



# **Towards a Migration Management Strategy**

## **Challenges for Countries of Origin**



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## INTRODUCTION

### Towards a co-ordinated management strategy for migratory flows

The European Committee on Migration (CDMG) of the Council of Europe adopted in 2000 a document on international migration into Europe entitled “*Towards a Migration Management Strategy*”, the main objective of which is to propose a co-ordinated overall strategy for migration management. A key premise of the strategy is the need for strengthened co-operation between all countries concerned, and the strategy stresses the importance of establishing constructive dialogue and proper co-operation links between immigration countries and countries of origin.

The purpose of this supplementary report on the challenges for countries of origin is to provide details on how to achieve a more concerted dialogue between countries of origin and immigration; and, in particular, how to ensure that better account is taken of the needs and interests of countries of origin in the management of migration. It is based on the view that there is insufficient emphasis on international co-operation on migration between partners as equals. It is also in line with the proposals which the Council of Europe Parliamentary Assembly put forward in Recommendation 1650 (2004) on links between Europeans living abroad and their countries of origin.

This report approved by the European Committee on Migration in April 2006 draws on the expertise of member states of the Council of Europe that are or have been countries of high emigration. It identifies nine fields of major interest to countries of origin where better recognition of this fact by destination countries would improve co-operation between them and countries of origin and transit and reinforce the Council of Europe migration management strategy. These fields, developed in separate chapters are: labour migration; migration of the highly qualified (the brain drain, as it is often termed); female migration; the link between regular and irregular migration; border controls and internal security; action to combat people-smuggling, the black labour market and trafficking in human beings; better economic and social integration; migrant return under various arrangements (readmission agreements, voluntary returns, reintegration); and the socio-economic development of countries of origin, in some cases drawing on diasporas.

These issues, which often cut across more than one field, may fall within the areas of responsibility of a number of agencies involved in migration management. Better recognition of the interests at stake would allow closer co-operation between countries of origin and destination countries and a rebalancing of multilateral relations.

In addition to an improved recognition and treatment of the challenges for countries of origin, improved co-operation with these countries will provide benefits for countries of immigration and more generally for the management of migration. Improved co-operation, in particular, corresponds to the needs raised by a series of new factors which are discussed briefly below; all of which have important implications for the migration management strategy.

### *New data on migration and the emergence of new flows or new types of mobility*

What we here term countries of origin – the countries which are the sources of international migration – are often characterised by negative net migration. The balance may be only slightly negative or hugely so. Albania, Armenia, Moldova and Kazakhstan lost between 10% and 25% of their official populations in around a decade despite overall population growth. However, no situation is ever definitive: countries greatly affected by emigration for long periods of their history – for example, Portugal and Greece, have as much as a third of their population living abroad, and Ireland, Italy and Spain are further cases – have recently become net immigration countries without necessarily or immediately experiencing massive returns of population when they joined the European Union. Their recent economic growth has turned them into new immigration countries.

Nowadays it is difficult, and even dangerously misleading, to distinguish between countries of origin, transit countries and destination countries because, with all the progress of international exchanges, transport technology, information and communication, mobility and migratory movement are easier and developing faster even though the political trend is towards control of flows and borders. Most countries, in both the North and the South, combine many types of internal and international migration (immigration, emigration, transit migration). Some traditional emigration countries have become destination countries as a result of new economic growth, whereas immigration countries are seeing new forms of emigration and themselves experiencing transit migration.

Political circumstances that have arisen from the demise of the bipolar international system are continuing to fuel lasting conflict in some parts of the world, unsettling sizeable populations. Environmental crises are a further possible destabilising factor affecting economies and societies, causing voluntary or forced out-migration.

Globalisation of economic relations is now affecting the entire planet. We are also now finding that it is possible for many parts of the world to present combinations of regular migration, irregular migration, migratory transit, temporary migration (over three months abroad but less than a year), lengthy migration (followed by permanent return) and definitive migration (no final return to the home country), and at the same time to be sources and receivers of labour – skilled and unskilled, adapted and not adapted, desired and undesired – so that hitherto familiar patterns are blurring. This comparatively new situation raises complex political and social issues which often escape both decision makers and opinion shapers.

### *International migratory fields: the need for an all-embracing overview of migration*

The migratory field or diasporas, rather than a new reality, represents a new perception of the migration process. Globalisation of economic exchanges, together with fluidity and speed of transport, information and communication, assist and accelerate exchange processes generally. The individual project or migration path is no longer viewed as an isolated act or as one-way travel with no possibility of return, definitively cutting the migrant from his or her origins, family and culture, but as a well-thought-out and responsible undertaking whose direction can change at any time. Even return to the country of origin, whether voluntary or not, no longer definitively



severs the connection with the receiving country, because maintaining the connection is aided by the new information and communication technologies, new technology and new approaches in international transport, and greater affordability in both spheres. We are increasingly seeing the emergence of transnational migration spaces (migratory fields) enlivened by cultural cross-fertilisation, by intellectual, information, commercial and social exchange and by international tourism (migratory movement)<sup>1</sup>.

The concept of the migratory field is intended to link up features of present-day migration that at first sight seem unconnected, to include new characteristics and to help view the phenomenon in its entirety, as both interactive and dynamic. The migratory field is a construct in which various migratory processes can be seen to form a geographical and chronological continuum and in which the migrant is an individual whose migration plan and path are integral to personal development. This approach likewise stresses migrants' right to move unrestrictedly between country of origin and immigration country without necessarily cutting themselves off from the society of origin – that is, from their culture in the broadest sense, family and economic heritage (migratory movement); social capital (education, training, socialisation, membership of networks); the economic capital acquired during emigration. Lastly it brings out the de facto interdependencies between all the countries concerned (whether of origin, transit or immigration), which make multilateral co-operation doubly necessary for management of international migration.

Above all the concept allows us to build up a comprehensive picture of international migration, a view similar to the migrant's own of the transnational area within which he or she moves<sup>2</sup>. While this is a definition that is relevant to present-day social reality, people in positions of political responsibility may find it at the very least inconvenient. It does, however, have the merit of stressing the interactions and interdependencies between emigration, immigration and transit countries /societies / economies and treating migration as an overall, complex, interactive, essentially dynamic phenomenon which potentially favours human development.

#### *The need for closer North-South and East-West co-operation*

Giving their backing to equitable development in countries south and east of Europe is very much in the northern countries' political interest and an absolute necessity for the southern and eastern countries. The developed countries also need to maintain their own levels of development, while paying attention to their own demographic balance (given, for example, population ageing and the increase in urban population at the expense of rural areas). All migration, whether international or internal, has both pluses and minuses for all concerned. Improved co-operation is necessary to counter the negative aspects and construct a balance which is of benefit to all.

Greater co-operation and more active partnership between immigration countries, countries of origin and transit countries are the keys to accomplishing the objectives of migration-the management strategy. This requires:

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<sup>1</sup> For definitions of the main terms used in this report, see Appendix 3.

<sup>2</sup> Simon 1995: 16.

- greater, recognised collaboration between equals who are also agreed about equal recognition of the socio-economic and cultural interests of the partner countries in the particular migratory field;
- multilateral co-operation between the different players and different zones (immigration, originating and transit) within the migratory field, so as to set up genuine dialogue aimed at greater fairness, co-ordinated economic momentum, and sharing in the benefits of migration with a view to co-ordinated development;
- harmonisation of the aims of the specific development policies identified in this report (particularly in chapter IX).

*Migration, international security and internal security: reasserting the basic human-rights principles*

As a result of the recent increase in terrorist operations, serious and legitimate concerns about internal security and international relations have also become an important factor in the complex interplay between emigration countries and destination countries. Since 9.11, developments in international terrorism and the military interventions in Afghanistan and Iraq, with a resultant return by some countries to repressive policies aimed at Muslim or minority communities on the pretext of taking anti-terrorist action, there has been a too frequent tendency to lump together internal security, action on terrorism and action on irregular migration. The fact is that it is not uncommon for populations experiencing political and economic insecurity to be affected by high international migration, and it is often difficult in practice to determine the actual causes of emigration. Some of the regions concerned have in fact been affected for several decades and the new interest taken in them by officialdom and public opinion alike in the countries affected by terrorism makes no difference either to the situation experienced by people in those regions or to the migration potential which those regions represent. Equally, a fortress mentality and a security policy of unilateral withdrawal behind barriers, if unmitigated by any economic concessions, could be ill-received and cause even further frustration, in some cases dangerously isolating local advocates of democracy and social modernisation.

Defending the rights to emigrate and travel without compromising the security or future of those who stay on in the country of origin or of people in the immigration country requires co-operation aimed at achieving regional development by other means than migration, but not ruling out the transnational relations which international migration builds up (migratory movement, returns to countries of origin, cultural links, relations with diasporas and so on) and taking proper advantage of such relations. This necessitates recognising the right to integrate into the immigration country, the right to return to the country of origin, and the right, if the emigrant wishes, to maintain multiple cultural identity (with the new country of residence, with the country of origin, or with an ethnic, cultural or religious minority) – an acknowledgement of a basic set of human rights, the individual being treated as an autonomous adult capable of independent decisions in a democratic context.

