



COUNCIL CONSEIL
OF EUROPE DE L'EUROPE

EUROPEAN COMMITTEE ON MIGRATION

TOWARDS A MIGRATION MANAGEMENT STRATEGY

Strasbourg, November 2002



COUNCIL CONSEIL
OF EUROPE DE L'EUROPE

EUROPEAN COMMITTEE ON MIGRATION

TOWARDS A MIGRATION MANAGEMENT STRATEGY

Strasbourg, November 2002

Table of Contents

FOREWORD	7
TOWARDS A MIGRATION MANAGEMENT STRATEGY	9
1. THE NEW CONTEXT	9
2. EUROPEAN MIGRATION IN THE 1990s	10
2.1 Current Trends.....	10
2.2 Who are the migrants?.....	11
3. THE NEED FOR A NEW MANAGEMENT APPROACH	12
3.1 Immigration Controls	13
3.2 Effectiveness of control.....	13
3.3 Addressing the root causes	14
3.4 Integration policies	14
4. POLICY AND REALITY: WHAT DO WE WANT TO MANAGE?	15
4.1 The rationale for management.....	15
4.2 Managers and managed.....	15
4.3 Managing public expectations	16
5. A NEW MANAGEMENT STRATEGY	17
5.1 Measures to manage migration in an orderly manner	18
5.2 An appropriate capability for protection and return and for dealing with disorderly or sudden movements.....	24
5.3 An environment conducive to integration	26
5.4 Dialogue and co-operation with countries of origin and transit countries	28
6. SUMMARY.....	29

FOREWORD

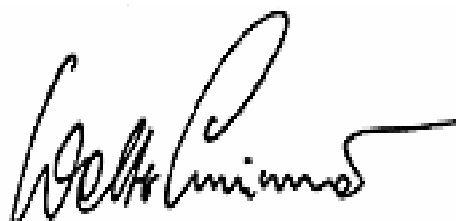
The strategy, adopted by the CDMG at its 42nd meeting in May 2000, is based on the assumption that Europe as a region has always been characterised by continuous population movements.

This strategy strongly supports measures to integrate foreign populations, while accepting that integration is a two-way process. At the heart of the strategy is our conviction that many of the migration problems now confronting governments have resulted from a piecemeal approach to specific problems, such as the economy, asylum, illegality or return. This approach is no longer sustainable. A management strategy should be regarded as a comprehensive whole, to be applied over the long term. Measures have to be applied as a complete package: failure to do so will only replicate the mistakes of the past where action in one direction has served only to create new problems in another. Whether countries are able to develop their own integrated policies and to harmonise them with others are questions that can no longer be avoided. The new managerial approach proposed in the strategy will benefit both sending, transit and receiving countries and their citizens.

We are all aware that international migration has an impact on the quality of international relations. Therefore it is of the utmost importance to put migration on the common political agenda of states of origin, transit and destination. Such a dialogue will ultimately create efficient co-operation structures. From this perspective, a climate of mutual confidence and understanding will allow the parties to negotiate on an equal footing.

As you will read in this report, the management strategy invites countries to develop their own integrated policies and to harmonise them with others. It will allow countries to develop innovative and more forward-looking policies towards migration based on a bilateral technical co-operation and to respond to all issues related to cross-border movements: border control, human rights, integration, asylum, family reunion, migrants trafficking, return to countries of origin. This approach will put together all relevant policy elements into an integrated package, thus helping to resolve urgent migration problems.

The Council of Europe is strongly committed to an effective implementation of the strategy.

A handwritten signature in black ink, appearing to read 'Willem van Tilburg', is positioned at the bottom right of the page. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

TOWARDS A MIGRATION MANAGEMENT STRATEGY

1. THE NEW CONTEXT

As Europe's migration policy makers confront the new millennium, they are able to reflect on a decade of change, which has thrown up a number of novelties. The whole of the continent has become very attractive for migrants from much of the rest of the world. Partly this reflects the new political realities - Europe is for the most part a zone of democracy and one where human rights are generally upheld. Its perceived political and economic security have made it attractive to asylum seekers. Compared with much of the rest of the world it is also a prosperous region, though it has its own internal variations, and the economic gradient between Europe and the 'South' inevitably attracts a constant stream of migrants. Southern and Central and Eastern Europe, both until recently zones largely of emigration or of little movement, are now firmly part of a migration and circulation system characterised by inflows as well as outflows.

Neither should we forget that most European countries which had high levels of emigration at the beginning of the century now frequently have an immigrant community amounting to well over 1% of the total population, which is the level at which a country can be regarded as a country of immigration.

The population of greater Europe is ageing and its birth rate is decreasing more quickly than that of other continents, especially Africa and southern and southeast Asia. This discrepancy in demographic trends between different continents is bound to have consequences which events in the recent past have merely hinted at.

These global contrasts inevitably lead to continued migration pressures, which add to those of the legacy of half a century of immigration in Western Europe. Labour immigration followed by family reunion, then from the 1980s increased numbers of asylum seekers, have been the bequest to policy makers in the 1990s. In Southern Europe, economic growth supplemented by geographical proximity to a suite of poorer countries (the Mediterranean basin is one of the steepest demographic and economic gradients in the world) has created new immigration countries, forcing their governments to adopt immigration legislation for the first time and to put increasing resources into entry control. Central and Eastern Europe and the former Soviet Union was a region of controlled emigration and limited immigration under Communism, but since 1989 has become a highly complex migration field, characterised by an enormous variety of both long and short term movements from, to and within the region.

