2006) New trends and challenges for Euro-Mediterranean migration policies¹⁹;
- Resolution 1502 (2006) Demographic challenges for social cohesion²⁰;
- Recommendation 1749 (2006) Demographic challenges for social cohesion²¹;

¹³ Text available on the Committee of Ministers of the Council of Europe website :
[http://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec\(2008\)4&Language=lanEnglish&Ver=original&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75](http://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec(2008)4&Language=lanEnglish&Ver=original&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75).

¹⁴ Text available on the Committee of Ministers of the Council of Europe website :
<http://wcd.coe.int/ViewDoc.jsp?id=1164833&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864>.

¹⁵ Text available on the Committee of Ministers of the Council of Europe website :
<http://wcd.coe.int/ViewDoc.jsp?id=1019671&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864>.

¹⁶ Text available on the Committee of Ministers of the Council of Europe website :
<http://wcd.coe.int/ViewDoc.jsp?id=132851&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864>.

¹⁷ Text available on the Council of Europe Parliamentary Assembly website :
<http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta07/ERES1568.htm>.

¹⁸ Text available on the Council of Europe Parliamentary Assembly website :
<http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/ta07/erec1807.htm>.

¹⁹ Text available on the Council of Europe Parliamentary Assembly website :
<http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/ta06/erec1737.htm>.

²⁰ Text available on the Council of Europe Parliamentary Assembly website :
<http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta06/ERES1502.htm>.

- Resolution 1462 (2005) Co-development policy as a positive measure to regulate migratory flows²²;
- Recommendation 1718 (2005) Co-development policy as a positive measure to regulate migratory flows²³;
- Resolution 1509 (2006) Human rights of irregular migrants²⁴;
- Recommendation 1755 (2006) Human rights of irregular migrants²⁵;
- Recommendation 1650 (2004) Links between Europeans living abroad and their countries of origin²⁶;
- Resolution 1501 (2006) Working migration from the countries of eastern and central Europe: present state and perspectives²⁷;
- Recommendation 1748 (2006) Working migration from the countries of eastern and central Europe: present state and perspectives²⁸;
- Resolution 1534 (2007) The situation of migrant workers in temporary employment agencies (TEAs)²⁹;
- Recommendation 1782 (2007) The situation of migrant workers in temporary employment agencies (TEAs)³⁰.

²¹ Text available on the Council of Europe Parliamentary Assembly website :
<http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/ta06/erec1749.htm>.

²² Text available on the Council of Europe Parliamentary Assembly website :
<http://assembly.coe.int/main.asp?link=http://assembly.coe.int/Documents/AdoptedText/ta05/ERES1462.htm>.

²³ Text available on the Council of Europe Parliamentary Assembly website :
<http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/Documents/AdoptedText/ta05/EREC1718.htm>.

²⁴ Text available on the Council of Europe Parliamentary Assembly website :
<http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta06/ERES1509.htm>.

²⁵ Text available on the Council of Europe Parliamentary Assembly website :
<http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/ta06/erec1755.htm>.

²⁶ Text available on the Council of Europe Parliamentary Assembly website :
<http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta06/eRES1501.htm>.

²⁷ Text available on the Council of Europe Parliamentary Assembly website :
<http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/ta06/erec1748.htm>.

²⁸ Text available on the Council of Europe Parliamentary Assembly website :
<http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta04/EREC1650.htm>.

²⁹ Text available on the Council of Europe Parliamentary Assembly website :
<http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta07/ERES1534.htm>.

³⁰ Text available on the Council of Europe Parliamentary Assembly website :
<http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta07/EREC1782.htm>.

36. The evolving Council of Europe approach stresses the importance of establishing a broad and integrated set of policy measures within each country and engaging in constructive dialogue and proper co-operation links between destination and source countries.

4. Structure of the report

37. The report is divided into four main chapters. Following this introduction, a first chapter on *migration and economic and social well-being* looks at the reasons for the growth of economic migration, its scale and characteristics, and the impact on the economies as well as on policies and practices of member states.

38. The second chapter on *migration and development* focuses on the impact of migration on the development of countries of origin and, to some extent, on those of destination. It discusses main policy challenges to strengthening the contributions migration makes to development, including through measures regarding return of skills, remittances, the "brain drain", the investment of migrants in countries of origin ("*co-development*") and the role of diaspora.

39. The third chapter addresses the relationships between *migration and social cohesion*. It identifies main policy issues and challenges regarding equality of treatment and integration of migrant workers and their families, and policies and practices on integration in place or proposed to promote social cohesion.

40. Finally, the fourth chapter on *an integrated policy agenda* examines the specific policy challenges and options for governments and critical stakeholders to effectively regulate migration. The chapter identifies the main components of a comprehensive and integrated approach on migration relevant across the Council of Europe member states, and summarises the elements of this approach in reference to existing Council of Europe and other international policy commitments and recommendations.

CHAPTER I

MIGRATION MANAGEMENT: TOWARDS SOCIAL AND ECONOMIC WELL-BEING

1. *Introduction*

41. International migration in Europe is characterised by a growing number of migrants and immigrants. On the one hand, this is the consequence of higher international labour mobility in the époque of globalisation resulting from changing needs and structures of national labour markets and increasingly internationalised labour demand and supply.

42. On the other hand, migration is a response to the challenges of decline and ageing of work forces in particular and populations in general in more developed states. European countries have therefore looked anew at the potential of migration for development and are increasingly seeking to rationalise migration flows on the basis of a comprehensive approach towards migration management, often with participation of destination and origin countries.

43. Many European countries, among them Germany, the United Kingdom, Austria, Denmark, Belgium, and Portugal, appear as important labour migration countries, with substantial stocks of temporary foreign workers and 30-40% of permanent immigrants arriving for work-related reasons³¹. In Central and Eastern Europe, the Slovak Republic, Hungary, the Czech Republic and Poland are the new destination countries for migrants driven by economic reasons from further east. Russia hosts over 3 million registered migrant workers and at least a twofold greater number of unregistered migrants mainly from other CIS states.

44. Immigration in Europe is a long-term phenomenon and is diversifying. Former countries of emigration like Portugal, Italy, Spain and Greece are now host countries with new types of immigrants. Others like Romania and Turkey are becoming countries of net immigration. Romania, Bulgaria and Poland, having become immigration countries, are attracting workers from neighbouring countries (Ukraine, Belarus, Georgia, Moldova) and sometimes as far away as China. Contemporary globalisation and large demographic disparities go hand in hand with profound changes in migration geography and the increase in migration "circulation". For example, Portugal plays the role simultaneously of emigration country, new immigration country and country of transit to other European destinations whilst being a peripheral country with respect to the hard core of the Euro zone³². In the 1990s the Czech Republic was a very important

³¹ OECD: *Gaining from Migration: Towards a New Mobility System*, Jeff Dayton-Johnson, Louka T. Katseli, Gregory Maniatis, Rainer Mumz and Demetrios Papademetriou (OECD Development Centre, 2007).

³² M. C. Pereira Ramos : "Travail et Circulations Migratoires – Le Portugal pays relais des migrations en Europe", in E. M. Mouhoud and J. Oudinet (eds.) *L'Europe et ses Migrants – Ouverture ou Repli ?*, (Paris, L'Harmattan, 2007b), pp. 215-270.

transit country in east-west movement. Because of its geographical location Hungary remains both a transit zone and a destination country. The transit status of the Baltic countries has been attributed to migrants' reluctance to settle in countries where integration is reputedly difficult³³.

45. The Council of Europe member states thus comprise countries of destination, origin and transit, with many if not most characterised by all three aspects. Geographical proximity and common borders call for common approaches to regulating migration while the established value of human rights gives foundation for dialogue with origin countries in other parts of the world aimed at reconciling the interests of states, societies and migrants.

2. *Labour market demand for and insertion of migrants*

46. Economic factors for migration flows are gaining weight in terms of both 'push' and 'pull' factors. Gaps in incomes, salaries, decent work, social security patterns, and standards of living among the member states of the Council of Europe - and to an even greater extent between the European Union countries and third country states - continue to stimulate migration flows from less developed to more developed states. Segmentation of national labour markets in the EU-15 states and Russia provoke further demand for imported labour. Ageing of population and a growing percentage of retired persons is another important stimulus to migration as a means to cover labour shortages and increase production as well as stabilise social security systems.

47. The profile and distribution of migrants are relatively closely related to the structure and demands of the national labour markets in receiving countries. The large-scale, mainly low-skilled, migration to Western Europe in the 1950s and 1960s was a response to high demand for labour in manufacturing, agriculture, construction, and energy sectors. Today, labour migration fills crucial gaps in the information technology (IT) sector, engineering, construction, agriculture and food processing, health care, teaching, catering, tourism, and domestic services.

48. At a basic level of calculation, labour deficits could numerically be covered by employment of the unemployed who currently comprise 6-9% of workforces in European countries. However, the reasons for unemployment in native work forces are most often related to structural imbalances in labour markets. Even in countries where the economically active population is highly mobile, increases in employment do not result in equal declines in unemployment. Moreover, data from many countries, including France, UK, Netherlands and Russia, shows that under the existing structure of unemployment by skills and qualifications, in the industries with high labour demand, numbers of newly hired unemployed persons remain low even during the periods of sustained economic growth.³⁴

49. The major part of the projected labour decline in Europe comprises reductions in the younger sectors of the workforce. In 2000, the correlation between the 20-39 age group and the 40-59 age group in Western and Northern Europe was 1.1 while by 2015

³³ C. Bayon, J. Blaha and E. Lhomel: "Nouveaux Etats membres – comment devenir pays d'accueil ?" in *Le Courrier des pays de l'Est* "Les politiques d'immigration à l'Est", No. 1060, March-April 2007, pp. 38-53.

³⁴ ILO : *International Labour Migration Survey*, International Labour Office, Geneva, 2003.

it will be 0.9. Since 2005 the older labour age group (40-59) has become proportionately larger in the European domestic labour force. Meanwhile, young skilled workers are particularly significant in sustaining the economic competitiveness of contemporary economies. According to economic estimations, 80% of high technologies run out of date within a decade, and every new generation of technologies is assimilated mostly by young professionals. In many cases, employers prefer to attract young skilled domestic and foreign workers rather than re-train older, particularly pre-retirement, staff.³⁵

50. Migrants are increasingly concentrated around two poles of the employment scale where demand for foreign labour is the largest: low-skilled jobs in the secondary sector, which is often neglected by local workers, and highly skilled jobs in the primary sector, where knowledge-based economy poses ever-growing demand for technical professionals that often cannot be covered by national workers.

51. Since the late 1970s migration analysts have strongly linked labour market demands for migrant workers to the *dual labour market* theory³⁶. In advanced countries the economy is segmented into, broadly, a capital-intensive primary sector and a labour-intensive secondary sector. The first one produces 'primary' jobs that bring higher salary, stability, status, and prospects for career growth, while the second one offers 'secondary' jobs – low-skilled, low-paid, exhausting '3D' (dirty, dangerous and degrading)—which native workers are unavailable for or unwilling to take. Higher levels of education, availability of higher skilled jobs, along with decline and aging of work forces and other factors all mean native workers in developed countries are able to be more selective in their choice of employment, thus leaving 'secondary' jobs for migrants. Migrants from low-wage countries are disposed to accept jobs in the secondary sector because wages in that sector are still higher than in their home countries.

52. Whilst the norm in large European cities, in recent years this kind of duality has become prevalent in rural areas in receiving states as well. So, although the proportion of low- and semi-skilled jobs is generally declining in more developed countries (because of new production techniques and outsourcing), there are substantial gaps in a number of occupations – especially in the agro-food industry, catering and domestic services - that are largely covered by migrant workers only.

53. Small and medium size companies and some labour-intensive economic sectors do not have the option of relocating operations abroad. Responses include downgrading of manufacturing processes, deregulation, and flexibilisation of employment, with increased emphasis on cost-cutting measures and subcontracting³⁷. In a number of countries, these measures are in fact expanding the number of jobs at the bottom of the

³⁵ M. Abella: "Global Competition for Skilled Workers and Consequences" in C. Kuptsch and E. F. Pang (eds.) *Competing for Global Talent* (Institute for Labour Studies, ILO, Geneva, 2006); OECD: *Gaining from Migration: Towards a New Mobility System*, Jeff Dayton-Johnson, Louka T. Katseli, Gregory Maniatis, Rainer Mumz and Demetrios Papademetriou (OECD Development Centre, 2007).

³⁶ M. J. Piore: *Birds of Passage: Migrant Labour and Industrial Society* (Cambridge: Cambridge University Press, 1979).

³⁷ L. Lean Lim: "Growing Economic Interdependence and its Implications for International Migration" in United Nations: *Population Distribution and Migration*, (New York, 1998), p. 277.

employment scale. Such employment needs are met only partially or not at all by available or unemployed national workers, for reasons of minimal pay, degrading and dangerous conditions, and/or low status in those jobs and sectors.

54. The ageing of European populations –the “grey revolution” discussed in the next section—is significantly expanding the sphere of low-skilled individual services, namely nursing, home and hospital care-giving to elderly and disabled (as well as to children), household services and others. The numbers of native Europeans available or willing to take on these generally labour intensive and low paid jobs lags increasingly behind the rapidly growing demand.

55. The demand for migrant workers provides a significant impetus to labour flows and facilitates the incorporation of undocumented migrants³⁸. ILO research covering four Southern European countries demonstrated that “migrants take jobs that the locals refuse. It’s simply a matter of substitution.”³⁹ The study concluded that migrants were generally in competition only with marginal sections of the national labour force, and that when these sections were not sufficiently sustained by welfare provisions or were in less-developed areas of the countries.⁴⁰

56. For the less qualified jobs, employers demand workers who will not exercise pressures on the salary structures. Given that, at least initially, immigrant workers won’t challenge the relation between salary and the social status attached to specific occupations, contracting migrant workers avoids the economic risks – particularly structural inflation – that national workers induce when they demand salary increases.

57. Meanwhile, the primary sector also demands foreign workers, as knowledge-based economies need skilled staff for emerging and developing technologically advanced industries. Research and development sectors in many industries are highly competitive for new ideas, approaches and products. While the existing education patterns in European countries do not fully meet the needs of expanding knowledge-based sectors, recruitment of high skilled workers from other countries often gives additional advantages and enables technological breakthroughs. Specialists in the information technology and communication sectors, bio-engineering, genetics, as well as talented managers, marketing specialists, engineers, and architects are welcomed regardless of their nationality.

58. The growing demand for skilled workers in increasingly knowledge-based economies has resulted in international competition for skilled labour among some developed countries, a competition reflected by loosening restrictive rules and offering incentives to attract the best skills⁴¹.

³⁸ L. A. Escobar: *Emigration Dynamics in Mexico, Central America and the Caribbean*, paper presented at 12th IOM Seminar on Migration, Managing International Migration in Developing Countries, Geneva, April 1997, p. 4.

³⁹ E. Reynieri: *Migrants in Irregular Employment in the Mediterranean Countries of the European Union*, (Geneva, ILO, International Migration Paper No. 41, 2001).

⁴⁰ Ibid.

⁴¹ M. Abella: “Global Competition for Skilled Workers and Consequences” in: in C. Kuptsch and E. F. Pang (eds.) *Competing for Global Talent* (Institute for Labour Studies, ILO, Geneva, 2006)

59. Spheres of employment of high skilled migrants and local workers overlap while unskilled and low-skilled migrants and national workers are most often differentiated in the labour market. For example, in catering migrants are usually employed in lower positions in restaurants while local workers are more often employed in 'fast food' networks; in the construction sector foreign labourers tend to work in day labour and unskilled subcontracting while local workers are employed in the more established and often more unionised construction companies.

60. However, there are disparities between low-skilled and high-skilled migrants. Non-qualified workers most commonly look for higher earnings to support themselves and their families, often without regard for the job they are doing. Highly qualified citizens of poor countries may be attracted simultaneously by greater professional recognition and a higher salary, and also motivated by the chance to contribute to the development of their country of origin through remittances and the transfer of skills. Although work and economic motives are among the most important drivers of migration, other motives must not be underestimated. For countless men and women, migration is a window on the world that enables them to secure financial and personal independence⁴².

61. Demand for foreign labour is the major but not the only locomotive of migration. Most international migrants of working age who arrive as refugees and asylum seekers or who are admitted as family members inevitably find themselves needing employment and thus entering labour markets. Those who benefit from regularisation efforts may already be employed. Proper use of their skills is a continuing challenge for government policies in the field of migration, integration and social cohesion. Situations where refugees with higher education diplomas are engaged in low-skilled jobs are quite common⁴³.

62. Investors and entrepreneurs are categories of immigrants often offered incentives to immigrate. They are assumed to bring capital and technologies, they create jobs, and they often stimulate development of economic and trade relations between their countries of origin and countries of stay. For example, Indian businessmen settled in the UK fuel the growth of economic partnership between two countries, and Russians who have invested in real estate and spas in the Czech Republic have encouraged the boost of tourist flows from Russia to Prague and the Czech resort areas.

63. Evidence from a number of countries demonstrates that migrants from certain Asian states (Chinese, Vietnamese, Afghans, etc.) are frequently found as entrepreneurs, especially in restaurants, workshops and trading companies⁴⁴.

⁴² IOM: *World Migration 2003: Managing Migration Challenges and Responses for People on the Move*, (IOM, World Migration Reports Series, Volume 2, 2003).

⁴³ OECD: "Part II: Matching Educational Background and Employment: A Challenge of Immigrants in Host countries" in *International Migration Outlook*, (SOPEMI 2007 Edition), p. 131-160.

⁴⁴ I. Pribytkova: "Transnational Labour Migration: Ukrainian Perspective" in K. Iglicka (ed.): in *The Transnational Security Challenges and Dilemmas for the European Migration Policy* (Warsaw, 2006); Ivakhnyuk, Irina: "Eurasian Migration System: Theoretical and Political Approaches" in V. Iontsev (ed.): *Migration and Development, Scientific Series, International Migration of Population: Russia and Contemporary World* (Moscow, SP Mysl, BL Print, 2007) Vol. 20, pp.81-99; F. Laczko, I. Stacher and A. Klekowski von Koppenfels: *New Challenges for Migration Policy in Central and Eastern Europe*. (The Hague, TMC Asser Press, 2002).

Entrepreneurship and self-employment is much more spread among certain migrant ethnic groups than among local population. In the UK, the share of self-employed workers among indigenous population is 12.3% while among Chinese immigrants it is 26.6%.⁴⁵ However, there are reasons to suppose that international migrants are more likely to call for self-employment because they have fewer opportunities in wage-employment sector. In this case self-employment may provide an alternative to unemployment even when it leaves migrants outside the formal labour market. The social mobility opportunities for small entrepreneurs and self-employed migrants are usually limited to ‘horizontal mobility’ giving little chance to upward career movement.

64. Employment ‘niches’ for migrant workers are often promoted by social migrant networks and diaspora. Ethnic business is well developed in transportation sector, cleaning in streets and offices, restaurants, hotels, trade in clothes and leather goods, personal services – laundries, parlours, hair dressers, etc.

65. Migrants are primarily people of labour age with the highest proportion in the 20-to-45 age group.⁴⁶ Movements without families occur fairly often with low-skilled temporary labour migrants (especially by unregistered labour migrants) though they are usually married and their families left behind. This is the major reason for large scale of migrant remittances. Meanwhile, over 90% of highly skilled migrants, if they are married, move with their families,⁴⁷ or their families join them after some time.

3. Gender and migration

66. Gender differences in labour migration flows that were significant 10-15 years ago, are diminished now by the growing demand for female labour particularly in the service sector: childcare, elderly care, healthcare, domestic service, hospitality, and entertainment and well as hotel and restaurant industries. In the totality of migrants in Europe, women are 53%; it is the highest rate in comparison to other continents.⁴⁸ Among regular temporary migrants the share of women is close to 45% while estimates for irregular migrants (excluding sex industry) say that women are one third of the totality of migrants working without authorisation.⁴⁹ In some national cases female migrants are significantly prevailing: among labour migrants coming to Germany from Croatia, women are 73%. They primarily find employment as service providers, caregivers and domestic helpers. In a number of European countries including France, Italy and Spain, the domestic service sector remains the most important employment option for migrant women.

67. Arrivals of female migrants who can ‘share’ home work with local women and men influence the structure of local labour market of more developed countries in

⁴⁵ D. G. Blanchflower: *Self-employment: more may not be better*, paper presented at the Conference on self-employment, Economic Council of Sweden, March 2004.

⁴⁶ Eurostat data: <http://epp.eurostat.cec.eu.int>.

⁴⁷ K. Gmaj and K. Iglicka: “Brain Drain or Brain Gain – a Global Dilemma” in *The Transnational Security Challenges and Dilemmas for the European Migration Policy* (Warsaw, 2006).

⁴⁸ OSCE/IOM/ILO: *Handbook for Effective Labour Migration Policies in Countries of Origin and Destination* (OSCE, IOM and ILO, 2006).

⁴⁹ GCIM: *Migration in an Interconnected World: New Directions for Action*, Report of the Global Commission on International Migration, 2005.

respect of local female employment rate. Availability of foreign nurses, baby-sitters, and household servants allows especially women in receiving states be more involved in off-home economic activities and paid employment.

68. Restrictions on admission and work affect men and women migrants differently. For instance most legal channels of migration offer opportunities in typically male-dominated sectors. Gender-selective migration policies and regulations for admission and entry often reproduce and intensify existing social, economic and cultural inequalities between male and female migrants; e.g. the right to entry does not necessarily mean the right to work for women in certain Western European countries. Female migrants are thus marginalised even further, they are more often left with no option but irregular migration, and exposed to worst forms of abuse.⁵⁰

69. Nonetheless, the migration of women generally brings benefits to themselves and their families as well as development of their countries of origin,⁵¹ to the extent protections and other measures are in place to reduce risks, exploitation and discriminatory treatment.

70. However, such benefits also frequently come at considerable cost, particularly when children and family have to be left behind. Absence of the mother and sometimes both parents is associated with lack of school achievement, behavioural difficulties, and delinquency among children left in foster care, often with aged grandparents or other relatives.

4. *Demographic considerations*

71. Rapid shifts in the age structure of the European population are taking place. Population ageing, or what demographers call ‘grey revolution’, is a process in which a growing proportion of the population is concentrated in the “over-labour-age” group. Presently, every sixth EU citizen is over 65 years of age: by 2020 every fifth and by 2050 every fourth or maybe every third European will be of pensionable age, while half of the population will be over 50 years old

72. Evolution of the demographic characteristics of labour forces reflecting those of the population as a whole is a rising concern of governments and policy-makers. Low fertility and population ageing have already reshaped the demographic profile of European countries for the immediate future. There are clearly national and regional differences in the extent of the likely changes and in the time-scale; however, the demographic trends appear to be clear and similar for the majority of European countries.

⁵⁰ Ibid.

⁵¹ GCIM op cit.

73. The Council of Europe countries have been classified in an expert report according to the proportion of immigration and of natural population growth in their general growth rates,⁵² as follows:

- a. decline in population due both to a fall in natural increase and to net emigration: Estonia, Georgia, Latvia, Moldova, Poland, Romania and Ukraine;
- b. decline in population due to a fall in natural increase not offset by immigration: Belarus, Bulgaria, Croatia, Hungary, Serbia and Montenegro;
- c. decline in population due to emigration exceeding natural increase: Armenia, the Former Yugoslav Republic of Macedonia;
- d. demographic increase due both to natural increase and immigration: Andorra, Austria, Belgium, Cyprus, Denmark, Finland, France, Greece, Ireland, Lichtenstein, Luxembourg, Malta, the Netherlands, Norway, Portugal, San Marino, Spain, Sweden, Switzerland, Turkey and the United Kingdom;
- e. demographic increase due to natural increase exceeding negative migratory balance: Albania, Azerbaijan, Iceland;
- f. demographic increase due to immigration exceeding the fall in natural increase: Czech Republic, Germany, Italy, Russia, Slovakia, Slovenia.

74. The Eastern and Central European countries⁵³ demonstrate annual natural population decrease of between -0.2% and -0.8%, often in combination with net emigration (Latvia, Lithuania, Moldova, Poland, and Ukraine). In countries with immigration gain, this offsets natural population loss and currently still results in positive overall population growth (Czech Republic, Slovakia, Slovenia), while in some countries net immigration is not able to fully compensate population loss (Russia, Belarus, Croatia, and Hungary). According to projections, the population of Eastern Europe will decline by 22% until 2050⁵⁴.

75. Current modest population growth rates in the Western, Southern and Northern European countries are mainly due to higher fertility rates among immigrant populations and new immigrant inflows (France, Germany, the Netherlands, Greece, Portugal, the UK, and Italy). However, smaller European states show the higher population growth rates owing to both natural increase and net immigration. (Andorra, Luxemburg, Monaco, and Iceland).

⁵² J. Salt: *Current Trends in international migration in Europe*, (Strasbourg, Council of Europe, Strasbourg, 2005) p. 6.

⁵³ According to statistical sources used in this report, the geographical regions in Europe are defined as follows: *Western Europe*: Austria, Belgium, France, Germany, Ireland, Liechtenstein, Luxemburg, Monaco, Netherlands, Switzerland, United Kingdom; *Northern Europe (Scandinavia)*: Denmark, Finland, Iceland, Norway, Sweden; *Southern Europe*: Albania, Andorra, Bosnia & Herzegovina, Bulgaria, Croatia, Cyprus, Greece, Italy, the Former Yugoslav Republic of Macedonia, Malta, Monaco, Montenegro, Portugal, San Marino, Serbia, Slovenia, Spain, Turkey; *Central Europe*: Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia; *Eastern Europe*: Belarus, Moldova, Russian Federation, Ukraine, and the Caucasus states: Armenia, Azerbaijan, and Georgia.

⁵⁴ Population Reference Bureau: *Population Data Sheet*, (New York, 2007).

76. Growth of over-labour-age-groups leads to a corresponding decrease in the proportion of people active in the labour market. After 2010 when numerous baby boom generations will get pensioned off, the numbers of labour resources in most European countries will be steadily decreasing. For example, in France the annual growth in the economically active population was 200, 000 persons in 1985-1995, 130, 000 persons in 1995-2000, and less than 100, 000 persons in 2000-2005. After a short period of stability in the economically active population between 2005 and 2010, a rapid and irreversible decline will take place. In some European countries the decline in the economically active population has already started, and it is accelerating. In Italy and Russia it will decline by 10% between 2005 and 2015 and the reduction by 2050 may exceed 42%. In Germany and Belgium the labour active population will decrease by 5% in 2005-2015, by a further 10.6% up to 2025 and by 28.2% until 2050. In Spain the working age population will decrease by 15 million, or 41%, by 2050. The sole exceptions are countries that still have relatively young populations, such as Albania, Ireland and Turkey⁵⁵.

77. One reason for the above-mentioned shifts in population structure is a declining fertility rate; another is the high and ever-increasing life-expectancy in most parts of Europe. The fertility rate has dropped by half since the 1960s due to an increase in female labour force participation, the growing value of professional and career growth, and shifts in family structure. Already in the 1990s the lowest fertility rates (1.15 – 1.20 average of children born to one woman) were registered in Italy, Spain, and Portugal. According to Spain's National Statistics Institute, the average number of children per woman was 1.37 in 2006, while children born to foreign mothers accounted for 17% of births in 2006. By 2050 Spain will be the third-ranking country in the world for numbers of old people (OECD).

78. Presently, Eastern and Central Europe are the regions with lowest fertility rates. In 2005-2007, fertility rates in all the European countries except Scandinavian states (where TFR are the highest) demonstrate a slightly upward trend. However, the existing age structure will result in low numbers of births for at least the next two decades and correspondingly in drops in numbers of young people entering European labour markets.

79. However, in contrast, France accounts for two-thirds of population increase in the EU according to Eurostat, reflecting assertive family promotion policies and a higher fertility rate, including particularly among immigrant-origin populations.

80. High life-expectancy (80 years in Western Europe and 79 years in Scandinavian and Mediterranean Europe) is an excellent result of medical and social developments in the developed countries. However, social support for the elderly needs financial and labour resources. Population ageing requires increases in pension assessments, restructuring of medical care services and consumption patterns, and additional personnel for care of the elderly. In Eastern Europe, life-expectancy is lower – 69 years on average - mainly due to higher male mortality rates. However, the current downward trends in mortality owing to health care improvements, in combination with very low fertility predict growing life expectancy and increased population ageing. This means that the whole of Europe is already facing now or will be facing in the nearest future inevitable shifts in the labour market structure following a changing population

⁵⁵ UN: *Replacement Migration: Is it a Solution to Declining and Ageing Populations?* (New York, United Nations Population Division, 2000).

structure, in particular, growing demand for service providers for the elderly population and paramedical personnel for geriatric homes.

81. In response to challenges of population ageing, more developed countries fall back upon a range of strategies that could compensate or at least lessen the absolute decline of the labour age population; among them: relocation of labour-intensive industries and 'jobs export'; modernisation of technologies and labour productivity rise; increase of participation rates of different groups of population including women and older age groups. These measures do have some effect; however, the situation differs over the European area: Southern European countries where female participation is still low place hopes on this resource while in the Nordic countries the resource of higher participation rate is already almost exhausted. Recruitment and absorption of foreign labour remains at present the option with the greatest potential to compensate for labour market gaps.

82. However, *replacement migration* – the notion of numerically replacing declining native population through immigration – has been dethroned as an unreasonable perspective by posing an increase in inflow from one to 13 million new immigrants per year between 2000 and 2050⁵⁶. Besides – as demonstrated by population forecasts – mass immigration is not able to reverse the process of population ageing in Europe, but can lead to equivalent challenges in the long run as immigrant populations also experience the ageing process⁵⁷.

5. *Migrants' contribution to the economy and social well being in host countries*

83. Most contemporary research concurs in demonstrating that immigration generally supports economic growth and development.

i. *Impact on wages and employment*

84. Analysis shows that the impact of immigration on the wages and employment levels of native workers in host countries is generally insignificant. However, there may be more of an issue in certain sectors or in relation to particular indigenous categories. Research on the United Kingdom has concluded that there is no significant evidence of a negative link between immigration and employment and wage prospects⁵⁸. In fact, the vast majority of studies reveal that immigration has a positive effect on the overall economic health of host countries.

85. The main reason why migrant workers have such a minimal impact on native workers is that for the most part, they are complements not substitutes. They are more likely to compete with migrants who arrived earlier than native workers. In most host countries, the occupational distribution of migrants differs considerably from native workers: immigrants are generally concentrated in occupations in which national

⁵⁶ Ibid.

⁵⁷ D. Coleman: "Immigration and ethnic change in low-fertility countries: a third demographic transition in progress?" in V. Iontsev (ed.): *Migration and Development, Scientific Series, International Migration of Population: Russia and Contemporary World* (Moscow, SP Mysl, BL Print, 2007) Vol. 20, p.81-99.

⁵⁸ Ch. Dustmann et al: *The local labour market effects of immigration in the UK*, (London, Home Office, 2002).

workers are in short supply. Further, some migrants specialise in labour market activities, such goods or services that would either not exist without their presence, or would exist to a lesser degree.⁵⁹

86. An ILO study across several Southern European countries regarding the labour market insertion of migrants, including in particular irregular migrants, showed that “the migrants take jobs that the locals refuse. It’s simply a matter of substitution.”⁶⁰ The author noted, “We can conclude that migrants are in competition only with marginal sections of the national labour force ...when they are not sufficiently sustained by welfare provisions, in specific sectors, and/or in the less-developed areas inside these countries.”⁶¹

87. Whether or not immigration increases unemployment levels among native workers is not clear, especially where it causes economic expansion. In certain situations, such as where firms restructure and replace native workers (especially the older and less skilled) with foreign workers, unemployment will increase. However, results from an OECD study of selected countries between 1984 and 1995 concluded that there was no evidence of a negative impact of immigration on local unemployment.⁶² In fact, immigration may sometimes increase employment among native workers as a result of an expansion in production, for example.⁶³

88. Migrants' input to host countries' human capital is significant. In general, recent immigrants' level of education is higher than the average education level of the indigenous population. Immigrant employment plays a key role in the dynamics of the host labour market when growth of immigrant employment exceeds growth of the labour market. In the United States, for example, over half of newly created jobs in the last decade have involved people born abroad. That is 3.5 times larger than their share of the total active population in 2005. In Austria, Denmark, the United Kingdom, Sweden and the countries of southern Europe the phenomenon is even more pronounced.⁶⁴

89. In relation to the effect of immigration on wages specifically, the general consensus is that the effect is minimal. A 1995 study in Germany based on household panel data found that a one percent increase in the percentage of foreigners in the population had a 0.6 per cent positive impact on domestic wages, and caused a 1.3 per

⁵⁹ A. Linton: “Immigration and the structure of demand: Do immigrants alter the labour market composition of US cities?”, in *International Migration Review*, (2002), Vol. 36, No. 1; S. Castles and G. Kosack: *Immigrant Workers and Class Structure in Western Europe* (Oxford and New York, Oxford University Press, 1984), as cited in UN General Assembly: *International Migration and Development*, Report of the Secretary-General, A/60/871, 18 May 2006, p. 46.

⁶⁰ E. Reynieri: *Migrants in Irregular Employment in the Mediterranean Countries of the European Union* (Geneva, ILO, International Migration Paper No. 41, 2001).

⁶¹ Ibid.

⁶² OECD: *Trends in International Migration: SOPEMI 1997* (Paris, 1998) as cited in ILO: *Towards a Fair Deal for Migrant Workers in the Global Economy*, Report VI, International Labour Conference, 92nd Session, Geneva, 2004, p. 34.

⁶³ ILO: *Towards a Fair Deal for Migrant Workers in the Global Economy*, Report VI, International Labour Conference, 92nd Session, Geneva, 2004, p. 34.

⁶⁴ OECD, 2007a.

cent increase in the wages of highly skilled native workers.⁶⁵ Other studies have found very small negative effects, slight positive effects for highly skilled native workers⁶⁶ or that there are no statistically significant effects at all.

90. Local workers with similar levels of education and experience to immigrants in host countries can experience some negative effects from labour migration such as higher unemployment, a fall in wages or a slower rise in wages.⁶⁷ However, as noted above, these effects tend to be small. The inflow of low-skilled migrants can have a greater effect on reducing the wages of low-skilled workers already present in the host country,⁶⁸ but may actually raise the real wages of the more skilled due to the increased supply of products from the low-wage sector.⁶⁹ However, the number of low-skilled national workers is low and has been declining in most high-income countries.⁷⁰

ii. Fiscal impact

91. Most contemporary research concurs in demonstrating that immigration generally supports economic growth and development. Countries with the highest levels of immigration – United States, Canada, Australia and South Africa – are among the most successful economically. In Europe, Germany, Switzerland and Luxembourg are among the wealthiest countries, and they have some of the highest proportions of immigrant workers.⁷¹ A statistical analysis of 15 European countries from 1991 to 1995 found that every 1 per cent increase in a country's population through immigration led to a 1.25 to 1.5 per cent increase in GDP.⁷² Whilst this does not prove causality, other

⁶⁵ K. Zimmerman: *Wage and mobility effects of trade and migration* (London, CEPR Discussion Paper No. 1318, January 1995) as cited in ILO: *Towards a Fair Deal for Migrant Workers in the Global Economy*, Report VI, International Labour Conference, 92nd Session, Geneva, 2004, p. 33.

⁶⁶ G. Hanson, K. F. Sheve et al.: "Immigration and the US economy : Labour-market impacts, illegal entry and policy choices", in T. Boeri, H. Hanson and B. McCormick (eds): *Immigratin policy and the welfare system* (Oxford, Oxford University Press, 2002, p. 192) as cited in ILO: *Towards a Fair Deal for Migrant Workers in the Global Economy*, Report VI, International Labour Conference, 92nd Session, Geneva, 2004, p. 33.

⁶⁷ IOM : *World Migration : Costs and Benefits of International Migration*, (Geneva, IOM, 2005), pp. 188.

⁶⁸ ILO: *Towards a Fair Deal for Migrant Workers in the Global Economy*, Report VI, International Labour Conference, 92nd Session, Geneva, 2004; UN General Assembly: *International Migration and Development*, Report of the Secretary-General, A/60/871, 18 May 2006, p. 45.

⁶⁹ ILO: *Towards a Fair Deal for Migrant Workers in the Global Economy*, Report VI, International Labour Conference, 92nd Session, Geneva, 2004, p. 32.

⁷⁰ UN General Assembly: *International Migration and Development*, Report of the Secretary-General, A/60/871, 18 May 2006, p. 45.

⁷¹ ⁷¹ ILO: *Towards a Fair Deal for Migrant Workers in the Global Economy*, Report VI, International Labour Conference, 92nd Session, Geneva, 2004, p. 31.

⁷² S. Glover, C. Gott et al.: *Migration: an economic and social analysis* (London, Home Office, RDS Occasional Paper No. 67, 2001) as cited in ILO: *Towards a Fair Deal for Migrant Workers in the Global Economy*, Report VI, International Labour Conference, 92nd Session, Geneva, 2004, p. 31.

studies indicate that the impact of migration on GDP can be substantial if the skills of the migrants complement those of the native population.⁷³

92. One study on Spain⁷⁴ shows that during the period 1996-2006 about 30% of the increase in GDP was due to immigration. Immigration has raised per capita income by both increasing the working-age population and improving the overall employment rate in the last 10 years. As in other countries of immigration like Portugal, immigrants to Spain are positive contributors to social security: about half of the Spanish budget surplus comes from contributions made by immigrants. There have also been effects on demand and on the market for goods in the host countries. The increased consumption caused by population growth can therefore revive demand for labour and employment.

93. A study of wage and employment changes in the US due to an influx of migrant workers in the mid-1990s revealed that the economic gain from immigration for host countries was small but positive. The gain might increase if there are positive externalities, such as entrepreneurial immigrants or local workers who become inspired by immigrants to work more productively. It might decrease if externalities are negative, for example where crime is involved or schools become over-crowded.⁷⁵

94. Some countries are concerned that immigrant workers receive more from public services and welfare payments than they contribute in taxes and social security contributions. A number of factors can impact on whether this is true, such as the amount of welfare benefits granted. Welfare dependency is significantly higher for immigrants than natives in Denmark, the Netherlands, Belgium, France, Austria and Switzerland, for example.⁷⁶ Age of arrival in the host country can also play a role. A study in Germany, for example, concluded that someone who immigrates at age 30 will contribute 110,000 euros over his or her lifetime, whereas someone who immigrates below the age of one will create a 60,000 euro net burden on public finances.⁷⁷ Levels of education and wealth can also have an impact: some studies in the United States have concluded that immigrants access public assistance and free medical care more often than natives, mainly because on average, they are less educated and poorer. Other studies have found that low-income immigrants are less likely to claim welfare than low-income natives.⁷⁸

⁷³ H. Brücker, G. Epstein et al.: "Managing migration in the European welfare state", in T. Boeri, G. Hanson and B. McCormick (eds), *Immigration policy and the welfare state* (Oxford, Oxford University Press, 2002) p. 120 as cited in ILO: *Towards a Fair Deal for Migrant Workers in the Global Economy*, Report VI, International Labour Conference, 92nd Session, Geneva, 2004, p. 31.

⁷⁴ Sebastian, M. *Immigración y Economía Española: 1996-2006*, *Oficina Económica del presidente*, Madrid, 15 Nov. 2006.

⁷⁵ IOM : *World Migration : Costs and Benefits of International Migration*, (Geneva, IOM, 2005), pp. 188-90.

⁷⁶ ILO: *Towards a Fair Deal for Migrant Workers in the Global Economy*, Report VI, International Labour Conference, 92nd Session, Geneva, 2004, p. 35.

⁷⁷ Ibid.

⁷⁸ M. Fix and J. Passel: *Trends in noncitizens' and citizens' use of public benefits following welfare reform: 1994-97* (Urban Institute, Washington DC, 1999) as cited in ILO: *Towards a Fair Deal for Migrant Workers in the Global Economy*, Report VI, International Labour Conference, 92nd Session, Geneva, 2004, p. 35.