# I

## Labour migration

### *The situation*

The wholesale labour migration of the 1950-70 period took place in a favourable context of economic growth, with the prerequisites for full employment were all but met and only marginal unemployment. This frequently obscured irregular or clandestine flows (which in many cases were speedily put on a legal footing, at least up to 1973), and, indeed, a large proportion of the political flows to European countries where conditions for democracy were not yet in place. It mainly, but not solely, involved unskilled production-line workers (Taylorism). Since the concept of migration and receiving countries' migration policies vary according to the economic climate, today – as in the 1970s – immigration tends to be regarded as a threat both to the national economy and social cohesion, and sometimes indeed to the political system.

The tendency in the receiving countries is to favour certain occupations in narrow segments of the production or service sectors and thus practise selective, mainly skilled immigration with the aim of immediate profitability (draining qualified people from the emigration countries, for which this is an impoverishment). In this context it is fair to say there is an asymmetry between the immigration countries' and the emigration countries' interests. In some cases the countries of origin favour the “export” of labour in order to reduce economic and social pressures and enable needy sections of their populations to survive – most of those countries are unable to create the necessary jobs. A policy of co-operation capable of boosting development in the countries of origin is therefore required.

Immigrant communities in precarious circumstances can pose a real challenge to receiving countries' social cohesion and arrangements for integrating them with the native population, but the intensity of the issue always correlates closely with the state of the economy and availability of employment to all socio-occupational categories in the population at large. A rapidly growing economy generally makes no distinction between nationals and foreigners if there is full, or near full, employment. This very much raises, once again, the question of the asymmetry of rights and duties between national and foreign workers, an asymmetry based on criteria (national or ethnic origin, religion, social background and occupation) which are not always legal and may be discriminatory. These questions have none the less been raised more often in the immigration countries than in the countries of origin, except at specific junctures such as the period following the 1973 oil shocks, which posed the problem of workers' productive return to their countries of origin.

The overt determination of the immigration countries to recruit workers who precisely meet their economic needs reinforces the feeling in some sending countries of unfair competition and lack of reciprocity. They want a fairer apportionment of the costs of training skilled labour and of other costs which fall to the sending countries, notably the expense of tightening up border controls and reintegrating expelled irregular migrants or people returning voluntarily on account of economic crises or economic reorganisation in the traditional immigration countries. Countries of origin are likewise concerned about permanent economic deficit (growing debt),

underdevelopment of economic infrastructure (insufficient national and foreign investment) and inadequate basic educational, health and social provision, factors which maintain a high migration potential. Lastly they worry about continual political pronouncements on integration which undermine emigrants' links to their social, cultural and political roots (preaching membership of the national community) solely for the benefit of the immigration country.

### ***Proposals***

*I.1 All countries involved in international labour migration (whether countries of origin, destination or transit) are invited to sign and ratify all international instruments dealing with the rights of migrant workers and their families and to ensure that these instruments are properly implemented by incorporating the rights which they contain into their law and regulations. Relations between the three groups of countries should be based on a genuine partnership.*

*I.2 Member states of the Council of Europe should give effect to the undertakings made by the Ministers responsible for Migration Affairs gave at their 7<sup>th</sup> Conference (Helsinki, 16-17 September 2002) 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, full and clear information on the conditions of admission, residence and work, living conditions and culture of the country of destination, its political and legal system (regulations on migration), and the work market situation.<sup>3</sup>*

*I.3 Countries of origin and destination should co-operate to ensure that information made available to potential emigrants is comprehensive and accurate.*

*I.4 Countries of origin and destination should consider developing model bilateral and, if appropriate, multilateral agreements for better management of labour migration between them and for promoting the interests of all parties, including those of migrants themselves, and regional growth and stability.*

*I.5 In co-operation with countries of origin, countries of destination should develop policies to overcome irregular migration by creating increased opportunities for legal employment, if possible through bilateral agreements.*

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<sup>3</sup>See Final Declaration, paragraph 30.

## II Migration of the highly qualified – the skills haemorrhage

### *Situation*

The strategy for managing the migration of skills and highly qualified people is of paramount importance in the present-day context of relations between recruiting countries and countries of origin, just as its importance for regional development is recognised in connection with internal migration. Highlighting the transnational migratory space built on various migratory fields offers prospects of developing a flow-management strategy that strikes a better balance between the interests of post-industrial western economies and development of the economies of the countries of origin.

Once seen as bringing undoubted economic advantages, immigration of skilled workers according to prerequisites set by the economic and political authorities in the receiving country (occupational quotas, required standards of qualification for immigration to be lawful) is increasingly coming to be viewed by the countries of origin as a haemorrhage of assets from which they gain nothing since their economies can seldom offer financial or social prospects for qualified people and so there is nothing to keep them in the country or, later, attract them back. This brain drain affects a great many emigration countries, sometimes critically. The loss is not confined to the highest qualified (researchers, academics, engineers and doctors – it is estimated that 79% of Indians with doctorates have remained abroad and 88% of Chinese doctorate-holders and doctoral students sent to the United States): it also seriously depletes numbers with medium-range qualifications such as nurses and health personnel generally, primary school teachers, training instructors, computer scientists, skilled workers and craftsmen attracted by pay and status more in line with their aspirations (300,000 African managers and 900,000 Indian computer scientists work abroad<sup>4</sup>). However, the medium-qualified are likelier than the highest-qualified to experience social and occupational downgrading and disappointment.

The migration management strategy is mainly concerned with the problems which destination countries face, emphasising the shortcomings of the mechanisms for managing supply of and demand for foreign labour. Although these are genuine issues and the immigration countries are seeking to preserve their standards of living and development levels, the migration management strategy takes little interest in the countries of origin, which have to contend with employment-market imbalances, shortages of skilled labour, competition for qualified people in specific market segments, and mismatches between supply and demand. Asymmetry of interests at crucial points in the economic and social development process must be stressed. The huge attractions of certain economic sectors in the immigration countries sometimes induce qualified and semi-qualified workers to leave their countries by whatever channel, generating irregular migration.

The countries of origin have sometimes encouraged emigration with the dual aim of easing tensions on the labour market (and, concomitantly, social and political

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<sup>4</sup> According to OECD reports (see the annual SOPEMI report for 2003).

tensions) and gaining substantial inflows in strong currencies. By the 1960s, however, quite a few researchers from these countries had become highly critical of that approach, taking the view that emigration, far from benefiting the society and economy of origin, merely highlighted basic underdevelopment and put a brake on development. Continual loss of advanced and middle-of-the-range skills, giving away initial training investment to the industrialised economies without getting anything in return, and imbalances caused by uncontrolled imports ill-adapted to the needs of the emigration regions (with consequent inflation, higher property prices and collapse of the traditional craft-based rural economy), are among the results most often criticised.

### ***Proposals***

*II.1 Countries of destination should be sensitive to the effects of the loss of skills through migration on the economies of the countries of origin, particularly in terms of their social and economic development, and should take appropriate action.*

*II.2 Countries of destination should develop their policies on recruitment of skilled migrants in partnership with their countries of origin. In particular, they should avoid the massive recruitment of professional workers in sensitive areas for the social and economic development of countries of origin, such as health, education and higher education.*

*II.3 Countries of destination should consider assisting countries of origin to better manage the flows of skilled labour migration through the provision of adapted and targeted financial and technical aid.*

*II.4 Countries of origin and destination should co-operate with a view to compensating loss of skills by means of policies aimed at promoting development in countries of origin through productive return flows, capital movement and effective know-how and technology transfer.*

*II.5 Countries of origin should adopt policies tailor-made to attract and involve their own high-skilled national human resources in the development of their countries.*

### **III Women and migration**

#### ***Situation***

The migration management strategy takes little specific account of women migrants, their rights as migrants or their relations with their families remaining in the country of origin. What is noticeable, however, is the increasing numbers of women migrants. As far as the immigration countries are concerned the gender of migrants seems to be immaterial, except in the very specific case of prostitution: the sole concerns are the employment market and family reunification. In the case of the countries of origin, or some of them at least, however, female emigration has particular consequences that male emigration tends not to have. At the personal level, the effects on family structure in the country of origin and the specific trauma involved (separation from children, feelings of guilt, frequency of physical and psychological violence) are significant and require careful attention.

This increasing proportion of women in migratory flows has been a recurrent finding in recent years. It is due to two concomitant factors – persistently difficult economic and social conditions and women’s growing emancipation in a number of societies undergoing modernisation. A further set of factors has to do with the marginalisation and loss of status of women who previously were well integrated into working life, as in north-east China, Russia, several former Soviet republics and many countries which previously had links with the USSR. In addition to well-known factors (such as lower pay for equal qualifications, discrimination against working mothers, and less schooling or training), there is greater vulnerability to violence, whether exceptional (in political crises or armed conflict) or ordinary (wife beating), and to trafficking (the latter having links to organised crime).