In the 1990s the European migration vocabulary has become rich in novel terms: 'transit migration', 'incomplete migration', 'migrant trafficking', 'petty trading', 'labour tourism', and others. New ethnically based migrations are a visible manifestation of older nationalisms and minorities. Even these take a number of forms: co-nationals returning to a 'mother country' (such as *Aussiedler* to Germany, Jews to Israel); deported persons returning to their homeland (Poles from Russia to Poland, Tartars to Crimea); Russians from the Baltic and other CIS states back to the Russian Federation.

These migration trends have occurred against a changing political background. In Western Europe the economic dichotomy of the EC and EFTA has become fused into the EEA. The economic development of the EU, including the Single European Act and the Treaty of Maastricht together with the incorporation of new member states, has created a powerful political decision-making block. The EU's initiatives and measures, developed through both First and Third Pillars, are now shaping migration policy across the continent as a whole. The "communitarisation" of asylum and migration matters following the entry into force of the Treaty of Amsterdam should confirm this trend.

This process seems set to continue as discussions about the enlargement of the EU continue. Most immediately affected will be the candidate countries themselves, whose migration policy development can be expected to approximate even more closely to that of the existing Union members. Other countries

in Central and Eastern Europe are likely to follow suit, in order to assure access for their own citizens and to prevent themselves becoming even more of a vestibule for migrants seeking to get to Western Europe. The progressive removal of border controls, with the expansion of the Schengen system, merely adds weight to this process.

While the predominantly monolithic development of the EU has been leading the development of migration policy in Western Europe, albeit largely through intergovernmental co-operation, in Central and Eastern Europe recent years have seen a series of new groupings and associations within which migration policies have been initiated and developed. Some of these, like the Vienna process, have been transformed into other forms. Others, like the Budapest process, may continue to develop, providing the basis for more coherent and harmonious policy development within the region. Thus, while the EU continues to dominate policy development in Western Europe, the states of Central and Eastern Europe are in the process of developing their own associations and attempts at co-operation. Given the likely length of the EU enlargement and transition process, through what will inevitably be several phases, it is important that ways are found to harness these other initiatives and groups, and to develop a forum for dialogue on pan-European policy development and migration management. The Council of Europe is best placed to act in this capacity.

The new political map of Europe, the new migrations, and Europe's global position necessitate a pan-European policy perspective to migration and to related issues, but one which recognises that the continent faces a geographically highly differentiated set of issues. There is thus a migration management problem for countries, individually and acting in concert, which is to reconcile this differentiation at the national scale with the development of an internationally harmonious policy response. Furthermore, that response must be flexible enough to cope with new types of migration while being comprehensive enough to cover the full range of migration matters.

2. EUROPEAN MIGRATION IN THE 1990s

2.1 Current Trends

There are currently around 19.9 million foreign nationals recorded as resident in Western Europe, with perhaps a further 2.8 million or so in Central and Eastern Europe (including the Baltic States but not the C.I.S.). From 1988 to 1996/7 total foreign national stocks in Western Europe increased by about 5 million (33 per cent), although in recent years there seems to have been a noticeable fall in the rate of increase. For those countries for which it is possible to calculate net flows the period c.1980-c.1996 saw a net aggregate gain of 7.14 million by migration. 1992 seems to have been the peak of recorded immigration flows.

There are about 7.46 million recorded foreign workers in Western Europe, representing an increase of about 27 per cent on the 1988 figure (6.2 million). Thus, as the West European economy has gone into recession it has done so while increasing its foreign labour force. However, there is a substantial irregular workforce, though it is not possible to produce an estimate of its size that may not be grossly in error.

Asylum seekers have made a major contribution to rising numbers of migrants. In 1983 Europe had about 70,000 applications for asylum; in 1992, the peak year, there were 702,000, falling to 245,000 in 1996, then rising to 335,619 in 1998.

Recently, net gains have tended to fall, almost universally in those countries for which data are available. However, these data probably underestimate total net inflows, since for the most part they exclude a number of categories of temporary immigrants, many of whom it is known stay irregularly. Indeed, it may be that the bulk of factual annual immigration in Europe today is not covered by official entry statistics, but takes place in an irregular fashion. ICMPD has estimated that in 1993 irregular inflows in

Western Europe totalled around 350,000. In truth, though, no one has much idea of what the real number is.

Perhaps the biggest management problem in recent years has been created by a succession of mass migrations generated by local wars. These have led to sudden and large-scale influxes in neighbouring countries. In total they amount to several millions of Bosnians, Kosovars, Kurds, Caucasians and others. Many, but not all, have subsequently returned home.

2.2 Who are the migrants?

Most national migration policies have been designed to deal with settlement migration. These have operated via measures to control entry (and, in the Communist era, exit) and to integrate those immigrants who have been allowed in. Many of what are perceived to be immigration problems today, notably the large settled minorities of different cultures, stem from either directive policies linked with needs for foreign labour manpower and recruitment of foreign workers, or from hangovers of colonial regimes. Even today, archaic notions of immigration based on these past ideas dominate policy thinking about migration management.

Within contemporary international population movements the concept of 'permanent' is no longer clear (if it ever was). No European country now sets out to attract new permanent settlers, with the exception of businessmen specifically targeted for the investment they bring. Over most of Europe, however, permanent settlement migration continues to occur indirectly as a development of previous temporary migrations, mainly through family reunion and family formation. Indeed, most 'permanent' settlement today may be associated with return migration to their home countries by former labour migrants, by former citizens of Central and Eastern European countries and the former Soviet Union who left during the Communist period, and by certain ethnic groups.