95. For some countries, studies reveal that benefits received by immigrants do not necessarily outweigh their contributions. A 2000 study in Australia, for example, found that particularly for younger age groups, immigrants were less likely to receive welfare payments than natives.⁷⁹ A study in the United Kingdom found that the foreign born population contributed approximately 10 per cent more to government revenue than they received in benefits. The British Home Office estimated that in 1999 - 2000, migrants in the United Kingdom contributed 31.2 billion pounds in taxes and consumed only 28.8 billion pounds in benefits and state services.⁸⁰

96. Fiscal impact can also be considered at a global level. Whilst the greatest economic gains from migration are experienced by migrants themselves who receive increased incomes, this leads to a significant rise in global GDP. For example, IOM noted in 2005 that if one million foreigners migrate and achieve an average net income gain of USD 10,000, global income would rise by USD 10 billion.⁸¹ Freer international mobility of labour would both increase global income and make its distribution more equitable. The World Bank has argued that the gains from international migration, especially for developing countries, surpass the expected gains from liberalising trade in merchandise.⁸²

97. Immigration also stimulates international trade, allowing host countries to forge not only commercial links but also cultural, tourism and diplomatic relations with immigrants' countries of origin. Studies show that restricting the mobility of individuals between regions adversely affects the economies of developed countries more severely than restricting trade. Immigration also impacts on the market for goods and services, as immigrants and their families boost demand.

iii. Social well-being

98. Host societies have to make certain social adjustments to accommodate immigrant inflows, as immigration inevitably alters a country's sense of national identity, transforms societies and can fragment working classes and segment the labour market.⁸³ Some countries, like Canada, adjust positively and embrace the cultural diversity that migration brings. In others, migration can constitute the core of ethnic tensions, trigger open racism and xenophobia and have political repercussions.⁸⁴ The extent to which immigrants integrate positively into host societies depends on both

⁷⁹ B. Birrell and J. Jupp: *Welfare recipient patterns among migrants* (Canberra, Australian Department of Immigration and Multicultural Affairs, 2000) as cited in ILO: *Towards a Fair Deal for Migrant Workers in the Global Economy*, Report VI, International Labour Conference, 92nd Session, Geneva, 2004, p. 36.

⁸⁰ C. Gott and K. Johnston: *The migrant population in the UK: Fiscal effects* (London, RDS Occasional Paper No. 77, 2002) as cited in ILO: *Towards a Fair Deal for Migrant Workers in the Global Economy*, Report VI, International Labour Conference, 92nd Session, Geneva, 2004, p. 36.

⁸¹ IOM : *World Migration : Costs and Benefits of International Migration*, (Geneva, IOM, 2005), p. 189.

⁸² UN General Assembly: *International Migration and Development*, Report of the Secretary-General, A/60/871, 18 May 2006, p. 45.

⁸³ ILO: *Towards a Fair Deal for Migrant Workers in the Global Economy*, Report VI, International Labour Conference, 92nd Session, Geneva, 2004, p. 36.

⁸⁴ *Ibid*, pp. 30-1.

social and economic conditions in these societies, and the existence of effective integration policies.

6. Migrant populations in Europe

99. In 2004 the total number of non-nationals living in the 25-member EU, i.e. of persons not possessing the nationality of their country of residence, came to around 25 million, or a little under 5.5% of the EU's total population⁸⁵. In January 2006, according to the European Commission's Third Annual Report on Migration and Integration⁸⁶, the number of people residing in the EU who originated in non-EU countries was estimated at 18.5 million, i.e. 3.8% of the total population. The largest immigrant communities in the EU are the Turks (2.3 million), Moroccans (1.7 million), Albanians (0.8 million) and Algerians (0.6 million). Immigration is the driving force behind the Union's population growth. According to the 2005 Eurostat estimate, 85% of this growth can be attributed to migration.

100. It is difficult to obtain accurate and comparable data across Europe for stocks of foreign labour due to varied methods of data collection in different countries. The presence of irregular migrant workers is an additional challenge for estimation-makers. Nevertheless, rough conclusions can be made from existing general data. The countries that practice active labour inflow schemes like Ireland and the UK, or regularisations for irregular labour migrants like Spain and Italy, demonstrate the greatest increase in numbers of foreign nationals. For example, in Ireland the number of foreigners increased from 96,400 in 1995 to 126,500 in 2000 and to 314,100 in 2006. The corresponding figures for Spain are: 461,300 (1995), 923,800 (2000) and 4,002,500 (2006) and for Italy: 685,400 (1995), 1,270,500 (2000) and 2,670,500 (2006)⁸⁷.

101. In Western Europe, Germany and the UK are the countries with the biggest numbers of foreign workers. Many European countries, among them Austria, Belgium, Denmark, Germany, Portugal, and the UK, appear as important labour immigration countries, with about one third of permanent-type immigrants arriving for work-related reasons⁸⁸. On the other end of the area, Russia that is the major receiving country for migrants from the post-soviet states is facing obvious shifts in migration inflow with growing numbers of temporary labour migrants rather than permanent immigrants. Over 2 million work permits were issued in Russia in 2007; however, the number of irregular labour migrants in the country is still more.

102. Temporary migration within and into Europe is increasing. It encompasses a wide variety of situations in terms of movement, conditions and duration. It applies to seasonal workers, but also, for example, to people transferred within their firms, contract workers and highly qualified professionals.

i. Flows within the enlarged EU area

103. The European Union enlargements in 2004 and 2007 have greatly influenced migration trends in Europe, not only inside the enlarged EU area but also with the

⁸⁵ Eurostat: Statistics in focus, Population and Social Conditions, 8/2006.

⁸⁶ http://ec.europa.eu/justice_home/fsj/immigration/docs/com_2007_512_fr.pdf.

⁸⁷ Eurostat data: <http://epp.eurostat.cec.eu.int>.

⁸⁸ OECD: *International Migration Outlook*, (SOPEMI 2007 Edition).

outside countries. The enlargements have brought twelve countries and about 100 million people into the EU. In May 2004, European Union membership was extended to include the ten countries of Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia. While nationals from Cyprus and Malta have had full free movement rights and have been able to work throughout the EU from the outset, transitional periods were put in place to restrict movements by nationals from the other eight (Accession 8 or A8) countries. For the first two years, only Ireland, Sweden and the UK granted full access to their labour markets to these new EU citizens. (However, Sweden was the only country among the EU15 that did not introduce any restrictions on citizens from the A-8; Ireland and the UK restricted access to welfare benefits for A-8 citizens). In May 2006, Finland, Greece, Portugal and Spain lifted all restrictions, followed by Italy in July 2006 and the Netherlands in May 2007. (UPDATE)

104. Germany, Austria and France follow strict transitional arrangements; however, workers from A8 countries do enter their labour markets under work permits and within the frames of bilateral agreements. France has granted 1, 600 work permits to Polish workers during 2004-2006⁸⁹; Germany gets about 250,000 seasonal workers from Poland a year, mostly in agriculture, under a bilateral agreement⁹⁰; in the Nordic countries A8 nationals (55% of whom are Poles) work in seasonal activities, mostly in agriculture and forestry, as well as hotels, catering, cleaning and domestic services.

105. On January 1, 2007, the European Union expanded further with accession of Romania and Bulgaria. As a result of 2004 and 2007 enlargements, migrant workers from accession states (especially from Poland, Lithuania, Estonia, Latvia, Romania) have had an increasingly large presence in many EU15 countries, particularly in the UK, Ireland, Spain, Italy and Germany.

106. In the UK, over 508,000 applications to the Worker Registration Scheme, which was specially introduced for nationals of the A8 nationals, were approved between mid-2004 and mid-2007. Among them, 58% were Poles, followed by Lithuanians (13%) and Slovaks (11%). In Ireland, the gross inflow of the new EU citizens in 2004-2007 was 362, 172 persons, according to Personal Public Service numbers issued to the EU10 nationals after enlargement⁹¹.

107. After the 2004 EU enlargement the labour flows inside the Union increased while inflows from outside the EU remained stable or even decreased in some countries

⁸⁹ J. Dolvik and L. Eldring: *Status Report January 2006: The Impact of EU Enlargement on Labour Mobility to the Nordic Countries*, semi-annual Memo for a Working Group under the Labour Market Committee of the Nordic Council of Ministers, Oslo, 2006.

⁹⁰ B. Dietz and P. Kaczmarczyk: "On the demand side of international labour mobility: the structure of the German labour market as a causal factor of Polish seasonal migration" in *International Migration in Europe: New Trends, New Methods of Analysis*, Papers from the 2nd Conference of the EAPS Working Group on International Migration in Europe. Roma, Italy, 25-27 November 2004.

⁹¹ G. Hughes: *EU Enlargement and Labour Market Effects of Migration to Ireland from Southern, Central and Eastern Europe*, paper presented at the Second IZA Migration Workshop 'EU Enlargement and the Labour Markets', Bonn, 7-8 Sep. 2007.

as a result of their policy of sourcing national labour markets demands for migrant labour from within the EU member states⁹².

ii. Flows within Eastern Europe

108. Ukraine and the Russian Federation are today both emigration countries⁹³ and countries with major migrant populations. Italy, Spain and Portugal are important destination countries for Ukrainians and Romanians. In Eastern Europe population ageing threatens growth. There is already a critical labour shortage in countries such as Lithuania, Latvia, Estonia and Russia. According to a World Bank report⁹⁴, in the next 20 years Russia will lose 17 million people and Georgia will lose a fifth of its population by 2027.

109. Data from Central and Eastern European states shows that the former prevalence of often circular commercial movement of petty traders (from Ukraine, Russia, Belarus to Poland, Turkey, Greece, the Czech Republic, Hungary) typical for the region in the 1990s has been gradually replaced by increasing numbers of temporary labour migrants, i.e. people going to other states – the European Union and Russia – for paid employment⁹⁵.

110. Another result of the EU enlargements was that the dividing line between two migration systems – the European migration system and the Eurasian migration system covering the post-soviet Eurasia – has become more definite and corresponding the eastern EU border. Before the EU enlargement, between 1990 and 2004, cross-border travel regulations in the Central and Eastern Europe were relatively facile. Numerous circular economic migrations (seasonal, temporary labour migrations, petty trading, etc.) from Ukraine, Russia, Moldova, and Belarus to Poland, the Czech Republic, Slovakia, Hungary, and Romania have become an important source of income for millions of households in the former USSR states during the 1990s.

111. After the EU enlargement these migrations were complicated by new border cross regulations adopted by the new EU countries⁹⁶. In a reduced scale, economic

⁹² J. Salt: *Current Trends in international migration in Europe*, (Strasbourg, Council of Europe, Strasbourg, 2005).

⁹³ OECD, 2007a, *op. cit.*

⁹⁴ M. Chawla, G. Betcherman and A. Banerji, A: *From red to gray: the third transition of aging populations in Eastern Europe and the former Soviet Union*, (World Bank, 2007).

⁹⁵ See for example: I. Ivakhnyuk: *Migrations in the CIS Region: Common Problems and Mutual Benefits*, Paper prepared for the International Symposium on International Migration and Development, UN Population Division, Department of Economic and Social Affairs, 28-30 June 2006.; I. Ivakhnyuk: "Russia – EU: Interactions within the Reshaping European Migration Space" in K. Slany (ed.): *International Migration: A Multidimensional Analysis*, (Cracow, AGH University of Science and Technology Press, 2005) pp. 217-250; A. Icduygu: *Turkey and International Migration*, SOPEMI Report (2006).

⁹⁶ A. Gorny and P. Ruspini (eds.): *Migration in the New Europe: East-West Revisited*, (New York, Palgrave-Macmillan, 2004.); I. Ivakhnyuk: "Russia – EU: Interactions within the Reshaping European Migration Space" in K. Slany (ed.): *International Migration: A Multidimensional Analysis*, (Cracow, AGH University of Science and Technology Press, 2005) pp. 217-250; I. Pribytkova: "Transnational Labour Migration: Ukrainian Perspective" in K. Iglicka (ed.): *The Transnational Security Challenges and Dilemmas for the European Migration Policy* (Warsaw, 2006).

migrations between two migration systems continue within the frames of temporary migration schemes, family reunification, etc. They are partly by the existence of numerous migrant networks of Moldavians, Ukrainians, and others in European Union states.

112. Most of the countries that recently joined the European Union are now countries of destination for 'classic' labour migrants from outside the EU due to their economic growth and political stability. Hungary, the Czech Republic, Slovakia and Slovenia all now have positive net migration. Foreign workers to these countries from further east are found (often working illegally) in the agriculture and construction industries and in the low-skilled and low-paid service sector. Often they are replacing the nationals of these countries who have moved to work in Western Europe⁹⁷.

113. Russia remains the main destination country in the post-soviet area, with currently some two million registered migrant workers and estimates of upwards from six million unauthorised migrant workers. In recent years, labour migrants from Ukraine, Belarus and Moldova more often choose EU countries in search for job opportunities; however, 'traditional' labour migration routes to Russia are still popular. Registered migrant workers from Ukraine in Russia are ranked second after Uzbekistan.

114. The South Caucasus countries still face labour outflow, however, push factors have shifted from primarily ethnic-based conflicts to pure economic reasons, including high unemployment and low salaries. Russia only, hosts about 600, 000 regular and irregular migrants from Armenia, about 750, 000 – from Azerbaijan, and over 100, 000 from Georgia. However, economic recovery of the Caucasus countries prompts that migration flows can reverse in the nearest future. Azerbaijan demonstrates the world highest GDP annual growth rate over 30% in 2005-2007. The oil and gas sector, attractive for foreign investors, creates jobs and pulls the economy ahead. At present, low salaries and the poor social security system discourage Azeri expatriates from returning to their homeland but it seems mainly a matter of time until there is more incentive to return.

iii. Flows from East to West

115. East to West vector of migration in Europe has been shaped since the late 1980s and early 1990s when newly opened post-socialist states in Europe and in the former USSR experienced increased migratory outflows and also faced numerous transit flows of migrants from Asian countries moving primarily to EU states. In the 1990s, east-to-west migrations were relatively easy due to poorly controlled borders in the Central Asian states, 'transparent' interstate borders between the former Soviet republics and facilitated border-cross regimes with Poland, Slovakia, Hungary and Bulgaria. The subsequent 'jump' over the EU common border was more difficult and usually needed assistance of professional human smugglers.

116. In the pre-enlargement period the eastern borders of the accession countries were strengthened with stricter cross-border regulations, and after the EU enlargement, westward transit of Asian migrants became much more complicated, especially if clandestine. Due to this fact activities of criminal smuggling and trafficking

⁹⁷ J. Salt: *Current Trends in international migration in Europe*, (Strasbourg, Council of Europe, Strasbourg, 2005).

organisations in the region expanded. The reported decreases in numbers of irregular migrants may reflect the diversion of irregular flows into new and less policed routes.

117. However, regular east-to-west migrations are growing in numbers, both from the nearest, like Ukraine, and the distant, like China, countries. Tens of thousands of residence permits and work permits are granted to Chinese and Vietnamese citizens every year in Italy, Spain, Germany, Netherlands, Poland, and Czech Republic⁹⁸. For example, Chinese now account for an estimated 43% of all Asian migrants in Spain⁹⁹. Ukrainian labour migrants often fill the gaps in labour markets of Central European states caused by the outflow of local workers who have moved to work in Western Europe. For example, a large-scale outflow of bus and truck drivers from Poland in 2004-2005 to the UK resulted in the inflow of drivers from the Ukraine. In Turkey, local employers attract foreign men from former Soviet Central Asian republics and Middle East states for jobs in agriculture and construction. Foreign women are employed in domestic service and hospitality sector in Turkish tourist and resort areas¹⁰⁰. Meanwhile, Turkish citizens move to work in Western Europe, in part relying on numerous Turkish diaspora there that exists since the 1960s.

118. At the same time, Turkey, Russia, Ukraine and the Caucasus states remain countries of irregular transit for thousands of persons from the Middle East (Iran, Iraq, Afghanistan and from Asia and Africa (Pakistan, Bangladesh, Sri Lanka, Nigeria, Somalia, Congo) on their way to the more developed countries of the West. Some of these transit migrants arrive legally with tourist visas but often drift into irregular situations as they overstay their visa, or try to enter a third country without proper travel documents. A particular concern is that in this 'waiting period,' most go underground and work without authorisation¹⁰¹.

119. In the Central Asian region, the newer destination country Kazakhstan draws 500,000 to 1 million regular and irregular migrants from neighbouring Uzbekistan, Kyrgyzstan and Tajikistan, making that country in effect an alternative destination to Russia or more westerly Europe¹⁰².

iv. Flows from South to North

120. Countries of the global South remain important migration partners for Europe. 17% of foreigners in the EU countries (23 million in 2005) originate from Africa and another 12% are from Asia. Resettlement from former colonies later shifted to labour

⁹⁸ Ibid.

⁹⁹ IOM: *World Migration 2003: Managing Migration Challenges and Responses for People on the Move*, (IOM, World Migration Reports Series, Volume 2, 2003)..

¹⁰⁰ A. Icduygu: *Turkey and International Migration*, SOPEMI Report, (2006).

¹⁰¹ A. Icduygu: "A Panorama of the International Migration regime in Turkey", in: *Revue Europeenne des Migrations Internationales*. (Turquie, Aux Portes de l'Union Europeenne, 2006), Vol.22, No: 3., pp.11-19; I. Ivakhnyuk: "Russia – EU: Interactions within the Reshaping European Migration Space" in K. Slany (ed.): *International Migration: A Multidimensional Analysis*, (Cracow, AGH University of Science and Technology Press, 2005), pp. 217-250

¹⁰² Y. Sadovskaya: "International Labor Migration and Remittances in Central Asian Republics: Strategy for Survival or Development?" in: in V. Iontsev (ed.): *Migration and Development, Scientific Series, International Migration of Population: Russia and Contemporary World* (Moscow, SP Mysl, BL Print, 2007) Vol. 20, pp.38-46.

movements, and the flows have considerably diversified. However, the existence of numerous diaspora of Indians and Pakistanis in the UK, Algerians in France, Somalis in Italy, or Congolese in Belgium orient further migration flows from these countries.

121. The EU 'fortress' confronts the most visible waves of unauthorised attempts to enter the common European area at its southern borders. Migrants from Northern and Sub-Saharan Africa are pushed by poor economic conditions and the absence of decent work in their home countries to seek employment in Europe by crossing the Mediterranean Sea, often at risk to their lives. Many attempts are interrupted by border forces, while other are supposed to end with landing in the EU territory. The European Mediterranean countries appear to be more and more often destination points for African migrants. High demand for unskilled and low-skilled labour in agriculture, construction and service industries, large-scale informal sector, regularisation practices, geographical proximity, and favourable climate encourage migrants from the South stay in Italy, Spain, Greece or Portugal rather than move further to Western and Northern Europe. For instance, flows from Senegal and Nigeria to Spain increased on average by about 25% and 15% per year, respectively, in 2000-2005¹⁰³.

122. The global South is also a source of highly skilled migrants. Researchers from Sub-Saharan Africa are employed in the United Kingdom, Netherlands and Belgium; engineers of Maghreb origin are common in France and Spain; doctors from India and nurses from Botswana, Malawi, Nigeria and Zambia play prominent roles in the UK health care system; this gives reasons to renewed concerns on the 'brain drain' issue.

7. Policy issues

123. Migration is a complex phenomenon affecting the economy, the composition and performance of the labour force, the present and future composition of society, and social cohesion. In turn, it is a phenomenon affected and indeed shaped by widely contending pressures, interests and views. Consequently, governing migration requires an active and coherent response by the State to regulate it. Devising policy to regulate migration and ensure protection of migrants as well as respecting concerns of the host population requires deliberate efforts to reconcile or find accommodation among differing interests. Simply put, it cannot be left to market mechanisms to regulate.

124. The overarching policy challenge is ensure economic and social benefits from international migration --migration that is today primarily about labour and skills mobility-- through democratic means and regulatory instruments while avoiding overemphasis on restrictive control measures.

125. This entails reconciling economic pressures to reduce labour and rights protections for foreign workers in order to sustain labour cost competitiveness, with the need to uphold equality of treatment and non-discrimination as guarantors of labour market coherence, work force productivity, and social cohesion.

126. In the knowledge economy, skilled migrants can give local economies a by no means negligible competitive edge. The recruitment of skilled labour is not enough to meet all labour-market needs. Less skilled immigrants are also in great demand, particularly in situations where local labour markets cannot satisfy their requirements because of demographic change. The need for a flexible labour market and economy

¹⁰³ OECD: *International Migration Outlook*, (SOPEMI 2007 Edition), pp.46-47

requires that use be made of foreign workers in order to meet temporary labour needs arising from cyclical business fluctuations (seasonal work, subcontracting and service provision).

127. Patterns of regular migration strongly depend on policy changes in host countries. While possibilities for legal labour migration programmes generally remain limited, a number of European countries have opened up channels for selected (especially high-skilled) labour migrants. Highly skilled migrants commonly move to destination countries in accordance with existing legislation. Generally, the highly qualified persons are more tuned into the international labour market because of their human and social capital that facilitates their job search; language skills; access to information; and financial resources to move. Their status and duration of stay in destination countries depend on recruitment schemes for skilled foreign workers and, more generally, on labour migration policies.

128. Low-skilled migrants currently have very limited legal access to labour markets in more developed countries. Where legal options exist, they permit lower skilled migrants to come as temporary, short-term and, most commonly, seasonal workers. However, the scope of programmes remains limited. They cannot absorb all would-be labour migrants and they are far too narrow to meet domestic demands for foreign labour. This situation appears to allow space for continued irregular entry, stay and employment.¹⁰⁴

129. Migration policies of origin countries also affect patterns of economic migration of their citizens. If the states introduce restricting emigration regulations, for example driven by undesirability of outflow of skilled workers, they can face with worst forms of brain drain when potential migrants depart all the same but they will definitely not return being afraid of punishment, and their remittances to homeland are doubtful. However, if the source states follow freedom of movement principle and appreciate their citizens to go abroad for earnings and come back with savings and improved skills, migrants keep feeling of belonging to their country, support their relatives left behind and do not give up an idea of return. Moreover, if their return and engagement in the development process of the origin country is encouraged by, for example, proactive government economic policies and investment and tax incentives, their migration experience can contribute more directly to their country's progress.

130. Distinction between permanent and temporary migration solely on the criterion of duration of stay is hardly possible because migration regulations and permit durations tend to differ from country to country. The more decisive factor is the residence permit type; however, in many European countries even permanent-type immigrants receive permits of limited duration upon entry, sometimes for as short as one year.¹⁰⁵ Published statistics commonly include persons in a given year being admitted 'for good' as permanent migrants while temporary labour migrants are estimated on the basis of issued work permits.

¹⁰⁴ C. Boswell: *Migration in Europe*, A paper prepared for the Policy Analysis and Research Programme of the Global Commission on International Migration (GCIM).

¹⁰⁵ OECD: *International Migration Outlook*, (SOPEMI 2007 Edition). p. 34.

8. Policy guidance

131. The most comprehensive and authoritative policy guidance to date on labour migration is that contained in the ILO Multilateral Framework on Labour Migration published in 2006. The policy principles and guidelines therein reflect relevant principles in international standards and the implementing guidelines are based on successful practical experience in countries in all world regions. The framework guidelines were themselves elaborated and agreed upon by government and social partner experts from all regions of the world meeting in November 2005.

132. Two sections present particularly relevant guidelines for policy formulation and its content. One addresses expanding avenues for regular labour migration, taking into account labour market needs and demographic trends, and identifying key policy lines, notably:

- establishing systems and structures for periodic, objective labour market analyses that take into account gender issues and that include:
 - sectoral, occupational and regional dimensions of labour shortages and their causes, and relevant issues of labour supply;
 - shortages of skilled workers in both origin and destination countries, including in the public, health and education sectors;
 - long-term impact of demographic trends, especially ageing and population growth, on the demand for and supply of labour;
- establishing transparent policies for the admission, employment and residence of migrant workers based on clear criteria, including labour market needs;
- where appropriate, establishing policies and procedures to facilitate the movement of migrant workers through bilateral, regional or multilateral agreements;
- promoting labour mobility within regional integration schemes;
- ensuring that temporary work schemes respond to established labour market needs, and that these schemes respect the principle of equal treatment between migrant and national workers, and that workers in temporary schemes enjoy human and labor rights.

133. Another section addresses development of national policies in the context of ensuring that they are coherent, effective and fair. General policy lines include:

- ensuring that labour migration policies are gender-sensitive and address the problems and particular abuses women often face in the migration process;
- providing labour ministries with a key role in policy formulation, elaboration, management and administration of labour migration to ensure that labour and employment policy considerations are taken into account;
- establishing a mechanism to ensure coordination and consultation among all ministries, authorities and bodies involved with labour migration;
- ensuring that specific structures and mechanisms within these ministries have the necessary competencies and capacities to develop, formulate and implement labour migration policies, including, where possible, a special unit for issues

involving migrant workers;

- ensuring that the relevant ministries have adequate financial and other resources to carry out labour migration policies;
- establishing tripartite procedures to ensure that employers' and workers' organisations are consulted on labour migration issues and their views taken into account.

134. Other pertinent policy guidelines include:

- adopting measures to ensure that national labour legislation and social laws and regulations cover all male and female migrant workers, including domestic workers and other vulnerable groups, in particular in the areas of employment, maternity protection, wages, occupational safety and health and other conditions of work, in accordance with relevant International Labour Standards;
- entering into bilateral, regional or multilateral agreements to provide social security coverage and benefits, as well as portability of social security entitlements, to regular migrant workers and, as appropriate, to migrant workers in an irregular situation;
- adopting measures to ensure that migrant workers and accompanying members of their families are provided with access to health care and, at a minimum, with access to emergency medical care, and that regular migrant workers and family members receive the same treatment as nationals with regard to the provision of medical care;
- extending labour inspection to all workplaces where migrant workers are employed, in order to effectively monitor their working conditions and supervise compliance with employment contracts; and, ensuring that the competent authorities have the necessary resources and that labour inspection staff is adequately trained in addressing migrant workers' rights and in the different needs of men and women migrant workers;
- intensifying measures aimed at detecting and identifying abusive practices against migrant workers, including physical or sexual harassment or violence, restriction of movement, debt bondage, forced labour, withholding, underpayment or delayed payment of wages and benefits, retention of passports or identity or travel documents and threat of denunciation to authorities, particularly in those sectors that are outside the usual avenues of regulation and protection, such as domestic work.

135. The ILO Multilateral Framework on Labour Migration and other pertinent international documents, particularly the OSCE-ILO-IOM *Handbook on Establishing Effective Labour Migration Policies*, offer additional and complementary policy guidelines as well as relevant administrative and practical measures to give effect to such policy guidelines.

CHAPTER II

DEVELOPMENT AND MIGRATION

1. *Introduction*

136. Migration has the potential to serve as an engine of growth and development for all parties involved - host and source countries and the migrants themselves. In destination countries, migration has rejuvenated workforces, rendered economically viable traditional sectors like agriculture and services, promoted entrepreneurship, supported social security and welfare schemes, and met the demand for skills for emerging high tech industries. In migrant origin countries, positive contributions of migration are reflected in capital inflows through remittances and investments, transfer of technology and critical skills through return migration, and increased exports and international business facilitated by transnational community relations.¹⁰⁶

137. In brief, migrants sustain development and partnership through the monetary, human and social capital they supply, the international flows of finance and trade they bring about, their involvement in social networks and their contributions to exchanges between cultures.

138. The UN Secretary-General's report on International Migration and Development for the UN High Level Dialogue 2006¹⁰⁷ stated: "We are only beginning to learn how to make migration work more consistently for development. Each of us holds a piece of the migration puzzle, but none has the whole picture. It is time to start putting it together."

139. Whether or not emigration contributes to development varies according to many factors, including what forms of migration take place, where to, and on how well countries put in place policies to take advantage of benefits and address adverse consequences of migration. The latter suggests that migration can contribute positively to development where a country is already poised to develop; it cannot, however, create such a condition.

140. Excessive, emigration of workforce and skills, as well as the inability of unemployed workforce to emigrate, are harmful for the country of origin development. There is also a huge potential for enhanced country of origin development through diaspora contributions and by returning and circular migration, providing that the infrastructure allows it.

141. There is increasing international recognition of the links between migration and growth and development in both destination and source countries. A number of global initiatives, including the Global Commission on International Migration, the United

¹⁰⁶ ILO: *Towards a fair deal for migrant workers in the global economy*, Report VI, International Labour Conference, 92nd Session, Geneva, 2004.

¹⁰⁷ United Nations: *International migration and development*, Report of the Secretary-General (New York, United Nations, 2006).

Nations High Level Dialogue on International Migration and Development in September 2006, the Global Forum on Migration and Development in July 2007 in Brussels¹⁰⁸ as well as ILO and IOM processes can be considered as milestones in exploring these linkages. Broad consensus has emerged that migration issues need to be integrated and mainstreamed into development policies and poverty alleviation, as well as national employment and labour market policies

142. The Council of Europe membership spans the spectrum between primarily migrant origin countries, transit countries destination countries; most today are all three to a greater or lesser extent. Taking into account the regional dimension permits relating host countries and countries of origin as partners in coherent geographical and economic zones. This approach has the merit of emphasising the need for active co-operation in the migration field.

143. This chapter endeavours to demonstrate ways in which national policy initiatives and international co-operation can help all parties find a win-win-win solution, for the country of origin, for the destination country and for the individual alike. A central challenge is determining how the positive developmental linkages of migration — including the promotion of human rights — may be boosted, and how the negative linkages may be alleviated, both for the country of origin as well as the country of destination.

2. *The migration and development nexus*

144. This part of the report investigates the connection between migration (both emigration and immigration) and development, and the practical manifestations and applications of such connections. Migration and development may be mutually causative in both source and destination countries.

145. Contemporary international migration can generally be explained by increasing socio-economic differences between countries and the lack of gainful employment, decent work, human security and individual freedoms in certain countries.¹⁰⁹ The world's population of 6.7 billion in 2006 was growing by about 75 million every year, mostly in developing countries. The ILO report, *Global Employment Trends 2007*, estimated the world's labour force in 2006 at around 2.9 billion people.¹¹⁰ In the same year, there were an estimated 195.2 million unemployed, about 6.3 per cent of the total global labour force. The number of "working poor" - or persons living on the equivalent of US\$ 2 per day or less - has continued to grow, reaching 1.37 billion in 2006.¹¹¹

¹⁰⁸ See, for example, ILO: *Towards a fair deal for migrant workers in the global economy*, Report VI, International Labour Conference, 92nd Session, Geneva, 2004; IOM: *World Migration Report 2005: Costs and benefits of international migration* (Geneva, IOM, 2005); GCIM: *Migration in an Interconnected World: New Directions for Action*, Report of the Global Commission on International Migration, 2005; Global Forum on Migration and Development, Brussels 9-11.7.2007, Background paper and Summary Report.

¹⁰⁹ P. Martin and J. Widgren: "International migration: Facing the challenge", in *Population Bulletin* (Washington DC, Population Reference Bureau, 2002), Vol. 57, No. 1.

¹¹⁰ ILO: *Global employment trends*. (Geneva, 2007).

¹¹¹ ILO: *Key indicators of the labour market*, 5th Edition (Geneva, 2007).

146. While there can be many motivations behind individual decisions to migrate, the main force driving contemporary migration pressures is lack of decent work opportunities at home. In developing countries, decent jobs are not being created fast enough to absorb the growing numbers of people joining the labour force every year. The plight of farmers in developing countries is a powerful factor behind international migration. Many industrial countries had a “great migration” off the land in the 1950s and 1960s, and similar movements are evident today in many major source countries, including China, Mexico and Turkey. In 2005, about 40 per cent of the world’s workers¹¹² were employed in agriculture, and in poorer countries they are usually worse off than urban dwellers. This is partly the result of, among other factors, public policy often reflecting structural adjustment packages that have pushed countries to “modernise” agricultural production to make it more export-oriented, and the consequent undermining of the position of small farmers through the increasing liberalisation of trade. Farmers are then pushed out of farming into chronic underemployment or rural out-migration.

147. Other structural problems contribute to exacerbating pressures to migrate. Accelerated international trade has replaced or undercut domestic industrial and agricultural production with cheap imports in a number of countries, with as consequence loss of jobs in affected sectors. Meanwhile, data suggests that job creation by private sector in many countries affected by Structural Adjustment Programs has not matched the numbers rendered unemployed by downsizing public employment. A consequence of job losses resulting from trade and structural changes appears to be increased numbers of unemployed for whom emigration becomes an alternative in the absence of opportunities for decent work at home.¹¹³

148. The role of individual choice in migration has long been acknowledged: “Migrants are rational beings who flee toward favourable regions, where their needs for a secure or better life can be met.”¹¹⁴ Indeed, international law has recognised the right to leave one’s country of origin, and the right to return to it.

149. However, lack of or halted development, or downright depression in the country of origin increases the individual migration push factor. Lack of economic progress, poverty or economic dissatisfaction, political uncertainty or State instability including outright societal upheavals with refugee crises, and inequality and human rights problems have all been seen as factors that increase the propensity to emigrate.

150. Poverty in itself is typically not a sufficient cause for leaving, but rather a complex mix of developmental reasons may be involved.¹¹⁵ Recent studies on emigration from Turkey provide further evidence that negative or halted development

¹¹² ILO: *Global employment trends model* (Geneva, 2006).

¹¹³ P. Taran: “Clashing Worlds: Imperative for a Rights-Based Approach to Labour Migration in the Age of Globalization” in *Globalization, Migration and Human Rights: International Law under Review, Volume II*, (Bruylant, Brussels, 2007).

¹¹⁴ J. Harris John and M. Todaro, “Migration, unemployment and development: a two-sector analysis” in *The American Economic Review*, vol LX, n°1, 1970, pp. 126-142.

¹¹⁵ R. Black et al: “Migration and Development: Causes and Consequences” in K. Kraal et al (eds.): *The Dynamics of International Migration and Settlement in Europe*, (Amsterdam University Press 2006), pp. 45-48.

leads to a higher propensity to emigrate.¹¹⁶ Nor do the poorest individuals typically emigrate, but rather those with access to information about possibilities elsewhere and those able to obtain the financial means to pay often considerable costs of migration. Migrants --and asylum seekers-- typically have some education and work experience, as well as at least some monetary assets to travel.

151. Favourable development in a country increases the individual and collective pull factor, both through demand for labour and the visible promise job opportunities and better living conditions. “Advanced societies” with labour needs combined with low mortality and low birth rates entice both semi-skilled and skilled workers, with the quantity depending on specific conditions.¹¹⁷

152. A large portion of today’s migration occurs, in absolute terms, to advanced societies in all regions of the world. About 4 million new immigrants entered OECD¹¹⁸ countries in 2005, an increase of 10% from 2004.¹¹⁹ Indeed, immigration to OECD countries has surged in recent years; current estimates are that 11.4% of the residents of developed countries are foreign-born, compared to 6.2% in 1980.

153. There is generally a strong correlation between OECD countries that rank high in the Human Development Index¹²⁰ and high immigration; whether with active immigration schemes (Canada, Australia, New Zealand), with strongly increased immigration (Ireland, Italy, Spain,.) or attracting immigrants even without active recruitment schemes (other EU countries).

154. “Advancing”¹²¹ countries also attract migration, both skilled and less-skilled. The transition countries with steadily improving market economies, improved material conditions for a majority of the population and generalised respect for human rights as well as declining birth rates¹²² (such as Estonia, Slovenia and the Czech Republic) are increasingly becoming immigration rather than emigration countries.¹²³

155. Accelerated economic development in the so-called Asian tiger countries, Hong Kong, Malaysia, Singapore, Korea and Taiwan, has produced strong demand for labour and skills that have drawn steadily increasing numbers of migrants, primarily from

¹¹⁶ A. Icduygu, I. Sirkeci and G. Muradoglu: “Socio-economic Development and International Migration: A Turkish Study”, *International Migration*, vol.39(4). 2001.

¹¹⁷ W. Zelinsky: “The Hypothesis of the Mobility Transition”, in *The Geographical Review*, vol. 61, n° 2, 1971, p. 230.

¹¹⁸ Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Slovak Republic, Spain, Sweden, Switzerland, Turkey, United Kingdom and United States.

¹¹⁹ *International Migration Outlook*, (SOPEMI 2007 Edition).

¹²⁰ Human Development Index, see e.g. verified data at http://en.wikipedia.org/wiki/Human_Development_Index#Top_thirty_countries_.28HDI_range_from_0.965_down_to_0.885.29.

¹²¹ Zelinsky, p. 230, op cit.

¹²² See e.g. Freedom House Democracy Score Rankings for Consolidated Democracies, at <http://www.freedomhouse.org/template.cfm?page=263&year=2006>.

¹²³ *International Migration Outlook*, (SOPEMI 2007 Edition).

neighbouring countries in the region. This merely echoes the transition of a number of European countries from emigration to immigration countries in a short period of time following rapid economic development and modernisation associated with entry and integration in the European Union and other factors; Greece, Ireland, Italy, Spain and Portugal are notable examples.

156. Migration is not necessarily a permanent or final event. Many migrants return to countries of origin, some on a permanent basis and some more temporarily only to migrate again. Return migration to the country of origin is often motivated by development and improvement of economic and social conditions there, which then works as the pull factor. Return migration is frequently a consequence of the fact that the individual's original intention was to migrate to work abroad for only a short period of time. Development from a "transitional" to an "advanced" society significantly increases the probability of return migration, either directly or in the form of circular migration. Such return becomes more probable the more the birth rate is reduced and the more the mortality rate declines in the given country.¹²⁴ Countries of origin become more favourable for return when they evolve into places where expatriates' needs for a secure or better life can be met.

157. As the economic downturn in 2001-02 demonstrated in Asia and as the current economic recession in the US is showing, a strong economic downturn in important immigration countries produces large scale expulsions of migrants, especially those with precarious or temporary status, and more so those in irregular situations.

3. *Understanding the links: migration and development*

i. *Return migration and the transfer of skills*

158. Migrants who return to their countries of origin possessing enhanced skills, knowledge, ideas and capital can make substantial contributions to development, regardless of the nature of their return. Policy makers should therefore explore ways to facilitate development-friendly return migration policies. However, it should be noted that return migration is one of the least well-studied aspects of migration. Therefore, the impact of return migration on development and the extent to which returnees use skills they acquired abroad can be difficult to assess.

159. Whilst this section focuses predominantly on the return of highly skilled migrant workers, it should also be recognised that less qualified returnees can also contribute to development through experience, education and contacts gained abroad.¹²⁵

160. Migrants who return for less than six months, or who are only abroad for a short period, are unlikely to produce considerable benefits for either themselves or development in their countries of origin. A 2006 report by the UN Secretary-General commented that return is likely to be most beneficial following a period of 5 to 10 years abroad.¹²⁶ A 2003 report noted that countries of origin benefit most significantly from

¹²⁴ Zelinsky, p. 230, op cit.

¹²⁵ IOM : *World Migration : Costs and Benefits of International Migration*, (Geneva, IOM, 2005), p. 287.

¹²⁶ UN General Assembly: *International Migration and Development*, Report of the Secretary-General, A/60/871, 18 May 2006, p. 69.

the return or highly skilled migrant workers who have accumulated financial, human and social capital after 10 to 15 years abroad.¹²⁷

161. It has been argued that return labour migration will only be beneficial for development when three conditions are met: workers return with knowledge that is more advanced, or with better skills than they would have acquired at home; the knowledge and skills acquired abroad are relevant to the needs of the home country economy; and the migrants are willing and have the opportunity to use the skills upon return.¹²⁸ Similarly, the UN Secretary-General commented in 2006 that return migration will contribute to development only to the extent that the country of origin has a propitious social and economic environment for the migrant to use the skills acquired abroad or to invest his or her savings.¹²⁹

162. However, empirical evidence from different parts of the world suggests that such conditions are not often met. Despite there being some examples of returned labour migrants using skills acquired abroad, overall evidence is less encouraging, especially for low-skilled migrants. For example, early studies show that less than 10 per cent of Turkish guest workers returning from Germany had received any useful training, and recent research from Thailand similarly reveals that very few returning migrants acquired new skills abroad.¹³⁰ Further, the rate of unemployment for return migrants is often higher than non-migrants, and even higher than they experienced before migration. After a prolonged time abroad, returnees often retire and migrant women may assume roles as housewives and mothers.¹³¹

163. The benefits experienced upon return can depend on the type of work undertaken and the skills acquired abroad. Migrants who migrate temporarily in the fields of nursing and teaching, for example, can acquire new skills and benefit from exposure to new ideas and ways of working that can be useful upon their return.¹³² Many returning migrants become self-employed upon return, using savings they have accumulated abroad to set up small businesses. This can contribute positively to

¹²⁷ H. Olesen : “Migration, Return and Development : An Institutional Perspective”, in N. van Hear and N. Nyberg-Sorensen (eds): *The Migration-Development Nexus*, IOM, Geneva, 2003, as cited in IOM : *World Migration : Costs and Benefits of International Migration*, Geneva, 2005, p. 289.