Gender studies, a field in which the impetus has come from the English-speaking world, have highlighted great variations in status and situation among migrant women but especially that migrant women are likelier to fall victim to degrading treatment which inflicts irreparable physical, psychological or social trauma. All too often they are socially marginalised and there is still a tendency for the police and courts, even in many countries which have signed international agreements on the subject, to treat them as passive offenders rather than as victims needing protection.

#### ***Proposals***

*III.1 Countries of origin, transit and destination should adopt more specific policies to promote the welfare of women migrants, and countries of destination should in particular adopt policies that are tailored to their needs.*

*III.2 The problems faced by women migrants in a regular migration situation should be distinguished and addressed separately from those in an irregular situation and policies and practice developed accordingly.*

*III.3 Countries of origin and destination should co-operate to ensure that women migrants enjoy equal opportunities in the labour market and access to employment opportunities that correspond more closely to their knowledge, skills and experience.*

*III.4 Closer co-operation between countries of origin and destination should facilitate short-term return by women migrants for family reasons.*

*III.5 Countries of destination should adopt policies to protect women against the risks of abuse in certain types of employment such as domestic service or those who respond to marriage advertisements (“mail-order brides”).*

*III.6 Support services should be available to women migrants if needed to help them overcome the emotional trauma of long-term separation from their families, whether in countries of origin or destination.*



## IV Irregular migration

### *Situation*

Irregular migration has gained a new momentum with the deterioration of socio-economic conditions in many African, Latin American and Eurasian countries, particularly those within the old Soviet ambit (the USSR and its associated COMECON and Warsaw Pact countries). The increase in ethnic flashpoints and in “return” migration (migration by displaced ethnic minorities returning to their countries of origin) has also played a growing role since the 1989-92 period. Greater competition between economies as a result of accelerating globalisation also seems to have heightened tensions in certain employment markets (as in north-east China, triggering migration from the Dongbei regions<sup>5</sup>). The discrepancy between pay and quality of life in the countries of origin and those hoped for in the countries receiving irregular migration makes for constant migratory flows towards North America, Europe and the developed Pacific zone countries (Japan, Australia and New Zealand). Irregular migration is defined in terms of migrants’ precariousness or lack of status, and shares key features with transit migration.

The countries receiving irregular migration are now increasingly pressuring transit countries and countries of origin to readmit irregular migrants or stop certain population categories from emigrating. The contradictions between the immigration countries’ determination to bring flows under control and definitions of the individual’s fundamental rights are now becoming ever more starkly apparent and could eventually fuel dangerous feelings of frustration and injustice. It must, however, be stressed that restrictions by receiving countries on movement of would-be immigrants are now the main factor generating irregular migration. Equally the point must be made that many foreigners now present in receiving countries or European citizens of foreign origin have been – or would have been in the current context – irregular migrants.

The results and effects are well known: easy targets for organised crime and mafia-like organisations, irregular migration is raising new issues such as readmission to and reintegration into the country of origin of people who are often too heavily in debt to pay for it themselves; the problem of matching up the needs of immigration, transit and emigration countries’ employment markets; humanitarian handling of specific cases; and the existence of (sometimes illegal) commercial recruitment agencies whose activities clash with the work of the official employment, placement and migration services. The consequences can be serious: women and children ending up in the sex industries, new forms of slavery, and trafficking and smuggling networks.

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<sup>5</sup> Migration of skilled women from China’s industrial north-east (or “Dongbei” – the provinces of Heilongjiang, Liaoning and Jilin in former Manchuria plus many iron and steel areas in Hebei, Shandong, etc. It seems to have been triggered by the uncertainties of regional economic change brought about by economic reforms.

## ***Proposals***

*IV.1 Countries of destination, in close co-operation with countries of origin, should reconsider their restrictive migration policies in order to better take into account the labour market needs of the countries of origin and the impact those policies can have in terms of creating irregular migration.*

*IV.2 Countries of destination, in close co-operation with countries of origin, should create more channels for legal migration in order to help migrants exercise their fundamental right to emigrate without having to resort to unlawful or dangerous means.*

*IV.3 Countries of destination should bear in mind the ill effects that restrictive migration policies can have, such as fuelling general feelings of frustration and injustice amongst migrant populations, and the negative impact that this can have on relations between countries of origin and destination countries.*

*IV.4 In order to safeguard the human rights of irregular migrants, countries of destination, in partnership with countries of origin, should take adequate measures to prevent trafficking in human beings and people-smuggling.*

## V Border controls and internal security

### *Situation*

Under the Schengen agreements or in co-operation with Schengen signatories a growing number of European countries, whether EU members, Council of Europe members or associate countries (outside Europe as defined by the scope of Council of Europe action), are either signatories or have taken the agreements as direct models (Turkey and, very recently, Switzerland are examples). Borders are thus increasingly being relocated on the periphery, but there is nothing to prevent specific controls inside the area. While it is perfectly legitimate to ensure internal and external protection of people and property from illegal activity, whether civilian, military, conventional, unconventional, tactical, strategic or terrorist, and while it is no less legitimate to bring existing laws to bear on illegal activities that endanger people and property, we need to beware of oversimplifications that result in discrimination against foreigners from non-European countries or racist treatment of them.

It is worth pointing out that the right to mobility and migration is established in human-rights instruments (including the Charter of the United Nations, the Declaration on Human Rights and the European Charter of Fundamental Rights) and that every human being should have the same basic rights, except in specific cases laid down by law and in accordance with the principles established in international instruments. As a logical and legitimate consequence of this nationals of emigration countries should have the protection of the law in immigration countries and in transit situations.

Governments of immigration countries should not regard the re-emergence of religious, ethnic or cultural sentiment as an automatic threat to public order and internal security. Its reappearance may be seen as a defensive reaction to very real social problems such as unemployment, job insecurity, social exclusion, racism or xenophobia. On the contrary, governments should recognise that immigrant communities made vulnerable by social exclusion and lack of civic or political rights may withdraw within themselves, go into identity-based retreat built on religious, ethnic or cultural revival triggered by the feeling of being excluded.

Co-operation between countries of origin and immigration countries to develop better understanding of one another's cultures is clearly needed and would protect both the host societies and the immigrant communities and societies of origin from the ravages of international terrorism, particularly where communities or individuals have been rendered vulnerable by economic and social exclusion. Receiving countries must avoid stigmatising immigrants by viewing them as potential drug traffickers, labour traffickers, criminals or terrorists. Treating them with that degree of suspicion, in defiance of all police figures and judicial facts, hinders the integration of immigrant communities and helps bring about parallel societies that in various respects live in isolation.

## ***Proposals***

*V.1 Countries of destination should consider introducing more flexible visa regulations and foreigner reception and accommodation arrangements, combined with more effective supervision of individuals or groups who present risks ( as part of action to combat international terrorism and organised crime, particularly labour trafficking and trafficking in human beings).*

*V.2 With a view to facilitating migratory movement, countries of destination, in co-operation with countries of origin, should take action to eliminate discriminatory practices and consider taking the following measures:*

- a) abolishing discretionary refusal of visas;*
- b) simplifying customs control and police treatment of legal international migrants ;*
- c) doing away with the differential treatment of travellers (eradicating racial, ethnic, religious and sexual discrimination);*
- d) introducing measures to tackle corruption;*
- e) improving the training of staff who deal with the public and process entry applications.*

*V.3 Meeting the real domestic and international security requirements of countries of destination, including the important task of training migration and border officials in the proper evaluation of social risk, should not be compromised by political posturing on security.*

## VI Combating labour trafficking and trafficking in human beings

### *Situation*

Despite the steps taken by European countries, and constant improvement of national and international measures and procedures for combating irregular migration, labour smuggling and trafficking in human beings (the Schengen IS, Interpol, Europol, EuroJust, EuroDac, etc)<sup>6</sup>, the observable persistence and indeed, in some countries, growth of organised crime based on irregular migration and illegal employment of both foreign and national labour continue to worry the authorities, the public and human-rights advocates. Some transit countries, new immigration countries and new emigration countries are particularly vulnerable to illegal practices. The worst-affected areas of the economy have traditionally been industries employing unskilled labour and the service industries – examples are building and public works, catering and the hotel trade, seasonal agricultural work, clothing manufacture, trade in counterfeit goods, domestic work and services to the private individual. To these should be added activities such as prostitution (the sex industry, as it is sometimes termed) which are illegal or marginal (tolerated although of borderline legality) and have developed unprecedentedly in some countries.

There are problems to which migrants from some countries are particularly exposed (especially women, girls and under-age children) during migration. In some cases they are press-ganged at the outset (young women from Moldova, Ukraine, Russia and Albania, for instance) and sometimes they fall victim to organised gangs in transit countries (for example, young African women during the crossing of the Sahara). A very large number of studies on transit migration and human trafficking in immigration countries refer to these issues not because there is anything new about their illegality but on account of their recent spread.