In Central and Eastern Europe, and especially in Germany, permanent settlement migration in recent years has been associated with specific ethnic groups, 'returning' to a homeland where they have been granted an automatic right of settlement. Amongst those involved are the German *Aussiedler*, Ingrian Finns, Bulgarian nationals of Turkish origin, Pontian Greeks, and Romanian Magyars. Other ethnic groups involved in migration, notably the Roma, have no homeland to return to. Perhaps the most salient migration phenomenon currently affecting Central and Eastern Europe is that of transit migrants. These are people who enter the territory of a state in order to travel on to another. Their presence is turning some of the new democracies into countries with substantial considerable immigration. With the aim to manage immigration these countries have been developing their immigration legislation and policy in accordance with international standards and with the best practice of Council of Europe member States.

Most voluntary migration in recent decades has featured temporary labour migrants, generally low skilled and low-paid, moving abroad to work for varying periods of time. Many of them are seasonal workers. Sometimes they move within organised schemes; at others they respond to spontaneous labour market requirements. At the other extreme are the highly skilled professional, managerial and technical workers. This is another diverse group, and includes those working for transnational corporations and intergovernmental organisations (IGOs), professionals in health and education, academics, project specialists, clergy, entertainers and sports people, and others. Economically, their movements reflect the global nature of modern business and culture; socially they constitute an 'invisible' group of immigrants in Europe, middle class, well off, in many senses international citizens. Most countries place few or no barriers to their entry; indeed states may be perceived to have forfeited control over their movements. Students, and other young people in the early phases of their careers, constitute an ephemeral mobile group.

During the last few years asylum seekers have dominated policy attention. Some of them are accepted as refugees under the 1951 UN Convention. However, governments are also accepting applicants on humanitarian grounds, where they feel that although the convention criteria are not fully met, it would be

unreasonable or impossible to enforce return. Persons in need of international protection are frequently granted some form of protection on a temporary basis.

A growing group of international migrants are those who have placed themselves in an irregular position. Most irregular immigrants in fact enter the host country legally and then become irregular either by overstaying, or otherwise breaking their terms of entry, usually by taking employment. They may oscillate between legal and illegal. Others enter the host country clandestinely, and attempt to sink into the background. There is growing evidence that trafficking in migrants is increasingly responsible for placing them in an irregular position. Countering the agents and institutions involved in this practice is arguably at present the central concern of governments seeking to manage migration flows.

There are numerous other international movers, whose status easily blends into that of migrant. Many of these now characterise the new migration space that is Central and Eastern Europe. They include daily cross-border commuters, labour tourists who cross international borders as visitors, but with the intention of taking temporary or seasonal work, and petty traders, some of whom cross borders on a daily basis, others for longer periods. Others are what Okolski refers to as 'incomplete migrants'. These are people who cross national borders to work/sell for periods of only days or weeks at a time, but who do it so frequently that they live and work for most of the year outside their own countries. Finally, any international migration strategy has to take some account of the vast numbers of tourists and business travellers. Not only may they take on the characteristics of temporary migrants, but in sustaining a global network of travel infrastructure (including routes, information, agencies and the like) they contribute to a reduction in the friction of distance which ultimately makes migration easier. For many of them, brief trips abroad are fact-finding missions, which ultimately lead to longer-term moves. Furthermore, their movements impose duties of entry control upon governments, which means that they become, *nolens volens*, part of the migration policy debate.

These diverse groups should not be seen as separate, since one type of migrant or traveller may be metamorphosed into another. It means that migration streams are highly complex in both time and space: they involve different types of people and motivations, are influenced and managed by different institutions, and have different roles and methods of insertion into host societies. Devising a management strategy to cope with all these variations presents formidable difficulties. At the very least a distinction must be made between a management strategy aimed at the individual migrant and one aimed at the range of institutional actors with a vested interest in promoting movement.

3. THE NEED FOR A NEW MANAGEMENT APPROACH

The increasingly apparent need for a new European policy on migration stems from a combination of the inadequacies of the policies evolving since the 1970s and the changing nature of migration and attitudes to it. The existing policy model is based on two major lines of action: the closing of borders to new influxes of immigrant labour, and measures to promote the social integration of the immigrant populations in place. This model has proved inadequate in dealing with existing stocks and flows, and there is little likelihood that it is flexible enough to deal with the new situation. The implication is that new models now need to be considered. Not only are the migration problems confronting the wider Europe of the 1990s different from those faced by Western Europe in the 1970s, but the new democracies will also wish to avoid the mistakes made historically by their western neighbours.

Closing borders to foreign workers emerged as the main response to a new economic situation in the 1980s marked by the end of growth and by recession. However, in a world increasingly characterised by global networks for producing and exchanging goods, services and information, and where states have forfeited much of their control over capital movements and the organisation of production, excessive reliance on policies to control labour flows may not be successful. It is clear, too, that large numbers of new unskilled jobs continue to be created, many of them in the 'informal' sector, filled by immigrants willing to work at wage levels unacceptable to indigenous workers. Given the existence of

such jobs, and the willingness of immigrants to take them, it is difficult for governments to control entry to them. Furthermore, in the face of the prevailing economic ethos for flexibility and deregulation in labour markets, which are adversely affecting wage rates and conditions of work, tightening immigration control appears to be a contradictory strategy.