¹²⁸ B. Ghosh : *Return Migration : Journey of Hope or Despair ?*, UN, IOM, Geneva, 2000 as cited in IOM : *World Migration : Costs and Benefits of International Migration*, Geneva, 2005, p. 289.

¹²⁹ UN General Assembly: *International Migration and Development*, Report of the Secretary-General, A/60/871, 18 May 2006, p. 69.

¹³⁰ House of Commons, International Development Committee: *Migration and Development: How to Make Migration Work for Poverty Reduction*, 6th Report of Session 2003-2004, Volume 1, London, 2004, as cited in IOM : *World Migration : Costs and Benefits of International Migration*, Geneva, 2005, p. 289.

¹³¹ UN General Assembly: *International Migration and Development*, Report of the Secretary-General, A/60/871, 18 May 2006, p. 69.

¹³² House of Commons, International Development Committee: *Migration and Development: How to Make Migration Work for Poverty Reduction*, 6th Report of Session 2003-2004, Volume 1, London, 2004, as cited in IOM : *World Migration : Costs and Benefits of International Migration*, Geneva, 2005, p. 289.

development, despite the fact that such enterprises tend to involve modest capital outlays, employ few workers and operate in the informal sector.¹³³

164. A 2003 study on return migrants belonging to elite groups in Ghana and Cote d'Ivoire demonstrates the use that migrants who have studied or trained abroad can make of the skills they acquire. Most of the older returnees in this study found jobs in the public sector and contributed to nation-building, whereas younger returnees were more enterprising and many started private sector businesses.¹³⁴ This study also found that policies that favoured returnees above those who stayed within the country were likely to be counterproductive and cause resentment.¹³⁵

165. Circular migration can also have development benefits in terms of skills transfers. Migrants, diaspora and circulating workers have effectively been establishing new kinds of social space and forming "transnational communities". For example, the African Union has now invited Africa's diaspora to actively take part in the region's development, and has agreed to amend the organisation's charter to 'encourage the full participation of the African diaspora as an important part of the continent...'.¹³⁶

166. States and international organisations have developed a number of different policy approaches and initiatives in relation to return migration. Some developing countries, such as the Philippines, encourage return migration whereas others, such as Bangladesh and Vietnam, are less proactive. A number of developing states have introduced measures to attract skilled emigrants back, with varying degrees of success. The more successful efforts have been in Asia. The approaches to return migration taken by developed countries are varied and somewhat ambivalent.¹³⁷

167. International organisations such as IOM and UNDP have also introduced initiatives to encourage the return of highly qualified workers to developing countries. IOM's Return of Qualified Nationals Programmes, for example, have assisted in the return and professional reinsertion of qualified migrant workers. The Return of Qualified African Nationals Programme was implemented between 1983 and 1999 and helped over 2,000 highly skilled and experienced African nationals and 2,565 fellowship students to return and professionally reintegrate in public and private sector jobs in 41 African countries.¹³⁸

¹³³ UN General Assembly: *International Migration and Development*, Report of the Secretary-General, A/60/871, 18 May 2006, p. 69.

¹³⁴ S. Ammassari, *From nation-building to entrepreneurship: the impact of elite return migrants in Cote d'Ivoire and Ghana*, paper presented at the International Workshop on Migration and Poverty in West Africa, 13-14 March 2003, University of Sussex, United Kingdom, as cited in UN General Assembly: *International Migration and Development*, Report of the Secretary-General, A/60/871, 18 May 2006, p. 69.

¹³⁵ Ibid.

¹³⁶ See A. Venables : "Trade liberalization and factor mobility: an overview", in R. Faini, K. F. Zimmerman and J. de Melo (eds): *Migration: The controversies and the evidence* (London, Cambridge University Press, 1999), as cited in ILO: *Towards a Fair Deal for Migrant Workers in the Global Economy*, Report VI, International Labour Conference, 92nd Session, Geneva, 2004, p. 27.

¹³⁷ IOM : *World Migration : Costs and Benefits of International Migration*, Geneva, 2005, p. 290.

¹³⁸ IOM : *World Migration : Costs and Benefits of International Migration*, Geneva, 2005, p. 292.

168. The provision of reintegration assistance to migrant workers can affect the extent to which they are able to use acquired skills to promote development. A 2002 IOM survey in Bangladesh reported that many migrants returned with considerable savings, some of which were used for income-generation activities and land purchase. However, this survey also revealed that while a large number of migrants acquired skills abroad, upon return many were employed in occupations where these skills could not be used.¹³⁹ Notably, Bangladesh lacks a concrete policy framework to facilitate the reintegration of returning labour migrants.

169. The Philippines, on the other hand, has included a provision in its 1995 Migrant Workers and Overseas Filipinos Act on return migration and the establishment of a 'Replacement and Monitoring Centre' to facilitate the reintegration, employment promotion and utilisation of migrant skills for development. However, a lack of data collection systems makes the impact of the programme difficult to assess.¹⁴⁰

ii. Remittances and their utilisation

170. Migration and the return flows it generates are one of the main globalising factors for some emigration countries¹⁴¹. For developing countries, migration is currently an aspect of globalisation that is more dynamic than direct foreign investment, trade or technology.

171. Emigration does not necessarily restore balance to labour markets in the countries of origin, though it can reduce socio-economic tensions and, in particular, relieve local tensions due to agricultural under-employment and unemployment. Nor does it significantly bring about convergence of international income levels or reduce pay discrepancies between countries of departure and countries of destination.

172. However, there is undeniable benefit for families left behind in the country of origin: transfers of funds make a definite contribution to reduction of poverty among them¹⁴². More generally, in the countries of origin emigration has some impact on, for example, consumer behaviour, house buying, food and dress habits, and personal and social relations.

173. Migrant remittances are the most tangible benefit of migration to developing countries. The volume of migrant remittances to developing countries has increased

¹³⁹ IOM : *Contribution of Returnees : an analytical survey of Post Return Experience*, Geneva, 2002, as cited in IOM : *World Migration : Costs and Benefits of International Migration*, Geneva, 2005, p. 295.

¹⁴⁰ G. Battistella, "Return Migration in the Philippines: Issues and Policies", in D.S. Massey and J.E. Taylor (eds) *International Migration: Prospects and Policies in a Global Market*, Oxford, 2004, as cited in IOM : *World Migration : Costs and Benefits of International Migration*, Geneva, 2005, p. 295.

¹⁴¹ E. M. Mouhoud (ed.): *Les nouvelles migrations – Un enjeu Nord-Sud de la mondialisation*, (Universalis, 2005).

¹⁴² Leave this out and substitute with: Azam and Gubert 2002, cited e.g. in Marouani, Mohamed Ali and Marc Raffinot, Pro-poor Growth: A Malian Case study, Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) GmbH, September 2003, p. 35.

from \$57 in 1990 to US\$207 billion in 2006.¹⁴³ Remittances have grown both in nominal terms and in terms relative to source country GDPs, far outpacing the growth of official development assistance.¹⁴⁴

174. Recorded remittances are now more than double the level of official development assistance (ODA) of \$104 billion, and about two thirds of foreign direct investment (FDI) flows of \$325 billion in 2006. For some countries remittances constitute the main source of foreign exchange. The World Bank has described remittances as "*an important and stable source of development finance*".¹⁴⁵

175. Yet it has to be stressed that remittances are private household transfers of earnings of individuals, and should not be viewed as a substitute for ODA, FDI or investments in public services. The conclusions of the first Global Forum on Migration and Development in July 2007 stressed: "*Remittances do not diminish the need for ODA and they are not an alternative to national development efforts by concerned governments.*"¹⁴⁶

176. According to World Bank and IMF figures, such transfers are equivalent to over 75% of Albania's exports and over 50% of exports from Bosnia and Herzegovina. They account for 22.8% of Moldova's GDP, 18.4% of Bosnia and Herzegovina's GDP, and 15.6% of Albania's GDP¹⁴⁷.

177. Remittances have also been growing relative to other sources of external finance.¹⁴⁸ In 36 out of 153 developing countries, remittances are larger than all capital flows, public and private.¹⁴⁹

178. Within the Council of Europe domain, remittances count for a significant revenue for many Council of Europe countries. According to Poland's Ministry of Economics statistics, the transfer from Polish people working abroad is around 6 billion euros a year.¹⁵⁰ Ukraine has seen incoming remittances increase by a factor of 18 in six

¹⁴³ See World Bank: *Migration and Remittances Factbook*, (Development Prospects Group, 2007), www.worldbank.org/prospects/migrationandremittances (accessed 22 November 2007).

¹⁴⁴ K. O'Neil: "Using Remittances and Circular Migration to Drive Development," Migration Information Source. (June 1, 2003). <http://www.migrationinformation.org/Feature/display.cfm?ID=133>.

¹⁴⁵ World Bank: *Global Development Finance 2003* (Washington DC, World Bank, 2003)

¹⁴⁶ GMFD: *Summary Report*, First Meeting, Global Forum on Migration and Development, op. cit.

¹⁴⁷ OECD: *Migration, remittances and development*, (Paris, OECD, 2005b).

¹⁴⁸ D. Kapur: *Remittances: The New Development Mantra?*, Paper prepared for the G-24 Technical Group Meeting, Boston and Washington D.C.: Harvard University and Center for Global Development, 2003.

¹⁴⁹ D. Ratha: "Understanding the Importance of Remittances," *Migration Information Source* (October 1, 2004) <http://www.migrationinformation.org/feature/display.cfm?ID=256>.

¹⁵⁰ See http://www.workpermit.com/news/2007_03_02/poland/remittances_migrant_worker_money.htm.

years: from \$33 million in 2000 to \$595 million in 2005.¹⁵¹ More than 40 per cent of the Moldovan population belongs to a remittance-receiving household.¹⁵²

179. An important advantage of remittances is that they are better distributed than FDI, which is largely concentrated in a few developing countries. For a number of countries remittances are now the principal source of foreign exchange. They are also a more reliable and stable source of income, tending to fluctuate less with economic cycles and thus to be less volatile than capital flows. They continued to rise during the Asian financial crisis, for example, even when flows of FDI fell.

180. In fact, remittances tend to increase in times of economic hardship because families depend on them as a principal income source, and because more people are likely to emigrate for work during such times. Better-off migrants who invest in their home countries are also less likely to be discouraged by adverse economic conditions than foreign investors. The World Bank noted that remittances improve the access of developing countries to international capital markets on favourable terms.¹⁵³

181. Transfers of funds are one of the key aspects of the connection between migration and development. The development impact of money transfers in beneficiary countries depends in part on how funds are expended¹⁵⁴. However, remittances are no more nor less than the private, personal earnings of individual workers.

182. Once employed, nearly all migrants transfer part of their income back to their country and communities of origin. The amount of remittances tends to increase during the first phase of the migration process, but then to decrease as the stay is prolonged. Other factors influence transfer flows: whether migration is temporary or permanent, strength of links with the country of origin and family members who live there, and the political stability and economic situation of the countries concerned. Research evidence indicates that higher skilled immigrants have less propensity to remit income to their home countries.¹⁵⁵

183. Remittances may be the most stable source of external finance for providing crucial social insurance to people in developing countries afflicted by economic and political crises. Remittances are critical for personal consumption for people in many conflict-torn states. In Haiti, remittances accounted for approximately 17 percent of GDP. In Somalia, following the collapse of a formal government in the early 1990s, remittances from the Somali diaspora based in the Gulf States, several European countries, the US, and Canada became a critical survival resource for many families. In

¹⁵¹ The Christian Science Monitor, 15.3.2007, available at <http://66.102.9.104/search?q=cache:QEVjrMUaHH8J:www.4fate.org/italy.pdf+ukraine+remittances&hl=fi&ct=clnk&cd=14&gl=fi>.

¹⁵² IOM: *Remittances in the Republic of Moldova - Patterns, Trends and Effects*, Chisinau, 2007

¹⁵³ D. Ratha: *Leveraging Remittances for International Capital Market Access*, (World Bank, 2005) http://siteresources.worldbank.org/intmigdev/resources/2838212-1160686302996/leveraging_remittances.pdf (accessed 28 November 2007).

¹⁵⁴ D. Ratha: "Worker's remittances: an important and stable source of external development finance" in World Bank: *Global Developing Finance*, 2003, pp. 157-175.

¹⁵⁵ R. Faini: *Remittances and the Brain Drain*, IZA Discussion Paper 2155, June 2006, p. 13

particular, remittances helped many urban families cope over the harsh years of the 1990s.¹⁵⁶

184. Migrant remittances usually go towards improved housing, nutrition, schooling and health care. Remittances therefore create human capital by financing education of children, and health expenses while improving food security for poor households. A study on Latin America confirms these observations:

“Remittances obviously are improving the lives of poor families and communities in most recipient countries—particularly those in which migrant senders come from the poorest groups. Low-income rural areas receive a large share of remittances in a majority of countries. And remittances mostly go to poor families; over half of all recipient households in Latin America earn less than \$200 per month. In Guatemala, 60 percent of household income for the poorest 10 percent of the population is from remittances. In short, remittances are—in most places—helping improve Latin America’s skewed income distribution. This is particularly important in countries with low per capita incomes and large inequalities between rich and poor.”¹⁵⁷

185. Another study concluded: “*Remittances put large sums of money into circulation in countries in Latin America for the purchase of goods and services that boost the economy. In this way, remittance flows have a positive impact on economic development.*”¹⁵⁸ According to World Bank sources, household surveys confirm the poverty alleviating impact of remittances: a 10 per cent increase in per capita remittances leads to a 3.5 per cent decline in the share of poor people in the population.¹⁵⁹

186. As noted above, the aggregate sums of remittances are huge, and exceed both direct investment and official development assistance in volume. Therefore the tendency is to see these private transferred earnings as a resource for development. Transfers by their volume do help to offset balance-of-payments deficits of countries of origin and reduce currency shortages and they bring investment. Transfers of migrants' funds may be effective levers for implementing development projects, particularly projects which attract official aid.

¹⁵⁶ I. Salah and B. Taylor: *Peace and Development in Northern Somalia: Opportunities and Challenges* (Ontario, Som-Can Institute for Research and Development, Partnership Africa Canada, 1999).

¹⁵⁷ Inter-American Dialogue: *Making the Most of Family Remittances*, Second Report of the Inter-American Dialogue Task Force on Remittances (Washington DC, Inter-American Dialogue, 2007). Available at: http://iad.modernsignal.net/PublicationFiles/family_remittances.pdf (accessed 22 November 2007).

¹⁵⁸ E. Rhyne: *The Role of Remittances in Leveraging Sustainable Development in Latin America and the Caribbean*, Testimony before the Subcommittee on Domestic and International Monetary Policy, Trade and Technology of the Committee on Financial Services, U.S. House of Representatives, Washington DC, 7 March, 2007.

¹⁵⁹ D. Ratha: *Economic Implications of Remittances and Migration*, Presentation at the World Bank-DFID Second International Conference on Migrant Remittances, London, 13 November 2006.

187. Women migrants are responsible for nearly half of transfers and women who receive transfers in the countries of origin invest in education and health provision. In some parts of the world women are only marginally beneficiaries of microfinance, yet participation in saving and lending programmes helps them to acquire more independence by increasing their contribution to household income and introducing them to the world outside the home. In addition, they tend to favour saving in order to secure their own and the family's future.

188. With increasing awareness of the size, magnitude and development impact of remittances, authorities in many other developing countries are now pro-actively trying to attract remittances. Pakistan's central bank governor recently advised banks to increase their level of commitment and interest in provision of remittance related services to overseas Pakistanis. The central banks and governments of Bangladesh, Sri Lanka, Philippines and India have also put in place measures to increase remittance inflows, creating special departments within central banks or ministries for diaspora-related issues, implementing special schemes (low-interest housing loans, insurance), facilitating local and foreign-currency deposits, and even granting dual nationality.

189. The potential of remittances is undermined by low wages, delayed wage payments and non-payment of wages by some employers in destination countries. These practices are common problems experienced by migrant workers particularly in the Middle East. Workers in irregular status are most vulnerable to wage fraud because of their precarious status.

iii. Social remittances and diaspora

190. Diaspora contacts, the activities of groups of expatriates towards the country of origin, are often considered valuable links to support development. Diaspora may be of great avail in conveying "social remittances" to the country of origin, thereby contributing to overall development. Social remittances could today be defined as the exchange of information and knowledge between emigrants and their countries of origin that maintain or even enhance country-of-origin development in the long run.

191. Social remittances have been alternatively characterised as non-quantifiable and intangible remittances,¹⁶⁰ and as "...the ideas, practices, identities, and social capital that are transmitted through the migration circuit. Social remittances are carried by migrants and travellers, and they are exchanged by letter, video, or phone. They travel through well-marked pathways – be they formal or informal organisational structures".¹⁶¹

192. Diaspora social remittances include ideas about democracy, health, and community organisation. They differ from "normal" global cultural exchange in that it is possible to identify the migration-related channels through which they are disseminated and the determinants of their impact. Together, they can transform the economy, culture, and everyday life of entire regions of origin. They challenge notions about gender relations, democracy, and what states should and should not do.

¹⁶⁰ D. Kapur: *Remittances: The New Development Mantra?*, Paper prepared for the G-24 Technical Group Meeting, Boston and Washington D.C, Harvard University and Center for Global Development, 2003

¹⁶¹ P. Levitt: *Social Remittances: A Conceptual Tool for Understanding Migration for Development*, . (Cambridge: Harvard Center for Population and Development Studies, Working Paper No. 96.04, 1996).

193. For example, migration has completely transformed life in the Dominican village of Miraflores. Young women reportedly no longer want to marry men who have never migrated because they want husbands who will share in the housework and take care of the children the way men who have been to the United States do.¹⁶² In Africa, internet cafes, along with MTV and Coca-Cola, have reached the most remote corners of Morocco and Algeria, spreading out normative and factual information about the values and way of life in Europe and the US – be these value systems good or bad.

194. Diaspora contacts and social remittances have a clear potential for positive and normative information exchange that fosters positive development: better human rights and political conditions, as well as new economic and business opportunities that may follow.

195. Associations created by migrants serve as a force for new forms of citizenship and participatory democracy, in particular linking home and host societies through such initiatives as town twinnings between host countries and countries of origin. Initiatives of this kind mobilise civil society and contribute to intercultural exchanges, social change and local development by enabling communities to acquire fresh knowledge and new forms of organisation. Through associations, different groups assume new responsibilities and migrants become mediators for innovative ideas. Associations provide immigrants with a means of preserving their culture and transmitting the diversity they represent, and help promote social integration and civic involvement.

196. Nonetheless, diaspora organising often only incorporates a small portion of immigrant or migrant communities. Research conducted in the US revealed that only five to 10 percent of the Dominican, Salvadoran, and Colombian migrants surveyed regularly participated in transnational economic and political activities; even occasional involvement is not particularly common. While some see migrants as a force for greater democratisation and accountability in the Dominican Republic, others hold them responsible for rising materialism and individualism.¹⁶³

197. Diaspora and the ability of diaspora organisations to function in a continuous and stable fashion are more subject to restrictions and uncertainties than is true of the majority populations of the destination countries. In some circumstances, politically and economically strong diaspora organisations and communities may be seen as posing economic competition or even security challenges to host communities.

iv. Brain drain

198. International migration of highly skilled workers has increased over the last decade. For certain sectors in some developing countries, this signifies a “brain drain”¹⁶⁴. Developed countries compete to attract and retain the most highly qualified.

199. Brain drain has been defined as “a loss of trained professional personnel to another nation that offers greater opportunity”.¹⁶⁵ More succinctly, brain drain can be

¹⁶² Ibid.

¹⁶³ Ibid.

¹⁶⁴ R. Skeldon: *Globalisation, skilled migration and poverty alleviation: brain drains in context*, issued by the Development Research Centre on Migration, Globalisation and Poverty, 2005.

defined by a “depletion or loss of intellectual and technical personnel”.¹⁶⁶ However, the main concern is that, generally, “Brain drain occurs with significant losses of the highly skilled, and few offsetting economic feedbacks”. At issue is the correlation between at a significant loss of highly educated labour and adverse economic consequences that follow.¹⁶⁷

200. The development problems linked to brain drain may best be illustrated in the case of health worker migration.¹⁶⁸ According to the World Health Organization (WHO), 57 countries, 36 of which are in sub-Saharan Africa, have severe shortages of health workers.¹⁶⁹

201. Moreover, the emigration of doctors and nurses from many countries in Africa, the Caribbean and other regions is taking place at a time when there is a greater need for health care staff because of HIV/AIDS and recent initiatives to improve immunisation rates. Africa’s share of global diseases is 25 per cent while its share of the global health workforce is only three per cent according to the WHO World Health Report 2006.¹⁷⁰ Rural areas are left with few health care staff, increasing the workload for those who remain. This situation may slow changes in the health-care system. Countries such as Jamaica and Ghana have more locally trained doctors abroad than at home.

202. Similarly, in the aggregate, brain drain hampers advance and competitiveness of industries in developing countries. Assuming, for example, that manufacturing is vital for Africa's growth,¹⁷¹ conditions for a thriving industrial sector include a good investment climate with sound macroeconomic policies and property rights, but also a range of technological, managerial, and labour abilities. East Asian countries have developed capabilities necessary for success in an increasingly competitive global market, whereas Africa has not. As the competitive factor in manufacturing has shifted from low wages alone to skilled, disciplined, and capable labour, the region faces a small and declining stock of formally educated workers is small relative to other regions.¹⁷²

203. Again as example, there are currently only 20,000 scientists and engineers in Africa --just 3.6 percent of the world's scientific population—in relation to a population

¹⁶⁵ B. L. Lowell: “Skilled Migration Abroad or Human Capital Flight?” in *Migration Information Source* (June 1 2003), available at <http://www.migrationinformation.org/Feature/display.cfm?ID=135>.

¹⁶⁶ *WordNet 2.0 Search*, s.v. “brain drain,” www.cogsci.princeton.edu/cgi-bin/webwn.

¹⁶⁷ Lowell, 2003, op cit.

¹⁶⁸ P. Wickramasekara: *Skilled labour mobility: The resurgence of the ‘brain drain’ debate*, mimeo (Geneva, ILO, International Migration Programme, 2007).

¹⁶⁹ World Health Organization: *Health Worker Crisis*, Media centre, 2006,

http://www.who.int/mediacentre/events/2006/g8summit/health_workers/en/index.html (accessed 26 November 2007).

¹⁷⁰ World Health Organization: *World Health Report 2006* (Geneva, WHO, 2006);

P. Wickramasekara: *Skilled labour mobility*, op. cit.

¹⁷¹ See for example *the Guardian*, Dec, 6, 2004

¹⁷² *Ibid.*

of about 600 million. Africa would need at least one million more scientists and engineers to sustain the continent's development goals.¹⁷³ This, however, reflects not only out-migration of talent, but also inadequate opportunities and facilities for specialised education in the region.

204. The exodus of educated people is perceived to give rise to deterioration of political as well as economic development, manifested by instability, poor leadership, endemic corruption and, in the worst case, making it easier for militaries to overthrow democratically elected governments. African researchers have remarked that only a stable, educated African middle class will ensure that political power is transferred "...by ballots instead of by bullets." However, the constant emigration of professionals with technical, entrepreneurial, managerial, and medical skills makes it difficult to create an African middle class. The remaining two-class system is a dire African problem, resulting in a "...massive underclass that is largely unemployed and very poor, and a few very rich people that are mostly corrupt military and government officials".¹⁷⁴ This situation reflects what may be described as a vicious cycle to the extent that migration has become both cause and consequence of the deterioration of political development.

205. However, brain drain is also a European phenomenon, affecting a number of new European Union and old Council of Europe member states, as well as countries in the CIS region. Countries such as Ukraine, Poland and Bulgaria are at odds with a shrinking educated workforce. Although estimates that 30 per cent of Ukrainian scientists have left may be exaggerated, the problem is that the outflow concentrates in the mid-career scientists. Those who remain tend to be the older and the youngest, clearly hindering progress in some academic fields.¹⁷⁵ From Bulgaria, over 500,000 persons with a university degree have left in the course of 10 years. In 2005-06 alone, over 30 academics left the Bulgarian Academy of Sciences, mainly settling and integrating in the U.S.¹⁷⁶

206. A study by the World Bank¹⁷⁷ shows that three Council of Europe member states (Portugal, Slovakia and the United Kingdom) feature in a group of 30 countries with the highest emigration rates for qualified personnel. The loss of highly qualified Europeans to countries and/or advanced sectors outside Europe is seen as weakening European research and development performance.

207. However, in the 1990s migration *from* European countries accounted for over 60% of total migration of people with high qualifications in the European OECD countries.¹⁷⁸

¹⁷³ O. Nwosu: *Brain Drain is an Euphemism for Modern Slavery*, http://www.nigerdeltacongress.com/barticles/brain_drain_is_an_euphemism_for_.htm.

¹⁷⁴ P. Emeagwali: *How Do We Reverse the Brain Drain?*, speech given at the Pan-African Conference on Brain Drain, Elsah, Illinois, October 24 2003, <http://emeagwali.com/speeches/brain-drain/to-brain-gain/reverse-brain-drain-from-africa-2.pdf>

¹⁷⁵ Centre for Peace, *Conversion and Foreign Policy in Ukraine, Brain Drain from Ukraine: Current Situation and Future Challenges*, Ukrainian Monitor 6/2006.

¹⁷⁶ Radio Bulgaria, 2.2.2006

¹⁷⁷ C. Ozden, and M. Schiff (eds.): *International migration, remittances and the brain drain*, (Washington, World Bank, 2005).

¹⁷⁸ OECD, 2007a.

208. Presentation of these examples is not to imply that preventing emigration is a solution to the phenomenon of “brain drain”. Rather, it is to reinforce the notion that the challenges posed by emigration of talent can best be resolved by supporting improvement of economic and social conditions and especially by ensuring adequate opportunities for decent work so that the decision to migrate is one made by choice, rather than by necessity.

v. Brain waste

209. A comparable development problem to realised brain drain is the problem of unused workforce, skills waste, in the country of origin, be it highly skilled, lowly skilled or unskilled. Even in relatively normal situations where emigration is free, there are often pools of unemployed persons wishing to emigrate but having no chance to realise it – legally or otherwise – due to lack of assets needed, due to a lack of knowledge of possible employment avenues abroad, or for other reasons.

210. Such pools of unused or non-optimally used workforce, willing to emigrate, but not having the right, assets or knowledge to do it, is an obstacle for country of origin development. Possibly as a frustrated, even bitter part of the society, this pool is can be a source of antisocial behaviour, and, ultimately, to political instability. Some conflicts have been fuelled by the relative ease to recruit young, unemployed men, who could have found employment in Europe or elsewhere, should they have had the information and assets to do so.

vi. Circular and return migration

211. As explained in the first part of this development section, return and circular migration may occur when the country of origin increases in relative attraction (return), some other country increases in attraction (circular), when the initial destination country decreases in attraction, or when the migrant’s original intention was to stay in the country of destination for a limited period of time. All of these alternatives are positive to the extent they may contribute to positive development effects, but only to the extent the movement happens voluntarily and if the migrant's human rights are respected.

212. Circular and return migration foster country of origin development when they involve the return and utilisation of skills and/or capital. However, there is one crucial prerequisite for return and circularity to happen: there have to be options for employment and entrepreneurial initiative in the home country. If the country of destination is to encourage the return of migrants, it may need to explicitly and extensively incorporate measures to improve economic prospects and employment in home countries. Countries of destination may also need to explore possible obstacles to voluntary return and circular migration in their national policies and practices.

213. The question of return is also linked to the extent of time migrants and immigrants remain in the host country. The longer they stay, the more ties, personal investment and familiarity they build in the host country; they put down roots, and all the more so if accompanied by children or they bear children in the host country. At the same time the longer migrants remain in host or immigration countries, the more they loose familiarity and ties with the home country, whose society and conditions also evolve. Research has shown, for example, that as time goes by, the probability of a Mexican worker returning to Mexico decreases. Evidence also confirms the logical expectation that immigrants prefer to remain in the host country if the preconditions for positive integration are in place: employment, family, social networking, and a feeling of belonging to the host country.

214. Integration and citizenship status also affect the probability of return.¹⁷⁹ This is further demonstrated in a decade-long survey of Turkish-origin Kurds in Denmark. The majority of the emigrants did not return due to, among other factors, better employment opportunities in Denmark.¹⁸⁰ Of course, the situation in their homeland was also a factor.

215. Experience in traditional immigration countries including Canada, Australia, and New Zealand has shown that an integrated immigrant is the most productive immigrant, and therefore these countries systematically orient policies to select and assist immigrants to integrate and succeed. In these countries' immigration selection point systems, preferred characteristics of family members applying to join already established immigrants include a secure job offer and personal abilities, such as language skills, that contribute to optimal integration.

216. These factors are those that ultimately diminish the possibilities for long term guest workers to return home, as research in Germany indicated.¹⁸¹ A large unresolved question is the extent to which enhancing immigrant integration may diminish benefits for the country of origin. Further research is merited on the extent to which remittances, returns and positive diaspora contacts diminish as migrant integration intensifies, and to what extent this may be important in relation to other benefits and detriments of migration.

217. Ultimately, encouraging people to remain in their homeland or to return to it is first and foremost a function of whether there is decent work, economic opportunity, safety and security in the home country — policy objectives common to most countries independently of the need to retain skilled labour. However, countries such as India, the Philippines, Mexico and Indonesia, which have deliberate migrant export policies, are elaborating policy to retain and to attract back skilled labour.

218. Sustainable return¹⁸², defined as a situation where the migrant returns with sufficient resources (additional skills, financial and social capital,) that he/she has no reason to migrate again for long periods, is also critical. This is the case of highly skilled professionals who have returned to Ireland, Taiwan (China), Republic of Korea, China and India to lead high tech companies or businesses, or start joint ventures. Sustainable return depends on the pattern and timing of return movements. The period of being abroad should be long enough to acquire skills and accumulate capital (financial and social), and return should be effected before the end of productive life (not for retirement

¹⁷⁹ B. L. Lowell and R. De La Garza: *The Developmental Role of Remittances in U.S. Latino Communities and in Latin American Countries*, (Washington D.C, The Inter-American Dialogue, 2000).

¹⁸⁰ J. Hjarnø: "Relationship between Migration and Development Policy in Denmark", in *Esbjerg : South Jutland University Press*, 1998, available at http://www.emz-berlin.de/projekte_e/pj41_pdf/Hjarno.pdf.

¹⁸¹ A. Constant, A. and D. Massey: "Return Migration by German Guestworkers: Neoclassical versus New Economic Theories," in *International Migration* 40(4), 2002.

¹⁸² Quote of Professor Richard Black, Director of the Development Research Centre on Migration, Globalisation and Poverty, cited in: Development Research Centre on Migration, Globalisation and Poverty: *A Report on the International Workshop on Sustainable Return of Professional and Skilled Migrants* (Dhaka, DRC, March 2008). Available at: <http://www.migrationdrc.org/news/reports/ReturnMigrationReport.pdf> (accessed 8 Nov. 2007).

only). Some recent temporary migration programmes offer a stay of one or two years which cannot have any substantive impact.

219. A number of origin countries — particularly those with deliberate emigrant ‘export’ strategies — encourage good expatriate relations and return immigration. To bolster repatriate input in domestic development in the Philippines, an intergovernmental agency referral system called the Replacement and Monitoring Centre offers returnees job placement services, skills training, livelihood programmes, and job opportunity assessments, and gives employers a database of skilled migrant workers.¹⁸³

220. Jamaica, reflecting on the influence of emigration on domestic development, has endeavoured since 1993 to identify re-entry problems, reduce red tape, and propose solutions to the common bureaucratic obstacles that returnees face.¹⁸⁴ India, Mexico, South Korea, Jamaica, Nigeria and even Russia have employed or are pondering other means in their quest to keep in contact with and ultimately return “brain”, including providing tax breaks, popularity and high status (expatriate “heroes”), expatriate voting rights and other tangible and intangible rewards.

221. Since the 1990s Korea and Taiwan have experienced massive return of expatriates largely due to high economic growth and high demand for skills in advanced-technology sectors. Another example is return to Russia of Jewish intellectuals and engineers who emigrated to Israel.

222. A number of programmes have been created at international level to promote emigrants' return and progress of developing countries. One such initiative is the IOM Return of Qualified Nationals programme, which for years has provided support – not just financial help with travel costs but also support for their particular type of training – to emigrants wishing to return to their countries of origin.

223. Building on that experience, the IOM has developed the Migration for Development in Africa (MIDA). However,

...such programmes can tend to be expensive and affect a relatively small number of people, e. g. only 40 Ghanaian doctors, nurses, public health workers and one ICT professional conducted return missions from the UK and the Netherlands to Ghana during the 2.5 years of the project. These programmes may also not yet have had sufficient time to realise their full potential. The experience of health practitioners working in developed countries may not be relevant to the special needs of a developing country. Issues of remuneration and terms of service would also need to be considered alongside legal status and

¹⁸³ K. O’Neil: *Labor Export as Government Policy: The Case of the Philippines*, Migration Information Source, 2004, available at <http://www.migrationinformation.org/Feature/display.cfm?ID=191>

¹⁸⁴ See e.g. R. De Souza: *Using Return Migration As a Development Tool - Are Right Policies in Place*, Population Reference Bureau, 09/06. Available at <http://www.prb.org/Articles/2006/UsingReturnMigrationAsaDevelopmentToolAretheRightPoliciesinPlace.aspx>.

tax status. But these can be expensive and generate resentment among those who stayed home, or even serve as a push factor for further outmigration.¹⁸⁵

224. The UNDP TOKEN (Transfer of Knowledge through Expatriate Nationals) programme, which is concerned with dozens of countries and through which skilled management can take part, for limited periods, in the projects in their countries of origin, is but one of a very large number of schemes aimed at promoting exchange of information and skills between those who have gone abroad and those who have stayed at home. Scientific migration should not be seen in terms of losses and gains, often difficult to quantify, but in the wider context of the globalised knowledge economy, international scientific networks and networked circulation of skills¹⁸⁶. Progress in European recognition of qualifications tends in that direction. The intention is that by 2010 the Bologna Process will create a European higher-education area and thus simplify recognition of qualifications in Europe.

225. As part of its programme on solidarity and management of migratory flows, adopted on May 2005, the European Commission put forward a proposal, for the period covered by the inter-institutional agreement on the European Union's financial prospects (2007-2013), for a European return fund. The European Parliament approved the proposal at the end of 2006 and it is to be implemented as from January 2008.

226. Countries of origin with an extensive diaspora, such as Portugal, are introducing support schemes for their emigrants which provide opportunities in the country of origin and make it easier for them to maintain links with it. The government-run Train in Portugal scheme, launched in 2000, assists return of young people of Portuguese origin by helping them enter working life through traineeships with firms. The programme is aimed at people in the 18 to 30 age group with a degree or a technology qualification who are unemployed in the host country. Another, positive-discrimination measure is the quota policy at Portuguese state universities under which a number of places are set aside for children of Portuguese emigrants.

vii. Protection

227. A fundamental condition for ensuring that immigration enhances host country development is protection of universal human and labour rights and appropriate civil rights. As strangers to a society, migrants may be unfamiliar with the national language, laws, and practices, and so be less able than others to know and assert their rights. They often face discrimination, unequal treatment and unequal opportunities at work. In some countries — more than half according to a recent International Labour Organization (ILO) survey — national discrimination law does not apply to migrant workers. Despite the incidence of abuse, migrants' rights have remained on the margins of the international human rights agenda for several reasons. These include: a lack of data; gaps between different institutional mandates; parallel systems for protecting employment rights and human rights; relatively little reporting by human rights NGOs; the dominance of refugee protection in the migration field; and minimal references to rights of migrants in national laws.

¹⁸⁵ GFMD: Background paper for the Global Forum on Migration and Development, Brussels 9-11.7.2007, p. 9.

¹⁸⁶ A. M. Gaillard and J. Gaillard: *International migration of the highly qualified*, (New York, Center for Migration Studies, 1998); L'Harmattan : *Les enjeux des migrations scientifiques internationales. De la quête du savoir à la circulation des compétences*, (Paris, 1999).

viii. Co-operation

228. Individual states and their emigration and immigration policies ultimately determine current parameters for tomorrow's trends regarding population movements. States have national interests and corresponding policies as concerns the economy, the workforce, immigration and security¹⁸⁷, and these interests have an influence on their changing relations regarding the international mobility of people.

229. The "status quo" of contemporary interstate relations and state sovereignty are key factors influencing how states relate to and internationally cooperate on international migration.¹⁸⁸ Nonetheless, governments may also recognise that barriers to migration tend to push potential migrants into irregular channels and lead to skill wastage and exploitation.¹⁸⁹

230. However, a note of caution needs to be taken into account in co-operation between powerful industrialised destination countries and origin countries, many of the latter being small and often politically and economically weaker. The interest of the former in "hegemonic stability",¹⁹⁰ may drive them to set the framework for and determine the content of international co-operation which compels source countries to comply whether or not the benefits are equitably obtained, in order to obtain immediate benefits and avoid closure of access for its citizens to the destination country or region.

4. Policy interventions on migration and development

231. Source countries have increasingly developed emigration policies incorporating aspects of national development. Deliberate "emigrant-sending" countries often have elaborate policies endeavouring to positively influence domestic, emigration-related development. In Mexico and the Philippines, the governments have made temporary labour migration a foreign policy priority in both bilateral and regional trade negotiations, to provide for repatriate input in domestic development in the future.

232. The positive synergies between migration and development have recently become the focus of international discussion, including, as noted above, in the Global Commission on International Migration, the UN High Level Dialogue, and the Global Forum on Migration and Development, as well as in academia and other forums.

¹⁸⁷ See e.g. A. Tanner: *Siirtolaisuus, Valtio Ja Poliitiikka - Kanadan, Sveitsin Ja Uuden-Seelannin Työvoiman Maahanmuutto Ja Poliitiikka 1975-2001 (Migration, Policy And The State - Labor Immigration And Policy In Canada, New Zealand And Switzerland 1975-2001)*, (Helsinki: Directorate of Immigration and Ministry of Labor, 2003); and Joppke and Christian: *Immigration and the Nation-State: The United States, Germany, and Great Britain*, (Oxford, Oxford University Press, 1999).

¹⁸⁸ Hollifield, James, Migration and the 'New' International Order: The Missing Regime, in Bimal Ghosh, ed., *Managing Migration: Time for a New International Regime*, Oxford: Oxford University Press, 2000, p. 84.

¹⁸⁹ GFMD: Background paper for the Global Forum on Migration and Development, Brussels 9-11.7.2007, p. 8.

¹⁹⁰ Realism is one of the metatheories of political science and international relations; States operate in a constant chaos, or state of conflict, where the "survival of the fittest" is prevailing. With rational action, states gather, maintain and levy power. Having more power than your neighbor, and levying it effectively, is in the core of this theory.

233. National development and foreign aid policies have only recently begun to take account of developmental aspects of migration. As a result, policy formulations are shifting from views that appeared to characterise migration as a cost to development, to a more holistic perspective that recognises that: a) migration is a relatively permanent phenomena; b) its impact can be positive if appropriately regulated; and c) migration and development can go hand-in-hand.