The foundations exist for genuine awareness of the seriousness of the problems – for example, the Council of Europe Convention against Trafficking in Human Beings, opened for signature by the member states on 16 May 2005. It is important to encourage all countries, both Council of Europe members and partner countries (such as the Maghreb countries within the Euro-Mediterranean partnership and Latin American and Asian countries through the Council of Europe Political Platform on Migration), not only to sign and ratify such agreements and conventions but go further and, in co-operation and partnership with countries whose thinking or machinery in these areas is more advanced, equip themselves to implement them properly. Here again, reports and recommendations from Council of Europe bodies and other international institutions provide solid foundations for action, and to those may be added output from independent research institutes and research bodies connected to national authorities. Given the observable fact of central-government disengagement (with deregulation and decentralisation), and now that both countries of origin and

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<sup>6</sup> See *inter alia* the paper by Jonas Widgren on international co-operation in combating irregular migration, proceedings of the Athens conference on 3 and 4 October 2001 (*Irregular migration and dignity of migrants: co-operation in the Mediterranean region*), 75-82, Strasbourg, Council of Europe.

destination countries are tightening up their legislation, civil society is going to have a key role mediating on behalf of victims of trafficking. There will also be a protection and aid role for it in co-operation with government services as the effects of organised crime make themselves increasingly felt.

### ***Proposals***

*VI.1 Member states of the Council of Europe are encouraged to sign and ratify the Council of Europe Convention on Action against Trafficking in Human Beings. Non-Council of Europe countries are likewise encouraged to accede to the convention.*

*VI.2 Countries of origin and destination should bring in measures to combat people-smuggling and people-trafficking as well as to protect and promote the rights of victims of trafficking, in particular as laid down in the Council of Europe Convention on Action against Trafficking in Human Beings.<sup>7</sup>*

*VI.3 Co-operation between countries of origin and destination should be strengthened as provided for by the Council of Europe Convention on Action against Trafficking in Human Beings<sup>8</sup>, particularly in the exchange of information concerning endangered or missing persons but more generally in any matter to do with the return and reintegration of victims.*

*VI.4 Co-operation between countries of origin and destination countries on developing and implementing appropriate victim-reintegration programmes should be improved.*

*VI.5 Countries of origin and destination countries should establish their own multi-disciplinary working groups involving police, migration officials, social and health services and NGOs.*

*VI.6 Countries of origin and destination countries should recognise and facilitate the role of NGOs in assisting victims of trafficking and in co-operating with government services on their behalf.*

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<sup>7</sup> Articles 10-17.

<sup>8</sup> Articles 32-34

## VII Economic and social integration

### *Situation*

Immigration countries are often divided into two categories: immigration countries anxious, for economic and demographic reasons, to attract foreign population with the avowed aim of integrating them into their own population (the United States, Canada, Australia, Argentina and France, for example) and countries of temporary, alternating migration which do not want permanent settlement of foreign population and therefore restrict grant of nationality or grant it only to immigrants ethnically linked to their own population (Germany, Switzerland and Japan, for example – see the analysis in Green 2002, comparing the view taken of migration in France and the United States). For this reason a distinction has often been drawn between two conceptions of nationality law, namely *jus soli* and *jus sanguinis* – acquisition of nationality by virtue of birth on the territory of the country, and conferment of nationality by descent. In actual fact the dividing line between the two groups has never been altogether clear-cut and Germany, for instance, although it has long refused to class itself as an immigration country, has admitted large numbers of immigrants who have integrated economically, socially and culturally despite not being ethnic Germans.

In these two opposite cases, and in most of the intermediate ones, the demographic inflow has often been sizeable (in Europe an average of 3% of the population – but with over 33% in Luxembourg at the top end of the range – is of foreign origin, and the figure exceeds 80% in some of the Arab Emirates). In some cases the boost to the economy has been crucial to economic growth: in the 1960s and 1970s European researchers militating for immigrants' rights often attempted to describe the boost in terms of graphic images (how many tons of steel produced by foreign workers, how many square metres of housing built, how many kilometres of motorway, how many motor cars and so on). Their aim was to show the contribution made by specialist unskilled workers in mining, industry and construction or in specific areas of agriculture.

### *Proposals*

*VII.1 Destination countries should support voluntary (rather than imposed) integration of migrants. Integration policies should be based on inclusive principles and not prescriptive cultural, religious, linguistic or ethnic qualities. They should value diversity and respect the culture of migrants.*

*VII.2 Countries of origin and destination countries should co-operate in order to support the integration of migrants and help them maintain their links with societies of origin.*

*VII.3 Destination countries should encourage civic and political participation by migrants through programmes run by NGOs, employers' organisations, trade unions and immigrants' associations.*

*VII.4 Countries of origin and destination countries should facilitate the acquisition of double nationality in order to assist both migrant naturalisation and migrant return to and contact with the country of origin.*

*VII.5 Destination countries should take further measures to combat discrimination on ethnic, religious and racial grounds, particularly in relation to housing, education and access to employment.*



## VIII Return, reintegration, readmission

### *Situation*

The return of migrants, whether voluntary or forced, is a complex matter. Firstly, it has to be borne in mind that return is the initial migration plan of a very large proportion of migrants, if not the majority, except in specific cases (such as long-term trans-ocean population migration or migration by refugees with no hope of return), contrary to what a large number of those involved in immigrant integration believe. From the standpoint of the destination countries, return to the country of origin, depending on the particular juncture and case, may be desirable (temporary or alternating labour migration) or not (where the policy is to build up population through immigration). Similarly, from the standpoint of countries of origin, return of emigrants may be desirable (for development purposes) or not (because of the problem of reintegrating the returning emigrant). Return is an undertaking that is at least as complex and difficult for the migrant and the authorities in the country of origin as emigration. To reflect this, German researchers have coined the term “re-migration” and “re-emigrant” (*Remigrant*).

The major factor is how independent the migrant’s return decision is. According to how freely the decision (whether individual or joint) is taken, return will be experienced as a personal failure or a success, which will reflect correspondingly on the immigrant in the society of origin. The return decision may result from total dissatisfaction (awareness of the difficulty of adapting to a new life and new working conditions, disappointment with the job or with earnings, and so on) or from total satisfaction (where the emigrant regards the objectives of the migration project as having been attained). The recent phenomenon described in eastern and south-east Europe (alternating migration, with a succession of short stays followed by returns) is an intermediate case, made possible by developments in transport between the two groups of countries and also encouraged with an eye to eventual EU membership – now attained in several cases (Poland, Hungary, the Czech Republic, Slovakia, Slovenia, Latvia, Estonia, Lithuania, Malta and Cyprus), under negotiation in others (Romania, Bulgaria and Turkey), applied or hoped for in still others (Croatia, Albania, Bosnia and Herzegovina, Serbia and Montenegro, “the Former Yugoslav Republic of Macedonia”, Moldova, Ukraine), it could further stimulate the desire to migrate.

### *Voluntary return*

As already pointed out, voluntary return is due to various factors, ranging from genuine satisfaction with the migration project to a decision which has been somewhat forced on the emigrant and which is taken so as not to “lose face” vis-à-vis the community of origin (official return aid being accepted even if it is regarded as insufficient). Even here, return may none the less enable the emigrant to reintegrate advantageously, whether as a retiree living on retirement income or as a self-employed entrepreneur, though in both cases social promotion or personal savings are at risk if the decision has been insufficiently thought out or some economic mishap occurs. It may be the second or third generation that makes the return, when economic prospects improve in the country of origin (as in Turkey and China today or, earlier,

in Spain, Portugal, Italy, with opportunities presenting themselves for middle and senior managers and investors). The research community and everyone engaged in management of migration flows know that such return flows are, in actual fact, very difficult to ascertain for lack of adequate statistics, particularly in the case of deferred returns (often by people with the nationality of the immigration country or with dual nationality). Despite the many studies of returns and of the economic and social benefits of migration, the research findings are not widely known, or are ignored or muddled, whether from lack of curiosity on the part of decision-makers or fears of misuse of special arrangements (in connection, for instance, with permits for or migratory movement by retired people or visas for family or relatives).

### *Non-voluntary return and readmission*

Non-voluntary return is the return of migrants whose plans have failed, mostly as a result of the migrant being refused entry to or residence in the receiving country. The migrant may have illegally entered the receiving country and been sent straight back to the country of origin or to a transit country in which he or she has spent some time; he or she may be an asylum seeker who has been refused refugee status (Geneva Convention or comparable status), or may have been displaced by a war and be temporarily living in a border area close to the country of origin (within the Council of Europe area this is not uncommon in the Balkans and the Caucasus); he or she may have been removed from the receiving country by administrative decision (as also sometimes happens to nationals of immigration countries when the “double penalty” much criticised by human-right activists is imposed). In this type of case, therefore, failure more often has legal than economic causes, even when the economy of the destination country is considered unable to accommodate a migrant, which is not always really the case: NGOs often argue, on behalf of irregular migrants or persons refused asylum who are facing expulsion, that they are economically and socially well integrated and have been living peacefully and diligently in the country for many years.