There is therefore an economic logic, buttressed in some countries by the possibility of a demographic shortfall due to changing age structures, to relax control on immigrant workers. However, a weakness of control policies focusing primarily on immigrant labour is that they do not take sufficient account of moves inspired by family reunion and family formation, and by humanitarian concerns. This type of movement is strongly justified by a conception of individual rights that stresses the importance of individual freedom. It is by no means clear what values might justify restricting the right to mobility and the right to seek actively to improve one's living conditions. In the absence of such justification admission for human rights reasons, with appropriate degrees of control, seems inevitable.

A partial solution to the over reliance on entry control mechanisms is temporary immigration programmes, designed to provide a safety valve by allowing in some workers, at the same time keeping movement within legal channels. This strategy is reasonable from the point of view of European governments and intellectually satisfying, provided that the administration is capable of controlling the situation and length of stay of these workers and of sending them home when their contracts come to an end. Frequently this has not happened, however, and as a result, temporary migration programmes are capable of providing a proper legal framework only for those immigrants who have no intention of settling on a permanent basis.

3.1 Immigration Controls

Since the labour immigration “stop” in 1974 (though family reunion continued and accelerated), and more markedly since the asylum crisis from the mid-1980s, Europe has become more control-oriented in its migration policies. The controls have been introduced on entry, within the territory, and during the procedures. The outcome of these measures is far greater consistency and coherence in immigration and asylum entry control policy. Particularly with respect to asylum policy however, a major unresolved problem is the failure to ensure return for those who are not given the right to stay. In part this demonstrates how difficult it is to make a clear distinction between those who are in need of protection and those who can safely be returned. Equally, however, it is due to the lack of an established international framework for the return of unauthorised arrivals to their country of origin. These are issues that now particularly impinge upon the countries of Central and Eastern Europe. Refugee law is the area of migration law, which has received most attention over the last few years in these countries. Procedures related to the right to asylum, in compliance with international refugee law have been developed or are in the process of being finalised.

The failure to ensure return has become a critical issue. On the one hand, countries should not be seen to be weak on returning those who are irregular. But on the other, sending them back is costly and, typically, subject to lengthy delays. A consequence of this state of affairs is that the possibility of staying in a country perceived as one of opportunity, even if irregularly, may be seen by potential emigrants as a pull factor. Although many states have increased their rate of deportations in recent years, the threat of forced return is not yet credible. States lack effective removal strategies; even where such strategies exist, they do not affect a significant number of persons. For many countries, especially in Central and Eastern Europe, the sheer costs of operating a removal system are a major deterrent to introducing one.

3.2 Effectiveness of control

The mass East-West migrations feared at the beginning of the 1990s have not occurred, and since 1993 in most countries the indicators of legal immigration have been downward. What has emerged in Central and Eastern Europe, though, is a new circulatory system which has become difficult to control

because of the volume of movement. The emergencies in the Balkans, Turkey and the Middle East have put pressures on the asylum system, partly alleviated by temporary protection. The continued functioning of these depends on the development of effective return strategies.

Overall, entry controls would appear to have had some success in Western Europe, though it is clear that their effects have not been uniform across countries, giving rise to discussions about the need for the adoption of burden-sharing arrangements. Migration policies are still generally reactive rather than proactive, and characterised by crisis management, not consistency. The circumstances of the 1990s have led to the evolution of a series of migration-related policies pursued in parallel rather than in an integrated fashion. As a result, labour and family reunion policies are generally not integrated, while asylum policy has grown up separately from them. The situation now is that a new strand of policy, dealing with trafficking, is being added to the warp. Thus European migration policies currently address a series of issues separately: labour; family reunion and formation; asylum; trafficking and irregular flows; integration. Cutting across these are broader management issues such as those of regularisation and return, and prevention: only a comprehensive strategic approach will deal with these.

3.3 Addressing the root causes

The tackling of root causes of migration, particularly economic and social underdevelopment in the countries of origin, has been put forward as an alternative to more stringent entry controls. Development aid is sometimes presented to public opinion as an alternative to migration, a well-meaning attempt to spare these populations the sacrifices and psychological hardships involved in being uprooted from their own culture. The approach has a number of drawbacks, however. First, it is not clear how aid can be targeted to reduce emigration. Secondly, any resulting economic growth in origin countries has the effect in the short and medium terms of increasing emigration from them. Third, using economic growth in origin countries as a vehicle for reducing emigration pressures raises other issues, such as trade agreements and remittance flows, which may lead to new foreign and trade policy difficulties. Finally, donors may seem to be operating from selfish motives, leading to a tension between origin and destination states not easily resolved. For these reasons, neither development assistance nor the creation of free trade zones, though an important part of the policy equation, may be regarded as substitutes for comprehensive migration policies.

3.4 Integration policies

Experience of attempts at integration over three decades indicates that a successful integration process involves three main elements: adaptation by immigrants to the host society; adaptation by the host society to immigrants; and adequate communications strategies between the two populations and between each of them and governments. Implicit in the last is the need for an acceptable 'grammar' of rules and forms for communication and a mutuality of language for expressing ideas and meanings in order to prevent distortion of views and ideologies. Without these, recognition of cultural diversity often remains on a purely theoretical level.