234. Sweden's Policy for Global Development from 2003 explicitly perceives migration as a development issue. It is stated that "when people cross borders to seek work, study or do research, this creates opportunities for development."¹⁹¹ In the 2007/08 Government Communication on the Swedish Policy for Global Development, where migration is identified as one of six challenges for development, it is stated that "the Government will seek – *inter alia* through the reform of the Swedish labour immigration policy and within the EU – to facilitate mobility among labour immigrants and ensure that obstacles to voluntary return, either to migrants' country of origin or back to Sweden, are avoided to the extent possible. The Government will also seek to ensure that future legislative processes in the area of migration do not impede mobility. Sweden will continue to call attention to the interests of developing countries in the context of EU policymaking on labour immigration."¹⁹²

235. Core elements of maximising development benefits include facilitating mobility –both emigration and return, ensuring protection and decent treatment for migrants, optimising the benefits of remittances, encouraging return of skills, supporting skills training and education in origin countries, and enhancing diaspora organising and entrepreneurial activity, among others.

236. According to the Finnish development aid policy of 2004, "Migration is a development issue... long-term development co-operation tries to contribute to the establishment of conditions where the beneficial impacts of migration increase and the negative ones decrease... rightly controlled migration can prove to be beneficial for both the countries receiving migrants and developing countries... support for remigration is particularly important in connection with post-crisis reconstruction."¹⁹³

i. Ethical recruitment policies

237. Ethical recruitment practices where developed countries discourage direct hiring of health professionals in developing countries are one way of attempting to reduce 'brain drain' of trained health care professionals from countries where they are critically needed. The National Health Service in the UK, for example, has restricted itself from actively recruiting from over 150 developing countries. The Netherlands Foreign Employment Act also restricts recruitment of nurses from developing countries.

238. While these have some effect when implemented by major destination countries, their overall impact may be somewhat limited if they are not implemented by most if not

¹⁹¹ Shared responsibility: Sweden's global migration policy, Government Communication Bill 20025/036:122, 204, Stockholm, 20036, p. 2140.

¹⁹² Sweden's global migration policy: Government Communication 2007/08, 89, Stockholm, 2008, p. 28.

¹⁹³ Finnish Ministry of Foreign Affairs: *Development Policy – Government Resolution*, (Helsinki, Ministry of Foreign Affairs, 2004).

all destination countries. Still, codes of practice draw international attention to the impact of brain drain on the provision of health services in developing countries.¹⁹⁴

239. Some questions remain about potential collateral effects of such policies, such as whether they may have discriminatory impact on nationals seeking to emigrate from certain countries.

ii. Facilitating remittances

240. A major policy issue in improving the value of remittances to developing countries is lowering remittance transfer costs. Research has demonstrated that remittance fees are generally high and regressive, with proportionately higher fees for smaller amounts. Western Union - a money transfer company - charges about 15% to remit \$100 while the charge for \$500 is close to 4%. Thus small remitters are penalised in the process.¹⁹⁵

241. Latin America has achieved more success in lowering costs of remittance transfers than other regions, mainly through competition between different suppliers. The cost of sending \$200 to Latin America from the USA averaged about \$30 (or 15 percent) in the mid-1990s. This cost had dropped to about \$12 (6 percent) by 2005. The amount saved in transfer fees in 2005 alone has been estimated at \$5 billion—far exceeding total foreign aid to the region that year.¹⁹⁶

242. Sound macroeconomic policies, political stability and improvements in the investment climate in destination countries are prerequisites for making the best use of remittances. Formalisation of money transfers by channelling through the formal banking system is also believed to be central to enhancing their long-term development impact.¹⁹⁷ The Roundtable on remittances and other diaspora options in the Global Forum on Migration and Development (2007) agreed that that improving the formalisation of transfers offered opportunities to leverage the development impact of remittances by providing options for individual savings, and investments or support to local development projects.

iii. Migration-development partnerships

243. Explicit partnerships between origin and destination countries are a rather new type of arrangement where migration and development are explicitly interconnected in political and aid initiatives. The intent is to obtain some degree of co-operation towards equalising benefits of migration between two or more countries concerned (source and destination) and to minimise the common drawbacks.

244. For example, the Mali-France Consultation on Migration, established in 2000, provides for an annual discussion at the ministerial level on the integration of Malian migrants in France, co-management of migration flows and cooperative development in

¹⁹⁴ GFMD: Background paper for the Global Forum on Migration and Development, Brussels 9-11.7.2007, p.9.

¹⁹⁵ D. Ratha: *Economic Implications of Remittances and Migration*, Presentation at the World Bank-DFID Second International Conference on Migrant Remittances, London, 9-10 Oct. 2003.

¹⁹⁶ Inter-American Dialogue: *Making the Most of Family Remittances*, op. cit.

¹⁹⁷ World Bank: *Migration and Development Brief 2: Remittance Trends*, 2006, op. cit.

emigration areas of Mali. France provides for travel costs and funds to start businesses for migrant workers to encourage their voluntary return. Thus, France supports the Malian sector of education to improve the conditions of remuneration of teachers and promotes small business development. The skills of Malians in France are also registered and the information managed by a French-Malian committee. A monetary fund has also supplemented the financing of local projects by the Malian diaspora. A Malian bank guarantees loans to small businesses for expansion needs. Public relations visits in destination countries are conducted by those in ministerial-level positions to provide information on the reasons Malians emigrate. Information is provided to Malians on job and residence requirements in destination countries before they depart. Consulates in France provide assistance to Malian expatriates, including with their return, and encourage the sending of remittances to Mali.¹⁹⁸

245. The European Commission is elaborating a model of “mobility partnerships” the Commission, interested EU member states, and relevant third countries. Currently, two pilot-mobility partnerships are being developed with the Republic of Moldova and Cape Verde (which will become operational in the beginning of 2009, and exploratory talks will soon be undertaken with Georgia and Senegal. While the name “mobility partnership” may suggest a unitary focus on mobility, these partnerships are in fact very broad and touch upon many aspects related to the migration-development nexus. For example, the mobility partnership with Moldova will seek to assist the Moldovan authorities in encouraging the return and facilitating the reintegration of highly-skilled Moldovan migrants abroad.

246. Another model is assistance partnerships, where the flexible movement of ‘helping doctors’ has been provided from Cuba and the Netherlands to Africa. Australia and Norway have put up training partnerships, where the medicine student is supposed to return, after some appropriate time. A plethora of multilateral and multinational platforms could extend the best bilateral practices on migration and development.¹⁹⁹ Resource exchange arrangements such as Cuba's oil-for-skills arrangement with Venezuela could be an option among some Council of Europe member countries.²⁰⁰

247. There is a value and promise in bilateral and unilateral migration/development arrangements of this kind. All initiatives are important in acknowledging that there is a potential loss of skills and labour for the country of origin and there is a need to find compensating measures for the skills lost in the country of departure.

248. However, a major migrant human rights issue is at stake in such arrangements: It is important to continuously ensure that such arrangements do not merely act as a sophisticated camouflage for systematic exploitation. There needs to be responsibility on the part of the stronger counterpart. Such systems will maintain credibility to the extent there are disassociated from “easy and clean” deportations of migrants, whether in

¹⁹⁸ S. Martin, P. Martin, and P. Weil: “Fostering Cooperation Between Source and Destination Countries” in *Migration Information Source*, 2002, available at <http://www.migrationinformation.org/Feature/display.cfm?ID=60>.

¹⁹⁹ GFMD: Background paper for the Global Forum on Migration and Development, Brussels 9-11.7.2007, p.11.

²⁰⁰ R. Skeldon: *Globalization, Skilled Migration and Poverty Alleviation: Brain Drains in Context*, (Development Research Centre on Migration, Globalization and Poverty, Working Paper T15, November 2005).

irregular situations or characterised as unwanted. The real objectives and ethical sustainability of such partnerships need to be clear to all the counterparts, and these ethical questions need to be debated, committed to and openly stated in the respective agendas.

iv. Co-development

249. The Council of Europe defines co-development as bringing together, "through the agency of migrants, governments and other public authorities and private bodies in a collaborative project to assist in the development of the migrants' countries of origin."²⁰¹

250. Co-development is the most effective way of making immigration a new form of co-operation between richer countries and poorer. The concept of co-development made its appearance in France in the early 1990s as theoretical justification for pushing the role of organisations established by migrants from Africa in harnessing resources for the countries of origin, and for viewing such organisations as promoters of development²⁰².

251. It thus entails: migrant associations interested in playing a socially transformative part in the society of origin; local organisations in the country of origin which can channel resources to meet development needs; local authorities in the country of origin which are interested in helping to define the development aims supported by migrant associations; associations in the host country which are capable of providing support in terms of finance, training, and putting the project on a formal footing; local authorities and other institutions in the host country which are committed to this type of co-operation.

252. Co-development policy has emerged as a theme that includes involving migrants as active actors in development, through strengthening co-operation between countries of origin and destination. Co-development is based on the migrants' ability to move around and control both developments in the country of origin and opportunities for access to resources in the host country.

253. The Council of Europe has listed ways how countries of origin can benefit from co-development, including better access to visas, better use of remittances and economic investments, and more returns to the country of origin. Meanwhile, the destination country can have labour market, demographic and other benefits from co-development projects. Concrete co-development measures can range from helping businesses through training to outright financial aid.

254. However, the co-development concept and practice needs to be further elaborated, as do the presumptions on which it operates. Important challenges include development of models for shared governance of bilateral and potentially multilateral schemes and projects, how to ensure reasonable and cost-effective processes, and how to evaluate and revise accordingly. This is especially important given the widespread

²⁰¹ See the Explanatory Memorandum to the Recommendation CM/Rec(2007)10 of the Committee of Ministers to member states on co-development and migrants working for development in their countries of origin, Adopted by the Committee of Ministers on 12 July 2007 at the 1002nd meeting of the Ministers' Deputies), Council of Europe

²⁰² S. Nair : "La politique de codéveloppement liée aux flux migratoires" in *Hommes et Migrations*, No. 1214, July-August 1998, pp. 47-57.

experience of development and foreign aid projects that have proven inefficient or ineffective.

255. Secondly, much more consideration needs to be given to migrants as presumed key actors. While it may be assumed that migrants and their origin communities can thrive through contacts and mutual engagement and that this does not necessarily hamper integration in the destination country, what are the possibilities and risks for return after ten years abroad, when the entire context in the home country will have evolved and changed significantly.

v. Use of skills

256. Destination countries have a responsibility as well as economic imperative to employ immigrant skills to the full. The alternative is a waste of intellectual and educational resources, to the detriment of the individuals concerned, to the educational investment and potential returns made by the origin country, and to the disadvantage of the destination country.

257. Skills waste can be addressed first and foremost by measures and programmes to recognise educational credentials, training and experience, through establishing equivalency standards, qualifying examinations, adaptation courses and procedures, licensing and so on.

258. Secondly, establishing immigration needs assessments and recruitment and admissions procedures based on contemporary and projected domestic labour market needs, to provide for *demand-sensitivity* in recruitment and selection.

259. Thirdly, the benefits of deliberate concerted support for placement and adaptation support are demonstrated by Canadian experience: the Immigrant Settlement and Adaptation Program (ISAP) assists immigrants in job search, job-specific language training, bridge-to-work assistance and work placement, as shown by immigrant employment positioning commensurate with original qualifications. Half of the migrants are working in Canadian jobs that use their credentials three years after arrival, and up to 75 per cent of the immigrants with a university degree are working at jobs that require more than a high school diploma, i.e. an Associate or Bachelor's degree at the minimum.²⁰³

vi. Admissions

260. Legal, orderly and *demand-sensitive* economic immigration is beneficial for development both in the source and in the destination country. There needs to be clear data on employment, gaps and emerging needs for foreign labour. The immigration policy needs to be *demand-sensitive*. (This aspect is addressed in more detail in Chapter 2 of this report.)

261. Immigration policy should encourage both integrative, permanent immigration, leading up to citizenship, and *bond-sustaining*, more temporary, or circular, immigration. Diversity in migration schemes needs nonetheless to uphold respect for human rights of temporary migrants.

²⁰³ "Canada: Brain Waste", in *Migration News*, Vol. 12, No. 3, July 2005. Available at http://migration.ucdavis.edu/mn/more.php?id=3115_0_2_0

vii. Comprehensive policy frameworks

262. Ultimately, all countries affected by migration, whether emigration, immigration or in most cases both, require a comprehensive policy approach to take into account their economic progress and development as well as social cohesion.

263. Continuous international migration needs to be recognised as the point of departure in any policy considerations. International migration can optimally lead to a win-win-win situation, which includes benefits also for the country of origin. The objective of all migration-related policies needs to be the minimisation of drawbacks of international migration, and the maximisation of its benefits.

264. Immigration to the country of destination both is influenced by, and has influence on, its development. Immigration thus also requires regulation in order to secure and enhance its positive influences on country of destination development.²⁰⁴

265. Key regulation issues include procedures and mechanisms for regular immigration, links between immigration policy and economic, labour market and social conditions, protection of migrants, and measures to ensure social cohesion.

266. Source countries require deliberate labour emigration and return strategy. Destination countries need a comprehensive, viable and sustainable migration policy.

267. Destination countries should take particular care of their immigrants; equal treatment and non-discrimination need to be upheld. Country of origin respect for protection of expatriate rights gives a strong positive signal, which may also motivate a future return of skilled and experienced individuals.

268. Source countries should systematically maintain opportunities for contact with and support of expatriates. Measures to provide expatriates with voting rights in home country elections as well as return incentives may motivate continued ties and sustain return as an option.

viii. Co-operation

269. Although immigration matters are in essence matters of national authority and sovereignty, they require international norms, for optimising the incorporated development and human rights aspects. International agreements and bodies can offer guidance and assistance to individual states to help them formulate good policies on questions of migration and development.

270. For better understanding and operationalisation of the benefits of the migration-development nexus, international platforms such as the Council of Europe should contribute to creating good practice guidelines and reinforcing normative standards by:

- Elaborating joint declarations of migrant human rights in relation to country of origin and destination country development

²⁰⁴ See e.g. Economic Growth & Immigration: *Bridging the Demographic Divide*. IPC Special Report November 2005. Available at http://www.aif.org/ipc/special_report/special_report2005_bridging.shtml

- Devising models for emigration countries, incorporating human rights and domestic aspects.
- Designing models for national immigration policies that incorporate developmental aspects
- Designing models for national developmental policies incorporating migration aspects.
- Elaborating models for bilateral migration-development consultation.
- Identifying models and options for Co-development programs.

CHAPTER III

MIGRATION AND SOCIAL COHESION

1. Introduction

271. The issues of migration and social cohesion are a priority for the Council of Europe, which defines social cohesion as "the capacity of a society to ensure the welfare of all its members, minimising disparities and avoiding polarisation".²⁰⁵ Immigration's influence on social cohesion is one of the major challenges for Europe's future and is one of the European Union's priorities. Successful integration of immigrants is a prerequisite for social cohesion and economic progress.

272. Immigrant and immigrant origin populations now represent large proportions of national populations in most countries of Western Europe, commonly from 12% to nearly 20%. The proportions in Central and Eastern Europe while smaller are growing and will continue to do so.

273. Parallely, the proportion of foreign born is some 10% or more across Western Europe. Immigrant populations in Eastern Europe as a region represented 1.9% of the population in 1985, 7.3% in 1995 and 7.5% in 2005.²⁰⁶ In Eastern European countries in 2005, international migrants as a percentage of national populations ranged from 0.6%, 14.7%, with an average of 5.93%. Migration has a profound impact on host societies beyond quantifiable economic consequences, which to a large extent explains the controversies that surround migration policy. Migration changes society and its institutions. Because its composition rarely mirrors that of the receiving society, with a considerable number having different or lower education and many experiencing greater disadvantages in the labour market, it tends to lead to changes in social stratification.²⁰⁷ The entry of migrants, often recruited or attracted to employment in the "3-D" jobs shunned by native workers, often exacerbates the segmentation of the labour market and contributes to fragmentation in the working classes. The growth in numbers of migrants in an irregular situation has only exacerbated this trend. Migrants, however, have experienced markedly different rates of social mobility and different degrees of integration in different countries, suggesting that integration policies, as well as social and economic conditions, determine the final consequences of migration.

274. The significant numbers of immigrants in Europe contribute to its cultural diversity as well as economic and social development. Their economic, social, cultural

²⁰⁵ Council of Europe: *A new strategy for Social Cohesion: Revised strategy for Social Cohesion*, approved by the Council of Europe Committee of Ministers on 31 March 2004, p.3. See also: J. Niessen: *Diversity and cohesion: new challenges for the integration of immigrants and minorities*, Report prepared for the Council of Europe, July 2000; M. Coussey: *Framework of integration policies*, Report for the Council of Europe, July 2000.

²⁰⁶ Population Division of the Department of Economic and Social Affairs of the United Nations Secretariat: *Trends in Total Migrant Stock: The 2005 Revision* <http://esa.un.org/migration>.

²⁰⁷ See S. Castles and M. Miller: *The Age of Migration*, op. cit.

and political integration has a bearing on social cohesion in the host countries. However, in most European societies, the ethnic and cultural diversity brought by immigration challenges traditional, often mono-cultural and mono-racial definitions of national identity and bases for cohesion. Cultural diversity is one of the main factors that have to be taken into account for social cohesion to be possible in Europe²⁰⁸.

275. The rights-based approach of the Council of Europe articulated in the European Convention on Human Rights and the Revised European Social Charter affirm that social cohesion must be built on human rights, social justice and respect for democracy. Social cohesion establishes a link of cause and effect between integration and protection mechanisms on the one hand and the individual's sense of belonging to society on the other²⁰⁹. The principles of equality of treatment and non-discrimination and the notion that diversity should be considered as an asset have repercussions on migrants' individual and collective sense of inclusion, and thus are starting points for obtaining integration. Ultimately, social cohesion derives from respect of human and labour rights of all members of society as well as from equitable access for the whole population to the benefits of economic progress.

276. In reality today, many migrants remain frequently exposed to exclusion from employment, housing, health and education. They face a large number of obstacles to mere participation in, or eventually integration, in host societies.

277. Significant and pervasive discrimination against immigrants and persons of immigrant origins in access to employment, housing, and public services has been amply documented across Europe. Migrants also face obstacles to obtaining access to education and training and limited opportunities for taking part in civic life. For many immigrants, the combination of these factors adds up to exclusion that precludes possibilities for integration.

278. Tensions between migration and social cohesion have been dramatically underscored by civil disorders and violent manifestations of discontent in urban areas of concentrations of immigrant-origin populations in countries across Europe. Violent attacks explicitly targeting foreigners and persons of immigrant origin leading to deaths, injury and/or destruction of property are reported across the Council of Europe member countries.

279. Immigrants are commonly portrayed in communications media, public discourse and private debate as competing for scarce employment and housing, unfairly or illegally drawing on public welfare resources, and associated with criminality. Concurrently, adverse public perceptions, opinions and resentment against foreigners, particularly migrant workers are widespread across a number of host countries.

280. Migrant worker integration patterns vary considerably according to different factors such as the degree of vocational specialisation, cultural dynamics of particular

²⁰⁸ Council of Europe: *White Paper on Intercultural Dialogue - "Living Together As Equals in Dignity"*, 2008.

²⁰⁹ Durkheim refers to two aspects in order to define the integration of any "society": the number of interactions between individuals and the sharing of common values. Mauss refers more often to social cohesion than to integration, although he does define the modern nation in terms of integration. See M. Mauss : *Oeuvres 3. Cohésion sociale et division de la sociologie*, (Paris, Minuit, 1969).

groups, duration of stay, and the available forms of community solidarity. Other factors have to do with the social, cultural and political characteristics of the place of residence²¹⁰.

281. The persistent unemployment, poverty and social exclusion suffered by some migrants, immigrants and immigrant-origin populations demonstrate the need for greater efforts to address the economic and social aspects of integration as well as issues of cultural and religious diversity and citizenship. The Universal Declaration on Cultural Diversity states that, "Policies for the inclusion and participation of all citizens are guarantees of social cohesion, the vitality of civil society and peace."²¹¹

282. While meanings and content of multiculturalism, interculturalism and integration continue to be debated, policy approaches validating cultural and social diversity appear to more viably obtain integration than do expectations of assimilation to the dominant cultural identity of the host State.

283. Since the 1980s, the debates on economic integration and the social dimensions of European construction have prompted further advances in European Union approaches to inclusion and social cohesion. These approaches embrace completion of the rules on freedom of movement for people, setting an economic- and social-cohesion objective, a clear definition of integration, the need for more comprehensive European social legislation, and so on. Several EU instruments forming part of European employment and inclusion strategies provide backing for member states' action on cohesion, labour mobility and access to lifelong education and training. There have been a large number of social-security measures to co-ordinate schemes and enable workers and jobseekers to obtain their entitlements with freedom of movement within the EU.

284. Other important economic and political integration spaces among Council of Europe countries –such as the CIS-- have also begun to give more attention to the social cohesion dimensions of greater human mobility within and into those spaces.

285. Today, evolving patterns and constraints on mobility, immigration and settlement pose new challenges to elaborating viable approaches to integration and social cohesion. Emerging terms such as *circular migration*, *repeat migration*, and "persons settled in their mobility" represent circumstances distinct from the assumptions underlying classic integration or assimilation policies. These evolving dynamics are also often reflections of restrictions on mobility, on settlement in host countries and policy approaches based on economic, cultural or civic exclusion, which leave migrants no choice but to move between societies that reject them²¹².

286. At the same time, long term and permanent immigrants increasingly maintain multiple social, economic and political ties and sometimes, dual citizenship with both host and home countries, establishing social and communities that transcend

²¹⁰ B. Schmitter Heisler: "The sociology of immigration: from assimilation to segmented integration, from the American experience to the global arena" in C. Brettel and J. Hollifield (eds), *Migration theory: talking across disciplines*, (London, New York, Routledge, 2000), pp. 77-96.

²¹¹ UNESCO : Universal Declaration on Cultural Diversity, 2001, Article 2.

²¹² A. Pecoud : "Circulations migratoires et contrôles aux frontières", in *Migrations Société*, Vol. 18, No. 107, Sept-Oct., 2006, p.63.

geographical, cultural and political borders. As well, migrants are developing transnational activities and multicultural and multilingual skills. These evolving features of international migration also need to be taken into account in designing policies and practices to ensure social inclusion and cohesion in European countries.

287. Maintaining social cohesion in the context of inevitably greater diversity and migration in Europe requires a policy framework that assures respect for migrants' rights, dignity and equality of treatment in the practice of States and societies. An integration framework must be based on legislation guaranteeing equality and non-discrimination, be linked to migration policy addressing labour market needs and composition and ensuring *decent work* opportunities for all, and include institutional and practical measures to ensure its implementation.

288. There is a solid basis of relevant international and European norms and legislation providing the necessary and appropriate foundation for integration policy. Both the Council of Europe and the European Union, as well as international organisations such as the ILO, have developed ample repertoires of knowledge and guidelines on non-discrimination and integration, and there is a growing body of national and local legal, administrative and practical experience by government, local authorities, employers, trade unions and civil society organisations. These legal norms, policy guidelines and 'good practices' provide ample parameters and guidance for the construction of coherent, comprehensive and viable national policy on immigration, integration and social cohesion.²¹³

289. Restrictive policies can indirectly fuel racism by casting doubt on the entitlement of migrants, legal or otherwise, to protection of universal rights and access to basic services.

2. *Impact of migration on social cohesion*

i. *Inequalities in employment*

290. Employment is generally recognised as the key component of inclusion and eventual integration in society, indeed for natives as well as for newcomers. It is essential for ensuring immigrant participation and a visible immigrant contribution to the host society. The European Economic and Social Council (EESC) of the EU recently concluded that, "workplace integration, ensuring equal treatment free of work-related discrimination vis-à-vis national workers, is a prerequisite for business success and social integration."²¹⁴

291. Because both employers –businesses—and trade unions are necessarily involved in the integration process, their particular social responsibilities must be stressed. It is employers who hire and supervise migrant and immigrant workers, and trade unions

²¹³ See ILO Equality in Diversity website for texts of normative instruments, practitioners' handbook, toolkits for employers and trade unions, practice profiles and other information: www.ilo.org/migrant/equality.

²¹⁴ European Economic and Social Committee: *Opinion on Immigration in the EU and integration policies: cooperation between regional and local governments and civil society organisations*, Brussels, SOC/219, 13 September 2006. EESC website: http://eescopinions.eesc.europa.eu/EESCopinionDocument.aspx?identifier=ces\soc\soc219\ces1169-2006_ac.doc&language=EN.

organise and represent both migrant and national workers alike; workplaces are primary crucibles of integration.

292. Many immigrant workers more commonly face atypical employment and problems in gaining entry to the professions or in taking up self-employment and they are barred from most public-service jobs. Employment conditions for immigrants are often less favourable than local people's and they are likelier to be in temporary employment. There are disproportionately large numbers of them in vulnerable employment sectors and in undeclared and unskilled employment. The larger proportion of immigrants in atypical employment – temporary employment, part-time employment and so on – means that those immigrants are more often exposed to discrimination and exploitation. In Spain, for example, almost 56% of immigrants are in temporary work, 25% more than for the indigenous population²¹⁵. Immigrant workers, forced to take atypical jobs that suffer from the flexibility imposed by economic change, are not covered by regulations ensuring adequate protection. They suffer from financial insecurity, are ill-protected and receive no income when they are in between jobs.

293. In OECD countries (apart from Poland, Hungary and the United States) the unemployment level for immigrants is higher than for the indigenous population. In Austria, Belgium, the Netherlands and Switzerland the proportion of immigrants among the unemployed is twice their proportion in the active population²¹⁶. Immigrants are relatively more liable to suffer long-term unemployment than the indigenous population. In Finland, the Czech Republic, the Netherlands, Norway and Switzerland the gap exceeds 10 percentage points. In Belgium over 17% of immigrants are looking for work, and nearly 60% of these have been doing so for over a year.

²¹⁵ OECD, 2007a.

²¹⁶ OECD, 2007a.

Table: Migrant and non-migrant workers in selected OECD countries, 2000 and 2005²¹⁷

	Foreign labour force (thousands)		Percentage of total labour force		Unemployment rate in 2005 (%)				Unemployment ratios in 2005	
	2000	2005	2000	2005	Men (Nationals)	Men (Foreigners)	Women (Nationals)	Women (Foreigners)	For./Nat. (male)	For./Nat. (female)
Austria	377	413	9.8	10.5	4.4	12.7	4.6	10.7	2.9	2.3
Belgium	366	385	8.4	8.5	6.6	14.8	8.3	17.8	2.2	2.1
Czech Republic	28	42	0.5	0.8	7.2 ²	2.5 ²	9.8	14.1	0.3	1.4
Denmark	78	89	2.8	3.2	4.1	-	5.4	13.2	..	2.5
Finland	31 ¹	37 ¹	1.3	1.4 ¹	8.2	14.4	8.4	26.9	1.8	2.5
France	1 549	1 379	6.1	5.2	8.3	15.3	9.4	21.6	1.9	3.2
Germany	3 430	3 828	8.8	9.5	10.7	20.3	10.4	18.9	1.9	2.3
Greece	163	322	3.8	6.7	6.0	4.4	15.4	14.1	0.7	1.8
Hungary	..	32	0.7	0.8	7.0	-	7.4	-
Ireland	64	159	3.5	8.1	4.5	6.2	3.6	6.3	1.4	1.7
Italy	213 ¹	1350 ²	1.1	5.6 ²	10.1 ²	15.4 ²	..	1.5
Luxembourg	77	92	42.0	45.2	2.6	4.6	4.2	7.8	1.8	1.8
Netherlands	298	291	3.7	3.5	4.2	13.4	4.9	10.0	3.2	2.0
Norway	75	95	3.2	4.0	4.5	13.5	4.5	7.4	3.0	1.7
Portugal	101	182	2.2	3.5	6.8	9.8	8.3	14.0	1.4	1.7
Spain	255	2 308	1.4	11.1	7.0	10.1	12.1	13.5	1.4	1.1
Sweden	205	231	4.8	4.9	8.4	18.5	8.4	14.2	2.2	1.7
Switzerland	807	902	18.3	22.2	2.8	7.6	3.8	10.8	2.7	2.8
United Kingdom	1 248	1 642	4.2	5.7	4.8	8.9	3.8	8.1	1.9	2.1
	Foreign-born labour force									
Australia	2 242	2 615	24.5	24.9	4.7	5.0	5.0	5.2	1.1	1.0
Canada	3 151 [*]	2 567 ²	19.9 [*]	17.8 ²	6.5 ³	7.8 ³	5.9 ³	9.9 ³	1.2	1.7
United States	18 029	22 422	12.4	15.2	6.3	5.1	5.2	5.2	0.8	1.0
Note: Foreign labour forces are non-nationals (Europe) or foreign-born (Australia, Canada, and the United States). In the same manner, unemployment data from Europe are based on the distinction "national vs. foreign" and unemployment data from Australia, Canada and the United States are based on the distinction "natives vs. foreign-born".										
The sign " " means not available and "-" means non-significant at B threshold.										
Sources: OECD: International Migration Outlook, SOPEMI 2007. Paris: OECD, compiled from tables I8, IA1.1 and IA1.2, pp. 63, 86-87 and 89-90; OECD: International Migration Outlook, SOPEMI 2008. Paris: OECD, compiled from tables I8, IA1.1 and IA1.2, pp. 60, 70-71, 73-74; OECD: Trends in International Migration, SOPEMI 2002. Paris: OECD, table I.13, pp. 59.										
- Data refer to 1999.										
- Data refer to 2004.										
- Data refer to 2003.										
*) Data refer to 2001										

294. Historically, these differences were attributed to different levels of education, of skills and qualifications, and differential levels of mastering the host country language. However, large scale situation testing carried out in nine European countries has shown discriminatory behaviour by employers and labour market gatekeepers against immigrant and immigrant origin applicants to be significant and pervasive. These

²¹⁷ Table prepared by ILO based on sources listed, for inclusion in a forthcoming book "A Fair Deal for Migrant Workers in the Global Economy" to be published by the International Labour Office.

studies showed that young applicants of migrant origin had to apply four to five times as many times as persons of national backgrounds with equivalent skills, education and experience in order to obtain positive responses in seeking employment.²¹⁸ Somewhat higher discrimination rates were detected in the services sector than in other sectors, and in small and medium-sized enterprises than in bigger ones.²¹⁹

295. This testing is to date the only methodologically consistent, statistically significant research on labour market discrimination. The data obtained from situation testing, sometimes referred to as “practice testing” has proven to be an essential resource to demonstrate the nature and extent of discriminatory behaviour actually taking place in the labour market at one of its most crucial points: access to employment.

296. The findings showed discrimination occurring in three stages of the recruitment process. The first and most common occurred at the first contact between migrant/minority applicant and employer. Migrant/immigrant origin applicants were often not even able to present their credentials. Results of the most recent study showed results similar to the previous testing: in nine out of ten cases the choice between equally qualified candidates was made before the employer had seen either one.²²⁰ At the second stage, immigrant-origin candidates were subjected to additional qualification requirements while ‘national’ candidates were not. At a final stage, if the migrant-origin candidate was offered a job, the terms and conditions of employment tended to be inferior to those offered to the ‘national’-profile applicant.

297. Unequal starting points or disadvantages, together with discriminatory behaviour, are the key reasons why migrant and ethnic minority workers face greater obstacles than the majority population. In some countries, the accumulated effects of discriminatory acts in the past may have led to a contemporary environment that is itself discriminatory. In contrast to individual acts of discrimination, societal discrimination consists of arbitrary barriers against the advancement of minorities; the whole “system” disfavours individuals because they are members of a certain group.

298. In its very first conclusions on Article 19 of the European Social Charter (the right of migrant workers and their families to protection and assistance), the European Committee of Social Rights stated that the peculiarity of this provision as compared to other provisions of the Charter is that it “goes beyond merely guaranteeing equality of treatment as between foreign and national workers in the sense that, [recognising that migrants are in fact disadvantaged], it provides for the institution by the Contracting States of measures which are more favourable and more positive in regard to this category of persons than in regard to the states’ own nationals. Such being the case, the Contracting States should not limit the fulfilment of their obligations under this article to

²¹⁸ E. Cedey : *Questions sur la mesure : que mesure-t-on ? pour quoi ? comment ?*, Intervention d’ouverture du colloque *La mesure des discriminations liées à “l’origine”*, ISM-Corum, 22 octobre 2007, Lyon ISM-CORUM.

²¹⁹ R. Zegers de Beijl: *Documenting discrimination against migrant workers in the labour market. A comparative study of four European countries* (Geneva, ILO, 2000). Country studies can be downloaded from: <http://www.ilo.org/migrant/publ/imp-list.htm>.

²²⁰ E. Cedey and F. Foroni: *Les discriminations à raison de “l’origine” dans les embauches en France. Une enquête nationale par tests de discrimination selon la méthode de BIT*, (ILO, Geneva, 2007).

ensuring non-discrimination between their own nationals and foreigners, but should pursue a positive and continuous course of action.”²²¹

299. Discrimination plays an important role in maintaining –and justifying– stratification and segmentation in the labour market. It contributes and mutually reinforces attitudes that relegate or constrain certain identifiable groups to certain roles and strata in the work force. The pressures of higher unemployment rates among immigrants and ethnic minorities make them less susceptible to unionisation, especially in sectors of precarious employment with strong threats of dismissal for either organising or simply complaining about absences of occupation safety and health protections and “decent work” conditions. The International Trade Union Confederation highlights that organising migrants and immigrants into unions or organisations to defend their interests and rights can be extremely difficult as it is easily intimidated and disrupted by the threat or actual practice of dismissal and even deportation.²²²

300. The impact of discrimination is further demonstrated by differential outcome data on correlations between educational level and employment. In France for example, studies have shown that the unemployment level among foreigners from third countries is distinctly higher than it is among French people and, contrary to what might have been expected, the differential does not decline as the educational level increases.²²³

301. The situation of aliens with respect to unemployment is less favourable than that of persons born abroad but having acquired the nationality of the residence country. This gap may be partly explicable by the fact that acquisition of the host country’s nationality demonstrates a degree of *de facto* integration and that in many countries certain categories of employment are not open to aliens. Public-service jobs, for example, are not open to third-country nationals in most European countries. At the same time dual citizenship does clearly have numerous economic, social, psychological and legal advantages. Being a national of two or more countries increases opportunities for mobility and participation. Occupational and social-equality factors are crucial in acquisition of dual citizenship.²²⁴

302. There are also notable differences with regard to employment security. National workers in most host countries can expect some form of protection in the case of loss of employment, such as redundancy payments or unemployment insurance, and perhaps an opportunity for retraining. At the very least, they can look for another job. Migrant workers usually have much less security. Permanent migrants may eventually enjoy labour market advantages similar to nationals, but these are not normally available to temporary workers. Some countries allow temporary migrant workers to seek alternative employment for the duration of their residence permit, but in others, work and residence

²²¹ European Committee of Social Rights: Conclusions I (1969), p. 81.

²²² See for example, A. Linard: *Migration and Globalisation - the New Slaves*, (ICFTU, Brussels, July 1998).

²²³ M. Viprey : “Spécificités de la main-d’oeuvre étrangère sur le marché du travail français” in *Revue Santé, Société et Solidarité*, No. 1, 2005, p.104.

²²⁴ P. Pitkanen and D. Kalekin-Fishman (eds.), *Multiple State Membership and Citizenship in the Era of Transnational Migration*, (Rotterdam, Sense Publishers, 2007).

permits are combined, so that losing a job means loss of the right to live in the country.²²⁵

303. Highly educated, highly qualified immigrants often find it impossible to gain employment that matches their skills and thus they are compelled to work in occupations that pay less well and are inappropriate to their qualifications. Women, recent immigrants and those from third countries are particularly affected. This downgrading is particularly marked in the countries of southern Europe (Italy, Greece and, to a lesser extent, Portugal and Spain). Immigrants fill jobs for which they are over-qualified more often than do the indigenous population. Women immigrants have even lower status. In all the European countries studied by OECD²²⁶, at least 25% (and nearly 50% on average) of skilled immigrants are non-active, unemployed or consigned to jobs for which they are overqualified.

304. Immigrants may possess "specific" skills that cannot be found in the indigenous population. Given certain conditions, migration may redraw the boundary between the cultural and the vocational, conferring economic utility on cultural skills (specific life skills, language skills, etc.).²²⁷ The processes of social, linguistic or cultural adaptation and integration have little bearing on particular "ability" possessed by certain immigrants and identifiable from their occupational skills.

305. Research in Portugal demonstrates that transnational participation is particularly strong if immigrants are highly educated and fit well into social networks.²²⁸ Reference may be made here to, among other things, the associations which immigrants set up to improve the lot of immigrant communities, and the businesses they create for import/export trade with the countries of origin. Migrant development of self-employment contributes to economic growth and job-creation in the countries of origin.²²⁹ Throughout history, immigrants have brought with them a great deal of technical innovation and surpassed indigenous populations in entrepreneurship. Some

²²⁵ 29 of the 47 Council of Europe member States responded to the ILO Migration Survey of 2003: (Albania, Armenia, Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Spain, Sweden, Switzerland, Ukraine and United Kingdom.) Among these, 21 member states allow migrant workers who lose their employment through no fault of their own to stay, though this does not necessarily apply to all migrant workers and some states impose conditions. 7 member states do not allow any such workers to stay. 11 permit temporary migrant workers to stay and seek other employment after the regular termination of their contracts, though again this does not necessarily apply to all temporary migrant workers. 14 do not allow any temporary migrant workers to stay under these circumstances.

²²⁶ Belgium, Denmark, Finland, Germany, Ireland, Italy, the Netherlands, Norway, Portugal, Switzerland and the United Kingdom.

²²⁷ A. Berset et al: *Main-d'œuvre étrangère et diversité des compétences*, (Paris, L'Harmattan, 2000).

²²⁸ M. Ramos et al : "Multiple Citizenship - Case-Studies Among Individual Citizens in Portugal" in P. Pitkanen and D. Kalekin-Fishman (eds.), *Multiple State Membership and Citizenship in the Era of Transnational Migration*, (Rotterdam, Sense Publishers, 2007), pp. 41-65.

²²⁹ L. Muller and S. Tapia (eds.) : *La création d'entreprises par les immigrés. Un dynamisme venu d'ailleurs*, (Paris, L'Harmattan, 2005).

immigrant groups – Chinese and Indians, for example – are often characterised as bringing a highly developed entrepreneurial culture.²³⁰

306. In several Council of Europe countries, numerous immigrants and descendants of immigrants are setting up businesses (the term "ethnic business" has become current) and becoming self-employed. In 2005, for instance, immigrants accounted for some 12% of self-employment in the United Kingdom, 13% in Belgium, France and Germany, and over 14% in Sweden.²³¹ Immigrant entrepreneurship is widely considered an indicator of immigrants' success and integration in the host country, and an alternative to restricted access to the labour market and career advancement in paid employment. Establishing and expanding businesses may be a driving force for social mobility of the immigrant community. Research in the United States, for example, highlighted that means to immigrant success in a host country are entering highly skilled professions or taking up managerial posts, and secondly by setting up businesses.²³² Immigrant entrepreneurship is clearly influenced by the opportunities and/or constraints encountered on the labour market in the host country. The institutional and political context thus plays a crucial role in the development of entrepreneurial strategies.²³³

307. The right to organise and to form trade unions is a fundamental right in the world of work and is particularly important for migrant workers. Representation and a voice at work are a means by which migrant workers secure other labour rights and improve working conditions, and may be a crucial avenue allowing temporary and migrant workers in irregular status to assert their rights. Respect for migrant workers' rights also reduces unfair competition between employers respectful of labour legislation and unscrupulous ones only searching for cheap and pliable workforce.

308. However, migrant workers' rights to organise and protect their interests are still too frequently violated, even in European countries. Permanent migrant workers are more often able to exercise these rights than temporary workers or, in particular, migrant workers in irregular status.²³⁴ But legal restrictions based on nationality may make it more difficult for migrant workers to act as trade union officials, to be active as members of an organisation, or to form their own unions. For example, restrictions on

²³⁰ The economic integration of immigrants is traditionally accounted for by their cultural heritage. See M. Zapalska and W. Edwards : "Chinese entrepreneurship in a cultural and economic perspective", in *Journal of Small Business Management*, 39(3), 2001, pp. 286-292.