The recent tendency, which has now spread to almost all the Council of Europe member countries and to neighbouring and partner countries of the various European organisations, is to conclude a number of agreements on readmission of irregular migrants. Such agreements, between a country receiving irregular immigration and a country of origin, seek to reduce to a minimum, or if possible stop, further migration attempts while setting an example of firmness for would-be non-desired migrants (those with few skills, in particular). The agreements do, however, at the request of NGOs and the signatory countries of origin, observe expelled and readmitted migrants’ rights. Nevertheless there are those who remain sceptical, firstly in view of the complexities of reintegrating migrants in difficulty, who in many cases are heavily in debt to their families or communities of origin (communities in Afghanistan, Pakistan, China or sub-Saharan Africa, for example, may well have chosen them as emigration “trail blazers”); secondly because of the frequent involvement of people-smugglers or people-traffickers (who may have given short-term financial assistance or operate within organised criminal networks); and thirdly because socio-economic conditions in the country or region of origin may be unchanged and the causes of immigration not have been adequately investigated. In other words, in the space of a few months or years the country or region will not have developed sufficiently to offer any real or adequate alternative to emigration. This makes it all the more

necessary to have development policy jointly formulated by countries working in partnership.

### *Return, re-emigration and re-integration*

Although little studied until the 1970s, the question of return has now been the subject of a great deal of research, which has highlighted the great difficulties which immigrants have in reintegrating into the country of origin socially and economically. The fact is that as long as the conditions which prompted emigration remain basically unchanged, there will often be little chance of migrants (retired ones excepted) making a successful return. None of the voluntary-return schemes in the production sector (industrial or small-business start-ups) that have been run without welfare support or appropriate training have been of great benefit to sending countries' economies or readily transferable as experiments. Return in whatever form (in or outside the production sector, after retirement, deferred to a later generation, or readmission) turns out to be just as complex as integration.

### ***Proposals***

#### *A. Re-integration*

*VIII.1 In order to facilitate the re-integration of migrants, countries of origin and destination countries should establish joint socio-economic development programmes in favour of the countries of origin. The programmes should include financial and technological provision.*

*VIII.2 Various accompanying measures should be taken by the countries of origin, in technical and financial partnership with countries of destination, to facilitate the re-integration of migrants. Such measures might include:*

*a) placement and job-finding aid for returning migrants, regardless of the return circumstances (voluntary unaided return, aided return or readmission), together with the setting up of employment agencies in countries which do not have them;*

*b) technical and financial support for economic activities such as micro, small or medium-size businesses, activity development programmes for rural areas and for urban areas undergoing economic reorganisation (areas of industrial decay, redeployment and reclassification areas in central and eastern Europe);*

*c) skills-acquisition and reskilling courses jointly conducted by countries of origin and destination, with assistance from economic organisations concerned, including private firms in the case of technology or know-how transfer or relocation abroad;*

*d) educational support and activities for children of school age, in particular to assist language learning (the language of the country of origin or the language of the parents' immigration country);*

*e) welfare assistance and psychological support to returnees whose migrant projects have failed, through the setting up of approved information, advice and social-assistance centres.*

*B. Re-admission agreements*

*VIII.3 Countries of origin, transit and destination should co-operate more closely in the preparation of re-admission agreements and ensure that they are beneficial for all parties, including migrants themselves. In particular there should be closer co-operation on the minimum standards for such agreements.*

*VIII.4 Technical and functional links between countries of origin and destination should be established in order to improve exchange of information relating to the implementation of readmission agreements.*

*VIII.5 Countries of origin should establish adequate legal frameworks to support the implementation of readmission agreements, including appropriate budgetary provision.*

## IX Migration and development

### *Situation*

There is nothing new about the idea of turning migration to economic or social account: for the societies of origin the objective is to attract capital, technology and know-how while reducing demographic pressure on the economy, and for the receiving societies the aim could be to reduce the development gap. Reducing it is ultimately of considerable economic benefit to all partners – business and job creation boosts income levels and raises standards of living, which in turn boosts household spending and expenditure by firms – both in the countries of origin and for the immigration countries, which then have new markets to exploit.

Migrants' remittances and the present and potential role of diasporas are of particular importance; these are factors that both shape the migratory field and reinforce it.

### *Migrants' remittances*

By migrants' remittances is meant all transfers of income accruing to migrants in the immigration country (pay, welfare benefits, income earned by savings or other investment transfers of capital and so on). They can make a considerable contribution to some emigration countries' balance of payments, from 75% to as much as 216% of the total value of exports. But such transfers largely go unrecorded in official statistics, or in the case of some countries, though substantial, make only a small contribution to balance of payments, whereas they continue to be of vital importance – indeed a matter of national survival – for other countries (216% of the total value of exports for Gaza/the West Bank) (OECD, 2005b)<sup>9</sup>. Despite the growth of such transfers in the world economy – they amounted to 149.4 billion US dollars in 2002 (as against under 50 billion in 1988), exceeding flows of public development aid – the OECD Conference on Migration, Remittances and the Economic Development of Sending Countries (2005b) showed how tricky the question of remittances is. The issue is a recurrent one that regularly comes to the fore. The available studies (of good and bad practice) are numerous and often of high quality. If the countries involved in migratory fields shared real political will, the available research would probably enable them to respond more effectively to development demand.

Recent OECD figures (2005 b) indicate that aggregate transfers represented 2.4% of developing countries' aggregate GDP, 8.2% of those countries' aggregate exports and 10.4% of aggregate capital investment by those countries. Moldova, Albania and Armenia are among the 30 countries which received the largest amounts in transfers in terms of percentages of GDP (the respective figures were 22.8, 15.6 and 11.2), whereas Turkey and Romania received, respectively, 2,990 million US dollars and 1,646 million US dollars (and therefore were among the 30 countries which received

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<sup>9</sup> See Thomas Straubhaar and Florin P. Vadean on emigrants' international transfers of funds and their role in development.

the highest transfers of funds). Lastly, Albania was among the 30 countries receiving the highest per capita amount (229 US dollars)<sup>10</sup>.

Despite the large amounts of funds transferred in recent decades, and despite our knowledge of experiments conducted worldwide, the picture as regards the benefits of migration to the countries of origin is still as mixed and hard to interpret. This is brought home by the proceedings of the Santiago de Compostela conference (OECD 2005b), which give a very detailed assessment of the issues. Significant experiments have several times been conducted (1960-1970, the 1980s, 2000 onwards) in different parts of the world, generating a body of very full and detailed research. It is worth looking more closely at those experiments to try to learn lessons from them for the present-day globalised economy. Development cannot be sustainable or integrated without an overall approach which takes into account both market trends and the specific features of the socio-economic spaces concerned.

These possible lines of approach must be applied locally to the specific economy of the country of origin, and more particularly of the emigration region. For instance, we can contrast the cases of Armenia and Moldova, each of which has rural development programmes to reintegrate returning migrants (dealing with accommodation and micro- or small businesses in rural areas), with older examples of development plans and measures to stimulate business creation for regional development (in Mexico, northern Greece, Portugal, Turkey, Yugoslavia, Tunisia, Morocco, etc.) or with other economic areas (e.g. China). However, it is necessary to bear in mind international economic developments and the globalisation process: nowadays there is no emigration region, even the most isolated, which is totally self-sufficient or cut off from larger tendencies; this is something which must on no account be overlooked or underestimated in drawing up a local development plan.

### *Diasporas and development*

The diaspora may be defined, at the first level, as all the different communities scattered throughout the migratory area of a particular ethnic or national group, as suggested by the etymology of the word, which originally applied to the Jewish communities dispersed worldwide (see Simon 1995, 216). According to Chaliand and Rageau, *Atlas des Diasporas* (1991, XII-XV), a diaspora involves factors such as:

- “- an originating disaster triggering the forced, collective dispersal of a religious and/or ethnic group;
- collective memory, which hands down both the historical facts of the dispersal and, in the broadest sense, a cultural heritage;
- a commitment to survival as a minority group with a heritage to pass on;
- the time factor (which determines whether the preceding factors continue to have vital force)”.

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<sup>10</sup> India (14,842 million US Dollars), China (14,383) and Mexico (11,464) were the three countries which received the largest amounts in transfers. Same reference as footnote 2.

Without going into the academic issues, it is worth making the point that there is extremely keen debate within the research community because the way that a diaspora population functions arguably runs counter to the now widely accepted nation-state model, and each individual case studied therefore turns out to be a special one which is hard to put forward as a diaspora model. Many other definitions have been advanced, but four main academic stances can be identified: the diaspora as a type of social entity (transnational communities); the diaspora as a form of consciousness (transnational networks); the diaspora as a mode of expression and culture building which is a fusion of two cultures; the diaspora as a political force for internal cohesion and external lobbying.

Here the emphasis is on the solidarity aspect and commitment to the original community, both of which may create flows of financial investment, equipment and services channelled into development of the country of origin, quite apart from any strictly political or narrowly identity-based definition. The developed countries regard their expatriates as an asset (spreading the language, the culture, technology and know-how, and creating wealth and cultural influence) and it would be to everyone's advantage if emigration from the countries of origin were similarly regarded as a potential tool for economic development and cultural dissemination, correcting the asymmetry we have mentioned in all areas to do with labour migration and the settlement migration which often follows it. Attachment to the country of origin and its cultural values should be viewed positively, provided those values are compatible with the receiving country's, and not as a threat to the immigration country or as a hindrance to integration.