The efforts made over the last 10 years in Europe to implement active integration policies, including promotion of equal opportunities, vocational advancement, access to social services, socio-cultural integration and civic participation by immigrant communities, have been considerable. The results achieved do not seem to be commensurate with the efforts made. Europe in the 1990s is characterised by the withdrawal of minorities into their shells, partly in response to their rejection by host populations, by the over-representation of immigrant populations in the increasing unemployment figures, by their social exclusion and by increasing public hostility to their presence, reflected in the rise of nationalistic, racist and xenophobic political forces. A major problem is that public opinion is increasingly negative, and the more negative public opinion becomes, the harder it is for political leaders to address the issue in positive terms.

This negative view is reinforced by the perception that immigrants impose a welfare burden that is not compensated by their contribution to economic growth. Integration policies, explicitly designed to foster participation by immigrants in every area of life, have tended to focus on the most obvious problems (the language barrier, obstacles in education and civic life) linked to their status as immigrants, and this has to some extent overshadowed their frequently positive contribution in the labour market.

4. POLICY AND REALITY: WHAT DO WE WANT TO MANAGE?

4.1 The rationale for management

Underpinning all our thinking is that no government can prevent immigration or emigration, even if it wished. Even the most repressive regimes have had porous borders. Within democratic societies, which have accepted the principles of individual human rights, a degree of immigration by non-citizens is inevitable. Further, the complex and dynamic nature of the migration phenomenon means that it is in a constant state of flux. Individual governments are therefore put in the position of seeking to exert some control over often formidable pressures for movement. The position of King Canute in trying to stem the ocean tide is as ineffective now as it was in the 11th century.

The best that governments can do is to guide and influence flows, implementing policies, which work with the tide rather than against it. They should develop policy measures that are flexible enough to deal both with swings in prevailing trends and with sudden lurches into new directions. Given the internationalism of migration, a *sine qua non* for this is inter-state co-operation, without which a single country is powerless to control its borders, even after applying the most draconian of measures.

The need for a positive management strategy also applies to the development of effective social integration processes, with particular emphasis on the integration of minority groups. Governments cannot dictate integration and good community relations. They must work with public opinion, but to lead rather than follow. Conditions must be created in which minority and majority populations accept that is in their own best interests for the integration process to succeed. The management process must therefore involve education and confidence-building measures in all communities. At the same time measures must be put in place designed to eliminate the causes that lead to the marginalisation of any minority group from society as a whole.

In short, we are arguing that migration will occur anyway, and the best course for a state is to influence it in directions consistent with human rights and the best achievable outcomes in terms of social and economic conditions for both migrants and host communities. Integration is a linked but separate policy area where management means creating the conditions for individuals in both indigenous and immigrant communities to find their own ways towards social harmony.

4.2 Managers and managed

Traditionally international migration has been conceived of as a relationship between an individual or household moving for purposes of permanent settlement or work, and a government acting as gatekeeper for entry into a country and acquisition of its citizenship. Today, it is better regarded as a diverse international business, with a vast budget, providing hundreds of thousands of jobs world-wide, and managed by a set of individuals and institutions each of which has an interest in how the business develops. Such a view has important consequences for governments since it raises questions about the effectiveness of regulatory mechanisms and policies framed largely in terms of a contractual relationship between the migrant and the state.

In essence, the main managerial role is that of government. However, this must be exercised in partnership with a wide range of other actors. At a general level these include migrants themselves and

the social partners - employers, trades unions, migrant organisations. It can be argued that a major failure of migration policy in Europe has been the lack of any real cohesion between these actors in the formulation of a migration strategy. In consequence, problems have too often been tackled piecemeal, and without considering all relevant views. One result has been unintended side effects of specific policy measures.

It is not just flows of migrants and their integration into host societies for which a management strategy is required. The object of management today is a global migration business which consists of a set of institutions, agents and individuals such as recruitment and travel agencies, transport operators, legal and advisory firms, traffickers and others. The business is not homogeneous. Most obviously it may be divided into a legitimate (legal/regular) and an illegitimate (illegal/irregular) component, each of which may be further subdivided, be differently valued, and represent a particular business niche.

It is probably trafficking that presents the most immediate management problems for governments. It is a business that is becoming increasingly global in scope as advances in transport and communications, and links to international organised crime, make it easier to operate across regions and continents. Understood as a business, trafficking is, like legitimate businesses, remarkably adept at circumventing systems designed to control it. As some avenues close others are opened up. The business is remarkably responsive to change and always seems to remain one or several steps ahead of those seeking to control it. National authorities often have to agree concerted action, and this takes time. Thus relative to the ability of governments to control them, traffickers demonstrate greater flexibility, organisation and speed of response. Trafficking therefore presents policy makers with new challenges in the management and control of migration flows across borders. In particular, it suggests the need to look at immigration controls in new ways, placing a greater focus on the institutions and vested interests involved rather than on the migrants themselves. Given the international nature of the trafficking business, policies must be collaborative between states.

4.3 Managing public expectations

One of the difficulties of devising a management strategy is the need to reconcile two conflicting trends, which influence public attitudes and expectations. The first is the move towards globalisation, a process which is linking together national economies into a single entity while at the same time seeming to promote a uniform mass culture. The second is a reaction to this, in the form of a countervailing trend towards a greater reliance by the individual on the local community. This process is characterised by nationalism and fragmentation, and may in certain circumstances result in social unrest, caused by unemployment and labour market marginalisation as local economies are perceived to be powerless in the face of dominant global forces. A danger then is that a negative migration ideology is fostered, characterised by a public perception that contemporary migration flows are part of the system of global exchanges that are no longer controlled by states and in the face of which local communities are powerless.