²³¹ OECD, 2007a.

²³² A. Portes: Estudos sobre as migrações contemporâneas. Transnacionalismo, empreendedorismo e a segunda geração, ed. *Fim de século*, 2006.

²³³ J. Rath, (ed.) *Immigrant businesses : the economic, political and social environment*, (London, Macmillan Press Ltd, 2000).

²³⁴ According to the 29 Council of Europe member country responses to the ILO ILM Survey of 2003 cited in footnote 216, only 3 Council of Europe member states (Albania, Bulgaria and Hungary) reserve both the right to form or join workers' organisations and the right to bargain collectively for nationals. 22 member states provide both of these rights to all migrant workers and nationals, though one limits the right to organise to joining but not forming workers' organisations and one did not provide information on the right to collective bargaining. 10 of these 22 States extend both rights to workers in irregular status, and 3 extend only the right to organise to workers in irregular status (though one limits this to the right to join and not form, and another imposes conditions). 4 member State respondents did not provide information on either of these rights for any categories of workers.

union membership and on taking leadership positions remain in effect in several countries in Europe. Workers in an irregular situation are generally not in a position to demand any rights, given their precarious position.

309. There are other constraints on exercise of freedom of association rights. Many migrant workers often come to more industrialised countries from origins lacking any tradition of union organising or where unions have been associated with ruling parties or regimes rather than at the service of worker interests.

ii. Migrant health and access to care

310. There are two main aspects of health issues for migrant workers: (a) occupational safety and health (OSH) at the workplace; and (b) general health conditions of the workers and their families. These are closely interrelated. OSH is an important issue for migrant workers for several reasons.²³⁵ Firstly, migrant workers tend to be employed in high-risk and hazardous sectors, such as agriculture, mining, construction and informal sector work; secondly, language and cultural barriers require specific OSH communication, instructions and training approaches; and thirdly, many of these workers overwork and/or suffer from poor general health and are therefore particularly prone to occupational injuries and work-related diseases.

311. International migration often results in increased levels of precariousness and higher risk of adverse health outcomes.²³⁶ Occupational accident rates are about twice as high for migrant workers as for native workers in Europe.²³⁷ Many migrants, especially seasonal migrants, are placed in high-risk, low-pay jobs with poor supervision. Linguistic obstacles, lack of familiarity with modern machinery, and different attitudes to safety are all factors that increase work-related risks. Migrant workers often accept these dangerous working conditions for fear of bringing attention to themselves and losing their jobs or being deported.

312. An ILO report on standards-related activities in OSH²³⁸ highlighted the need for strategies to take account of the increased vulnerability of certain groups such as women, older workers and migrant workers. The related survey found that specific OSH measures for migrant workers and older workers were less prevalent than for other categories of workers.

313. Temporary workers, and in particular migrants in an irregular status, are often unable to access social security benefits such as health insurance and employment injury

²³⁵ For a general reference on the issue, see ILO: *Safety and health of migrant workers: International Symposium*, Occupational Safety and Health Series (Geneva, ILO, 1983).

See also ILO: "Migrant and seasonal farm workers", in ILO: *Encyclopaedia of occupational health and safety: 4th Edition* (Geneva, ILO, 1998), Vol. 3.

²³⁶ ILO: *ILO standards-related activities in the area of occupational safety and health: An in-depth study for discussion with a view to the elaboration of a plan of action for such activities*, Report VI, International Labour Conference, 91st Session. Geneva, ILO, 2003.

²³⁷ S. Braunschweig and M. Carballo: *Health and human rights of migrants* (Geneva, World Health Organization and International Centre for Migration and Health, 2001).

²³⁸ ILO: *ILO standards-related activities in the area of occupational safety and health: An in-depth study for discussion with a view to the elaboration of a plan of action for such activities*, op. cit.

coverage. In addition, they tend to resist seeking medical treatment because of the cost, inability to take time off work, lack of childcare, and problems of transportation. Many are unfamiliar with the local health-care systems and may have linguistic or cultural difficulties in communicating their problems. These problems are compounded for migrants in irregular status and trafficked persons. In a number of countries, there is also stereotyping of migrant workers as a “threat” to public health and as disease carriers without any solid evidence. This leads to further discrimination.

314. Some migrant workers and members of their families face higher risks of HIV/AIDS infection than stationary populations but often have restricted access to disease prevention, detection and treatment.²³⁹ Those employed in seasonal agriculture, temporary work or migratory trade, who have to live away from spouses and partners and work in geographically isolated areas with limited health-care facilities, are particularly at risk. The problems are compounded where they face discrimination.²⁴⁰ For example, migrants in such situations may be more likely to engage in risky behaviour, but less likely to have access to preventative education and detection and treatment services.

315. Restrictive HIV policies reinforce the misconception that “migrants bring HIV and other infections”. This reaction is usually based on fear and ignorance, not evidence. The stereotyping that migrants bring disease is reinforced by the mandatory HIV testing migrants are often subject to. At best, testing is not considered to be effective in preventing the spread of the epidemic and is often regarded to be a poor diversion of funds away from more sustainable prevention programmes. At worst, mandatory testing may contribute to the spread of HIV/AIDS by prompting avoidance rather than compliance, especially in the context of irregular migration.

316. Different approaches are clearly needed to provide health education and awareness to immigrants, migrant workers, highly mobile workers and other categories. Other considerations also need to be addressed, for example very real fears of authorities among migrants, who may find it difficult to distinguish the police from health workers, especially if health policies are in any way linked with immigration enforcement. These populations can be reached – but necessarily with different means than those used to reach resident general populations.

317. A climate of discrimination and lack of respect for human rights leaves migrant workers even more vulnerable to health risks and less able to cope with disease including AIDS because it makes more difficult seeking medical attention, counselling, treatment or support. In this context, the protection of migrant workers rights is essential not only to preserve their dignity but also to prevent the spread of disease.

iii. Urban concentration, ethno-cultural diversity, housing and social cohesion

318. Natural tendencies for spatial concentration of ethnic and national communities, especially during the early years of immigration, combined with sometimes deliberate policies and widespread discrimination that produce segregation of immigrant and

²³⁹ ILO: *Meeting Report 3*, Technical workshop on population mobility, migration and HIV/AIDS, Geneva, 18 March 2002.

²⁴⁰ S. Braunschweig and M. Carballo: *Health and human rights of migrants*, op. cit.

immigrant origin populations, represent particular challenges to integration and, eventually, social cohesion.

319. Immigrant and immigrant origin populations now represent large proportions of national populations in several countries: In metropolitan France the population of immigrant origin represented 17% of the total in 1999.²⁴¹ In the Netherlands it came to 19.3% in 2006. In the United Kingdom the total proportion of persons of immigrant origin was around 17% in 2001. In Norway the proportion came to 12% in 2005 and in Sweden to around 16% the same year. This increasing proportion is a reflection of past and current immigration for employment, family reunification and humanitarian reasons.

320. Immigration and settlement patterns worldwide have been characterised by a high degree of community concentration, whether spontaneous or otherwise. Across Europe there are similarly large concentrations of immigrants in specific towns, suburbs and neighbourhoods. Difficulties emanate from the often isolated, substandard and poorly serviced character of these areas of concentration. Although housing is one of new arrivals' most immediate and essential needs, social housing and inexpensive rental accommodation are in short supply and serious obstacles prevent migrants from accessing rental and ownership in the wider housing markets. Disproportionately large numbers of migrants in substandard housing are directly linked to unemployment, low income and discrimination.

321. On private rental markets, it is apparent that owners are reluctant to rent to immigrants, particularly in the case of high-value accommodation in good condition. In some places owners take advantage of immigrants' precarious circumstances to rent them shabby, sub-standard housing at unreasonable rates.

322. The de facto segregation of immigrants into isolated and substandard residential areas impedes inter-community contact and social mix in housing, in leisure activities and in neighbourhoods. This prevents the contact and interaction that facilitates familiarity, mutual understanding and intercultural dialogue that necessarily underpins both integration and social cohesion.

323. The generalised characterisation of suburbs, residential areas or estates and neighbourhoods of immigrant concentration as undesirable, marginalised and dangerous ghettos of social dysfunction further marginalises and stigmatises immigration populations.

324. Housing segregation as a serious and fundamental impediment to integration requires remedial actions that generally only government has the capacity to address.²⁴² This in turn requires an integrated urban policy based on cross-sector coordination and strategic co-operation between national governments, municipalities, national, regional and local public authorities, private sector, NGO's and residents.²⁴³ Social mix in

²⁴¹ M. Tribalat: "Hétérogénéité ethnoculturelle et cohésion sociale", in *Futuribles*, 332, July-August 2007, pp. 71-84.

²⁴² J. Damon (org.): "Quartiers sensibles et cohésion sociale", in *Problèmes politiques et sociaux*, No. 6, November 2004.

²⁴³ H. Lahti-Edmark: "Storstad i rörelse", Kunskapsöversikt över utvärderingar av storstadspolitikens lokala utvecklingsavtal, March 2005.

housing is a prerequisite for social and spatial cohesion. Accordingly, priority must be given to urban development measures and housing.

iv. Schooling/training and social mobility

325. Given its role as an integration crucible, school is receiving close attention and considerable hopes are pinned on it. This is particularly true in the case of the less-well-off sections of society, particularly those of immigrant origin. Education provides an opportunity to develop skills and self-confidence, insofar as it is a means of acquiring a range of knowledge, abilities and attitudes and of assimilating fundamental values that are essential if immigrants are to have equal opportunities in society and civic-mindedness is to be fostered. For migrant families, school is an important means of making contact and becoming integrated in the host society and an instrument of social mobility and a means of acquiring inter-cultural skills. Affirmation of the interculturality principle aids social cohesion. Intercultural education and education for citizenship are of growing importance in host countries' education systems.

326. Multilingual and intercultural skills benefit both countries of origin and host countries, economically, politically, socially and culturally. The linguistic, cultural and professional potential of migrant populations, when it encourages economic and political relations and development of global exchange, is an important asset if countries are to develop an international outlook.

327. Immigrants tend to be over-represented at the highest and the lowest educational level. Recent immigration waves are characterised by a higher level of qualifications. In Belgium, Sweden and Denmark, in 2005, over 40% of immigrants who had settled and obtained employment in the previous 10 years had a higher education degree.²⁴⁴

328. In host countries, educational levels of resident immigrant populations have risen over time. As each generation succeeds the previous one, the standard of training of the immigrant-origin community is becoming closer to that of the indigenous population. The rising level of migrants' qualifications has been most marked in Austria.

329. Nonetheless, the effect of education level on gaining employment is not clear-cut. Although a degree helps immigrants gain entry to the labour market it does not necessarily place them on the same footing as local people: the discrepancy between local and immigrant employment rates persists, or even increases with level of education, in nearly all the OECD countries.

330. Integration of children born in the host country to immigrant parents is receiving increasing attention in the Council of Europe countries because they currently account for a substantial proportion of the young people entering the labour market. Ways must be found of ensuring that they integrate successfully on both the social and vocational levels. Attention should be drawn to the extent to which immigrant parents and their children place their hopes in the school and to the fact that a high proportion of families of immigrant origin consider it hugely important that their children do well at school.

331. Despite this, academic results and educational level tend to improve more slowly among children of immigrants than among children of the indigenous population.

²⁴⁴ OECD, 2007a.

A correlation appears between socio-cultural background and academic success or failure. Families place in the school hopes of social advancement that have not been realised in their country of origin, and there, school is rarely able to meet their expectations. The characteristics of the parental circumstances seem to be an important factor in this discrepancy, but an earlier start to schooling in the residence country contributes greatly to improve school performance. The PISA programme sheds significant new light on the issue by evaluating the knowledge which 15-year-olds of immigrant background have acquired in the education system. In Luxembourg, Sweden and Switzerland second-generation pupils are markedly more successful than first-generation ones. The performance deficit of pupils of immigrant background is larger in some countries such as Germany and Belgium, even in the case of second-generation children²⁴⁵. Differential levels of resources and quality of schooling available in immigrant neighbourhoods and ghettos and practices of tracking immigrant and immigrant-origin children into technical and vocational programmes rather than academic or higher performance courses may also contribute to differentials in school performance between immigrant and native origin populations.

332. Labour-market entry for “second generation” offspring of immigrants in European countries tends to be more difficult than for peers of the indigenous population. The employment rate for “second generation” children is markedly lower in most of the countries studied by OECD²⁴⁶, notably Council of Europe countries (Sweden, Germany, Switzerland, France, the United Kingdom, Denmark and Norway). In European countries studied the unemployment rate is 1.5 to 2 times greater among second-generation immigrant-origin natives than among children of the indigenous population. Discrimination based on origin and social class may partly explain these poorer results. Poorer quality schooling and less favourable school performance may also be factors.

333. In France, for example, the persistence of the gap between children of the second generation and those of the indigenous population contradicts forecasts of inter-generation mobility based on educational and socialisation progress there²⁴⁷. This gap is indicative of discrimination in various arenas that affects not only immigrants from the Maghreb, sub-Saharan Africa and Turkey but continues to affect their descendants.

v. Media and public perceptions

334. Immigrants are commonly portrayed in communications media, public discourse and private debate as competing for scarce employment and housing, unfairly or illegally drawing on public welfare resources, and associated with criminality. Concurrently, adverse public perceptions, opinions and resentment against foreigners, particularly migrant workers are widespread across host countries.

335. The media has a pivotal role in advancing or undermining integration. Successful integration will depend on success in curbing racism and xenophobia expressed through mass media images and news stories. There is widespread

²⁴⁵ OECD: *Education at a glance*, (Paris, 2007).

²⁴⁶ OECD, 2007a.

²⁴⁷ D. Meurs, A. Pailhé and P. Simon : *Mobilité intergénérationnelle et persistance des inégalités : l'accès à l'emploi des immigrés et de leurs descendants en France*, (Paris, INED, 2005).

stereotyping of migrants as criminals, “scroungers”, and a threat to public safety and to health systems. Whether deliberately intended or not, utilisation of terminology of illegality, such as *illegal migrants or illegal aliens*, has contributed to a generalisation of associations between migration and criminality.

336. Scape-goating of migrants and migration for ills of unemployment, crime disease and terrorist threats has proven an effective means for conservative and populist political parties to capture attention, votes and political influence; anti-immigrant political movements have achieved prominence in most immigration countries throughout the world.

vi. Migrant women

337. Women represent a growing proportion of international migration within and into Europe, both quantitatively and as breadwinners. As noted in Chapter II, women represent 53% of the totality of migrants in Europe;²⁴⁸ and 45% among regular temporary migrants.

338. Differential opportunities for legitimate employment affect men and women differently. Demand for migrant workers in receiving countries is defined by the labour market segmentation in these countries: opportunities are available for precisely these low-skilled jobs considered suitable for women. The feminisation of international labour migration, together with the fact that most job opportunities for women migrants are in unregulated sectors (agriculture, domestic work, sex industry) and the existence of sex-disaggregated labour markets contribute to the increase of discriminative labour markets in countries of destination²⁴⁹. As a result, female migrants often suffer ‘double discrimination’, as women and as migrants.

339. In addition, women have less access to information on migration/job opportunities, recruitment channels, and often have less preparation than men to cope with the working and living conditions in countries of destination.

340. Whether in the countries of origin or the host countries, women migrants contribute to change, innovation and social integration. In migrants' family plans, it is very often the women who take the decision to stay on in the host country or return to the country of origin. Women migrants are more independent financially, and in many cases migration is their first opportunity of working and earning a living. Migration changes gender relations and sense of identity and about how social relations between the sexes can influence migrants' social-support networks, economic input and civic participation in the host country and the country of origin.²⁵⁰

²⁴⁸ OSCE/IOM/ILO: *Handbook for Effective Labour Migration Policies in Countries of Origin and Destination* (OSCE, IOM and ILO, 2006).

²⁴⁹ P. Taran: “Clashing Worlds: Imperative for a Rights-Based Approach to Labour Migration in the Age of Globalization” in *Globalization, Migration and Human Rights: International Law under Review, Volume II*, (Bruylant, Brussels, 2007).

²⁵⁰ F. Anthias and G. Lazaridis (eds.) : *Gender and migration in Southern Europe: women on the move*, (Oxford Berg, 2000); S. Rubio and P. Mujer : *Immigrante y trabajadora : la triple discriminación*, (Barcelona, Anthropos, 2003).

341. Women often migrate in order to support their families back in the country of origin or lead the way for subsequent family reunification²⁵¹. In the countries of origin women's emigration directly affects attitudes and has repercussions on various demographic factors such as fertility and marriage rate. In the countries of origin, the emigration of women directly affects mentalities, social cohesion and has demographic repercussions (in that it affects birth and fertility rates).

342. Independent female immigration by unmarried, divorced or widowed women is developing. Immigrant women are becoming more independent and secure in their migration and careers. They are proving that they are capable of using their talents in new ways that give them greater financial independence and improve their quality of life²⁵². The increasing number of transnational families is one of the most significant symptoms of some modern forms of immigration. In some cases this is part of a strategy to support families which have remained in the country of origin or emigrated. Sending money to the country of origin to maintain a family's standard of living may be an alternative to family reunification.

343. Immigrant women are making their way into a number of expanding service sectors that are less affected by cyclical variations²⁵³. They meet social needs of immigration countries and are part of the new patterns of mobility resulting from accelerated globalisation. In host countries women migrants are an important factor in family balance and social integration and contribute to social cohesion. Through their work, in particular as cleaners, they have access to family networks in the host country and it is therefore easier for them to become familiar with the standards, values and attitudes of society. However, their participation in community life and politics is still limited. While women immigrants from non-European countries have more children on average than European women, this eventually tails off as their fertility rate falls into line with that of the indigenous population. The same effect will be produced by states' attempts to select immigrants, as better-educated urban migrants generally have fewer children.

344. The threefold discrimination - of gender, class and nationality - suffered by many foreign women workers²⁵⁴ has a particular impact on their integration—or lack of it. This situation affecting women immigrants on the labour market, where they typically suffer all of the disadvantages specific both to women and to immigrants, makes them proportionally more liable to find themselves unemployed than members of the indigenous population. Low status and work/life balance are pivotal problems for women immigrants and are compounded by discrimination-induced difficulties.

²⁵¹ M. Ramos and N. F. Araújo : "Rôle économique des femmes dans la famille: le cas de chefs de famille en milieu urbain, au Brésil et au Portugal " in *XI èmes Journées Internationales de Sociologie du Travail*, "Restructuring, precarisation and value", (London, Metropolitan University, Working Lives Research Institute, 20-22 July 2007), (www.jist2007.org/).

²⁵² L. Ackers: *Shifting spaces: women, citizenship and migration within the Europe Union*, (Bristol, Policy Press, 1998).

²⁵³ OECD : *Migrant women and the labour market: diversity and challenges*, Seminar, OECD and European Commission, 26-27 September 2005 ; O. Merckling : "Femmes étrangères ou immigrées : une insertion professionnelle différenciée", in *Revue Migrations Société*, No. 105/106, April-May 2006, pp. 229-249.

²⁵⁴ E. A. Kofman, Phizacklea et al. *Gender and international migration in Europe – Employment, welfare and politics*, (London, Routledge, 2000); see also Rubio, 2003, op. cit.

vii. Social partners and civil society

345. Social partners and civil society play essential roles in facilitating inclusion and integration between immigrants and host societies, roles in some cases that State institutions cannot play but require both space and support from government.

346. Much of the concrete attention given to migrants, including to irregular migrants, is provided by local, national and regional non-governmental civil society organisations (CSOs) and especially trade unions. The one global survey of civil society activity in migration conducted to date comprehensively identified the roles and activities of NGOs concerning international migration.²⁵⁵ More than 100 organisations reflecting activity in all regions of the world –including many across Europe-- responded to an extensive questionnaire. The survey summary demonstrated that CSOs working in the field of international migration provide a place for information, dialogue and co-operation between migrants (documented, *undocumented* and refugees), citizens, employers and government agencies in countries of origin and destination.

347. The survey demonstrated that civil society organisations were involved in, among other activities: information services and orientation seminars to migrants in countries of origin; assistance in return and reintegration; in destination countries, assistance in housing, employment, healthcare, education, legal services, skills retraining, recognition of qualifications, etc; social, vocational and psychological counselling; addressing specific problems related to trafficking and sexual exploitation of migrants; facilitating dialogue, mediation and good relations between migrants and host country nationals; challenging racism and xenophobia; research and documentation on root causes of migration; training and public education activities, promotion of international standards and improved national legislation and policy; and co-operation with international agencies.

348. The trade union movement has long been supporting migrant workers, and de facto assisting them to integrate in workplaces and host societies. During the 1950s, 1960s, 1970s and 1980s, most trade unions in Western European countries of destination had established special departments dealing with migrant workers issues, had publications in various languages spoken by the immigrant communities and recruited them massively into their organisations. As a result, the current leaders of some trade union federations in Europe are themselves former migrants. In the trade unions migrant workers have long been eligible to participation they were barred from elsewhere: they participate in discussion and elaboration of trade union policy, take part in voting to elect their representatives, and are increasingly eligible to leadership positions themselves.²⁵⁶

349. Following a period of retreat from attention to migration issues, policy shifts followed by extensive organising drives among migrant workers have taken place since the late 1990s by mainstream trade unions and national confederations across Europe. National labour confederations in Austria, Belgium, France, Germany, Ireland, Italy, the

²⁵⁵ UN Commission on Population and Development: *Activities of intergovernmental and non-governmental organizations in the area of international migration*, Report of the Secretary General, UN document E/CN.9/1997/5, New York, 1997.

²⁵⁶ P. Taran And L. Demaret : "Action Imperatives for Trade Unions and Civil Society" in *Asian and Pacific Migration Journal*, (Quezon City, Philippines, 2006), Vol. 15, No. 3.

Netherlands, Portugal, Russian Federation, Spain, Sweden, Switzerland, and the UK - among others - have full-time national staff for migrant worker organising and anti-discrimination issues; all are active in policy advocacy for improved protection of rights and decent work conditions for migrants.²⁵⁷

350. The extent of involvement of civil society and social partners is reflected in the active participation of a number of important regional and international CSOs in the CDMG itself: notably by the social partner regional organisations Business Europe and the European Confederation of Trade Unions (ETUC) and by such organisations as the Churches Commission on Migrants in Europe, the International Catholic Migration Commission among others.

3. Policy issues

i. Diversity, integration and intercultural dialogue

351. According to the Council of Europe's Revised Strategy for Social Cohesion, respect for "the diversity of cultures, opinions and religious beliefs" provides the setting that ensures "the dignity of each person and the recognition of their abilities", two key aspects of well-being and hence of social cohesion.

352. Increasing immigration inevitably brings increasing cultural, ethnic, racial, religious and linguistic diversity to European countries. Historical concepts of identity, belonging and citizenship in European countries were tied to relatively mono-cultural, monolingual, mono-racial and sometimes mono-religious associations. However, explicit recognition and respect for diversity and for the existence of distinct cultural entities within a cohesive State appear to constitute the fundamental ideological concept required to obtain social cohesion in European societies. Terminology and conceptual elaboration remain controversial, especially among interpretations given to such widely used terms as 'multiculturalism'.

353. Europe as a transnational identity is itself polycultural by definition. Given the wide spectrum of cultural, historical and legal experiences across Europe, divergent models have evolved of how, legally, economically, socially and culturally, to bring about cohesive community in national and local contexts. Given the diversity of Europe itself, a single political model for the management of cultural heterogeneity is unlikely.

354. Nonetheless, the attention given in recent years to integration challenges has resulted in identification of viable and successful approaches, particularly in the context of EU efforts. The establishment of a network of national integration focal points, the development of two sequential Handbooks on Integration based on extensive research and wide consultations, the emergence of specific attention by social partner organisations and a vast array of civil society activities have all contributed to the development of both common views on good policy lines and many local and national practical experiences, some clearly constituting replicable "good practices."

355. Social integration appears crucial to development of any deep sense of belonging.²⁵⁸ Social citizenship is a prerequisite for reducing inequalities and ensuring

²⁵⁷ Ibid.

²⁵⁸ M. C. Pereira Ramos : *Transnational Interaction, Mobility and Dual Citizenship*, Conference, European Commission, Brussels, 23 January 2006.

that each individual is recognised as a member of society.²⁵⁹ Integration is a two-way process in which the immigrant's rights and corresponding obligations are mirrored by rights of and obligations on the host society, and it requires full immigrant participation²⁶⁰. Everyone must enjoy the basic civil and social rights in the interests of respect for fundamental human rights, and everyone must also comply with a number of duties, starting with obedience to the laws of the host country. A relevant academic formulation asserts that a theory of justice in a multicultural state will include universal rights, assigned to individuals regardless of group membership, and group-differentiated rights or "special status" for minority cultures.²⁶¹

356. Anti-discrimination and equality of treatment measures are prerequisite foundations for integration policy. Repeated, reinforced discrimination leads to depression, apathy, resignation, and marginalisation. When people—and groups-- are consistently denied employment opportunities, and when they are also confined to ghettos, provided inferior education or training opportunities, perceive law enforcement as providing little protection and face manifestations of discrimination in other aspects of community life, the combination adds up to a powerful recipe for exclusion, the antithesis of inclusion.

357. In a cohesive society the individual and the community recognise the importance of reinforcing a sense of belonging and acceptance based on trust and on common values and experience that transcend cultural, language, religious and social differences. For example, integration, in Canada, is “a two-way process of accommodation between newcomers and Canadians: it encourages immigrants to adapt to Canadian society without requiring them to abandon their cultures. It encourages people and institutions to respond in kind by respecting and reflecting the cultural differences newcomers bring to the country”²⁶².

358. The European Commission has defined integration as follows:

[I]ntegration should be understood as a two-way process based on mutual rights and corresponding obligations of legally resident third country nationals [foreigners] and the host society which provides for full participation of the immigrant. This implies on the one hand that it is the responsibility of the host society to ensure that the formal rights of immigrants are in place in such a way that the individual has the possibility of participating in economic, social, cultural and civil life and on the other, that immigrants respect the fundamental norms and values of the host society and participate actively in the integration process, without having to relinquish their own identity (EU, 2003b: 17-18).

²⁵⁹ According to Schnapper, D. *Qu'est-ce que l'intégration?* Paris, Gallimard, 2007, “citizenship is not simply ‘economic and social citizenship’, but the latter has become a condition for the exercise of true democracy”, p. 143.

²⁶⁰ J. Niessen: *Diversity and cohesion: new challenges for the integration of immigrants and minorities*, Report prepared for the Council of Europe, July 2000, p. 14.

²⁶¹ W. Kymlicka: *Politics in the vernacular: nationalism, multiculturalism and citizenship*, (Oxford, Oxford University Press, 2001).

²⁶² Horizons: *Projet de recherche sur les politiques, Immigration et cohésion sociale*, (Canada, 2002) Vol. 5, No. 2 ; *Revue Santé, Société et Solidarité*, (2005) Immigration et intégration, (Observatoire Franco-Québécois de la Santé et de la Solidarité, Quebec, 2005), No. 1.

359. In November 2004, the EU Council of Ministers adopted Conclusions on the common basic principles of integration policy. The Conclusions establish eleven basic principles that are supposed to guide EU member states in the development of their policies in this field. It is important to note both documents emphasise that integration is a “two-way” process, with responsibilities and obligations for both the host society and the migrant.²⁶³

360. Countries have adopted various approaches to integration and have changed policies over the past few years²⁶⁴. Some have favoured assimilation approaches, others speak of ‘multiculturalism’, and others use the term intercultural. The term and concept of multiculturalism is far from obtaining unanimity. A Council of Europe White Paper on Intercultural Dialogue - “Living Together As Equals in Dignity” states that multiculturalism “denotes the empirical fact that different cultures exist and interact within a given space and social organisation.”²⁶⁵ However, implications of independence of component cultural identities pose the risk for some observers that multiculturalism can resemble “a diversity of cultures which might pass one another like ships in the night”²⁶⁶.

361. Policies recognising and asserting respect for diversity are capable of bringing about improved attitudes on the part of both host and immigrant populations. The Council of Europe White Paper asserts that intercultural dialogue “is expected to strengthen social cohesion, decrease inter-community and intra-community tensions, increase tolerance, overcome prejudices and stereotypes about other cultures, open social institutions to the needs of different cultures, and to increase the mutual influence of cultures upon each other”²⁶⁷. As highlighted by UNESCO that intercultural dialogue²⁶⁸ is a basic tool for learning to live together peacefully and constructively in a multicultural world. As stated in a reply to a survey it carried out, the future of multicultural society in Europe lies in social cohesion based on shared, democratically approved values, in other words on what has been achieved by Europe²⁶⁹.

362. While a fundamental link between equality of treatment and non-discrimination with integration has been amply emphasised in collective policy formulations, some approaches articulate terms that place the responsibility for integration squarely and

²⁶³ EU : *The Common Basic Principles for Immigrant Integration Policy in the European Union*, (2004h: 15-25).

²⁶⁴ Castles et al, 2003b, op. cit; D. Schnapper, op. cit.

²⁶⁵ Text adopted by the Committee of Ministers at their 1025th meeting on 7 May 2008, CM(2008)30 final, Council of Europe, 2008.

²⁶⁶ A. Sen : "The uses and abuses of multiculturalism", *The New Republic*, 27 February 2006.

²⁶⁷ Council of Europe, *White Paper on Intercultural Dialogue ‘Living Together As Equals in Dignity’*, Text adopted by the Committee of Ministers on 7 May 2008 at the 118th Session of the Committee of Ministers, CM(2008)30 final 2, 2008.

²⁶⁸ Intercultural dialogue is “an open and respectful exchange of views between individuals and groups with different ethnic, cultural, religious and linguistic backgrounds and heritage” (Council of Europe : *White Paper on Intercultural Dialogue*, op.cit.). 2008 is designated as the European Year of Intercultural Dialogue.

²⁶⁹ Council of Europe : *White Paper on Intercultural Dialogue - “Living Together As Equals in Dignity”*, 2008.

solely on the immigrant²⁷⁰. Proposals for integration contracts and emphasis on language prerequisites and training may err in this direction, as do admissions practices that equate pre-departure training on laws and customs of destination country as integration. Some proposed integration contracts have been questioned as discriminatory.

363. Educational policy is a key arena of social policy intervention for integration. Many governments seek to secure national social cohesion by promoting at school a set of broad common values under the heading of "education for citizenship", a subject that is starting to become compulsory in school curricula. The introduction of socio-cultural mediators in schools is also a means of facilitating communication between the school and families and helping children to do well at school. In order to improve the integration of immigrants at school and in the labour market, it is necessary to train teachers in interculturalism, ensure that associations of immigrants are involved in promoting access to school, provide more information about the education system for immigrant families, take account of the linguistic and sociocultural situation of immigrants and acknowledge situations experienced in the country of origin.

364. The multicultural/intercultural path has implications for the concept of social protection and the extent of national solidarity. With budgetary austerity and the reduction or dismantling of welfare state approaches, questions arise regarding the impact of immigration on social protection and social welfare delivery. However, considerable research has demonstrated that the introduction of multiculturalist policies has no effect on the overall social-protection system²⁷¹.

365. Despite costs of social benefits paid out to migrants, migrants contribute to wealth creation and are needed to meet the problem of population ageing in the host countries. In addition, immigration is only one of a number of challenges to the welfare state, confronted as it is with unemployment, unfavourable population trends and economic and social policies that are inimical to the welfare state²⁷².

366. Public policy must integrate all sections of society by recognising basic rights, ensuring involvement in economic activity and providing social protection to all resident on the territory of a State. While nationality is ultimately an important integration factor, it is not sufficient in itself – economic and social conditions are just as essential²⁷³. Policies explicitly addressing social integration of immigrants are therefore a necessity.

²⁷⁰ C. Marie: *Preventing Illegal Immigration : Juggling Economic Imperatives, Political Risks and Individual Rights*, Council of Europe, 2004.

²⁷¹ K. Banting and W. Kymlicka, W: "Do multiculturalism policies erode the welfare state?" in *Cultural diversities versus economic solidarity*, (Brussels, Colloquium Francqui, 2003), quoted by Tribalat, 2007.

²⁷² Geddes, 2003b, op. cit. ; J. C. Finan (ed): *Migration, immigration and social policy*, (Blackwell Publishers, 2006).

²⁷³ M. C. Pereira Ramos, 2006, op. cit.

ii. Combating discrimination and racism and promoting equal opportunities

367. Action to combat racism and discrimination is central to present-day conceptions of human rights and social justice²⁷⁴. Article 19 § 1 of the European Social Charter requires States Parties to take measures to prevent misleading propaganda relating to migration and this includes legal and practical measures to tackle racism and xenophobia as well as trafficking. Countering discrimination has become a major concern in Europe. The European Agency for Fundamental Rights(2007)²⁷⁵ has registered an increase in racist crime in various EU countries in the 2005-2006 period, together with discrimination in employment, housing and education. Discrimination against immigrants is a further obstacle to their integration. A report dated 13 February 2007 by the European Commission against Racism and Intolerance (ECRI) stresses the importance of education and training in combating discrimination.

368. Comprehensive urban and regional planning strategies which simultaneously take into account housing, healthcare, education and labour market needs can help to overcome urban social isolation amongst people of immigrant background and avert its consequences. The EQUAL initiative is a means of addressing immigrants' problems in respect of employment and social integration.

369. Legislation on discrimination is a key pillar of a comprehensive integration policy. ILO studies on anti-discrimination legislation in Belgium, Canada, Denmark, Finland, Germany, Italy, the Netherlands, Spain, Sweden, the United Kingdom and the United States²⁷⁶ indicated that criminal law prohibitions of discrimination provided limited redress to victims of unlawful discrimination in employment. Rather, comprehensive civil legislation appeared to establish far more effective mechanisms for the identification, intervention, redress and monitoring of discriminatory treatment. Research also indicated that recourse to legal remedies for discriminatory acts was facilitated when such legislation not only clearly outlawed both direct and indirect discrimination, but also contained straightforward definitions of both types of discriminatory acts. To ensure the relevance of anti-discrimination law for non-national migrant workers as well as ethnic minorities, nationality, colour, religion, "race," and ethnic origin should be amongst the grounds for discrimination covered in the legislation²⁷⁷. Given the substantial difficulties involved in proving discriminatory practices, some studies indicated need for civil anti-discrimination legislation to allow

²⁷⁴ UNESCO : *Agir contre le racisme et la discrimination*, (UNESCO, Revue Internationale des Sciences Sociales No. 183, 2005).

²⁷⁵ European Union Agency for Fundamental Rights: *Trends and developments on racism and xenophobia 1997-2005: Combating ethnic and racial discrimination and promoting equality in the European Union*, 2007.

²⁷⁶ See R. Zegers de Beijl (1991); G. Rutherglen, (1993); C. Ventura (1995); R. Zegers de Beijl in W. R. Böhning and R. Zegers de Beijl (1995); U. Kulke in: A. Goldberg, D. Mourinho and U. Kulke (1996); R. Pérez Molina in Colectivo IOE and R. Pérez Molina (1996); K. Vuori (1996); D.N. Addy (1997); N.-E. Hansen and I. McClure (1998); J. Doomernik (1998); B. Smeesters and A. Nayer (1999); E. Allesino et al (2004); E. Cediey and F Foroni (2007); K. Attstrom (2007).

²⁷⁷ There are no scientific grounds for dividing people into different races, nor is there consequently, from a biological perspective, any grounds for using the word "race" for people. However the term "race" is used in international conventions and EC directives to protect people from conduct that is based on perception that there are different races and not because it is believed the various races exist, nor to underpin such a view.

the reversal of the burden of proof, where this was not automatically the case. When a complainant produced plausible or prima facie evidence of discrimination, the alleged perpetrator would have to prove that the disadvantageous treatment was not based on any prohibited grounds.

370. Several country studies showed that legal requirements for monitoring and reporting by employers on the diversity of their workforce are extremely useful tools. Equally indispensable were requirements to adopt positive action programmes actively promoting migrants' and minorities' equal participation in employment, as well as provisions which exclude companies proven to engage in discrimination from the award of governmental contracts.²⁷⁸

371. As regards the crucial issue of law enforcement, research findings clearly demonstrated that a specialised institution in the field of equality of treatment and non-discrimination provides the most effective way of guaranteeing effective enforcement and promotion of anti-discrimination legislation. Such an institution should handle all individual allegations of discriminatory treatment and try to arrive at a mediated solution. To be fully effective, the institution should have wide investigative powers. Should mediation fail, the agency should be empowered to issue '*cease and desist*' orders aimed at obliging the discriminator to cease the practice and put remedial and preventive measures in place. It also ought to have the power to bring cases to court. As discrimination is rarely a one-off act, provisions that allow for group complaints would also enhance the impact of anti-discrimination legislation.²⁷⁹

372. In line with this finding and implementation of the EU Directive on Racism, a majority of EU member states have strengthened relevant legislation and established such a monitoring body. Recent initiatives include a new act in Norway prohibiting discrimination that came into force in January 2006. Norway also established a special court to handle discrimination complaints. In 2005 France set up the Authority for Combating Discrimination (HALDE), an independent administrative authority with extensive powers, which is responsible for examining complaints and informing complainants of their rights. From the same point of view, Belgium as created, already in 1993, the Centre for Equal Opportunities and the Fight against Racism, following an in-depth work of observation and proposals, done during four years by a Royal Commissioner for immigration policies.

373. The EU Directive on Racism and its implementation are major steps in the right direction. But only a comprehensive approach combining legislative measures, administrative actions and voluntary initiatives will achieve true and sustained progress.

374. A large proportion of jobs are filled through family connections or friendships. Limited access to networks may also go hand in hand with inadequate knowledge of how the labour market works – how to apply for a job, for example, or how to make a good impression in a job interview. To remedy these disadvantages and improve employment access for children of immigrants Council of Europe countries have taken

²⁷⁸ For similar recommendations see ILO : *Equality in employment and occupation*, Report III (part 4B) ILO, Geneva, 1996; Consultative Commission on Racism and Xenophobia: *Final report*, European Commission, Brussels, 1995.

²⁷⁹ For more details see W. R. Böhning and R. Zegers de Beijl: *The integration of migrant workers in the labour market: Policies and their impact*, (Geneva, International Migration Papers No. 8, ILO, 1995).

various measures. Denmark has made efforts to attract immigrant children into activity sectors experiencing, or likely to experience, manpower shortages. Under its 2005 Immigration Act Germany has introduced provision for language instruction and information programmes. In Belgium, France, the United Kingdom and Sweden measures such as anonymous CVs are planned or already being used.

375. In European countries a number of jobs are closed to foreigners, notably in the public sector and the professions. Although foreigners, in principle, are treated like nationals, there are a large number of exceptions to the rule, in addition to which the rule only operates for foreigners who are legally resident. However, treatment of EU nationals is moving closer and closer to that of local nationals. Lochak, among others, points out the need for vigilance where respect for rights is concerned: in the case of foreigners, she has written, no progress can ever be taken for granted²⁸⁰. Under Article 1§2 of the European Social Charter the only jobs from which foreigners may be banned are those that are inherently connected with the protection of the public interest or national security and involve the exercise of public authority.²⁸¹

iii. The local level as factor in cohesion

376. Integration of immigrants is a local as well as a national matter. In studying approaches to involvement of ethnic minorities in some Belgian, British, French, Italian and Dutch cities, Arnaud *et al.*²⁸² have detected the emergence of new integration paths in which legal status is becoming less important than membership of local action groups as rehabilitators of identity in and through action. It is at the local level that people flows and civic participation manifest themselves most clearly. There have been local initiatives in Council of Europe countries (Spain, Italy, the United Kingdom, Switzerland) and in Canada²⁸³. For example, the government of Quebec in 1992 introduced a policy for the regional distribution of immigration, based on three precepts: a more balanced regional distribution of immigrants facilitates integration in the host society; immigrants contribute to the economic development and demographic vitality of the areas where they settle; and a more balanced regional distribution of immigrants helps to reduce the socio-cultural discrepancy between the Montreal area and the other administrative regions of Quebec.