It is not uncommon for the authorities in the emigration countries to refuse to use the word "emigrant" and to prefer "migrant", "expatriate" or "resident abroad", as in fact do a large proportion of immigration countries when they have nationals of their own living abroad. Each of the groups of countries which, through force of circumstances, have become economic, social and sometimes political partners could advantageously use the same terminology to repair the asymmetry and it would be helpful if each emigrating citizen, whatever their country of origin, were placed on the same legal footing both by the state of origin and the state of residence, as advocated in, for example, Parliamentary Assembly Recommendation 1650 (2004) on links between Europeans living abroad and their countries of origin.

### ***Proposals***

#### ***A. Development (general measures)***

*IX.1 Countries of origin and destination countries should work out a broader concept of development and promote more holistic co-operation that engages governments, regional and local authorities, civil society and migrants and their associations.*

*IX.2 The linking of migration, development and foreign policies by both countries of origin and destination countries is a pre-requisite for an effective partnership approach to development.*

*IX.3 Destination countries should adopt a more flexible legal framework that offers legal migrants the possibility of unrestricted movement between country of origin and destination country whilst preserving their immigration status in the destination country.*

*IX.4 To assist development in countries of origin, destination countries should promote training and manpower-raising skills programmes, transfer of competence, know-how and flows of foreign capital and conduct development projects coupled with development-aid.*

*B. Remittances*

*IX.5 Countries of origin should encourage remittance flows through pro-active legislative and regulatory policies.*

*IX.6 Countries of origin should, for example, endow their migrants with specific rights, protection and recognition so as to maximise the income stream from their remittances and involve them in the broader development process.*

*IX.7 Countries of origin and destination countries should co-operate with a view to supporting the flow of migrants' remittances and their impact. Examples of specific steps that should be taken include:*

*a) signature by all countries concerned of agreements on not applying double taxation to international migrants and treating them instead as investors;*

*b) creation of a proper legal/regulatory framework allowing effective use to be made of remittances in various investment areas;*

*c) measures necessary to allow migrants' monetary and financial transfers to the country of origin to be made securely through adapted and transparent banking arrangements;*

*d) encouraging banks to make transfers of savings and welfare benefits in a spirit of genuine competition and at reasonable cost;*

*e) supervision by the state of those fund-transferring institutions which enjoy monopolies, or at least placing their practices on an ethical footing;*

*f) simplifying the procedure for transfer operations conducted through post offices and non-private banks;*

*g) financial incentives (special loans and interest rates) to emigrants and members of diasporas or established migration flows under economic and social development programmes.*



C. *Diasporas*

*IX.8 Countries of origin and destination (or residence) should recognise the important role that diasporas can play as bridges between cultures and the contribution they make to European cultural and religious diversity.*

*IX.9 Countries of origin and destination (or residence) should facilitate and encourage the role of diasporas in their shared economic development.*

*IX.10 Countries of origin and destination (or residence) should foster open dialogue with and within diaspora communities with a view to enhancing partnership on issues of migration and development.*

*IX.11 Countries of origin and destination (or residence) should build on the skills and talents of diaspora communities and their members for the purposes of both achieving better integration in the countries of residence and development in the countries of origin.*

*IX.12 Countries of origin should promote the transfer of skills and know-how to their countries by (i) collecting data on their scientific diasporas for the benefit of newly emerging experts and skilled workers, and (ii) encouraging highly qualified academic and expert members of their diasporas to participate in joint scientific programmes and research by, for example, making available funds and resources.*

*IX.13 Countries of origin should support the activities of their expatriate associations and other NGOs and undertake initiatives and implement specific projects that encourage skilled emigrants interested in returning to do so.*



## CONCLUSION

Co-operation between countries of origin and destination must be a key priority for the migration management strategy of the Council of Europe, its member states and those involved in migratory movement between North and South and East and West. Co-operation will help increase the beneficial effects and reduce the adverse effects of migration for both sets of countries. Such an approach implies a much broader and deeper level of co-operation between countries of origin and destination than hitherto. Above all, it implies that the specific concerns and interests of countries should be given greater recognition. To be effective, such co-operation must be based on a number of important principles.

Firstly, there must be genuine partnership between all parties concerned. This must seek “win-win” outcomes that offer a more balanced distribution of the advantages, wealth and development that migration produces. All parties must engage on an equal footing in open, constructive dialogue aimed at building trust, promoting co-operation between experts, exchanging information, identifying areas of common concern and, if necessary, harmonising divergent interests. The countries concerned should make proposals, take common measures and promote joint action to tackle the problems that they have identified and meet these challenges in a coordinated manner. Where states have competing interests, concerted action can help them overcome their differences and achieve a more orderly management of migration that benefits both them and migrants themselves.

Secondly, co-operation on migration management should be characterised by a human rights approach that promotes human dignity. This implies, for example, that immigration countries redefine integration so as to take better account of migrants’ personal needs and interests, and take further measures to combat discrimination and racism in everyday life. It also implies that the asymmetrical treatment of immigration and sending countries should be reduced so as to achieve a more balanced distribution of the advantages, wealth and development that migration produces. It also implies making a clear distinction between policies combating terrorism and migration policies based on the fundamental rights of individuals and the right of free movement. Co-operation on migration management should in general be based on democratic values and, in particular, respect for diversity.

Thirdly, co-operation on migration management should be holistic. In practice and as a matter of policy, international migration must be seen in its entirety – that is, as a phenomenon that involves all the political and economic agencies of the countries of origin, destination and transit as well as migrants themselves (viewed as autonomous and responsible individuals, and account being taken of their life projects). It should encompass all components of migration, whether legal, illegal, economic, political or even environmental. Any measure taken by a country or group of countries for or against a migrant or group of migrants must be approached within this overall context and its effects on other countries concerned with international migration properly taken into account.

The nine areas of interest for countries of origin identified in this report are not exhaustive or final. They can and will change over time and between different regions. This fluidity and variety must be taken fully into account in the implementation of a migration management strategy. Account should likewise be taken of new migration patterns or of new perceptions of the realities of migration movements. Migrants move in a transnational area, which is both a geographical and a socio-economic space. They trace their life paths, moving from one country to another. The resulting complex network of relations, connecting migrants to the countries from which they originate, through which they transit, in which they arrive and from which they depart, is the main push factor in the circular movement of migrants. It promotes communication, transfer of expertise and capital, and exchange of ideas in an international arena.

In a changing world, migration management should be a flexible and dynamic procedure that can follow developments effectively and adapt quickly to the fluidity of every day situations without losing either its principles or its “human face”. A multilateral forum, bringing together countries of origin and destination, is required in order to facilitate such actions and achieve the necessary degree of co-ordination. The Council of Europe, its European Committee on Migration and its Political Platform on Migration can perform that role, providing the necessary guarantees for human rights, democracy and the rule of law.

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**Recommandation 1650 (2004)<sup>1</sup>**

**Links between Europeans living abroad and their countries of origin**

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1. Several million Europeans live legally outside their countries of origin, both in Europe and outside the continent, and regular migration flows are constantly on the rise. For some countries, in particular in central and eastern Europe, the question of links with their expatriates is a relatively new problem.

2. Migration policies in most Council of Europe member states which consider themselves host countries are based mainly on issues concerning immigration and integration, ignoring the emigration dimension.

3. Relations between countries of origin and their expatriates in Council of Europe member states vary from strong and institutionalised to loose and informal. There is no harmonisation in this respect at the pan-European level.

4. The Parliamentary Assembly believes that it is in the interest of states to ensure that their expatriate nationals continue to actively exercise their rights linked to nationality and contribute in a variety of ways to the political, economic, social and cultural development of their countries of origin.

5. At the same time expatriates have an important role to play as intermediaries between their countries of origin and host countries, and for their respective cultures, promoting co-operation and exchange in different fields, based on respect for other peoples and cultures.

6. Multiculturalism and cultural and religious diversity are now a reality and must be reflected in coherent and co-ordinated migration policies involving both host countries and countries of origin. Expatriation is the outcome of increasing globalisation and should be viewed as a positive expression of modernity and dynamism; it is of real economic benefit for both host countries and the countries of origin.

7. It is essential for all parties concerned that the right balance between the process of integration in the host country and the links with the country of origin is defined and maintained.

8. The Assembly regrets that little follow-up has been given to the main principles included in Recommendation 1410 (1999) on the links between Europeans living abroad and their countries of origin. It stresses their importance and refers to other relevant texts touching upon different aspects of this vast subject: Recommendation 1500 (2001) on the participation of immigrants and foreign residents in political life in Council of Europe member states; Recommendation 1587 (2002) on the residence, legal status and freedom of movement of migrant workers in Europe: lessons from the case of Portugal; and Recommendation 1492 (2001) on the rights of national minorities.