It is the job of governments to create a more positive atmosphere in which migration policy matters may be discussed by leading rather than following public opinion. Essential prerequisites in developing policy are consistency, clarity and coherence, in order that public debate is informed by fact and not prejudice. It is also important to avoid creating false impressions and reassuring public opinion in the short term in a way that only leads to greater dissatisfaction at a later date. For example, it may be counterproductive for governments to state that they will allow only temporary immigration (as a means of reassuring public opinion) when they know that they will be unable to prevent the immigrants admitted lawfully on a temporary basis from being joined by their families and then settling permanently.

There can be no doubt that tighter border controls reduce - but do not completely prevent - irregular immigration and that, without them, the authorities would be faced with many very serious social problems such as an influx resulting from the reunion of extended families, large-scale immigration for economic reasons and the arrival of large numbers of sick people seeking treatment. From this point of

view, public opinion is certainly in favour of maintaining such controls. However, there is a danger that improved border controls, beyond as well as within the EU, including those implemented under the Schengen agreement, may trigger defensive reactions, which are not conducive to integration.

It is important that host populations realise that legally present immigrants must be integrated into the national population and that it is essential to avoid discriminating against them in any way. Great care must be exercised; however, in adducing a simple causal relationship between entry control and integration, fostering the view that policies designed to control immigration are the precondition for successful integration. Such a view is conceptually unsound and empirically unproved.

Public expectations are difficult to satisfy, and the path of persuasion open to governments is a narrow one. It is unlikely that policies based largely on entry controls can ever be really effective in persuading the public of the positive benefits of immigration. Persuading them that integration works is equally problematic, since they are more likely to judge the effectiveness of integration policies in terms of the absence of problems. What is needed, therefore, is a broadly based management strategy, which is holistic and proactive rather than partial and reactive. It must beware of raising public expectations that cannot be met, but at the same time should not refrain from measures, which in the long run are likely to result in greater social harmony and the protection of individual human rights.

5. A NEW MANAGEMENT STRATEGY

The overall approach develops a management strategy based on four principles

- orderliness
- protection
- integration
- co-operation

The strategic objectives are:

1. To develop a set of measures able to manage migration in an orderly manner, so as to maximise opportunities and benefits to individual migrants and to host societies and to minimise trafficking and irregular movement.
2. To provide an appropriate capability for protection and for dealing with disorderly or sudden movements.
3. To provide an environment conducive to integration.
4. To engage in dialogue and co-operation with origin countries in order to link foreign policy and migration policy objectives.

An integrated management strategy is now required to bring these together. To establish such a strategy requires a number of conditions to be met by individual governments, bearing in mind that not all countries will have the same policy entry points. First, all countries should develop a comprehensive migration policy, beginning with a review of existing aims and measures, which is designed to identify gaps and introduce greater coherence. Currently, most European governments have policies to deal with some aspects of migration, but few of them can claim to range across the whole spectrum of migration types and issues. Second, that policy should be internally co-ordinated between all government departments with responsibilities for migration and integration matters in order to ensure coherence in both initiatives and response and this may involve the creation of specific structures. Third, a strategic approach to management of migration matters requires the input of all

actors in the migration field, including a wide range of NGOs. Fourth, migration policy should be transparent, so that all actors feel that they have a positive role, with initiatives and decisions being openly communicated. Finally, national policies should be internationally co-ordinated to ensure the greatest possible degree of agreement and harmonisation. Existing Council of Europe structures provide appropriate fora and means for co-ordination.

5.1 Measures to manage migration in an orderly manner

5.1.1 Improved information systems

An essential prerequisite for a successful management system is an efficient and comprehensive information framework and system capable of responding flexibly to policy issues as they arise. Information is required by migrants and other non-governmental agents and institutions, as well as by national and local governments. An improved supply of information to potential migrants on conditions and procedures in destination countries will help promote more orderly migration flows. Information flows between governments are also needed in order to minimise the knock-on effects of new policy initiatives. Within countries there is a need for systems to ensure the efficient flow of information relating to migration matters between relevant government departments, and between central and local government.

The need for individual governments to respond to the changing situation in the 1990s and beyond, both individually and in co-operation, places the need for accurate and timely information in the forefront of developing management systems. At present these requirements are not being met. Much of the statistical and documentary information required for sound decision making does not reach policy makers, or does so only after inordinate delay. For various reasons, information is not shared between governments, partly because of secrecy, partly because information provision and requirements vary from country to country.

It is not only information that should be shared, but operational analysis too. In this respect special mention should be made of exchanges that exist on a regular basis among EU members and on an occasional basis among IGC member states and other groups of states. Improved systems must be developed to allow mutual and comparative analyses and data exchange. Particularly vulnerable are the smaller states, and the new democracies, which lack the analytical infrastructure and resources to optimise their use of available information.

Considerable thought is also needed about the nature of information collected and required. Much currently tends to be about procedures, such as those relating to entry, border crossings, lodging applications and so on, rather than about the people and institutions involved. More needs to be known about the consequences of procedures, for example, the impact of measures of control on the stock and characteristics of irregular migrants.

There is, therefore, the need for a fundamental rethink about the statistical and documentary information required for a migration management system. It must be timely, accurate, reliable, open and transparent. It must be able to take advantage of all available and relevant sources, to be flexible, and to incorporate the requirements of all migration actors.

5.1.2 Mobility as a human right

Mobility is a human right which can be exercised in conditions to be fixed by governments in legal instruments. It assumes that governments which are signatories to various conventions and expressions of human rights will apply them in the areas of their own jurisdiction. The underlying principle is the universal and indivisible nature of human rights and fundamental freedoms, based on the dignity and equality of all human beings.