377. In several Council of Europe member states local authorities are playing an increasing role in management of migratory flows in order to meet the needs of local labour markets and achieve better cohesion at the local level. In Belgium, for instance, the list of occupations "under strain", which opens the way for nationals of new member countries to obtain work permits, is drawn up regionally and discussed locally by the two sides of industry: employers and trade unions. In Greece, immigrants have to submit applications for work permits at regional level. In Switzerland there is now closer co-ordination between the three levels of government (federal, cantonal and local) on immigrant integration. The advantage of local-level immigrant-support action, through,

²⁸⁰ D. Lochak : "Emploi et protection sociale, les inégalités du droit" in *Hommes et Migrations*, (May 1995) No. 1187, p. 31.

²⁸¹ See for example European Committee of Social Rights: *Conclusions 2006, Albania*, p. 30.

²⁸² L. Arnaud (ed.) : "Les minorités ethniques dans l'Union Européenne", in *Politiques, mobilisations, identités*, (Paris, La Découverte, 2005).

²⁸³ OECD : *From immigration to integration, Local solutions to a global challenge*, Paris, OECD, 2007b.

for example, training colleges, is that local institutions know local employers and local decision-makers well and are in contact with young people of training age.

378. Exchanges conducted through twinnings between European towns and towns in migrants' countries of origin promote mutual knowledge and help build genuine European citizenship to improve quality of life through encouragement of closer relations and reinforcement of the sense of belonging and of European identity²⁸⁴. Relations between the indigenous communities of the countries of origin and the host countries can help build more positive images on both sides, thus aiding integration of foreign communities into the host societies.

379. Immigrant associations are important focuses for exercise of integration. In Europe more and more immigrant associations are reorganising themselves into formal and informal transnational solidarity networks which act as cultural rallying points, facilitators of integration, and forums for exchange and supportiveness²⁸⁵.

380. Measures to ensure a social mix are based on the belief that this is one of the requirements for establishing or re-establishing social harmony and for social and economic vitality at local/regional level.²⁸⁶ A social mix is a key anti-segregationist objective of urban policy. In response to the concentration of social and urban problems, an urban policy focusing on sensitive districts has become standard. Some policies are designed to remodel, as it were, economic, cultural and community life in an area in order to combat the disadvantages accumulated by its inhabitants.

381. Municipal authorities and town managers can encourage and assist the setting up of mutual-aid networks, address the problem of buildings that are unfit for habitation and breathe new life into neighbourhoods. In France, urban policy since January 2007 has involved an urban blueprint for social cohesion built around a number of priorities: promoting access to employment and developing economic activities; improving housing and quality of life; ensuring educational success; crime prevention and promoting citizenship; and access to medical care. The question is whether this urban policy is capable of mending the "social fracture" of which sensitive urban neighbourhoods are a major component.

iv. Migrant networks

382. Migrant networks are informal relations within migrant communities in receiving and sending countries. The role of migrant networks goes far beyond information support; it is a sort of social capital for migrants. In case of highly skilled migrants social networks are often based on common academic background. As to migrants with low levels of education, lack of skills and knowledge of language of

²⁸⁴ M. Ramos and M. Gomes: "Dual citizenship, governance and education: the situation in Portugal", in D. Kalekin-Fishman and P. Pitkanen (eds): *Multiple citizenship as a challenge to European Nation-States*, (Rotterdam, Sense Publishers, 2007), pp. 171-211.

²⁸⁵ A feeling of belonging and recognition of a set of observable features (language, dress, cuisine, behaviour) and symbolic features (myths, nation, territory, family, religion), which serve as a common point of reference for the individual or group, in M. C. Pereira Ramos : *La Diaspora Portugaise et la Diversité de ses Formes d'Insertion dans les Pays d'Accueil*, (Paris, OECD, 1999), p. 15.

²⁸⁶ Ch. Lelévrier (org.): "Les mixités sociales" in *Problèmes politiques et sociaux*, (Paris, , La Documentation Française, 2006), No. 929.

receiving country who are unlikely to participate in legal temporary labour migration schemes, ethnic-based networks provide an alternative. Lacking necessary human capital to migrate, would-be migrants manage to get to destination country through informal migration channels arranged by their compatriots.

383. Migrant networks do well also for highly skilled migrants. Connections with earlier migrants provide potential migrants with information and resources and reduce the high costs of migration²⁸⁷. Social networks not only facilitate migration but also channel it by choosing whom to migrate to fill in jobs, and to work as research assistants. Highly skilled have the ability to mobilise their social capital even in a more effective way because they rely on more extensive and diverse networks, which consists professional colleagues, fellow alumni, acquaintances and friends²⁸⁸.

384. Migrant networks and diaspora may play a dual role in the integration process. On the one hand, they provide support, unofficial protection, friendly social environment, and human security for migrants and make their stay in countries of origin more comfortable. On the other hand, they compensate for the isolation migrants may experience in the host society, providing social contacts in their own community. The success of any policy on integration will depend on consulting with and taking into account the views, concerns and priorities articulated by representatives of the concerned communities.

4. *Evolving challenges*

i. *New forms of mobility*

385. Migration within and into Europe is weaving migration networks that make them part of a process of transnational mobility. This is indicative of globalisation and the changes taking place in the labour market. The increase in migrant flows goes together with a wider range of migrant characteristics. The expression "persons settled in their mobility", whether they are in this situation of their own free will or because of the constraints imposed by the regulations, illustrates this situation.

386. This migration is contributing to development of transnational networks of players and of globalised economic exchanges. International migration is increasingly eliciting transnational practices among migrants and causing transnational communities to emerge. The term transnationalism refers to processes whereby migrants develop multiple social ties between the society from which they come and the host society, establishing social communities that transcend geographical, cultural and political borders²⁸⁹. More people attain multiple identities, transnational relationships and dual or

²⁸⁷ A. Tanner: *Emigration, Brain Drain and Development: the Case of Sub-Saharan Africa* (Helsinki, Finland, East-West Books and Washington DC, Migration Policy Institute, 2005); D. Kapur and J. McHale: *Give Us Your Best and Brightest: the Global Hunt for Talent and its Impact on the Developing World*, (Washington DC, Brookings Institution Press, 2005).

²⁸⁸ J. Meyer: "Network Approach versus Brain Drain: Lessons from the Diaspora", in: *International Migration, Special Issue: International Migration of the Highly Skilled*, (2001) Vol. 39(5).

²⁸⁹ The concept of "bottom-up globalisation", used by Portes (1999), illustrates the contrast between the fluidity of migration patterns and the rigidity of national frameworks.

multiple citizenship²⁹⁰. An increasing number of migrants are organising their lives with reference to two or more societies and are developing transnational activities and multicultural and multilingual skills. Dual citizenship and European "citizenship" reflect greater freedom of movement, multicultural societies, employment mobility, activities in two or more countries, and so on. An increasing migratory circulation within the European area²⁹¹ reflecting a gradual emergence of cosmopolitan, intercultural and global citizenship²⁹².

387. Migratory movement of skills plays a fundamental role in the present context. However, being highly skilled, encouraging innovation, making a contribution to productivity and growth and helping develop businesses do not necessarily mean full social and cultural integration. "Transnationals" have various options open to them – settlement, return, emigration to a third country. Migratory movement, a concept representing a new paradigm, accords a central role to migratory (non-)projects and it will tend to increase because of the ease of transport and migration controls. Incorporating these into the analysis affords a dynamic view of labour migration and not just a static one that stresses assimilation.

388. Concepts of "integration" have historically been linked to the "immigrant" who plans to settle. Conversely, the concept of "migrant" may correspond to a migration project and refers to the notion of mobility. "Immigrants", who are settled may not display the same characteristics as "migrants" in migratory "circulation". Current approaches to integration may not adequately address the latter.

389. New forms of mobility within and into Europe do not entirely fit "classic" concepts of emigration/immigration. The phenomenon of "repeat migration" – that is, migration which is not confined to a move from a departure country to a reception country but features a series of such moves – is a growing one in Europe²⁹³. Repeat migration can appreciably alter the trend in migration flows. It raises new questions in connection with the means of integrating, in the labour market and society, migrants who are more mobile and less attached to a final destination.

390. Facilitating "circulation" is evidently one of the primordial challenges for migration policy today. Migration takes place in a context that is shaped partly by migration policy. Seasonal workers can epitomise circular migration, in so far as their toing and froing is largely the result of migration policies that prevent their settling in the host country. Conversely, highly skilled migrants who are sought after by various countries can move from country to country with fewer restrictions. But this mobility may also be a response to new constraints. In the case of executives, for instance, it may be the flexibility demanded by companies that requires increased mobility.

²⁹⁰ D. Kalekin-Fishman and P. Pitkanen (eds): *Multiple citizenship as a challenge to European Nation-States*, (Rotterdam, Sense Publishers, 2007).

²⁹¹ *Revue Française des Affaires Sociales Circulations migratoires – nouvelles dynamiques des migrations*, (Paris, La Documentation Française, April-June 2004), Vol. No. 2.

²⁹² W. Kymlicka: *Multicultural citizenship: a liberal theory of minority rights*, (Oxford, Clarendon Press, 1995); W. Kymlicka: *Politics in the vernacular: nationalism, multiculturalism and citizenship*, (Oxford, Oxford University Press, 2001).

²⁹³ E. M. Mouhoud and J. Oudinet (dir.): *L'Europe et ses Migrants – Ouverture ou Repli ?*, (Paris, L'Harmattan, 2007); see also *Revue Migrations Société, Migrants de passage*, (2006) Vol. 18, No. 107, Sept. - Oct.

"Transnational circulation and migration defy the inclusion approaches underpinning immigration and integration policies, but they are also a response to approaches based on (economic, cultural or civic) exclusion, which leave migrants no choice but to move between societies that reject them"²⁹⁴.

391. While temporary guest worker programmes are again growing in number and dimensions in Europe, and while in Asia the growth of migration over the past two decades has been almost entirely in the form of short-term contract labour, the reality is that some employers necessarily become dependent on foreign workers. Similarly, once foreign workers have worked for some time in a destination country, family and social ties are established and deepened in the new land. While incentives may encourage some workers to return to their own countries, conditions in both home and host countries compel many migrants – including those admitted under temporary programmes – to stay for extended periods. The challenge is to ensure that those who stay become productive participants in destination countries. Whether or not they are integrated depends on the policies adopted. The alternative, already faced today in a number of European countries is marginalisation of entire communities into increasingly isolated ghettos and perceived crises that may threaten social cohesion.

392. The current dilemmas of integration in some European countries are also the legacy of earlier guest worker programmes that made no provision for anti-discrimination or integration measures, assuming that the migrants would stay only temporarily and then return to their home countries. While millions did repatriate, tens of thousands of migrant workers and their children remained but without any support for integration nor with any measures to accommodate the host populations to the new diversity in their societies.

ii. Informalisation of labour markets and irregular migration - risks for social cohesion

393. Unauthorised immigration is a permanent fact of European labour markets. Media coverage of dramatic situations has certainly made it more visible in the last several years. In the European Union context, mobility and irregular migration are linked to the evolution of the dual economy and the sustained demand for cheap, docile and flexible labour for the low cost and increasingly informalised and deregulated economic activity at the lower end of the scale.

394. Certain employers perceive advantages to be gained from recruiting unauthorised migrants as workers who will be extremely dependent and can be forced to accept less safe employment and low pay (often less than the minimum wage) and to forgo social rights and such advantages as paid holiday or sickness leave. Employing such workers also reduces social charges and non-wage costs and gives an unfair edge over competitors who comply with their obligations²⁹⁵. The conditions of competition on the labour market must be weighed alongside the social costs of irregular immigration.

²⁹⁴ A. Pecoud: "Circulations migratoires et contrôles aux frontières", in *Revue Migrations Société, Migrants de passage*, (2006) Vol. 18, No. 107, Sept. – Oct., p.63.

²⁹⁵ M. C. P. Ramos: *L'immigration clandestine: élément structurel du phénomène migratoire et données du système d'emploi des pays européens*, Conference of the European Association of Labour Economists, Madrid, 26-29 September 1991 ; C. Marie : *Preventing Illegal Immigration : Juggling Economic Imperatives, Political Risks and Individual Rights*, Council of Europe, 2004.

395. Thus irregular migration is bound up in issues of competition distortion, relocation of enterprises and deterioration of wages and conditions that are caused by social dumping and development of the underground economy²⁹⁶. Taking advantage of gaps in national labour law, inadequacies in labour inspection, difficulties in trade union organising and tolerance by authorities, some enterprises go in for highly flexible forms of workforce management.

396. A report for the Council of Europe puts at 5.5 million the number of unauthorised migrants in the EU²⁹⁷. This represents less than 2% of the population and at most 15% of the total foreign-born population. However, estimating the unauthorised and by definition, undocumented resident population is difficult in national contexts, and all the more so internationally given different legal systems and different ways of reporting immigration statistics. For domestic political reasons such estimates may be deliberately exaggerated, generally in connection with important political events or in xenophobic circles. Conversely, figures may be underestimated in order to reassure public opinion and avoid casting doubt on the credibility of migration control policies.

397. Any suggestion that a significant motive for unauthorised immigration is to take advantage of welfare systems is highly debatable, given that in most countries unauthorised immigrants find it nearly impossible to gain access to such services.

398. Do immigrants compete with indigenous workers? It would appear that the conditions and wages of the local labour force are threatened more by the recruitment of irregular migrants left without legal or workplace protection than by that of declared immigrant workers²⁹⁸. For this reason, trade unions across Europe have become fervent advocates for regularisation of unauthorised migrants and the protection of their labour and organising rights.

399. Paradoxically, the increase in irregular migratory flows to Southern European countries has been associated with accelerated economic growth that, in turn, has made several new areas attractive to undemanding labour. Faced with both high demand for and rapid irregular influx of foreign labour, these new immigration countries have used resorted to large scale regularisation measures to put unauthorised migrants into legal status. Spain legalised over 570,000 immigrants in 2005. In recent years Italy has conducted five legalisation programmes, from which 1.4 million immigrants have benefited. Portugal has conducted three immigrant-legalisation exercises (in 1992, 1996 and 2001).

400. In contrast, Germany and the Netherlands have traditionally been reluctant to engage in large-scale legalisations, which arouse public and political opposition. In France, under new measures introduced in October 2007, prefectures are to be allowed "in exceptional circumstances" to legalise foreigners in possession of a promise of a job in an occupation and geographical area which have recruitment difficulties.

²⁹⁶ The EU underground/parallel economy represents between 7 and 16% of EU GDP : *Study on the links between legal and illegal immigration*, Brussels, COM(2004) 412 final.

²⁹⁷ J. Greenway: *Regularisation programmes for irregular migrants*, Report of the Committee on Migration, Refugees and Population, Rapporteur, United Kingdom, Doc. 11350, Parliamentary Assembly of the Council of Europe (PACE), 6 July 2007, p. 1.

²⁹⁸ A. Venturini: "Do illegal migrants compete with national workers ? ", in *Intereconomics*, (2004) Vol. 39, No. 1, pp. 11-13.

401. Legalisation of immigrants is undeniably a first and essential step towards integration for those concerned. By definition, migrants in irregular status are denied legal recognition, protection of legal and labour rights, access to services, and legitimacy as members of local community and society²⁹⁹.

402. However, opposition is raised to regularisation on the basis of its potential effect on encouraging further irregular migration, although there are not conclusive studies demonstrating this presumed effect. Isolating this factor is particularly difficult in the context of deteriorating conditions in origin countries that provoke emigration combined with strong labour market demand for and absorption of irregular migrants in Europe, as well as the continuing relative absence of legal channels for regular entry of low and semi-skilled migrants in demand.

5. Guidelines and options for action

i. A comprehensive and integrated approach

403. The complexity of issues raised by migration and integration means that responses have to be comprehensive and multi-pronged, based on international norms as well as a better understanding of the economic forces that shape working conditions in different sectors. A sound framework for improving the conditions of employment and integration of migrant workers and their families will need to draw on appropriate laws and their enforcement, good governance, labour market regulation, joint liability of subcontractors and enterprises or employers, labour inspection, effective mobilisation of social partners and other concerned agencies, and certainly multilateral or inter-state co-operation.

404. In formulating a globally applicable agenda for action against racism, discrimination and xenophobia, the World Conference in Durban confirmed experience in Europe and elsewhere that main lines for elaborating viable policy and plans of action addressing discrimination and social cohesion should include:

- An explicit legal foundation based on relevant international standards.
- Outlawing racist and xenophobic discrimination, behaviour and action.
- Administrative measures to ensure full implementation of legislation, and accountability of government officials.
- An independent national human rights/anti-discrimination institution with powers to address non-citizens.
- Respect for diversity and multicultural interaction.
- Emphasis on positive images of diversity and of migration in news and communications media.
- Inclusion of inter-cultural and diversity training in educational curricula.
- Co-operation with social partners, civil society and migrant/immigrant community groups.

²⁹⁹ R. Cholewinski (prepared the study): *Irregular migrants: access to minimum social rights*, Strasbourg December 2005, Council of Europe, p. 22.

405. An increasing number of countries are putting in place comprehensive approaches to integration, with corresponding institutional support. For example, Portugal launched an immigrant-integration plan in May 2007 involving all government departments and contributions from civil-society organisations. It created a public integration institute, the High Commission for Immigration and Cultural Diversity, coming under the Prime Minister, and launched a series of measures, including developing a network of immigrant assistance centres (local and national), schemes for the teaching of Portuguese and prevention of school drop-out, improved immigrant welfare entitlements, increased financial support for immigrant associations and for private mutual-welfare institutions, and public awareness campaigns to combat racism and discrimination.

406. An important recommendation in the Durban Programme of Action is for governments to elaborate and implement national plans of action on racism, discrimination and xenophobia. To date, the European country that has most fully done so is Ireland, through a lengthy but fully consultative process involving government, social partners, civil society, and migrant and minority community organisations. While a causal relationship is difficult to ascertain, Ireland remains one of few countries hosting substantial immigrant populations –12% of the national population-- that has not experienced any riots, racially tied murders, burnings or bombings of immigrant homes, nor attacks on immigrant children. As well, politicians and political groups articulating racist and anti-migrant rhetoric have fared very poorly in polls and elections.

407. Parallely, anti-racism and migrant integration issues feature centrally in Ireland's national official social partner agreements negotiated as common platforms among all the employer groups and national trade union and employees federations. These social partner agreements represent a common front in dialogue and negotiation with the government on national policy, legislative initiatives and administration.

408. The social partners play a key role in integration. The report of the Workers' Consultation points out that: "Trade unions have a particularly important role in facilitating migrant workers' integration, thanks to their presence at the workplace and their democratic procedures. Failure to integrate migrants makes them prey to extremists and threatens democracy".³⁰⁰ On the basis of the experience of employers and trade unions in Belgium, Canada, Ireland, Italy, the Netherlands, Spain, the United Kingdom, the United States and other countries, the ILO has facilitated the development of a methodology for promoting integration in workplaces. The approach recognises that integration requires deliberate, multiple and sequential steps by both immigrants and host institutions and individuals over time.

409. The European Union has elaborated an extensive body of policy and practical guidance on integration for member states. In 2007 the European Council made a first attempt to formulate a comprehensive EU migration policy³⁰¹. The policy builds on the conclusions of the Tampere European Council in 1999, the Hague Programme (2004-2009) on freedom, justice and security³⁰², as well as the Global Approach to Migration

³⁰⁰ ILO: *Report, Workers' Consultation on Migrant Workers*, Nyon, Switzerland, 15-16 December 2003.

³⁰¹ EU Press Release: *A Comprehensive European Migration Policy*, MEMO/07/188, 2007, <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/07/188>.

³⁰² European Commission: *The Hague Programme – Ten priorities for the next five years*, 2005, http://ec.europa.eu/justice_home/news/information_dossiers/the_hague_priorities/index_en.htm.

adopted by the European Councils in 2005 and 2006. The EU needs to deal with migration in the overall socio-economic context of Europe that is increasingly characterised by skill and labour shortages, by competition for the highly skilled in an ever more globalising economy and by accelerated ageing of the European population. At the same time the EU is stepping up its actions for better integration of legal migrants to ensure peaceful and stable societies and for more effective ways to respond to increasing pressure of migrants in irregular status.

410. The Commission is currently preparing a General Framework Directive on the legal status of third-country workers admitted to a Member State, so as to enhance the integration of legally residing immigrants in the EU by ensuring their fair treatment. In 2007 the Commission presented a draft directive on the rights of legal immigrants in employment, so as to ensure that all third-country workers enjoy a comparable level of rights throughout the EU, before they meet the conditions for EC long-term residence status.

411. The EU Hague Programme underlined the need for greater coordination of national policies and EU initiatives on integration, which resulted in the formulation of common basic principles on integration, and acted as a foundation for the Common Agenda for Integration³⁰³. Main areas for which common principles were defined are:

- integration in the labour market;
- access to education and language skills;
- access to housing and comprehensive urban and regional planning;
- access to health and social services;
- active involvement and participation in civil life;
- nationality, civic citizenship and respect for diversity.

412. The Common Agenda defined concrete measures to put the Common Principles into practice and makes available a set of European tools to facilitate this process. Some of these tools include: a network of National Contact Points on Integration, Handbooks on Integration for policy-makers and practitioners, Annual Reports on Migration and Integration, an integration website and various forums for consultation of stakeholders. Integration activities are also supported by a newly-established European Fund for Integration of third-country nationals.

413. The EU has also developed a review tool to assess integration policy experience, the MIPEX migration integration policy index. A MIPEX report³⁰⁴ on migrant integration policies in 28 countries (25 EU states plus Canada, Norway and Switzerland) addresses the following indicators: labour-market access, family reunification, long-term residence, political participation, acquisition of nationality and anti-discrimination.

³⁰³ European Commission: *A Common Agenda for Integration: Framework for the Integration of Third-Country Nationals in the European Union*, Communication from the Commission COM (2005) 389 final (Brussels, European Commission, 2005). Available at: http://eur-lex.europa.eu/LexUriServ/site/en/com/2005/com2005_0389en01.pdf.

³⁰⁴ J. Niessen et al : *Migration integration policy index*, (Brussels, British Council, Migration Policy Group (Index de políticas de integração de migrantes), Lisbon, British Council, Gulbenkian (Calouste) Foundation, 2007).

414. The Council of Europe Forum 2006 on Achieving Social Cohesion in a multicultural Europe drew a number of relevant conclusions, including :

- Cultural differences have their rightful place in the inclusion process, but they must not be exacerbated. Coherence and adaptability must be sought in the tools and structures of integration, in particular recognition of rights, access to services and labour market inclusion.
- Need to review migration in relation to the situation of other, indigenous groups in flexible and uncertain labour markets, especially young people and unskilled workers.
- While taking due account of diversity issues, services should remain universal but diversity-sensitive.

415. Other institutions have also made important contributions: ILO has developed a methodological guide for workplace integration as well as toolkits, motivational pamphlets and other materials targeted to social partner roles and activities in integration.

416. The essential foundation for an effective agenda on integration can be summarised under three main themes: measures for equality and non-discrimination, respect for diversity, and communicating cohesion. These themes articulate the policy foundation to implement the main areas elaborated by the Common Framework, which thus provide a useful categorisation to outline important policy measures applicable across the Council of Europe. These themes describe areas for specific legislative and policy intervention, both in setting legally defined values for integration processes and enabling policies, and in setting the parameters for appropriate and acceptable policy and practice.

ii. Measures for equality and non-discrimination

417. The UN International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the ILO Convention concerning Discrimination in respect of Employment and Occupation (C111), the European Convention on Human Rights and the EU Directive on Racism together provide the comprehensive normative legal foundation. ILO Conventions on migration for employment (No. 97 and No. 143) together with the complementary 1990 International Convention on the Rights of All Migrant Workers and Members of Their Families provide additional detailed standards specifically relevant to non-discrimination and integration policies in the context of migration. Nearly all Council of Europe member countries have ratified the ECHR, the CERD and ILO C-111. 39 Council of Europe member states have ratified the European Social Charter with its horizontal principle of non-discrimination.³⁰⁵ Nineteen member countries have ratified one or both of the ILO instruments and four have ratified the 1990 ICRMW.³⁰⁶

³⁰⁵ In the 1961 Charter the non-discrimination clause is contained in the Preamble, in the Revised Charter it is laid down by Article E.

³⁰⁶ Albania, Armenia, Belgium, Bosnia-Herzegovina, France, Germany, Italy, “the former Yugoslav Republic of Macedonia“, Moldova, Montenegro, Netherlands, Norway, Portugal, San Marino, Serbia, Slovenia, Spain, Sweden, and United Kingdom: one or both ILO Conventions; Albania, Azerbaijan, Bosnia-Herzegovina and Turkey ratified the 1990 ICRMW

418. Certain Council of Europe instruments provide complementary provisions to fight against discrimination. The European Social Charter (revised) (Articles 18 and 19 in particular) (STE nos. 35 and 163), the European Convention on the Legal Status of Migrant Workers (STE no. 93) and the European Convention on Social Security (STE no. 78) form together an ensemble of rights that strengthens the protection of migrant workers. The European Commission against Racism and Intolerance (ECRI) is the Council of Europe's independent monitoring body for combating racism, xenophobia, antisemitism and intolerance in greater Europe, from the perspective of the protection of human rights. ECRI's action covers all the measures needed to combat violence, discrimination and prejudice against persons or groups of persons on grounds of race, colour, language, religion, nationality or national or ethnic origin.

419. European Council Directive 2000/43/EC, the "Racial Equality Directive" provides minimum requirements for national legislation on legal protection against discrimination. It covers the fields of employment & occupation, vocational training, membership of employer and employee organisations, social protection, including social security and health care, education and access to goods and services available to the public, including housing. It defines discrimination, including indirect discrimination, harassment and instructions to discriminate. It provides a set of remedies and enforcement, including placing the burden of proof on the respondent to established claims of discrimination. It calls for taking "adequate measures to promote the social dialogue between the two sides of industry with a view to fostering equal treatment, including through the monitoring of workplace practices, collective agreements, codes of conduct, research or exchange of experiences and good practices. It also requires member states to establish a "body or bodies for the promotion of equal treatment of all persons." All EU member states have now transposed this Directive into national law. The Commission is reviewing national legislation to verify correct implementation of the requirements of the Directive.

420. In summary, main legislative and policy lines to obtain equality of treatment include promoting and implementing anti-discrimination legislation and policies, establishing or strengthening specialised bodies on equality and non-discrimination with specific authority to also address non-nationals, conducting periodic gender sensitive data collection and analysis on these issues including through situation testing as well as other methods, and implementing training and practical support to the stakeholder practitioners in the different fields concerned.

421. Providing legislative incentives, practical guidance and training, and other supports for employers to engage in or expand anti-discrimination practices are essential to ensuring that policy and legislation is translated into actual practice at the workplace.

iii. Special measures to promote equality and prevent discrimination

422. Specific measures are required regarding gender issues and equality of treatment for female migrants/immigrants; especially regarding public healthcare, nursing homes or private households, agriculture and other sectors where female migrant workers may be concentrated.

iv. Respect for diversity

423. Cultural, religious and linguistic diversity, multiculturalism and intercultural skills must be promoted. Politicians must offer their electorates clear rules for managing cultural pluralism. Countries must actively develop multicultural policies that promote human development and diversity in order to prevent cultural, religious, ethnic and linguistic discrimination. Support for minority languages and cultures is an important

ingredient of integration and of recognition of minorities' identity in the education system and therefore contributes to European construction and social cohesion³⁰⁷. Creation of an environment in which multiple identities flourish must go hand in hand with equal opportunities.

424. Portugal, which is one of the new immigration countries, launched an immigrant-integration plan in May 2007 involving all government departments and contributions from civil-society organisations. It has created a public integration institute, the High Commission for Immigration and Cultural Diversity, coming under the Prime Minister, and launched a series of measures. These include developing a network of immigrant assistance centres (local and national), schemes for the teaching of Portuguese and prevention of school drop-out, improved immigrant welfare entitlements, increased financial support for immigrant associations and for private mutual-welfare institutions, and public awareness campaigns to combat racism and discrimination.

425. Social cohesion must be developed within the context of recognising that Europe itself, as well as its individual countries, are diverse and multicultural. Cultural diversity, being at the heart of human development, as indicated by the United Nations³⁰⁸, must be portrayed as a factor conducive to cohesion. Intercultural dialogue must be an integral part of the integration process. If it is to become a factor conducive to social cohesion, culture must be incorporated in the daily management of public affairs, so that it becomes part of the recognition of "the Other" and of civic-mindedness in general³⁰⁹.

426. The perspective of the migrant must be explicitly taken into account through consultative mechanisms and involvement of migrant/immigrant community representatives in policy setting and review mechanisms to ensure reference to the perspective of the migrant worker and his/her family, his or her rights and his or her needs and wishes. Government policy cannot successfully 'manage' the movements of labour migrants if this policy does not include reference to their interests and perspectives.

v. Communicating cohesion

427. Communicating cohesion is crucial. The essential starting point is ensuring that the images and stories of migration and immigrants present the reality of their contributions, their overwhelmingly law-abiding and participatory behaviour, and their entitlement to dignity and protection of rights.

428. In today's political and journalistic context, this represents a huge challenge. But the alternative is further social polarisation and greater likelihood of anti-migrant violence.

³⁰⁷ J. Niessen: *Diversity and cohesion: new challenges for the integration of immigrants and minorities*, Report prepared for the Council of Europe, July 2000.

³⁰⁸ UNDP: "Cultural liberty in today's diverse world" in *Human Development Report 2004*, New York, United Nations Development Programme, 2004.

³⁰⁹ Council of Europe : *Construire une société multiculturelle juste*, Social Cohesion Development Division, DGIII, Strasbourg, 18 January 2007, p. 12.

429. Information campaigns should be waged on immigrants' rights and responsibilities.

430. Public opinion should be informed of the genuine contribution that immigrants make to the economy and society.

431. Training in migration issues can usefully be promoted at journalism schools and through professional organisations.

432. It is essential to pay more attention to education policy as a key tool for social integration and reducing poverty.

433. Policy-makers, service providers and non-governmental organisations active in a wide range of fields need to look critically at their own activities. Immigrant integration is not a 'luxury' but simply an element of an institution's mandate when its clients, members or stakeholders are becoming increasingly diverse.

vi. Integration in the labour market

434. The foundation for labour market integration is an established national legislative base that recognises rights of all workers concerned, as provided for in relevant international conventions and instruments, recognising that migrant workers and their families are human beings and not commodities, and building on the ILO "Resolution concerning a fair deal for migrant workers in a global economy"³¹⁰, calling for a rights-based approach to labour migration.

435. Guarantees for equal treatment in working conditions for all lawfully employed third country nationals as compared to nationals, and respect for the host country's rules and regulations and industrial relations systems are essential to workplace integration and the broader success of integration efforts.

436. To ensure credibility and reduce perceptions of unfair competition, labour market integration policy should explicitly prioritise investing in capacities and qualifications of unemployed or underemployed citizens including those from a migrant or ethnic minority background, as well as legally resident third country nationals including recognised refugees, as a first priority in tackling labour market shortages.

437. A key policy element is establishing criteria, equivalencies and procedures for recognising skills and educational credentials obtained abroad or in origin countries as crucial to incorporating foreign workers and professionals in appropriate employment.

438. The critical role of Social Partners and social dialogue played at all relevant levels in assessing labour market needs, promoting sustainable migration policies, addressing and preventing exploitative working conditions of migrant workers, and promoting their integration and non-discrimination in the labour market and the workplace requires incorporation of employers and trade unions in elaboration as well as implementation of policies addressing labour market integration.

³¹⁰ Adopted in June 2004, see ILO site:
http://www.ilo.org/public/english/protection/migrant/download/ilcmig_res-eng.pdf.

439. Migrant participation in trade unions and works committees should be encouraged as an aid to workplace integration.

440. Encouragement and incentives for immigrant entrepreneurship can further facilitate integration, for example through start-up aid to micro-enterprises and access to credit.

vii. Education and language skills

441. Education for citizenship and acceptance of difference, together with steps to build a genuine European educational area, help combat stereotypes, racism, xenophobia and discrimination against foreigners.

442. Recognition of skills and educational experience acquired before arrival in host countries facilitates effective integration and access to appropriate continuing education. To this end, it is necessary to speed up arrangements for recognising the equivalence of degrees and certificates and assessing immigrants' vocational aptitudes. Improving the match of qualifications to job benefits both the immigrant and the host country.

443. Education can and must combat prejudice and equip both the citizen and resident population and immigrant populations to participate in community life.

444. Host countries should develop training provisions for those immigrants with the least skills and least human and social capital so as to facilitate the integration of those facing the greatest difficulties.

445. Knowledge of the host country's language is an essential factor in migrants' integration into society and the labour market. Immigrants should be actively encouraged to learn the language of the host country as an aid to employment, vocational integration and citizen participation, and intercultural education should be promoted. Provision of such opportunities needs to take into account the conditions and constraints migrants face to ensure they can and are motivated to access it; including availability outside working hours, affordable costing, and allowance for female teachers and facilities for women and girls from traditional societies.

446. It is vital that education measures enable immigrants, and particularly their descendants, to achieve greater success and play a more active part in society. Schooling must supply a flexible response to this requirement and develop the asset which migrants' multiple cultural capital represents. It is necessary to provide a wider range of education and training opportunities for migrants so as to assist linguistic, social and cultural integration.

viii. Access to housing and comprehensive urban and regional planning

447. It is essential, for the purposes of social cohesion, to combat discrimination in immigrant and immigrant descendent access to housing.

448. Main policy approaches include lowering barriers to access and improving housing quality, implemented against the backdrop of broader urban policies and structures aimed at encouraging social mix in urban ownership and tenancy and in urban regeneration schemes.

449. Incentives to attract new immigrants to small and medium-sized towns may help to ensure a more extensive distribution of the immigrant population over the country,

improve demographic and economic balance in the regions and ultimately facilitate greater cohesion at the national level.

450. Steps may be required to provide alternatives to concentration of immigrants in dilapidated neighbourhoods by intervening in the public and private supply of housing and improving housing quality.

451. Other factors related to spatial distribution and access need also to be deliberately addressed, including availability of quality schooling, public transportation - especially in relation to zones or areas of employment or potential employment, health care facilities, and green spaces and sports facilities.

452. Facilities should be created for cultural and social encounter at neighbourhood level so as to forge a social fabric and develop mutual receptiveness. Social mix should be a priority in urban-regeneration schemes.

ix. Access to health and social services

453. Ensuring access to social and health services for all migrants is critical for both public health and integration reasons.

454. Availability of interpretation and health prevention and care materials in immigrant languages is important to encourage access to health care, especially important in prevention of communicable disease and prompt and effective accident and occupation hazard care.

455. The new immigration countries in South Europe (Portugal, Spain, Italy and Greece) display a range of good practice regarding health-care access, for unauthorised as well as legal immigrants, with official emphasis on public health and the right to health care³¹¹. A common approach is circulation of information in migrants' own languages. In a number of countries, particularly the Nordic ones, in France and Belgium, a frequent solution to language barriers has been to use cultural mediators and translation services.

456. If medical authorities want to introduce more effective prevention machinery aimed at migrant communities from developing countries, they must develop special, culturally appropriate tools for getting across their health messages.

457. Encouragement of action by civil society serves to enhance health promotion, disease prevention and facilitating access to health services for migrants in Europe. NGOs both complement and fill in for the absence of the State as regards its role and responsibilities for migrant health, for the benefit of the whole population and public health generally.

x. Active involvement and participation in civil life

458. The host community and migrants should be involved in activities that promote mutual understanding. It is necessary to create a climate conducive to a social mix,

³¹¹ S. Bendixsen and P. Guchteneire: *Best practices in immigration services planning*, 2003, (http://www.unesco.org/most/migration/article_bpimm.htm); D. Ingleby: *et al. (s/d) The role of health in integration* (<http://www.ercomer.org/downloads/ingIV.doc>).

particularly at school, so that groups can get to know one another; diversity is a challenge for the whole population, including policy-makers.

459. Strong and visible leadership of mayors and/or elected local officials on integration issues is instrumental to a coherent approach to integration across multiple policy areas and helps to bridge gaps between government and residents with or without an immigrant background. In this sense, as in Belgium, to promote the development of local plans for integration, a process involving the local public representatives and associations working for integration and in particular those issued of immigration, helps to build a coherent approach to integration.

460. Roles, activity and involvement of civil society organisations (NGOs) should be facilitated and supported; trade unions, local community organisations, civic clubs and pro-migrant and anti-discrimination organisations usually both serve as the most immediate bridges to host communities as well as effective mechanisms to raise public awareness among host populations. These organisations should be encouraged to foster solidarity within society, to reduce exclusion of immigrants and thus encourage social cohesion.

461. Other measures to facilitate immigrant integration include ensuring access to credit (microfinance and solidarity finance) For many who may find access to the banking sector restricted or nearly impossible, at least initially, microfinance can fill needs for quality financial services for savings, loans and insurance.

xi. Nationality and civic citizenship

462. Civic and political participation by foreigners should be encouraged, including by providing migrant associations a larger role and developing facilities for civic and cultural involvement.

463. Allowance for immigrant participation in local, town or regional civic life is a key bridge to integration, including particularly through accordance of voting rights in local elections.

464. Ultimately, naturalisation is a major bridge and reflection of integration. Recognition of dual citizenship is a means of accommodating existing and emerging participation by migrants to both long-term or permanent host countries and unbreakable ties to origin societies.

xii. Good practice initiatives

465. A broad array of practical measures applied by governments, local authorities, employers, trade unions and civil society organisations has emerged across Europe. These effectively demonstrate that many actions are taking place, with legislative incentive and without it, across the continent.

466. A typology of such measures shows more than 50 distinct types, each of which may be manifested in dozens of distinct forms and approaches according to national and local conditions, ranged across the following six basic categories:

1. *Organisational initiatives*: measures adopted by employers and other organisations, including trade unions, focusing on internal policy and management;
2. *Collective action*: co-operative initiatives taken up by labour organisations, community groups, associations of employers and NGOs;

3. *Legislative and legal measures:* measures implemented by judicial and extra-judicial bodies of the State;
4. *Administrative measures, regulations and practices:* measures taken by local and national authorities;
5. *Political/educational action:* opinion shaping efforts by political leaders, educational institutions and communications media; and
6. *International standards and programmes.*

467. Several websites offer compendiums of ‘profiles’ or summary descriptions of these practices, providing access to these experiences as inspiration and potential models for replication in accord with local contexts. For example, some 160 profiles of initiatives by businesses, local government, trade unions and NGOs in 24 Council of Europe member countries can be accessed at a site maintained by ILO with EU support.³¹²

6. *A framework for integration*

468. The Council of Europe published a comprehensive Framework for Integration Policies in 2000 that remains a policy document of reference for this agenda. It brought together all the proposals and recommendations made in various Council of Europe bodies, and also incorporated recommendations made by the Parliamentary Assembly, the Committee of Ministers and the European Commission against Racism and Intolerance (ECRI), and serves as a “checklist” for those working on the implementation of integration policies.

469. The framework mapped the types of action needed into three parts: policies and measures needed in the context of new arrivals of immigrants; policies and measures aimed at the promotion of equal opportunities for long-term immigrants; and policies and measures needed in multicultural societies with ethnically diverse populations.

470. The framework laid out recommendations and practical guidance in nine key areas: Legal Measures; Employment; Housing; Health and other services; Religion, Culture and Language; Education; The Media; Government Functions; and Monitoring and Evaluation.

471. In developing this framework there is a real need to develop tools for observation, monitoring and permanent evaluation and the setting up, in different life field, of the indicators to measure the changing situations and the effects of policies.

³¹² Go to: www.ilo.org/migrant/equality and click on practice profiles.

CHAPTER IV

AN INTEGRATED POLICY AGENDA

1. Introduction

472. Deliberate policies and practices by states and concerned stakeholders are required to ensure that migration benefits both host and origin countries and the migrants themselves. As a phenomenon that can involve human beings in situations of potential exploitability and inadequate protection, migration cannot be regulated by market forces alone.