9. For these reasons, the Assembly recommends that the Committee of Ministers:

i. invite member states:

a. to review their emigration policies and solutions in the field of relations with their expatriates with a view to improving and strengthening them;

b. to establish institutional links with expatriate communities if this has not already been done, in order to enable them to defend their rights, express their opinions and influence any decisions which might concern them;

c. to take account of their expatriates' interest in policy making, in particular concerning questions of nationality; political rights, including voting rights; economic rights, including taxation and pension rights; social rights, including social schemes; and cultural rights;

d. to encourage and support the activities of expatriate associations and NGOs;

e. to promote and support all forms of co-operation with their expatriate communities;

ii. promote an exchange of views and co-operation between Council of Europe member states as regards political, legal, economic, social and cultural measures aimed at strengthening the links between European expatriates and their countries of origin;

iii. review the existing models of relations between expatriates and their countries of origin, with a view to making proposals for the introduction of legally-binding measures at the European level;

iv. consider the elaboration and implementation of specific programmes and projects aimed at encouraging qualified expatriates from particular countries to return to their country of origin;

v. initiate the establishment, under the auspices of the Council of Europe, of a council of Europeans abroad, a body representing European expatriates at the pan-European level;

vi. initiate the elaboration and establishment of a pan-European, harmonised system for collecting statistics on the nationals of Council of Europe member states living in other Council of Europe member states;

vii. clarify different administrative concepts, classifications and definitions concerning expatriates with a view to harmonising them at European level;

viii. involve associations and NGOs in activities concerning expatriates.

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1. *Text adopted by the Standing Committee, acting on behalf of the Assembly, on 2 March 2004 (see DOC. 10072, report of the Committee on Migration, Refugees and Population, rapporteur: Ms Bušić).*



## **MAIN INTERNATIONAL INSTRUMENTS ON INTERNATIONAL MIGRATION**

### **United Nations**

- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)

### **International Labour Organisation**

- Convention No. 97 concerning Migration for Employment (Revised) (1949)
- Convention No.118 concerning Equality of Treatment of Nationals and Non-Nationals in Social Security ((1962)
- Convention No. 143 concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (1975)

### **Council of Europe**

- European Convention for the Protection of Human Rights and Fundamental Freedoms (1950) and Protocol 4 (1963)
- European Convention and Social and Medical Assistance (1953)
- European Convention on Establishment (1955)
- European Social Charter (1961, 1996)
- European Agreement on “Au Pair” Placement (1969)
- European Convention on the Legal Status of Migrant Workers (1977)
- European Convention on Social Security (1977)
- Convention on the Participation of Foreigners in Public Life at Local Level (1992)
- Convention on the Recognition of Qualifications concerning Higher Education in the European Region (1997)
- European Convention on Nationality (1997)
- Council of Europe Convention on Action against Trafficking in Human Beings (2005)



## GLOSSARY– Terminology used and Common Definitions

This glossary, taken largely from an International Organisation for Migration (IOM) publication (*Glossary on Migration. International Migration Law*, Geneva, 2004), is intended merely to clarify the terms used in the report. The IOM publication is certainly not the only one of its kind and some definitions might be challenged by international migration specialists. The definitions of “diaspora” and “nomad” are particularly inadequate to convey realities which are extremely complex as well as highly contemporary. There are no definitions of “migratory field” or “migratory movement”, to take two examples. However, this report derives from the discussions of experts appointed by their respective governments. It is not a research paper and we therefore believe that these borrowings from IOM are sufficient for our purposes, subject to one or two additions.

<i><b>English</b></i>	<i><b>French</b></i>
Assisted voluntary return: logistical and financial support to rejected asylum seekers, trafficked migrants, stranded students, qualified nationals and other migrants unable to or unwilling to remain in the host country who volunteer to return to their countries of origin	Retour volontaire aidé : soutien logistique et financier aux auteurs de demandes d’asile rejetées, aux migrants ayant fait l’objet d’une traite, aux étudiants à bout de ressources, aux nationaux qualifiés et autres migrants ne pouvant ou ne voulant pas rester dans le pays hôte, volontaires pour retourner dans leur pays d’origine.
Border control: a State’s regulation of the entry of persons to its territory, in exercise of its sovereignty	Contrôle des frontières : réglementation par l’Etat, dans l’exercice de sa souveraineté, de l’entrée de personnes sur son territoire.
Brain drain: emigration of trained and talented individuals from the country of origin to a third country, due to conflict, lack of opportunities, etc.	Exode des compétences : émigration d’individus doués et qualifiés qui quittent leur pays d’origine pour un pays tiers, pour des motifs tels qu’un conflit ou le manque de possibilités.
International migratory field: all geographical areas experienced or travelled by people from a given emigration country (eg the Mexican or Turkish or Moroccan migratory field). It includes the country of origin, the destination country and any transit countries. Close analogies with the diaspora zone or transnational migratory space. “Transnational migratory space structured by networks linking places of origin and places of employment and by continuous flows of workers and their families. A system of personal, economic and cultural relations” (*).	Champ migratoire international : ensemble des espaces vécus et parcourus par les originaires d’un pays d’émigration (champ migratoire mexicain, turc, marocain...) incluant pays d’origine, de destination et de transit. Forte analogie avec l’espace diasporique ou l’espace migratoire transnational. ‘Espace migratoire transnational structuré par des réseaux unissant lieux d’origine et lieux d’emploi, des flux permanents de travailleurs et familles, un système de relations personnelles, économiques, culturelles’ (*).

<p>Migratory movement: “all movement generated by migration, including emigration and return flows, tourism to the country of origin, visits, invisible, non-material flows, investment, information, ideas and political or social models” (**). It links the country of residence and the country/society of origin and derives from the presence abroad of immigrant populations active in various fields (social, cultural and family links, enterprise start-ups, foreign trade, tourism, transport, information, communication).</p>	<p>Circulation migratoire : ‘ensemble des mobilités induites par le fait migratoire, incluant flux d’émigration et de retour, mouvements touristiques vers le pays d’origine, visites, flux invisibles et immatériels, investissements, informations, idées et modèles politiques et sociaux’ (**). Elle relie pays de résidence et pays / société d’origine et dérive de la présence à l’étranger de populations immigrées actives dans différents domaines (liens familiaux, sociaux et culturels, création d’entreprise et commerce extérieur, tourisme, transports, information, communications).</p>
<p>Country of destination: the country that is the destination for migratory flows (legal or illegal). See “Receiving country”.</p>	<p>Pays de destination, d’accueil, d’immigration : pays destinataire des flux migratoires (réguliers ou illégaux).</p>
<p>Country of origin: a country that is a source of migratory flows (legal or illegal)</p>	<p>Pays d’origine : pays source des flux migratoires (réguliers ou illégaux).</p>
<p>Country of transit: a country through which migratory flows (legal or illegal) move</p>	<p>Pays de transit : pays à travers lesquels se déplacent les flux migratoires (réguliers ou illégaux).</p>
<p>Diaspora: refers to any people or ethnic population that leave their traditional ethnic homelands, being dispersed throughout other parts of the world. This broad definition seems insufficient to describe the behaviour of active diasporas, which have a real impact culturally, economically, socially and politically (see the text of the report).</p>	<p>Diaspora : se réfère à toute population ou groupe ethnique dispersé à travers le monde après avoir quitté son lieu d’origine ethnique traditionnel. Cette définition large semble insuffisante pour décrire le comportement de diasporas actives qui ont un impact réel sur la vie culturelle, économique, sociale et politique (voir texte du rapport).</p>
<p>Emigration: the act of leaving one state in order to settle in another. International human rights law provides that everyone should be free to leave any country, including their own, and that only in very limited circumstances may a state impose restrictions on the individual’s right to leave its territory.</p>	<p>Emigration : acte de quitter un Etat en vue de s’installer dans un autre. Les normes internationales en matière de droits de l’homme prévoient que toute personne doit être libre de quitter tout pays, y compris le sien, et que les Etats ne peuvent imposer des restrictions à ce droit que dans des circonstances très limitées.</p>
<p>Freedom of movement: a right made up of three basic elements – freedom of movement within the territory of a country, the right to leave any country and the right to return to one’s country.</p>	<p>Liberté de circulation : ce droit comprend trois éléments fondamentaux : la liberté de mouvement sur le territoire d’un pays ; le droit de quitter tout pays ; le droit de revenir dans son pays.:</p>
<p>Immigration: the process of non-national travel to a country for the purpose of settlement</p>	<p>Immigration : processus par lequel des non-nationaux s’installent dans un pays.</p>
<p>Integration: the process by which immigrants become members of the host society, both as individuals and as groups. The particular requirements for acceptance by a receiving society vary greatly from country to country. Responsibility for integration rests not with one particular group but with many actors: immigrants themselves, the host government, institutions and communities.</p>	<p>Intégration : processus par lesquels des immigrants deviennent membres de la société d’accueil, aussi bien individuellement que collectivement. Les conditions particulières à remplir pour être accepté par une société d’accueil varient considérablement d’un pays à l’autre ; la responsabilité de l’intégration n’incombe pas à un groupe particulier, mais plutôt à de nombreux acteurs : les immigrants eux-mêmes, le gouvernement hôte, les institutions et communautés.</p>