With this in mind, European countries should seek progressively to reduce the barriers between them, allowing greater freedom of movement not only of all their citizens, but of third country nationals who are legally established within them. Such freedom of movement is a major element in the quest for a more socially as well as politically unified Europe. The approximation of entry policies and procedures between European states is a prerequisite for the establishment of this freedom to travel, so that moves towards harmonisation of procedures, including the issue of visas, are necessary for combating irregular migration, and screening asylum seekers in accordance with the requirements of international law.

To achieve these objectives, policies must be clear and transparent so that potential migrants are not encouraged to move because of misconceptions about the conditions they will face upon or after entry. Governments must thus spell out the conditions under which foreign citizens are allowed to stay, and by doing so introduce a degree of clarity and predictability. The advantage of clarity is to redefine entry in positive terms, making it clear who is allowed to come, rather than the current negative emphasis which has the effect of placing the onus on the immigrant to explain why (s)he should be allowed entry.

5.1.3 Labour migration policy

(a) *Scales of operation*

Migration is inextricably linked with the labour market. Labour migration policies must deal with a wide range of types of foreign worker, possessing variable levels of skill and degrees of permanency. Some foreigners are in a precarious situation. Others are highly skilled and consider themselves as transnational citizens. Their acceptability and attractiveness to host countries depends on the state of the labour market. Given the tendency for the labour markets of individual states to be merged into a single market, it is essential that management planning is appropriate for a range of temporal and geographical scales.

It is not clear what degree of long-run planning is possible, given uncertainties in labour requirements at times of economic fluctuation, and where the incidence of sudden/mass movements calls for flexibility in the policies and structures established to deal with labour requirements. In purely economic terms, labour movements must be seen as only one set of elements in a global economy that consists of networks of national economies and interests which necessitate a management strategy that is able to handle the complexity. Furthermore, migration grows ever more diverse, so that the meaning of 'permanent' today is different from what was meant in the past. The consequence is that in managing migration that may lead to settlement, governments are in the position of dealing with a much wider range of types of movements and motivations over varying time periods than has formerly been the case.

The geographical scale for management is also variable. At a broad international and national scale there is demand for cheap, low-skilled labour within most European countries. That demand is operationalised in local labour markets, but in most countries national governments have little detailed say in their function: in general, governments create the environment in which local labour markets operate. Thus, a local shortage of labour force frequently results in irregular immigration despite government efforts to avoid it. Hence, there is a gap between deregulation and decentralisation of labour markets on the one hand, and government efforts to stop migration on the other. Thus, when governments are formulating their migration management strategies they must take account of the fact that a labour market demand for irregular workers does exist, and that wider economic considerations than illegality need to be taken into account.

(b) *Linkage between external labour demand, unemployment and demographic developments*

Apart from cases where it is governed by humanitarian motives (asylum, family reunion), immigration mainly reflects a need for economic activity which immigrants cannot profitably fulfil in their own country.

Immigrants looking for a job in the country where they hope to go and earn their living come up against two major obstacles: firstly, employment has become difficult to obtain in many European countries and, secondly, the available workforce, which is overabundant as a result of this, has to be protected even if unemployed.

The scarcity of work initially prompts governments to introduce incentive measures such as early retirement, reductions in working hours, or various means of combating undeclared work by nationals (black market jobs), enabling the authorities to collect taxes and social contributions while revealing hidden jobs.

The harmonisation policy pursued within the European Union, with a view to limiting the violations of member States' labour legislation, which may occur when services are provided between different countries of the Community, represents a similar attempt to protect the labour force from economic dumping.

Policies to combat irregular work by foreigners are becoming ever more widespread in Europe and most frequently penalise employers and dissuade them from making use of unregistered foreign labour. In addition to this, countries are implementing more general immigration policies limiting the numbers of visas granted to countries with a "migratory risk".

On the other hand, social policies are introduced not only to get the unemployed back to work but also to help women, young people and people with disabilities lead a decent life and, wherever possible, to work. It goes without saying that all of these groups include refugees, legal immigrants and members of their families.

For the time being none of this seems to leave much room for new foreign workers and this is probably the reason why immigration is generally seen in a negative light in Europe, whereas it is viewed more positively in the United States.

The changing demography of Europe may create a new situation. Between 1996 and 2020 the total population of Western Europe is projected to rise by 2.3 per cent while the working age population (15-64) falls by 1.4 per cent. During the same period those aged 65 and over will increase by 34.6 per cent.

In the next few years, governments may have to keep a close track on the development of their labour market and grant the work permits to foreigners when specific labour requirements arise, while providing support for the education of the families of immigrant workers and refugees who are still authorised to settle in their countries.

As we have now realised, it is easy to fill gaps in the ordinary workforce by temporarily or permanently bringing in immigrant workers. As regards shortages of highly skilled labour, these will be offset by temporary contributions from specialists recruited on the highly competitive international labour market, as is already the case in 1999 with computer scientists.

In case of shortage in the labour force in the national labour market, when possibilities of employing indigenous manpower have been exhausted, governments should develop intergovernmental co-operation on a bilateral or multilateral basis for temporary labour exchange.

Within labour markets the management of selection and recruitment still tends to be largely in the hands of employers. In order to retain management control governments should work with a range of social partners, engaging in discussion, sharing responsibility and generating a broad measure of agreement on appropriate policy initiatives and responses.