473. This chapter focuses on building the comprehensive and integrated policy agenda required to regulate and govern migration both by individual countries and between countries.

474. Policy-makers in both countries of origin and of destination have to devote careful attention to a number of underlying broader issues when crafting appropriate policies. This section highlights some of these issues, which also reflect the complexity of the migration phenomenon. While these issues necessarily differ because of the different labour migration dynamics taking place in origin and destination countries, some are common to both sets of countries, such as the concerns relating to the protection of migrant workers and the need for inter-state co-operation, particularly with a view to preventing or reducing irregular migration.

475. Migration policies and practices can only be viable and effective when they are based on a firm foundation of legal norms, and thus operate under the rule of law. International standards set parameters for the protection of migrant workers and the preservation of States' interests. They also provide a framework for national legislation, policy and practice as well as for co-operation within States and between States at different ends of the migration process.

476. Protection of the human rights of all migrants is a legal, political and ethical imperative in its own right, regardless of economic, financial or other considerations. The protection of migrant workers, campaigns against discrimination, equality of treatment, and encouragement of integration are demonstrably essential measures for ensuring that migration contributes substantially and positively to development, economic and social, in host and home countries alike.

477. A priority concern for all governments is to ensure the well-being of migrant workers and to secure the payment of decent wages and basic safeguards. Labour migration policies need to include measures to prevent abusive practices and promote decent and productive work for women and men migrants in conditions of freedom, equity, security, and human dignity. Such policies should recognise the similarities and differences in the migration experiences of different categories of women and men and should aim to eradicate all forms of discrimination and gender inequality, as well as tackling other vulnerabilities, violations and their consequences. Such policies,

legislation and programmes should also consider the fact that women migrants often find themselves in irregular situations, in unregulated sectors of the economy, or as victims of traffickers or smugglers and subject to many forms of violence and abuse.³¹³

478. The social and labour conditions of migrant workers and the degree of migrants' integration determine the levels and degree of economic and social contributions they make to social and economic welfare in host countries and to their countries of origin. Specifically, the conditions of migrant workers directly affect both their abilities to remit part of their earnings and to acquire skills and knowledge which will be useful on their return or during permanent settlement elsewhere. Thus, these conditions have a direct bearing on the level and nature of migrant contributions to social welfare, human capital formation, and development, especially in their countries of origin. For example, the substantially reduced earnings of exploited migrants or earnings which deported migrants are unable to obtain prior to departure are economic resources not only stolen from the affected workers, but in effect expropriated from the countries of origin to which a significant part would have been remitted.

479. Migration policies and practices have to respond to measured and legitimate needs, which also take into account domestic labour concerns. Regular migration measures must rely on labour market assessments to identify and respond to current and emerging needs for workers, both high- and low-skilled. Policy and practice will need to address such areas as awareness raising, supervision of recruitment, administration of admissions, training of public service and law enforcement officials, recognition of equivalent educational qualifications, provision of social and health services, labour inspection, rights restoration and recovery for victims of trafficking, as well as many other areas.

480. Migration policy can only be credible and sustainable to the extent it takes into account the interests, concerns and experience of the most directly affected stakeholders. Key stakeholders are the several ministries and agencies within government with responsibility for migration concerns, including of course ministries responsible for labour and employment. Consultation and policy-making must also take into account the other stakeholders: employers' organisations and businesses that provide employment; workers' organisations representing the interests of both migrant and national workers; civil society bodies; and certainly men and women migrants.

481. Dialogue and co-operation among countries involved in labour migration processes is essential if international labour migration is to benefit.

482. Crafting a policy for migration needs to take into account the international labour migration environment and should be directed towards meeting three overall objectives:

- protection and welfare of migrant workers;
- optimising the benefits of labour migration and mitigating adverse impact;

³¹³ The International Labour Organization has developed useful guidance for all those involved in the development, strengthening, implementation and evaluation of national, regional and international labour migration policies and practices. Of particular relevance here are principles 1, 5, 8, 11 and 12 of ILO: ILO Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration, Geneva, International Labour Office, 2006.

- inter-state co-operation and institutional capacity building.

483. These overall objectives are also, respectively, social, developmental and strategic in nature, and can be broken down into specific objectives and activities under each of the three overall objectives. In addition, the policy should have the following characteristics:

- consistency with national development;
- comprehensive;
- ability to establish order in migration;
- fair and transparent;
- effective and efficient;
- gender sensitive.

2. *The integrated approach*

484. Effective governance of migration requires coordinated and complementary interventions and regulation. Only a comprehensive and integrated approach to policy formulation, implementation and evaluation covering a broad range of areas will secure the benefits of migration for origin and destination countries alike.

485. An integrated approach should address economic migration, development, and social cohesion dimensions at national and international level. This integrated approach involves four main elements:

- (i.) properly and fully assessing policy need and evaluating their impact; interfacing research at local, national and international level;
- (ii.) coordinating policy and practical measures at local, national and international level;
- (iii.) establishing multi-sectoral partnerships between states and involving social partners and civil society; and
- (iv.) promoting synergy and concomitance by all concerned governments, international agencies and non-governmental stakeholders.

486. Three main and inter-related fields of policy must necessarily be addressed individually and in relation to each other: *economic or labour migration and its impact on host countries*; *social cohesion and integration of migrants*; and the *migration-development nexus*.

487. In relation to *economic or labour migration*, the integrated approach requires

- (i.) strengthening partnerships and consultation mechanisms between destination, transit and origin countries with a view to improving the mutual understanding of their respective challenges and maximising the benefits of migration for all actors;
- (ii.) putting in place mechanisms for research, data collection, and analysis to conduct regular assessments of labour market and economic trends at local and national level in the light of the international context;

- (iii.) consulting with employer and trade union organisations in determining labour needs and admissions and insertion of foreign workers and professionals.
488. The integrated approach to *social cohesion and integration of migrants*, urges
- (i.) improving the understanding of social and economic realities at national, regional and local level through permanent structures for observing social cohesion and integration;
 - (ii.) setting targets in the short, medium and long term for each of the major gateways to social cohesion and integration : education, health, social protection, employment and housing as well as environment, information and culture,
 - (iii.) ensuring that in respect of each and every policy element there is a regular consultation between government, social partners and civil society and that the results of such consultation be implemented as possible and evaluated;
 - (iv.) providing regularly information on the targets that have been set and their results; and
 - (v.) putting in place intersectoral mechanisms [structures] for monitoring, co-operation and evaluation.
489. In relation to *development*, an integrated approach demands
- (i.) strengthening co-development initiatives through the collaboration of all relevant actors from both developed and developing countries, including migrants themselves, in their conception, implementation and evaluation;
 - (ii.) strengthening the role of migrant diaspora as actors in international relations on development – both North-South and East-West; and
 - (iii.) within both destination and origin countries, linking closely development policies with co-development and integration policies so that, through a better mutual understanding by the ministries concerned of the relevant policy interconnections, the specific policies of each of these ministries will have an increased impact.
490. In relation to *coherence* among these three fields of economic migration, development and social cohesion, the integrated approach calls for
- (i.) strengthening the partnerships and concerted actions between these three arenas;
 - (ii.) improving the knowledge and understanding of the state of play, policy objectives and projects in each of the fields with a view to identifying the common priority lines of action and developing concomitant and complementary policies;
 - (iii.) ensuring that policies and measures are coordinated, conducted in parallel where possible, and applied to the various relevant sectors,

regions and countries concerned in order to obtain the most significant results; and

- (iv.) pursuing an integrated approach to economic migration, development and social cohesion at national, regional and local level as well as at international level through increased co-operation between the Council of Europe, European Union, Commonwealth of Independent States, the International Labour Office, the United Nations High Commissioner for Refugees, other relevant agencies of the United Nations System, the International Organization for Migration and the Organisation for Economic Co-operation and Development.

491. Research, international norms and practice of member states reflected in this report derive a comprehensive policy framework comprising fourteen component areas that apply to all States as destination, origin and transit countries. An integrated approach means that these areas are necessarily complementary and overlapping. The following areas are defined and distinguished with particular reference to the different roles and responsibilities of government authorities and of other stakeholders.

492. Four overarching migration policy and practice areas must be addressed regarding all fields of policy and their inter-relations: 1) establishing legal foundations based on relevant international instruments, 2) elaborating a policy Framework with stakeholder consultation; 3) knowledge and institution building; 4) International Co-operation :

493. Addressing economic/labour migration involves four main areas: 5) regular migration channels and admissions; 6) ensuring protection of human and labour rights; 7) labour market regulation; and 8) training and recognition of qualifications.

494. Obtaining social cohesion and integration of migrants involves addressing areas of 9) Integration, Non-Discrimination and Social Cohesion, 10) social welfare (health, education, housing); and 11) social security.

495. Taking account of the migration-development nexus urges deliberate policy in areas of 12) optimising development impact; co-development; 13) resolving irregular migration; and 14) return and reintegration

496. Research and recommendations generated in the Council of Europe context have identified specific policy formulations and actions for governments and cooperating stakeholders in nearly all of these areas. The main policy lines to put in place and implement this integrated policy framework have been defined over recent years in recommendations established by Council of Europe bodies and other relevant international forums.

3. *The normative foundation*

497. Specific international and European legal instruments set minimum standards relating to the protection of migrants, their families and refugees as well as for international co-operation on migration. While States retain sovereign rights over their migration policies, international law has established three fundamental notions that characterise protection for migrant, particularly migrant workers and members of their families:

- Equality of treatment between regular migrant workers and nationals in the realm of employment and occupation.

- Core universal human rights apply to all human beings, including all migrants, regardless of status.
- A broad array of international labour standards providing for protection in treatment and conditions at work (including occupational safety and health, maximum hours of work, minimum remuneration, non-discrimination, freedom of association, and maternity leave) apply to all workers.

i. International standards

498. Four distinct but complementary sets of international instruments provide normative standards for all national legislation and policy on migration. The main international human rights Conventions and Covenants apply to all human beings, including migrants and refugees. Nonetheless, specific sets of instruments have been elaborated to address the particular situations of, respectively, refugees and asylum seekers, migrant workers, and trafficking and smuggling of human beings. Certain aspects of other international treaties also apply to migration, notably International Labour Standards, international consular law and certain international trade agreements.

499. *International Human Rights Conventions* provide a broad and ample normative framework for the protection of migrants. The Universal Declaration of Human Rights of 1948 laid out a comprehensive set of universal human rights principles. Two major International Covenants elaborated these principles into binding normative standards on political and civil rights, and economic, social and cultural rights in the 1960s³¹⁴. These Covenants, together with the UDHR, are often referred to as the "International Bill of Human Rights", and are applicable to all human beings. Specific conventions subsequently explicitly extended the application of universal rights to victims of racial discrimination, women, children, and migrants: Convention for the Elimination of Racism and Racial Discrimination (CERD), Convention Against Torture (CAT), Convention for the Elimination of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC), and the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMR).³¹⁵

500. These seven instruments --the two Covenants plus the five Conventions cited above-- have been characterised as the seven fundamental human rights instruments that define basic, universal human rights and ensure their explicit extension to vulnerable groups world-wide.³¹⁶ It has been noted that more than ample human rights protection for all migrants would be assured by full implementation of the two Covenants and the CERD, CAT, CEDAW and CRC in countries concerned. Most Council of Europe member states have ratified these six instruments.

³¹⁴ See, *International Covenant on Civil and Political Rights*, adopted and opened for signature, ratification and accession by General Assembly resolution 2200 A (XXI) of 16 December 1966, entered into force on 23 March 1976 and *International Covenant on Economic, Social and Cultural Rights*, adopted and opened for signature, ratification and accession by General Assembly resolution 2200 A (XXI) of 16 December 1966, entered into force on 3 January 1976.

³¹⁵ Texts and status of ratifications of these conventions are available on the website of the Office of the UN High Commissioner for Human Rights, at: www.unhchr.ch.

³¹⁶ Noted in UN General Assembly: *Status of the UN Convention on migrants rights*, Report of the Secretary General, 55th Session of the UN General Assembly, Doc. A/55/205, July 2000.

501. The 1951 Convention and 1967 Protocol on the Status of Refugees provide essential standards regarding recognition, protection of and assistance to *refugees and asylum seekers*. The Convention defines who is a refugee, sets out rights of individuals granted asylum, delineates the responsibility of States to non-refoulement and provides other provisions such as regarding refugee travel documents. It was initially limited to protecting European refugees after World War II, but the 1967 Protocol removed the geographical and time limits, expanding the Convention's scope.

502. These instruments have particular relevance for an integrated migration policy given that numerous migratory movements today comprise mixed flows, including some individuals who merit refugee protection. Furthermore, recognised refugees and asylum seekers usually enter the world of work, seek employment, and many often eventually integrate; they also contribute to development, particular those who eventually voluntarily return to their homelands.

503. Three international *Conventions on migrant workers* comprise an “international charter” for their protection and provide a normative framework covering their treatment and related inter-state co-operation . They are the ILO Migration for Employment Convention 1949 (No. 97), the ILO Migrant Workers (Supplementary Provisions) Convention 1975 (No. 143), and the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW).

504. These conventions lay out a comprehensive agenda for national policy and for consultation and co-operation among States on labour migration policy formulation, exchange of information, providing information to migrants, and, where necessary, facilitating their orderly return and reintegration. The 1990 International Convention establishes that migrant workers are more than labourers or economic entities; they are social entities with families. It reinforces the principles in ILO migrant worker Conventions on equality of treatment with nationals of states of employment in a number of legal, political, economic, social and cultural areas. ILO Convention 143 and the 1990 Convention explicitly address unauthorised or clandestine movements of migrant workers, and provide for resolving irregular situations, in particular through international co-operation .

505. These Conventions resolve the lacuna of protection for non-national migrant workers and members of their families in irregular status and in informal work by providing norms for national legislation of receiving states and their own states of origin, including minimum protections for unauthorised migrant workers. The extensive, detailed and complementary text contained in these instruments provides specific normative language that can be incorporated directly into national legislation, reducing ambiguities in interpretation and implementation across diverse political, legal and cultural contexts.

506. Twenty Council of Europe member countries have ratified at least one of the three migrant worker instruments: nineteen have ratified one or both of the ILO instruments and four have ratified the 1990 International Convention.

507. Two Protocols on *trafficking and smuggling* to the International Convention Against Transnational Organized Crime provide specific definitions and measures to combat trafficking and criminalise smuggling. The Palermo Convention Against Transnational Organized Crime and its Protocols on Combating Trafficking in Persons and against Smuggling of Migrants were adopted in December 2000 in the spirit of the fight against organised crime. The main provisions of the Convention and Protocols provide for criminalising offences committed by organised groups, cracking down on the proceeds of crime, speeding up and widening the reaches of extradition of members

of criminal groups and tightening law-enforcement co-operation to seek out and prosecute suspects.³¹⁷

508. These instruments assist in clarifying distinctions between smuggling of migrants across borders and trafficking in persons --the latter by definition comprising deception, coercion and exploitation—in the context of inadequate regular migration channels and important imbalances between labour supply and demand. The trafficking protocol in particular provides for an approach of prevention, protection of victims and prosecution of traffickers.

509. International jurisprudence has amply reinforced the application of *International Labour Standards* to policy and practice regarding employment dimensions of migration. Decisions and opinions of the ILO treaty supervisory Committee of Experts have repeatedly underscored the applicability to all migrant workers of International Labour Standards covering conditions at work, occupational safety and health, maximum hours of work, minimum remuneration, non-discrimination, freedom of association, collective bargaining, and maternity leave, among others. The ILO Committee on Freedom of Association supervising the core international conventions on freedom of association and collective bargaining has specifically ruled that all migrant workers regardless of status are entitled to protection and expression of basic association and representation rights.

ii. European instruments

510. The Council of Europe's instruments in the field of migration cover general human rights as well as more specific agreements relating to migrants and migrant workers. The European Convention on the Protection of Human Rights and Fundamental Freedoms (ECHR) (Council of Europe, 1950) has the broadest application in that it applies to all persons within the jurisdiction of States parties (Art. 1), including migrant workers and regardless of their legal status. While there are no specific provisions on migrant workers in the ECHR, migrants have obtained remedies from the European Court of Human Rights under its case law in protection of their right to respect for family life and the non-discrimination principle (Arts. 8 and 14 respectively)³¹⁸.

511. The European Social Charter (1961) and its Additional Protocol (1988), as well as the Revised European Social Charter (Council of Europe, 1996), in addition to being firmly based on the non-discrimination principle (the Preamble and Article E respectively), include a number of provisions relating to individuals living and working in countries of which they are not nationals, covering the right to engage in a gainful occupation in another Contracting Party's territory, provision of information to migrant workers, facilitation of the migration process, equality of treatment of nationals and non-nationals in employment, the right to family reunification, and guarantees against expulsion, etc. (Arts.18 and 19). These instruments, at the outset apply to foreigners only in so far as they are nationals of other Parties lawfully resident or working regularly within the territory of the Party concerned. However, in its case law the European

³¹⁷ See *After Palermo: An Overview of what the Convention and Protocols Hope to Accomplish* at www.undcp.org/palermo/sum1.html.

³¹⁸ Regarding the strengthening of the principle of non-discrimination, see : Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 177), open for signature on 4 November 2000, not yet entered into force.

Committee of Social Rights³¹⁹ has extended the personal scope of the Charter to cover all foreigners present in the territory under certain circumstances, notably where the right to life and human dignity are at stake. Thus in its 2004 decision on the merits in the collective complaint *International Federation of Human Rights Leagues (FIDH) v. France* the Committee held that “legislation or practice which denies entitlement to medical assistance to foreign nationals, within the territory of a State Party, even if they are there illegally, is contrary to the Charter.”³²⁰

512. The European Convention on the Legal Status of Migrant Workers (Council of Europe, 1977) includes provisions relating to the main aspects of the legal status of migrant workers coming from Contracting parties, and especially to recruitment, medical examinations and vocational tests, travel, residence and work permits, family reunion, housing, conditions of work, transfer of savings, social security, social and medical assistance, expiry of the contract of employment, dismissal and re-employment, and preparation for return to the country of origin. However, only eleven Council of Europe member states have ratified this Convention.

513. The Council of Europe Convention on Action against Trafficking in Human Beings (CETS N° 197) was adopted by the Committee of Ministers in May 2005. It is a comprehensive treaty mainly focussed on the protection of victims of trafficking and the safeguard of their rights. It also aims at preventing trafficking as well as prosecuting traffickers. The Convention applies to all forms of trafficking; whether national or transnational, whether or not related to organised crime. It applies whoever the victim: women, men or children and whatever the form of exploitation: sexual exploitation, forced labour or services, etc. The Convention provides for the setting up of an independent monitoring mechanism guaranteeing parties’ compliance with its provisions. 17 Council of Europe member countries have ratified this Convention, 21 others have signed it.

514. With regard to the EU framework, differences exist in terms of rights and benefits granted to migrant workers coming from within the EU, from future accession countries, and migrant workers coming from third countries. The Treaty Establishing the European Community (EC Treaty) provides for freedom of movement for workers from EU member states, although transitional arrangements are in place limiting this freedom for nationals from certain new member states. The Treaty prohibits any discrimination based on nationality between these workers as regards employment, remuneration and other conditions of work and employment, including social security (Arts. 12 and 39). The EC Treaty also invites the EU Council of Ministers to take measures necessary to ensure equality of treatment and opportunity between men and women and to combat discrimination based on, inter alia, race, ethnic origin, religion or belief, and sexual orientation. It affords migrant workers from EU member states a set of social rights unequalled in other regions of the world. Furthermore, the Council is also empowered to take measures in the field of asylum, immigration and safeguarding of the rights of nationals of third countries, although the measures adopted to date on

³¹⁹ In order to monitor States’ compliance with their obligations there are two procedures, the reporting procedure and the collective complaints procedure. In both procedures, an independent body, the European Committee of Social Rights, is responsible for making the legal assessment of whether the situation is in conformity with the Charter.

³²⁰ *International Federation of Human Rights Leagues (FIDH) v. France*, Complaint No. 14/2003, decision on the merits of 5 September 2003.

legal migration have afforded third-country nationals lesser rights than those granted EU citizens.

515. Although not a legally binding instrument, the EU Charter of Fundamental Rights, adopted in 2000 is a major point of reference in this context as most of its provisions are applicable to all persons irrespective of their nationality. It sets out in a single text, for the first time in EU history, the whole range of civil, political, economic and social rights of EU citizens and all persons resident in the European Union.

4. Stakeholders

516. There is a critical need to take into consideration all the key actors involved in this complex social, economic and political phenomenon. Migration affects the concerns of many branches of government, including ministries of Foreign Affairs, Labour/Employment, Interior, Health, Education, Housing, Welfare and/or Social Affairs, and departments of Immigration, Refugee Services, Border Patrol, International Co-operation, Human Rights, Armed Forces, Public Security; Police, Intelligence, among others.

517. Nonetheless, elaboration of migration policies has usually been addressed most directly by three ministries: Labour, Foreign Affairs and Interior or Home Affairs. In many countries, the consultation and coordination among these Ministries and with other ministries or departments directly concerned with migration remains manifestly inadequate.

i. Government

518. On economic migration, a central role should be taken by the *Ministry of Labour*, since labour migration is primarily an employment issue. This includes assessment of labour needs, labour market regulation, labour inspection, social dialogue and other aspects of the insertion of foreigners into the national labour force and economic activity, as well as proposing relevant legislation and ensuring coordination with other concerned branches of government and with other key stakeholders, notably social partners.

519. The *Ministry of Foreign Affairs* of origin countries is responsible for providing diplomatic services and for overseeing the protection of migrant workers while they are in a foreign land. For most destination countries, Consular services are involved in selection and admission procedures for migrants, a process which should involve close interfacing with labour or employment ministry responsibilities of determining labour market needs and criteria for foreign workers, professionals and others.

520. The *Ministries of Justice and/or the Interior* have significant responsibilities since migration policy elements must be embodied in national legislation as well as judicial, policing, and law enforcement procedures and operations. The involvement of prosecution and legal services they oversee is required to address cases of violations of relevant laws.

521. The involvement of *Education and Health Ministries* is critical in both origin and destination countries. In origin countries, growing and persistent foreign demand for trained nurses, teachers, caregivers, and even agricultural workers requires inputs of both health and education ministries in order to ensure that the country's education curriculum development can respond to international demands while at the same time ensuring an adequate meeting of domestic labour market needs; this is especially critical today in the health care fields.

522. The *Ministry of Education* should be involved in training issues and in developing the education curricula which will give future graduates the qualifications need to work abroad and skills enhancement and development courses for prospective and deployed migrant workers, as well as ensuring adequate responses to domestic needs for such skills.

523. In destination countries, the involvement of these ministries is essential to ensuring that adequate provision is made for schooling of children of migrant and immigrant families, and for making public health prevention, detection and care services accessible to immigrant communities.

524. Ministries addressing *Housing, Transportation* and other areas of national concern affected by evolution of size, composition and geographic distribution of populations will also need to assess and address the nature and impact of migration in their respective domains.

525. Ministries or departments for *Social Security* need to be involved in both destination and origin countries in obtaining social security coverage for migrant workers. This includes arranging registration of migrant workers in national systems, collection of social security contributions, and provisions for eventual transferability of contributions when migrants return to home countries. Origin country social security systems need to anticipate provisions for incorporation of foreign employment contributions transferred home. And both destination and origin country social security systems need to establish agreements and mechanisms for transferability, including across differing types of social security systems.

526. In a number of countries, departments or *Ministries for social affairs, culture, integration or social cohesion* have been established to promote policies for integration and different forms of participation and access to citizenship as well as to support associative activity deriving from immigration. The engagement of these departments and/or ministries will be crucial to setting, implementing and evaluating the full range of policies and measures to facilitate integration and prevent discrimination.

527. *Police and other law enforcement agencies* have a key role to play in upholding the law, providing police protection and services for migrants as well as nationals, ensuring equitable protection of rights of all persons in legal or criminal proceedings, investigating complaints of illegal activities, and avoiding targeting communities or persons based on nationality or other discriminatory grounds.

528. *National human rights commissions and other monitoring bodies* need to include nationality and issues of treatment of foreigners in their monitoring and enforcement criteria, activities, and public outreach.

529. *National parliaments* have a critical role in developing and enacting legislation based on international standards and accurate assessments of national conditions and needs. They also can play an essential role in bringing public and central government attention to migration challenges and policy needs, such as by holding hearings or investigations and formulating legislative proposals. They also have an inherent and essential role in monitoring and evaluating the implementation of legislation and policy based on legal standards.

530. Since remittances that contribute to foreign exchange will be a subsidiary (if not primary) objective of an overseas employment programme, the *Central Bank* in origin countries must provide banking systems for the safe and expeditious transfer of money and find ways to reduce the transaction costs of remittances. *Central banking* and

financial monitoring institutions in destination countries can also play an important role in reviewing institutions involved in financial remittance transfers to encourage safe practices and reasonable costs.

531. *National statistical institutions*, particularly those involved in obtaining labour and census data, have a critical role to obtain accurate, adequate and reliable data to enable effective policy making. To the large extent good policy depends on good data, the involvement of these institutions is also critical to review and evaluation of policy and practice.

ii. Social partners

532. Social partner organisations -- employer associations and trade unions -- increasingly participate in mechanisms for international policy dialogue and consultation on labour migration. As the key stakeholders in, respectively, employing migrant workers and representing both migrant and national workers, their perspective is crucial to elaboration and especially the implementation of credible, viable and sustainable migration policy and practice.

533. For example, recent tripartite consultations on labour migration in and among East and West Africa, Europe and Maghreb countries resulted in the development of joint policy recommendations between government, employer and trade union delegates. A Europe-Africa dialogue on labour migration in Brussels in April 2006 drew up a “road map” for mainstreaming tripartite co-operation in labour migration regulation both within countries, and between Africa and Europe.³²¹ A sequel in Rabat in May 2006 established links and lines of co-operation between social partners and governments among Maghreb, West African and European countries.³²²

534. These and other events demonstrate that wide areas of common concern and co-operation can be found among employers, trade unions and governments on regulating labour migration for the benefit of the main stakeholders. However, establishing agreement on common approaches is but the first step. Giving effect to the vision and the consensus achieved in these events requires incorporating recommendations in the practical programmes and activities of tripartite partners in each concerned country.

Trade Unions/Worker Organisations

535. The attitude and engagement of the trade union movement has evolved over the last decade, both to explicitly defend and organise migrant workers and to cooperate internationally on policy and direct support for migrant workers. Major policy shifts followed by extensive organising drives among migrant workers have taken place in recent years by mainstream trade unions and national confederations across Europe, as well as elsewhere. National labour confederations in Austria, Belgium, France, Germany, Hungary, Ireland, Italy, Malta, the Netherlands, Poland, Portugal, the Russian Federation, Spain, Sweden, the UK and the USA - among others - have full-time

³²¹ Africa-Europe Inter-regional Dialogue: *Labour Migration for Integration and Development: A Road Map for Action on Labour Migration and Development*, see: http://migration-africa.etcilo.org/db/Activities/data/course_9/db_activity/Documents/data/file_29.

³²² *Report and Conclusions: Tripartite sub-regional seminar on migratory movements between sub-Saharan Africa, the Maghreb and Europe, Rabat 26-27 April 2006.*

national staff for migrant worker and anti-discrimination issues; all are active in policy advocacy for improved protection of rights and decent work conditions for migrants.³²³

536. Trade unions in countries of origin: assist in offering pre-departure orientation and training; negotiate for standard employment contracts in accordance with international standards; lobby for abolition of recruitment fees; provide migrants with trade union contact names and addresses; provide referral services for migrants suffering from abuse; and ensure migrant women's protection from discrimination and from falling victims to trafficking.

537. Trade unions in destination countries: lobby for legislation on equal treatment and non-discrimination in respect of employment conditions, social security, etc.; organise training on the rights of migrant workers; include migrants in collective bargaining agreements; cooperate in identifying abusive employment agencies; help identify and obtain protection for victims of trafficking; and establish migrant workers' committees, among other activities.

538. For example, support from the trade unions and consultation with employers and workers' organisations led to the revision of rules on immigration in Spain and to the regularisation of some 700,000 irregular migrant workers in 2006-07. Without the support of social partners, no government could risk embarking on such a major operation. Trade unions in industrialised countries are now campaigning for ethical migration in order to avoid depriving Africa of the talents it needs to improve the welfare of its population. In a number of African countries, including Kenya, trade unions are campaigning to negotiate improvements in the health sector by promoting higher health budgets and better working conditions for nurses and doctors.

539. Bilateral and multilateral agreements between trade unions from origin and destination countries are increasing. An agreement between Moroccan and Spanish trade unions helps combat irregular migration and the exploitation that goes with it. Trade unions in Spain and in Mauritania have an agreement to monitor the situation of Mauritanian migrants in Spain and provide them with legal and other assistance.

540. Over the last eight years, the European Trade Union Confederation (ETUC) has given particular attention to defining common perspectives for EU and Council of Europe policy-making on migration, integration and combating discrimination. Of particular note are the October 2003 "Action Plan for an ETUC Policy on migration, integration and combating discrimination, racism and xenophobia"³²⁴ and the key elements for "a more pro-active EU policy on migration and integration in the interest of Europe's current and future population" set out by its Executive Committee in March 2005.³²⁵ A Europe-wide ETUC Committee on Migration and Integration meets two-to three times yearly to strengthen effective action of national trade unions.

³²³ Taran and Demaret, 2006, op. cit.

³²⁴ *Action Plan for an ETUC policy on migration, integration, and combating discrimination, racism and xenophobia*, see : <http://www.etuc.org/a/1944>.

³²⁵ ETUC: *Towards a pro-active EU policy on migration and integration, ETUC response to the Commission's Green Paper on a EU approach to managing economic migration*, Brussels, 15-16 March 2005; see: <http://www.etuc.org/a/1159>.

Employer/ private sector roles

541. The role of employers and the private sector in general, cannot be overemphasised. Employers --in consultation with trade unions-- are key to assessing labour market needs for skills and labour. An involved private sector will not only decrease the financial and staffing costs on governments of administering migration, but also will give access to information that public officials may have a more difficult time acquiring.

542. The private sector also plays an important role in selecting the most qualified and efficient migrant workers for their foreign principals or employers, since they wish to establish long-term relationships and repeat job orders with their foreign principals. This is actually the best form of protection that a migrant worker can have – that his or her skills are appropriate for the job required and he or she is suited to the work. The private recruitment agencies are co-employers of the workers they deploy. Thus, it is in their interest to ensure that their foreign principals treat migrant workers well and scrupulously observe the provisions in the employment contract.

543. Labour migration issues figure prominently on the agendas of international employer organisations, particularly the International Organization of Employers (IOE) and Business Europe. Business Europe, the newly renamed organisation of employers in Europe formerly known as UNICE, convenes a committee on migration and diversity issues to facilitate dialogue and exchange of perspectives among member national federations of businesses and employers. Business Europe regularly contributes considered guidance and recommendations from its constituents to the EU on immigration and diversity issues, and to CDMG.³²⁶

544. The Global Compact, a process "to promote responsible corporate citizenship so that business can be part of the solution to the challenges of globalisation", focused its 2006 Policy Dialogue in London in 2006 on "Combating Discrimination and Promoting Equality for Decent Work". Practical measures and step-by-step solutions to address workplace discrimination were exchanged, with an emphasis on addressing discrimination against persons of immigrant origin. The consultation involved major corporations as well as labour organisations, governments and NGOs worldwide.³²⁷

545. In Asian labour-sending countries, governments acknowledge that the private sector is the engine of growth in the recruitment industry and that it is mainly responsible for opening new markets and placing Asian workers in more than 200 countries around the world and on thousands of ocean-going vessels. It actually serves as a bridge that narrows the employment gap between labour-sending and labour-receiving countries in their quest to match available skills with overseas demand for migrant workers.

iii. Civil society

546. Much of the concrete attention given to migrants, including towards protection of their rights and dignity in practice, has been and is given by day-to-day work of local, national and regional civil society organisations, including many outside traditional trade

³²⁶ See : <http://www.bussinesseurope.eu/content/Default.asp?PageID=455>.

³²⁷ See : <http://www.policydialogue2006.org/home/index.php>.

union structures. Civil society activity and organising on migration has grown exponentially since the early 1990s.³²⁸ Given their humanitarian mission and vocation, most NGOs providing services to migrants avoid distinguishing between regular and irregular categories, except where they offer legal assistance and other support specifically in response to the needs of irregular migrants unable otherwise to obtain essential services (Taran, 2004).

547. The one international survey of civil society non-governmental organisation (NGO) activity on migration to date was conducted under the auspices of the UN Commission on Population and Development in 1997.³²⁹ More than 100 NGOs reflecting activity in all regions of the world responded to an extensive questionnaire. The results demonstrated that there are NGOs in most countries of the world providing direct services to migrants, some complementing their service activities with public education and policy advocacy with local and national government. The survey found that:

NGOs working in the field of international migration...provide a place for information, dialogue and co-operation between migrants (documented, undocumented and refugees), citizens, employers and government agencies in countries of origin and destination.

548. The survey demonstrated that NGOs are involved in, among other activities: information services and orientation to migrants in both origin and destination countries; assistance in housing, employment, healthcare, education, legal services, skills retraining, recognition of qualifications, etc.; social, vocational and psychological counselling; addressing specific problems related to trafficking and sexual exploitation of migrants; facilitating dialogue, mediation and good relations between migrants and host country nationals; challenging racism and xenophobia; research and documentation on root causes of migration; public education activities; promotion of international standards; and improved national legislation and policy.

549. In some countries of destination, governments support migrants' associations that contribute to migrants' integration and participation through programmes or initiatives to promote expression of cultural and ethnic diversity. Such programmes usually also insist on respect for host country laws and values.

5. Policy issues and responses

i. Countries of origin

550. Countries of origin range from those that are experiencing a migration transition, characterised by both labour inflow and outflow, through established labour sending countries to those that are relative newcomers to organised labour migration. Nevertheless, as countries of origin they all face some common issues. Briefly, these are:

³²⁸ For ample information on evolving civil society activity worldwide on migration, particularly migrants' rights and around International Migrants Day, see December 18 network website at: www.december18.net.

³²⁹ UN Commission on Population and Development: *Activities of intergovernmental and non-governmental organizations in the area of international migration*, Report of the Secretary General, New York, UN Doc. E/CN.9/1997/5.

- Challenges in protecting migrant workers from exploitative recruitment and employment practices and in providing appropriate assistance to migrant workers in terms of pre-departure, welfare and on-site services.
- Challenges in optimising benefits of organised labour migration, particularly the development of new markets and increasing remittance flows through formal channels, as well as enhancing its development impact. At the same time mitigating the adverse impact of the emigration of skilled human resources.
- Building institutional capacity and inter-ministerial coordination to meet labour migration challenges.
- Increasing co-operation with destination countries for the protection of migrant workers, access to labour markets and the prevention of irregular migration.

551. Faced with these migration challenges, countries need to respond with a set of policies, structures, and procedures that seek to protect their migrant workers and facilitate orderly migration.

a. Protecting migrants

552. Given, that for structural reasons (including poverty, unemployment and large wage differentials between countries of origin and destination), the supply of workers in lower skill sectors far outstrips the demand and that there are far more workers wishing to work abroad (to earn a livelihood and pursue a perceived better life) than there are jobs, migrant workers can be vulnerable to abuses during recruitment, travel and employment abroad. A common problem faced by many migrant workers is high migration costs as a result of excessive intermediation fees. In addition, there are problems occurring in the country of employment: those most commonly cited by migrant workers and countries of origin are contract substitution and violations, lack of, reduced, or late payment of agreed wages and non-fulfilment of return air fare obligations, and harassment by employers of female workers. Other problems include poor working conditions, virtual absence of social protection, denial of freedom of association and workers' rights, discrimination and xenophobia, as well as social exclusion.

553. These developments erode the potential benefits of migration for all parties, and seriously undermine its development impact. Migrant workers can realise their potential and make the best contribution when they experience decent working conditions, and when their fundamental human and labour rights are respected.

554. All countries of origin need to have in place policies, legislation and mechanisms that afford their citizens protection and support from abuses in the labour migration process. It is clear that protection of migrant workers' human and labour rights in the country of employment begins in the country of origin. The better prepared migrant workers are for work abroad, the more likely it is that they will be able to enjoy appropriate protection in the destination country and to know about their rights. In some instances, the national legislative measures of countries of origin can contribute greatly to the protection of their workers abroad.

b. Optimising benefits of organised migration

555. An increasing number of developing countries and countries with economies in transition seek to adopt policies, legislation and structures to promote foreign employment of part of their workforce and generate remittances, while providing safeguards to protect their migrants. While job creation at home is the first best option,

an increasing number of countries link overseas employment with a national development strategy to take advantage of global employment opportunities and generate foreign exchange.

556. For countries seeking to promote foreign employment, labour migration policy necessitates adequate emphasis on the promotion and facilitation of managed external labour flows and should not be limited to the regulating and protecting function of the State.

557. While respecting the freedom of movement and right of its citizens to seek employment abroad, countries of origin wish to retain their skilled human resources, in whom they have invested.

558. Finally countries of origin have an interest in discouraging irregular migration, while advocating an increase in legal avenues for labour migration. Irregular migrants are more vulnerable to abuse.

559. The policy objectives of protecting citizens while working abroad and optimising the development benefits of labour migration can only be met if two important elements form a part of the overall strategy.

c. Institutional capacity

560. Firstly, effective administration of migration policy requires institutional capacity and inter-ministerial coordination to meet policy objectives, and this in both origin and destination countries. This includes giving due priority to labour migration in terms of overall development, foreign policy, and resource allocation.

561. It usually requires establishing or strengthening a specialised operational department on migration in a relevant ministry, or a specialised ministry. It also requires setting up or strengthening an inter-ministerial consultative and coordination body on migration policy. The work of such a body will be optimised by inclusion of representatives of other key stakeholders, social partners in particular.

d. International co-operation

562. Secondly, international co-operation is essential. Despite all the efforts made by labour-sending countries to protect migrant workers, migrant workers continue to experience numerous problems in destination countries, particularly vulnerable groups such as female domestic workers, entertainers and lower skilled workers. There are clear limits to what a state can do to protect its migrant workers without the active co-operation of destination countries. In addition to protecting and ensuring the welfare of migrant workers, international co-operation is essential in expanding organised labour migration and in realising its potential contributions to development.

563. Countries of origin have a range of policy measures that can extend the scope and improve the efficiency of their regulatory mechanisms and support services, including:

- conduct of pre-employment orientation seminars (PEOS) and intensified information campaigns, which provide applicants with sufficient information to enable them to make decisions;
- streamlining and simplification of regulations and procedures intended to protect workers, to prevent the regulatory framework from becoming unwieldy and thus an unintended inducement to irregular migration;

- close supervision and monitoring by governments of recruitment activities undertaken by overseas employment promoters/agencies, to minimise malpractice and abuses against those seeking overseas jobs;
- introduction of criminal proceedings, in addition to cancellation of agencies' licences, against serious offenders;
- special attention to the supervision of recruitment and deployment of categories of workers especially vulnerable to malpractice and abuse, such as female domestic workers and lower skilled workers;
- raising of workers' skill levels to higher standards to improve their employment opportunities and promotion of their deployment abroad, taking into account any concerns relating to brain drain;
- introduction of stronger measures to ensure enforcement of the employment contract at the worksite, in particular through bilateral arrangements and agreements with host governments;
- introduction of support services such as pre-departure orientation and a welfare fund;
- empowerment of migrant workers, especially through supporting the formation of community-based organisations, to enable their voice to be clearly heard and taken account of in policy development;
- inter-state co-operation between countries of origin and destination.

ii. Destination countries

564. Destination countries face policy issues in, broadly, six areas:

- Admissions through regular programmes, based on identification of labour needs and assessment of the extent that foreign skills and labour can meet shortages and future needs, also to avoid incentive for irregular migration;
- Protection of migrant (and national) workers, particularly in the employment context, including terms and conditions of employment, access to vocational training, language and integration courses, freedom of association, and protection against discrimination;
- Labour market regulation, including access to employment, job mobility and recognition of qualifications;
- Facilitation of social cohesion, particularly through measures to prevent discrimination, promote family reunification, and assist integration;
- Ensuring social welfare, including access to health care, education, housing and community organising;
- Provisions on social security coverage for migrants/immigrants, and portability of contributions.

a. Assessing current and future labour needs for admissions

565. A fundamental purpose of migration policy is to meet skills and labour needs. Therefore assessment of current and future labour needs is essential, including particularly identification of current and future labour shortages. One of the important policy challenges is to obtain data that permits linking admissions to labour market needs.