Irregular migrant: someone who, owing to illegal entry or the expiry of his or her visa, lacks legal status in a transit or host country. The term applies to migrants who infringe a country's admission rules and any other person not authorised to remain in the host country (also called clandestine / illegal / undocumented migrant or migrant in an irregular situation).	Migrant irrégulier : personne qui, en raison d'une entrée illégale ou de l'expiration de son visa, n'a pas de statut légal dans un pays de transit ou d'accueil. L'expression s'applique à des migrants qui enfreignent la réglementation d'un pays en matière d'admission et à toute autre personne non autorisée à rester dans un pays d'accueil (synonyme de migrant clandestin, sans papiers ou en situation irrégulière).
Jus sanguinis: the rule that a child's nationality is determined by its parents' nationality, irrespective of the place of its birth	Droit du sang : système juridique d'après lequel la nationalité d'un enfant est déterminée par celle de ses parents, quel que soit son lieu de naissance.
Jus soli: the rule that a child's nationality is determined by its place of birth (although nationality can be conveyed by the parents)	Droit du sol : système juridique d'après lequel la nationalité d'un enfant est déterminée par son lieu de naissance (bien que la nationalité puisse être transmise par les parents).
Migrant: a person who moves to a country other than that of his or her usual residence for a period of at least a year, so that the country of destination effectively becomes his or her new country of usual residence. From the standpoint of a country of departure, the person will be a long-term emigrant and from that of the country of arrival, the person will be a long-term immigrant.	Immigré : personne qui vit dans un pays autre que celui de sa résidence habituelle pendant une période d'un an au moins, si bien que le pays de destination devient en fait son nouveau pays de résidence habituelle. Du point de vue du pays de départ, la personne est un émigrant de longue durée et pour le pays d'arrivée, un immigré de longue durée.
Readmission: act by a state accepting re-entry of an individual (own national, third-country national or stateless person), who has been found illegally entering or being present in another state.	Réadmission: acte par lequel un Etat accepte le retour d'un individu (national de cet Etat, d'un pays tiers ou apatride), dont il a été constaté qu'il était entré ou était présent illégalement dans un autre Etat.
Readmission agreement: agreement which addresses procedures for one state to return aliens in an irregular situation to their home state or a state through which they passed en route to the state which seeks to return them.	Accord de réadmission : accord portant sur les procédures permettant à un Etat de renvoyer les étrangers en situation irrégulière dans leur Etat d'origine ou dans un Etat par lequel ils ont transité avant leur venue dans l'Etat qui cherche à les renvoyer.
Receiving country: the destination country or a third country. In the case of return or repatriation, also the country of origin. Country that has agreed to receive a certain number of refugees and migrants on a yearly basis by presidential, ministerial or parliamentary decision.	Pays d'accueil, de destination, d'immigration : pays de destination ou pays tiers. En cas de retour ou de rapatriement, pays d'origine également. Pays qui a accepté de recevoir un certain nombre de réfugiés et d'immigrés sur une base annuelle, par décision présidentielle, ministérielle ou parlementaire.
Re-emigration: movement by a person who, after returning to his / her country of departure, again emigrates. For German social researchers, movement by a person who returns to his country of origin after long-term residence in an immigration country.	Ré-émigration : déplacement d'une personne qui, après être retournée dans son pays de départ, émigre à nouveau. Pour les sociologues allemands, déplacement d'une personne qui retourne dans son pays d'origine après avoir résidé pendant une longue durée dans un pays d'immigration.
Reintegration: in general, re-inclusion or re-incorporation in a group or process, eg that of a migrant in the society of the country of origin (the IOM glossary gives also cultural, economic, social definitions).	Réintégration : de manière générale, réinclusion ou réincorporation d'une personne dans un groupe ou un processus, par exemple celle d'un migrant dans la société de son pays d'origine (le glossaire de l'OIM en donne également des définitions culturelles, économiques et sociales).
Remittances: monies earned or acquired by non-nationals that are transferred to their country of origin.	Remises, transferts de l'épargne des migrants : fonds gagnés ou acquis par non-nationaux et transférés dans leur pays d'origine.

Return migration: the movement of a person returning to his / her country of origin or habitual residence, usually after spending at least one year in another country. This return may or may not be voluntary. Return migration includes voluntary repatriation.	Retour, migration de retour : déplacement d'une personne qui retourne dans son pays d'origine ou de résidence habituelle, généralement après avoir passé un an au moins dans un autre pays. Ce retour peut être ou ne pas être volontaire. Les migrations de retour englobent le rapatriement volontaire.
Right to return: another aspect of the right to freedom to movement	Droit au retour : autre aspect du droit à la liberté de circulation.
Short-term migrant: a person who moves to a country other than of his / her usual residence (for a period of at least three months but less than a year) except in cases where the movement to that country is for the purpose of recreation, holiday, visits to friends or relatives, business or medical treatment. For purposes of international migration statistics, the country of usual residence of short-term migrants is considered to be the country of destination during the period they spend in it.	Migrant temporaire : Personne qui se rend dans un pays autre que celui de sa résidence habituelle (pour une période d'au moins trois mois, mais de moins d'un an), exception faite des cas dans lesquels le déplacement a pour but des loisirs, des vacances, des visites à des amis ou parents, des activités commerciales ou un traitement médical. Aux fins de statistiques sur les migrations internationales, le pays de résidence habituelle des migrants temporaires est considéré comme le pays de destination pendant la période qu'ils y passent.
Skilled migrant: migrant worker who, because of his / her skills, is usually granted preferential treatment regarding admission to a host country (and is therefore subject to fewer restrictions regarding length of stay, change of employment and family reunification).	Migrant qualifié : travailleur migrant qui, en raison de ses qualifications, bénéficie généralement d'un traitement préférentiel concernant l'admission dans un pays d'accueil (et fait donc l'objet de moins de restrictions relatives à la durée du séjour, au changement d'emploi et au regroupement familial).
Smuggler: an intermediary who moves people in furtherance of a contract with them in order to illegally transport them across an internationally recognised state border.	Passeur : intermédiaire qui permet à des personnes de se déplacer en application d'un contrat avec elles dans le but de leur faire franchir illégalement la frontière internationalement reconnue d'un Etat.
Smuggling: the procurement, in order to obtain, directly or indirectly, financial or other material benefit, of the illegal entry of a person into a state party of which the person is not a national or a permanent resident. [...] Smuggling, unlike trafficking, does not require an element of exploitation, coercion or violation of human rights. This definition does not include factors linked to specific political situations such as absence of democracy or the existence of repression in a country of origin.	Passage : fait de permettre à une personne, pour en tirer directement ou indirectement des avantages financiers ou matériels, d'entrer illégalement dans un Etat partie dont elle n'est pas ressortissante ou dans lequel ne se trouve pas sa résidence permanente. [...] Le passage, contrairement à la traite, n'implique pas d'élément d'exploitation, de coercition ou de violation des droits de l'homme. Cette définition n'englobe pas les motifs liés à des situations politiques particulières, telles que l'absence de démocratie ou l'existence d'une répression dans un pays d'origine
Trafficker: an intermediary who moves people in order to obtain financial or other profit by means of deception, coercion and / or other forms of exploitation. The trafficker's intention from the start is to exploit the person and gain profit or advantage from the exploitation.	Trafiquant : intermédiaire qui permet à des personnes de se déplacer, pour en tirer un profit économique ou autre par le biais d'un abus de confiance, de la coercition et/ou d'autres formes d'exploitation, l'intention première du trafiquant étant d'exploiter les personnes visées et d'en tirer un profit ou un avantage.

<p>Trafficking: the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.</p>	<p>Trafic ; traite : recrutement, transport, transfert, hébergement ou accueil de personnes, utilisant la menace ou recourant à la force ou à d'autres formes de coercition, d'enlèvement, de fraude, d'abus de confiance, d'abus de pouvoir ou tirant avantage d'une situation de vulnérabilité, ou offre ou acceptation de paiements ou avantages pour obtenir le consentement d'une personne exerçant un contrôle sur une autre personne, à des fins d'exploitation.</p>
<p>Transit: a stopover of varying length while travelling between two or more countries, either incidental to continuous transportation or for the purpose of changing planes or joining an onward flight or other mode of transport. This definition does not include the new forms of transit migration which can involve irregular and long-term stay in a third-country.</p>	<p>Transit : arrêt de durée variable, lors du passage entre deux ou plusieurs pays, soit en transport continu, soit pour un changement d'avion, soit encore pour y accéder à un vol ou autre mode de transport. Cette définition n'englobe pas les nouvelles formes de migration de transit qui peuvent impliquer des séjours irréguliers de longue durée dans un pays tiers.</p>
<p>Voluntary return: assisted or independent return to the country of origin or transit or another third-country based on the free will of the returnee.</p>	<p>Retour volontaire : retour assisté ou indépendant dans le pays d'origine, de transit ou dans un autre pays tiers, choisi de son plein gré par la personne concernée.</p>

(\*) Gildas Simon, Géodynamique des migrations internationales dans le monde, Paris, PUF (Politique d'aujourd'hui), 1995, p. 16. (\*\*) Michelle Guillon, in M. Guillon & N. Sztokman, Géographie mondiale de la population, Paris, Ellipses (Universités / Géographie), 2000, p.163





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This report is the result of research and discussion undertaken by a select committee of experts on countries of emigration of the European Committee of Migration (CDMG). The committee of experts met on four occasions:

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