566. European labour market needs are currently determined in a number of different ways, including through employer reports and surveys, sectoral and occupation-specific studies, occupational level projections, and macro-economic studies. Each has limitations, for example employer reports and surveys focus on recruitment difficulties and not necessarily on labour shortages per se. Sectoral and occupation-specific studies are limited in their ability to predict economic expansion or contraction and related labour demand. Consequently, a policy challenge is developing approaches to cross referencing the various data sources.

567. While demographic changes are expected to aggravate the tightness of labour markets in European countries as the size of the working population shrinks, increased migration is only one of a number of instruments policy-makers will need to consider to address the decline in the working population. These policies could include increasing labour participation rates, particularly of women and lawfully resident migrants, and postponing retirement ages. Among these options, increased immigration has the immediate advantage of having a positive impact on population age and composition because economic migrants generally fall into the younger age brackets. However, migration policies can play only a limited role in addressing Europe's demographic challenges and merely complement other policies.

568. An ample regular admissions system effectively meeting labour demand is particularly desirable as an alternative to irregular migration. Irregular migration is undesirable for a number of reasons, including: exploitative and dangerous conditions in which irregular migrants work without access to the necessary social and legal protections; perpetuation of the informal labour market; potentially adverse impact on the lawful domestic labour force, in terms of poorer working conditions and lower wages. The State may suffer loss of tax revenue and have to deal with the security issues involved in clandestine entry and in the existence of trafficking and smuggling networks facilitating the admission and employment of irregular migrants. There is also a potentially negative impact on external relations between origin and destination countries where large numbers of irregular migrant workers are concerned.

569. Even when it can be established that migrant workers are clearly needed by the economy, policy makers still face a hard task in convincing and educating the population in the host society, particularly in countries where labour migration is a relatively new phenomenon. Reorienting migration policy towards lawful admission of migrant workers and regularisation of irregular migrants already residing in the country creates new challenges in the social and cultural fields. Therefore, in addition to the provision of integration services for migrants other parallel initiatives are required in order to develop respect for migrants and greater awareness of the benefits of migration among the local population.

b. Protecting migrants

570. Most of the measures to ensure adequate protection for migrant workers in destination countries are articulated in the international rule of law framework of human rights and international labour norms referred to earlier. The protection of migrant workers while working in the destination country is best secured by the legislation of that country, whether this is by the labour code, employment legislation, and/or other rules concerned with the regulation and protection of foreigners, applying and building on the minimum norms accepted at the international and regional level. Moreover, even if the countries concerned are not yet prepared to adopt in full these international or regional standards, they can still serve as a model for the development of national legislation.

571. Preventing exploitation of migrants, criminalising the abuse of persons by human traffickers and smugglers, and discouraging irregular employment requires enforcement of clear national minimum labour and human rights standards for protection of workers, whether nationals or migrants. International labour standards on forced labour and child labour, freedom of association and non-discrimination, occupational safety and health, and the protection of wages provide minimum international norms for national legislation. A necessary complement is monitoring and inspection, particularly in such areas as agriculture, construction, domestic work, the sex industry and other sectors of “irregular” employment, to prevent exploitation, detect forced labour, and ensure minimal decent working conditions for all.

572. Equality of treatment in employment for authorised migrant workers is a central premise of international standards reflected in national law in many countries. Tolerance of inequalities in treatment between national and foreign workers will encourage exploitation of foreign workers and facilitate substitution of national workers by less protected non-national workers, thus contributing to expanding dual labour markets and informal employment, lowering of wages and conditions of work generally, and ultimately provoking conflict between national and foreign workers and their respective communities.

573. One of the most effective ways of preventing migrant workers from being exploited is to recognise their right to join a trade union without hindrance. Trade union rights comprise freedom of association and collective bargaining, and are recognised universally in the core international human rights instruments. Rights to freedom of association and collective bargaining as articulated in ILO Conventions Nos. 87 and 98 are fundamental rights which all countries are expected to uphold as per the 1998 Declaration on Fundamental Principles and Rights at Work. Both instruments have been ratified by most Council of Europe member countries.

574. Admission of foreigners into a country often gives rise to unwarranted concerns and exacerbates social tensions, particularly in a less secure economic climate, which may be expressed in racial discrimination and xenophobia amongst the host population. Politicians and policymakers, therefore, face a sensitive and challenging task in convincing and educating national populations on the need for foreign labour as well as emphatically discouraging expressions of discrimination and xenophobic discourse and behaviour.

575. The recognition of qualifications obtained abroad is another main area in which significant changes to national policy and practice are necessary in order to ensure that regular entry migrant workers can access employment on equal terms with national workers. Recognition of vocational and academic qualifications of migrant workers is an area where States have made far from adequate progress, either unilaterally or bilaterally and at the regional level (with the exception of pertinent developments in the EU).

576. The principle of equality between regular migrant workers and nationals clearly should extend to access to language training, literacy and numeracy development and vocational training and retraining. Of these, ensuring equal access to vocational training is the more problematic.

c. Labour market regulation

577. Labour market regulation is concerned with access to employment and occupation in the destination country, whether this entails the migrant worker’s initial employment or a subsequent job if he or she becomes unemployed. The rules relating to

recognition of diplomas and qualifications can also greatly affect the skill level of employment migrant workers are permitted to access. This has a significant impact on the degree of their economic and social contribution to the destination country as well as in terms of their remittances and potential means to enhance development of their countries of origin. Labour market regulation also entails upholding minimum “decent work” conditions in employment for all workers and enforcing labour law.

578. The provision of free access for migrant workers to the labour market is an important step, which plays a vital role in promoting the integration of migrant workers and their families in the destination country. Access to the labour market is a question determined differently in European countries, although, in many instances, migrant workers, depending on the conditions relating to their first admission, can usually access the labour market freely after a minimum period of between 2-5 years of employment in the country concerned.

579. A “one-employer” rule or the restriction to change type of employment disproportionately affects women; a university graduate working as a household employee cannot take up another occupation that would make more appropriate use of her skills or education, even if there is a job opening.

580. Labour Inspection is a key means of monitoring and enforcing equality of treatment and decent work conditions for migrant workers. Labour inspection is a supervisory tool for application of labour standards. Absence of labour inspection in sectors and workplaces attracting migrant workers is associated with higher incidences of exploitation and abuse, as well as employment of unauthorised workers. ILO Conventions numbers 81 and 129 provide the basic normative guidance for national law and policy; these norms generally apply to all workers, national and foreign.

581. Practical elements and management tools to extend labour inspection to migrant workers include:

- Reference in national legislation providing for inspection of all workers.
- Obtaining labour force and employment information to determine where migrants are employed and relevant data regarding compliance issues.
- Ensuring capacity, abilities and specialised approaches to extend labour inspection to work sites, places and sectors where migrant workers are commonly employed.
- Establishment of a specialised inspection unit and/or specialised training to labour inspectors to ensure competency to address specific issues of migrant workers.
- Ensuring coordinated, coherent and integrated approaches with other aspect of labour migration policy and practice.

582. Labour inspection must remain separate and distinct from immigration enforcement. Linking them in practice will undermine the effectiveness of both. Using labour inspection to seek unauthorised workers will only drive the latter further into clandestine situations, benefiting only unscrupulous employers exploiting migrants in vulnerable and unprotected situations.

d. Social cohesion

583. Social cohesion in destination countries will be facilitated considerably if discrimination against migrant workers and their families can be eliminated. Moreover, appropriate measures assisting the integration of migrants in society and providing possibilities for family reunification also play an important role in preventing the marginalisation of migrants and promoting social cohesion.

584. A comprehensive and effective agenda to prevent discrimination and ensure social cohesion must include the following policy elements:

- an explicit legal foundation based on relevant international standards;
- outlawing racist and xenophobic discrimination, behaviour and action;
- outlawing sex discrimination and gender inequalities in the labour market;
- administrative measures to ensure full implementation of legislation, and accountability for all government officials;
- an independent national human rights/anti-discrimination institution with powers to address discrimination against non-citizens;
- respect for diversity and multicultural interaction;
- emphasis on positive images of diversity and of migration in news and communications media;
- inclusion of multi-cultural and diversity training in educational curricula;
- co-operation with civil society and community groups.

e. Social welfare

585. The social welfare of migrant workers and their families in destination countries is enhanced by proper access to health care, housing and education on equal terms to those afforded nationals.

586. Key policy issues include ensuring that migrants have access to health care services.

587. In practice, the availability of adequate housing or accommodation for migrant workers can be a particular problem in a number of countries and regions, where accommodation is generally scarce and especially in large cities, where there is a shortage of public housing or where private accommodation is unaffordable for many migrant workers, including those with their families.

588. Setting and realising guidelines to encourage employers to improve the standards of accommodation for migrant workers, including schemes to promote dormitory housing and subsidised public housing, can help reduce the impact of labour market migration on social cohesion and improve the social welfare of migrants.

589. Realising international and European human rights provisions guaranteeing basic education to all persons irrespective of nationality and legal status remains an important policy challenge in many European countries. While access to primary or

elementary education should be free to all children without any distinction whatsoever, legal, administrative and practical obstacles remain for migrant children –particularly those in irregular situation-- in accessing education in their country of residence. These obstacles include the refusal of school principals to enrol children of irregular migrants in primary and secondary schools; the existence of obligations on official institutions, which are also applicable to teachers, to denounce or report irregular migrants; difficulties encountered with the recognition of the education of such children, both in the destination country and on their return to the country of origin under readmission agreements or otherwise; and the greater mobility of irregular migrants and the poorer conditions in which they frequently live, which may adversely impact on their children's educational development (Cholewinski, 2005:36-38).

f. Social security

590. Provision of social security arrangements for migrant workers is vital, thus an important area of policy concern. Migrant workers are confronted with particular difficulties in the field of social security, as social security rights are usually related to periods of employment or contributions or residency. They risk the loss of entitlements to social security benefits in their country of origin due to their absence, and may at the same time encounter restrictive conditions in the host country with regard to their coverage by the national social security system. Migrant workers have specific interests in:

- obtaining equal access to coverage and entitlement to benefits as national workers;
- maintaining acquired rights when leaving the country (including the export of benefits);
- benefiting from the accumulation of rights acquired in different countries.

591. Migrant workers often face difficulties with regard to social security coverage and benefits due to a number of factors, such as the principle of territoriality, which limits the scope of application of social security legislation to the territory of a country. The consequence is that a country's nationals working abroad are often not covered by such legislation and therefore not entitled to benefits. Migrant workers' rights can also be adversely affected where access to social security benefits is restricted to nationals of the host country in question: this may result in the exclusion of foreigners from coverage or entitlement to benefit. While such discriminatory rules can be found in some countries, few go so far as to deny any social security coverage to foreigners. Discrimination can also be attributable to the lack of bilateral or multilateral social security agreements, through which social security rights, acquired in the country of employment, are maintained and which provide for the export of benefits from the country of employment to the country of origin.

592. The best way to ensure migrant workers' social security protection is through the conclusion of multilateral or bilateral social security agreements. Multilateral agreements, in comparison to bilateral agreements, have the advantage of generating common standards and regulations and so avoiding discrimination among migrants from various countries of origin that otherwise might be granted differing rights and entitlements through different bilateral agreements. In addition, a multilateral approach also eases the bureaucratic procedures by setting common standards for administrative rules implementing the agreement.

593. EU Regulations related to the portability of social security benefits are probably the most comprehensive example, at least insofar as it concerns the rights of EU citizens

moving from one Member state to another. Regulation 859/2003/EC extends to legally residing third-country nationals the same rights as EU nationals with regard to the portability of social security coverage and benefit entitlements when moving within the EU.

6. *An integrated policy agenda – 14 components for a comprehensive policy framework*

594. As noted earlier, migration is a complex phenomena with many distinct but inter-related aspects, aspects which concern many different areas of policy, various stakeholders and distinct structures of government. Effective governance of migration requires coordinated and complementary interventions and regulation, and an integrated approach to policy formulation, implementation and evaluation covering a broad range of areas. Drawing on research, international norms and practice of member states reflected in this report, fourteen component areas of policy concern applying to all States as origin, host and transit countries comprise a comprehensive policy framework. Several of these apply to all fields of activity; others correspond to the main fields of activity described in this report:

Overarching policy areas:

1. Establishing legal foundations
2. Elaborating a policy framework
3. Knowledge and institution building
4. International Co-operation

Economic/labour migration and its impact

5. Regular migration channels and admissions
6. Ensuring protection of human and labour rights
7. Labour market regulation
8. Training and recognition of qualifications

Social Cohesion and Integration

9. Integration, non-discrimination and social cohesion
10. Social welfare (health, education, housing)
11. Social security

Migration Development nexus

12. Optimising Development Impact; Co-development
13. Resolving irregular migration
14. Return and reintegration

595. Research and recommendations generated in the Council of Europe context have identified specific policy formulations and actions for governments and cooperating stakeholders in all of these areas.

596. The policy lines and action steps to put in place and implement this integrated policy framework have been defined or developed over recent years in recommendations established by Council of Europe bodies and other relevant international forums:

i. Overarching policy areas:

Establishing legal foundations (component 1)

597. Policies on migration and integration should be founded on the principles of human rights, democracy and the rule of law thus ensuring orderly migration, social cohesion and respect for the individual. (Helsinki Ministers Conference Declaration, paragraph 19)

598. Migration policy should include the introduction of legislation both for the protection of migrant workers and to govern the regulatory and administrative processes of migration and migrant participation in labour markets and receiving societies. National laws and regulations concerning labour migration and the protection of migrant workers should be guided by relevant international labour standards and other relevant international and regional instruments.

599. The Ministers recommended that “those member States who have not yet done so to consider the possibility of signing and/or ratifying :

- the European Convention on the Legal Status of Migrant Workers (ETS 93);
- the European Convention on Establishment (ETS 19);
- the Convention on the Recognition of Qualifications concerning Higher Education in the European Region (ETS 165);
- the European Agreement on Au Pair Placement (ETS 68);
- the European Convention on Medical and Social Assistance and its Protocol (ETS 14);
- the European Interim Agreement on Social Security Schemes Relating to Old Age, Invalidity and Survivors and its Protocol (ETS 12);
- the European Interim Agreement on Social Security other than Schemes for Old Age, Invalidity and Survivors and its Protocol(ETS 13);
- the European Convention on Social Security (ETS 78) and its Supplementary Agreement;
- the European Social Charter and Additional Protocol (ETS 35 and 128);
- the revised European Social Charter (ETS 163);
- the Convention on the Participation of Foreigners in Public Life at Local Level (ETS 144);
- the European Convention on Nationality (ETS 166) and
- Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms”.

600. The Council of Europe regional Conference on “Regular Migration and Dignity of Migrants: Co-operation in the Mediterranean Region,” Athens, 2001 explicitly recommended:

“Promotion of the Ratification of three Council of Europe Legal Instruments:

- The Convention on the Legal Status of Migrant Workers;
- The Convention on Social Security;

- The Convention on the Participation of Foreigners in the Local Public Life

Promotion of the above-mentioned legal texts will be carried out with the Parliamentary Assembly and the Congress on Local and Regional Authorities.”

601. Recommendations regarding ratification of relevant International and ILO instruments on migrant workers have been made by the European Parliament, the European Economic and Social Committee, the Parliamentary Assembly of the Council of Europe, as well as the United Nations General Assembly and the International Labour Conference in which all Council of Europe member countries participate.

602. All government and non-governmental stakeholders have roles to play in establishing a proper legal foundation for migration policy and practice. Ministerial cabinets and national parliaments have central responsibilities. Normally the initiative to ratify international instruments rests with concerned ministries, often the Foreign Ministry regarding international conventions or the Labour Ministry for international labour standards. Recommendations to adopt international standards are then usually submitted for review by other concerned ministries and then submitted to Parliament for action once agreement has been obtained at Cabinet level. However, national *Parliaments* themselves can initiate consideration, subject of course to eventual endorsement by the executive branch of government.

603. The involvement of social partner and civil society stakeholders in raising public and governmental awareness and eventually in advocating for parliamentary or congressional action has often been critical in obtaining consideration and adoption of international Conventions, notably those addressing human rights concerns.

Elaborating a policy framework (component 2)

604. Policies on emigration and on immigration need to be placed within the context of an overall labour and employment strategy with appropriate interfacing with other policies such as education, trade and investment, foreign affairs and others.

605. Policy goals should be clearly articulated with a view to addressing economic, social and development needs of the country and should result from consultation and consensus with the sectors involved.

606. Labour migration policy should represent a wide consensus, based on prior consultation among government ministries concerned, with the key stakeholders, and, ultimately, different sectors of society. Effectively governing migration requires what is sometimes referred to as “getting the whole system into the room.” Bringing all persons representing crucial interdependencies together is a matter of mutual benefit and requires commitment to team-building and planning in order to harmonise and develop ongoing relationships.

607. Co-operation and coordination among the key stakeholders does not come automatically, but must be nurtured throughout the process with the creation of a positive environment, establishment of consultative mechanisms, and regular and consistent interaction. Regulation of the migration process can be conceptualised as a combination of several independent organisations in close and continuing interaction.

608. Social dialogue is essential to the development of sound labour migration policy and should be promoted and implemented. The CDMG paper “Towards a Migration Management Strategy” (2002) stated,

“In order to retain management control governments should work with a range of social partners, engaging in discussion, sharing responsibility and generating a broad measure of agreement on appropriate policy initiatives and responses.”

609. Policy dialogue mechanisms should also include consultation with civil society and migrant associations on labour migration policy.

610. While there are a variety of organisational approaches to such policy consultation, establishment of an intra-governmental, usually inter-ministerial working group, committee or consultative forum with some degree of formality and regular meetings is generally necessary to ensure that consultation takes place. While consultation may not automatically lead to policy coherence and practical coordination across government, it is certainly a prerequisite. In some countries, such intra-governmental consultative forums involve participation of other stakeholders, namely social partners, concerned civil society organisations, and social service agencies. In other countries, consultation with these stakeholders may take place in separate but usually complementary processes or forums.

Knowledge and institution building (component 3)

611. Policy developers need to give priority to collecting and applying the knowledge and information critical to formulate, implement and evaluate migration policy and practice.

612. Measures need to be taken to improve government capacity and structures for collecting, analyzing and applying labour migration data, for facilitating the international exchange of labour migration data, for promoting and supporting research on migration issues, and for collecting and exchanging profiles of good practices on migration on a continuing basis.

613. An underpinning requirement is that Governments should ensure that the relevant ministries have adequate financial and other resources to develop and implement migration policies. Specific structures and mechanisms within these ministries should be provided with the necessary competencies and capacities to develop, formulate and implement labour migration policies, including, where possible, a special unit for issues involving migrant workers. Labour ministries in particular should have a competent department or focal point to ensure that labour and employment policy considerations are fully addressed.

614. As noted above, a mechanism should be established or strengthened to ensure coordination and consultation among all ministries, authorities and bodies involved with labour migration. Procedures need to ensure that employers' and workers' organisations are consulted and their views taken into account.

615. Involvement of all concerned ministries and other stakeholder in policy consultation is outlined under point 2 above. The knowledge building function also should fully implicate *National Statistical and Census Institutions*, to ensure that the necessary data is appropriately obtained, interfaced with other relevant data, and coherently applied to migration policy-making and review.

616. *National research institutions* can also usefully be assigned and supported to conduct research on migration issues. In some countries academic institutions have already been giving increasing attention to this area of research and study. Nonetheless much more research, analysis, and elaboration of policy and practical recommendations should be conducted by national and international institutions.

617. Competent international institutions, notably ILO, IOM and UNHCR, as well as the Council of Europe and the EU, make important contributions to generating data and knowledge, particularly in the essential dimensions of international databases and comparisons.

International co-operation (component 4)

618. International co-operation is required to promote coherence and coordination of migration policies at the international and regional levels. Measures need to facilitate dialogue among governments, as well as consultations with relevant international organisations and other stakeholders.

619. In the Helsinki Declaration, European Ministers recommended that the Committee of Ministers of the Council of Europe implement a Plan of Action to (among other elements):

- "strengthen the dialogue and partnership between member States and, when relevant, non-member States, taking into account existing bilateral and multilateral agreements on migration issues and take steps in identifying possible legal gaps;
- develop a closer and sustained co-operation with international organisations and NGO's;
- draft co-operation agreements among origin and receiving countries with a view to valuing and/or transferring the migrants' competences ;
- develop programmes with countries of other regions in order to protect the rights of migrants." (para. 36)

620. They also recommended:

- ...establishing a regular dialogue and partnership between countries of origin, transit and destination countries on ways of ensuring orderly migration, social cohesion and the rights of the individual by organising roundtables, seminars and workshops; (para 36)

621. Generally, *Foreign Affairs, Interior and Labour Ministries* have been leading entities on behalf of their countries in most of the existing regional and global policy dialogue processes on migration. Some processes –including the Council of Europe CDMG, the past International Migration Policy conferences and several IOM Policy Dialogues-- have indeed recognised need for all three to consistently participate, precisely because of the multiple distinct and complementary responsibilities for migration policy and practice described above. De facto, government participation in the Global Forum on Migration and Development has reflected a range of government ministries.

622. The Council of Europe CDMG, the IOM policy dialogues and ILO tripartite consultation on labour migration reflect the vital roles that these agencies play in providing structured forums and informed contexts for international dialogue and co-operation on migration.

623. *Trade unions, employer groups* and other concerned *civil society organisations* have also increasingly insisted on participation as well in such forums, precisely because of their multiple concerns and direct involvement in accompanying, providing services to and advocacy for and with migrants and refugees. Trade unions and some employer

groupings have been developing direct, independent international consultation and co-operation based on their own constituent imperatives. International civil society consultation has, however, generally remained dependent on accompanying international intergovernmental conferences or processes.

ii. Economic/labour migration and its impact:

Regular migration channels and admissions (component 5)

624. An orderly and equitable process of labour migration should be promoted in both origin and destination countries to establish policies and procedures for orderly regular migration, and to guide men and women migrant workers through all stages of migration, in particular, planning and preparing for labour migration, transit, arrival and reception, employment, residence, integration, and potential return and reintegration.

625. Expanding avenues for regular labour migration should take into account labour market needs and demographic trends.

626. In the final Declaration of the 7th Conference of European Ministers Concerned for Migration in Helsinki, the Ministers undertook:

“to develop channels of legal migration by, inter alia:

a. pursuing open and transparent policies regarding labour migration and elaborating, if necessary, provisions on the legal status of temporary workers;

b. setting down clear rules on the recruitment and legal status of the foreign workforce, both permanent and temporary, taking into account the concerns of migrants (improving qualifications and vocational training, preparing and assisting return and renewing contracts at well-defined intervals);

c. making available to potential migrants, where possible, in an appropriate language, complete and clear information on the conditions of admission, residence and work as well as on living conditions and culture of the country of destination, its political and legal system (regulations on migration), situation on the work market.”

627. Among relevant measures are:

- systems and structures for periodic, objective labour market analyses that take into account
 - sectoral, occupational and regional dimensions of labour shortages and their causes,
 - relevant issues of labour supply;
 - shortages of skilled workers in both origin and destination countries, including in the public, health and education sectors;
 - gender issues
- long-term impact of demographic trends, especially ageing and population growth, on the demand for and supply of labour;
- establishing transparent policies for the admission, employment and residence of migrant workers based on clear criteria, including labour market needs;

- where appropriate, establishing policies and procedures to facilitate the movement of migrant workers through bilateral, regional or multilateral agreements;
- promoting labour mobility within regional integration schemes;
- ensuring that temporary work schemes respond to established labour market needs, and that these schemes respect the principle of equal treatment between migrant and national workers, and that workers in temporary schemes enjoy recognised human and labour rights. (ILO Multilateral Framework on labour migration)

628. Given these factors, labour ministries, in consultation with social partners, should necessarily have a lead role in establishing the criteria and administering the processes of determining labour admissions numbers and characteristics. Admissions numbers, determination of characteristics of workers needed and terms of their admission are necessarily a direct function of labour market assessments, negotiation with employers regarding their needs and with trade unions to ensure complementarity with national work force conditions. Administration of work permits is generally a parallel responsibility most coherently assigned to labour/employment ministries.

629. Coordination will of course be required with foreign ministries and consular services to ensure outreach and interfacing with governments of potential origin countries, application processing for candidate migrants, and the issuing of immigration documents.

Ensuring protection of human and labour rights (component 6)

630. The human and labour rights of all migrant workers should be promoted and protected. Policies should ensure that men and women migrant workers have opportunities to obtain decent and productive work in conditions of freedom, equity, security and human dignity, with recognition of fundamental rights at work, an income to enable people to meet their basic economic, social and family needs and responsibilities and an adequate level of social protection.

631. The Helsinki Declaration stated as main general principles for migration policy:

“to promote peace, the protection of human rights and economic and social development worldwide thus creating better conditions for the future and reducing the need for people to flee from situations of conflict, poverty and human rights abuse.” (para. 23)

“to promote the principles of tolerance and non-discrimination and to eliminate all discriminatory policies and practices which are inconsistent with international human rights instruments.” (para. 21)

632. National laws, regulations and policies concerning labour migration and the protection of migrant workers should be guided by relevant international labour standards, including the principles contained in the Migration for Employment Convention (Revised), 1949 (No. 97) the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), and accompanying Recommendations Nos. 86 and 151, particularly those concerning equality of treatment between nationals and migrant workers in a regular situation and minimum standards of protection for all migrant workers. The principles contained in the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families should

also be taken into account. If these Conventions have been ratified, they should be fully implemented.

633. Protection needs to be ensured by the effective application and enforcement of national laws and regulations in accordance with international labour standards and applicable European instruments. National law and policies should also be guided by other relevant standards in the areas of employment, labour inspection, social security, maternity protection, protection of wages, occupational safety and health, as well as in such sectors as agriculture, construction and hotels and restaurants.

634. Policy developers should consider the special needs of women by identifying aspects of the migration process where they are particularly vulnerable and take account of special needs of women due to gender differences.

635. Upholding protection of human and labour rights of migrants and refugees is necessarily a shared responsibility across government with the active engagement of social partners and civil society. Foreign Affairs, Labour and Interior Ministries all have essential and usually complementary responsibilities. Foreign Affairs Ministries of home countries can play an especially important role in monitoring and providing consular assistance services to nationals abroad. Labour Ministries usually have oversight for the critical functions of labour inspection that reinforce, uphold and supervise workplace protections. Interior/Justice Ministries have especially critical roles to ensure that police, law enforcement and judiciary agencies and personnel are properly prepared, resourced and trained to address supervision and enforcement of human rights protections and due process.

636. National human rights monitoring and enforcement agencies should –and today generally do– give attention to the distinct situation of protection of human rights of non-nationals. They, and more broadly government as a whole need to ensure adequate attention to public education and awareness raising regarding application of the rule of law and human rights standards to migrants, refugees and immigrants.

637. Similarly, social partner and civil society organisations can play a critical role in civic or public education, in monitoring treatment, and in providing direct support services to ensure protection of human and labour rights of migrants.

Labour market regulation (component 7)

638. Policies need to be established or strengthened to regulate labour markets with particular reference to employment and integration of foreign workers. This includes measures to ensure equality of treatment in access to employment and occupation, assessment and recognition of skills and education, upholding decent work conditions, enforcing labour law, and recognition of freedom of association and collective bargaining rights for foreign as well as national workers.

639. In the Helsinki Declaration, European Ministers undertook:

“To promote equal access to employment for lawfully residing migrants by, *inter alia*:

...

c. ensuring equal treatment with regard to recruitment, career promotion, employment conditions and salary ;

d. adopting diversity management in human resources policies of enterprises and of governmental and non-governmental organisations ;

e. encouraging the participation of migrants in trade-unions and company committees, thus contributing to their integration at the work place.” (para 26)

640. Measures need to be taken to extend labour inspection to all workplaces where migrant workers are employed, in order to effectively monitor their working conditions and supervise compliance with employment contracts. Measures should be taken to ensure that the labour inspectorate or relevant competent authorities have the necessary resources and that labour inspection staff are adequately trained in addressing migrant workers’ rights and in the different needs of men and women migrant workers;

641. As per the considerations above and complementing their role in labour admissions, labour/employment ministries have the central responsibility in regulating labour markets, including upholding labour law, ensuring equal treatment, extending labour inspection, and defending freedom of association and collective bargaining. Obviously, employer and trade union organisations have complementary and equally critical roles to play in these domains, normally in a context of social dialogue and tripartite co-operation .

642. Employer organisations can play a critical role in supporting the dissemination and implementation of ‘diversity management’ across the private sector, while trade unions have central responsibilities for orientation, service and organising activities among migrant workers themselves.

Training and recognition of qualifications (component 8)

643. Policy across Europe needs to address in particular the recognition of skills, education and knowledge of foreign workers in order to facilitate their employment at levels compatible with their backgrounds and abilities.

644. In the Helsinki Declaration, European Ministers undertook to “promote equal access to employment for lawfully residing migrants by:

“a. facilitating the assessment of qualifications and skills and access to vocational training, inter alia, by stressing the importance of the equivalence of vocational qualifications and skills ;

b. recognising the equivalence of diplomas at the European level;” (para. 26)

645. Recognition of qualifications and training/retraining of migrants for workplace insertion requires particular and close collaboration between Labour/Employment Ministries and Ministries of Education, to establish the needs, criteria, and procedures for recognition of educational and skills qualifications, and in making appropriate provisions for training or retraining courses, facilities and personnel.

iii. Social cohesion and integration:

Integration, anti-discrimination and social cohesion (component 9)

646. Policies should promote social integration and inclusion, while respecting cultural diversity, preventing discrimination against migrant workers and taking measures to combat racism and xenophobia.

647. In the Helsinki Declaration, European Ministers undertook:
- “to strengthen anti-discrimination legislation and practical measures to combat violence, discrimination, including harassment against migrant workers at the work place, taking into account relevant Council of Europe, EU and international instruments.” (para 28)
648. The Helsinki Declaration stated as a main general principle:
- “to consider integration as an interactive process based upon mutual willingness to adapt by both migrants and the receiving society.” (para. 20)
649. The Ministers further undertook:
- “to promote an open and welcoming society and to encourage the participation of lawfully residing migrants in economic, social, cultural and political life by, inter alia:
- a. recognising the positive contribution that migrants make to society;
 - b. associating the host community and migrants in activities aimed at promoting mutual understanding;
 - c. encouraging migrants and receiving society to undertake common activities in favour of the local community and development of civil society;
 - d. implementing introduction programs for newcomers, actively encouraging immigrants to learn the language of the receiving country as well as to understand and respect the institutions and the fundamental values of host society;
 - e. training public officials to understand and value ethnic and cultural diversity and be aware of the gender perspective;
 - f. adopting appropriate measures to accommodate the needs of vulnerable persons such as children, the elderly, disabled persons and persons who have been traumatised or physically harmed by torture and war;
 - g. ensuring family reunification and the acquisition of citizenship/nationality of the receiving country by long-term immigrants and recognised refugees, in conformity with national legislation and the Recommendation R(2002) 4 of the Committee of Ministers on the legal status of persons admitted for family reunification.” (para. 25)
650. A comprehensive set of relevant policy formulations and measures is found in the *Framework of Integration Policies* by Mary Coussey, Chair of the CDMG Specialist Group on Integration and Community Relations.
651. Specific integration indicators to serve as policy guidance are found in: *Integration Indicators: Committee of Experts on Integration and Diversity (MG-ID) 3rd Meeting 4-5 September 2004.*
652. Policy developers should pay particular attention to facilitating, supporting and, as appropriate, organising intercultural dialogue, as stated in “*Integration and Intercultural Dialogue, Contribution of the European Committee on Migration (CDMG) to the White Paper on Intercultural Dialogue*” (2005):

Consultation and participation of migrants and people of immigrant background are essential ways by which intercultural dialogue can be promoted. All forms of consultation and participation in civil and political life as well as in the social and economic fields should be strengthened. It is important to ensure they are extended to everyone. Migrants' associations should be supported for this purpose.

653. Achieving non-discrimination and integration will only be possible with the engagement and complementary efforts of all government and non-governmental stakeholders. Government as a whole, and particularly Labour, Interior/Justice, Education and, where they exist, Integration Ministries need to set the tone and models both through their public outreach-education-interpretation activities as well as through setting models in their own operations.

654. *Social partner organisations* have a critical role; employment is key to integration and therefore the policies and practices determined by employers and trade unions to integrate migrants into workplaces are essential.

Social welfare (component 10)

655. Policy measures need to address the social welfare dimensions of migration, including access for migrant workers and members of their families to health care, education, housing and community organising.

656. For example, measures are needed to ensure that migrant workers and accompanying members of their families are provided with access to health care and, at a minimum, with access to emergency medical care, and that regular migrant workers and accompanying members of their families receive the same treatment as nationals with regard to the provision of medical care.

657. *Ministries of Health and National Health Services* obviously have a critical role to play in assessing specific characteristics, geographic distribution and health needs of migrant populations in the context of assessing the general needs of populations, and taking measures to ensure the medical attention can be provided to migrant populations for general public health as well as ethical reasons. *Professional and voluntary associations* can and should cooperate in assessments, public education and in advocacy to ensure that basic health needs of the entire population are met.

658. International standards adopted by all European countries call for provision of schooling for all children.

659. As noted earlier in this report, addressing housing issues to at a minimum prevent ghettoisation and encourage availability of housing meeting minimum standards is an important element of ensuring cohesion.

660. Community self-organising and empowerment should also be considered a need as well as right, and one key to integration of immigrants.

Social security (component 11)

661. Policy developers need to ensure appropriate provisions of social security coverage for migrants/immigrants, and portability of contributions.

662. For example, measures should include entering into bilateral, regional or multilateral agreements to provide social security coverage and benefits, as well as

portability of social security entitlements, to regular migrant workers and, as appropriate, to migrant workers in an irregular situation.

663. *National social security administrations* normally have the lead role in obtaining social security coverage for all workers, including migrants, and in developing arrangements for transferability of contributions to home countries when migrants return. *Employers' organisations and trade unions* need to be consulted given employers' roles in contributing and collecting/deducting employee contributions from salaries.

iv. Migration development nexus:

Optimising development impact; co-development (component 12)

664. An integrated policy approach requires comprehensive measures to optimise the contribution of migration to economic growth, development and alleviation of poverty. This includes measures in support of co-development as defined in Council of Europe documents, explicit attention in development aid policy, and specific measures to enhance the development impact of the private remittance transfers of individual migrants.

- The Recommendation on “Co development and migrants working for development in their countries of origin” adopted by the Committee of Ministers on 12 July 2007 at the 1002nd meeting of the Ministers' Deputies (CM/Rec(2007)10):
- Recommends that the governments of member states support the activities of migrants and their associations and partners playing a part in development in their countries of origin;
- Recommends that the governments of member states collaborate with migrants and their associations in the design and implementation of policies and programmes of co-development in their countries of origin;
- Recommends that the governments of member states apply the following principles:
 - create an environment conducive to co-development;
 - establish and enforce legal frameworks that define, in the context of their development policy, the rights and obligations of migrants and their associations;
 - promote migrants' community life;
 - facilitate partnerships, public and private, involving players (including migrants) from countries of origin and receiving countries;
 - foster mobility for migrants participating in the development in their countries of origin;
 - encourage women and young people to get involved, whether they are migrants or of immigrant origin;
- Recommends that the governments of member states introduce and apply the following provisions on co-development:
 - support measures and give incentives to co-development projects;

- training facilities so that co-development players have the capacity to better develop and manage their projects;
- support and evaluation measures for co-development projects.

665. Regarding remittances, governments need to establish mechanisms for safe and low cost transmission of remittances, for competition and for proper operations by all participants. Governments of remittance receiving countries should create a sound policy and legal environment that encourages capital inflows, including remittances.

666. Policy measures to mitigate loss of talent and its impact include:

- promotion of ethical recruitment impeding indiscriminate international recruitment in sensitive sectors such as health;
- investment by destination countries in training and education proportional to the loss in investment suffered by the country of origin, and retention of skilled workers through voluntary means;
- better targeting of subsidies in higher education.

667. The development co-operation agenda implicates the involvement of *Development –Co-operation Ministries and agencies* as well as *Foreign Affairs Ministries* in the elaboration of policy. *Civil society development aid* and advocacy organisations can play a key role in public education and opinion mobilisation, as well as in the direct elaboration and implementation of projects. As highlighted earlier in this report, *migrant and diaspora organisations* have critical roles.

Resolving irregular migration (component 13)

668. Measures are required to prevent abusive practices, migrant smuggling and trafficking in persons and generally to prevent and resolve irregular labour migration.

669. In the Helsinki Declaration, European Ministers undertook:

“to combat smuggling and trafficking of human beings and migrant exploitation by, inter alia,:

- a. developing national policies and plans of action in order to ensure the effective protection of and assistance to victims of smuggling and trafficking, especially women and children as well as unaccompanied minors;
- b. promoting information campaigns against trafficking in human beings;
- c. promoting research and analysis on various methods of state response to the phenomena of illegal migration and trafficking in human beings in the countries of origin, transit and destination;
- d. implementing stronger penal sanctions against traffickers; the control of sensitive sectors, employers’ sanctions and finding out flexible and humane solutions respecting the human dignity of irregular migrants;
- e. ensuring that the return to the country of origin of victims of trafficking only take place in a dignified and safe manner respectful of human rights, particularly the rights to private life and family life.” (para. 31)

670. The Ministers also undertook to:

“to set up a sustainable and close bilateral and multilateral co-operation between receiving, transit and origin countries in order to:

f. improve the exchange of information to combat irregular migration, clandestine channels and trafficking in human beings;

g. prevent irregular migration by enhancing legal provisions (penal, fiscal and civil);

h. combat efficiently traffickers and criminal gangs through co-operation with countries of origin and transit;

i. deal with irregular migrants in co-operation with other countries (receiving, transit and origin countries) with a view to finding appropriate solutions with due respect to human rights.”

671. Following these lines of the Helsinki Declaration recommendations requires direct involvement of *Interior/Justice Ministries, law enforcement and police agencies, and prosecutorial services*. Co-operation by *civil society* and *social service* entities in provision of protection and social services to trafficked and smuggled persons is evidently desirable.

Return and reintegration (component 14)

672. Specific policy measures are required to organise, facilitate and support the voluntary return and reintegration of migrant workers in their countries of origin.

673. The Recommendation on “Co development and migrants working for development in their countries of origin” by the Committee of Ministers (12 July 2007) identified several key policy components, including safer and less costly arrangements to transfer funds for investment, providing public support and/or access to credit for development and reintegration projects, facilitating movement between home and destination countries without losing rights.

674. The return and reintegration agenda obviously requires joint co-operation among *development, labour, finance, education* and other *ministries* of government in origin countries, in co-operation with social partners and civil society. Migration impact assessments could usefully be incorporated in the planning, policy and development aid allocation processes of *Development Ministries* and *Development Co-operation* agencies.

7. Implementation

675. Adoption and implementation of the main elements in this integrated policy framework by Council of Europe member states would be a major contribution to effectively governing migration, and to securing the economic, social and cultural benefits deriving from well-regulated international migration.

676. The *Final Declaration* and Plan of Action expected to be adopted at the 8th Council of Europe Conference of Ministers Responsible for Migration Affairs taking place in Kiev, 4-5 September 2008 should be an important impetus to implementing this Integrated Approach and relevant policy elements in all member states.

677. The work of the CDMG and its Secretariat at the Council of Europe will be an essential support to implementation of the Integrated Approach and this policy agenda in

member countries. Increased co-operation between the Council of Europe, European Union, Commonwealth of Independent States, ILO, other relevant UN agencies, the IOM, OSCE, and OECD as well as social partner and civil society organisations in support of implementation will also be required.

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