What this means is the 'privatisation' of management whereby the principal actors in the labour market - employers, trades unions, together with certain other NGOs - should be encouraged to co-operate with governments rather than seeming to be in the position of fighting them. This implies that governments and employers must make an accommodation, based on the principle that the amount of foreign labour entering is a compromise between the government's duty to restrict inflows that harm the employment chances of the indigenous population and those foreigners lawfully residing, and the employers' interests in using whatever immigrant labour is available at the minimum price and conditions.

Thus, governments should, after due consultation with the social partners, set broad conditions for wages and conditions of work, and an appropriate environment for maximising employment among the indigenous population. The detailed operation of the policy has then to be placed in the hands of employers. In this way, labour immigration control is increasingly to be viewed as a co-operative venture, with a form of contract negotiated and agreed between all the social partners. This does not imply an abdication of responsibility by the state, but rather the establishment of a more transparent policy-making process.

5.1.4 Family reunification

The family is the basic unit of society and as such deserves special attention. The main principle of management should be one that reaffirms the right to live in families, and therefore the principle of family reunion should be universally accepted. States should undertake, as far as possible, to prevent family separation; to consider favourably applications for family reunification from migrants having the legal right to long-term residence and from those recognised to be in need of protection; and to facilitate, through appropriate mechanisms, family contacts and visits. This means also accepting that the labour immigration of individuals may well entail family migration and that the right of protection given to a person who has been granted asylum also conveys the right to family reunion. However, there has to be a diversity of approach to allow for the particular circumstances of individuals to be fully taken into account.

States should elaborate the necessary instruments to allow them to protect basic human rights. Migration policies should reaffirm, with regard to all migrant workers, the fundamental principles of family reunification enshrined in the European Social Charter (ETS N°35), and in the European Convention on the Legal Status of Migrant Workers (ETS N° 93). These affirm the right of migrant workers and their families to protection and assistance, including facilitating as far as possible the reunion of the family (including spouse and dependent children under the age of 21 (ETS N° 35) or the unmarried children, as long as they are considered to be minors by the relevant law of the hosting State, who are dependent on the migrant worker (ETS N° 93)) of a foreign worker permitted to establish him/herself on the territory, conditional upon a waiting period not exceeding twelve months. Thus far, 21 out of 41 European states have ratified the Social Charter, 4 the revised Social Charter and only eight the European Convention on the Legal Status of Migrant Workers.

There are, however, difficulties in setting conditions for orderly family reunion, and it is widely recognised that in recent years the trend has been towards making them stricter. States have increasing difficulties treading a path between the prevention of abuse of family reunion claims and nibbling away at family reunion rights. Getting the right balance is difficult, but the policy should aim never to be over intrusive in prescribing how and where families should live.

5.1.5 Prevention of irregular immigration

(a) *The need for a holistic approach to dealing with irregular migration*

The issues surrounding irregular migration are currently exercising governments across the whole of Europe. Indeed, it can be argued that the subject has become the prism through which the whole migration issue is viewed and discussed. Unfortunately, this concentration upon irregular migration distorts the debate about more general management concerns relating to migration as a whole. It is, therefore, important to project a more balanced view, regarding irregular migration as only a part of a more general management problem. The corollary is that the best way of managing the problem of irregularity is the development and application of a comprehensive migration strategy.

This means that the prevention of irregular migration is not just a matter of developing policies aimed at those who are in an irregular situation. It has to be recognised that illegality may be a consequence of the unintended side effects of other policies, or result from the absence of policies. The strategy we propose for dealing with the problems arising from migrants in an irregular situation is for governments to apply the complete package of measures outlined here which should lead to orderly migration according to realistic goals. Such action will not remove irregular migration altogether: at best it will reduce the problem to more manageable levels; at worst it will prevent the situation deteriorating.

(b) *Irregularity is both a migrant stock and a flow problem*

The existence of irregularity is an indication that migration policies are not working. This failure has engendered various responses from governments. A distinction thus has to be made between irregular flows (those who enter clandestinely) and irregular stocks (those who enter legally but who change to an irregular status). In both these cases violations of human rights occur, for example, through harm or death during the process of entry, or through exploitation in the workplace, including debt bondage. Governments should take whatever steps are necessary to eradicate such violations.

Prevention of irregular entry is a priority for most states, and is where most enforcement effort is focused. For many countries, however, borders are porous and difficult and expensive to police, so that deterring irregular entry is only a part of the problem. In a majority of states stocks of irregular migrants have arisen as a result of legal entrants subsequently breaching the terms upon which their entry and stay was allowed, thus becoming irregular. This applies to asylum seekers whose applications have been turned down but who have not left, and to visitors who have entered the labour market without the necessary permit or permission. There is a strong case for extending co-operation between states in the region, and entering into constructive dialogue with the countries of origin of irregular migrants. A pan-European approach is essential in order to facilitate freedom to travel and to ensure those multilateral arrangements, which are necessary to ensure orderly migration.

It is not known what the scale of irregular migrant stocks is, but it is thought to be considerable. One solution, adopted by several governments, particularly those in Southern Europe, has been to make their stay legal. Regularisation programmes (amnesties) have been undertaken in an effort to prevent the growth of an underclass of foreign citizens unable to participate actively in the society. Such programmes have a supportive role in dealing with irregular immigration. While achieving some success for those who are amnestied, they are really only short-term solutions and do little to deter the build-up of new generations of irregularly present migrants.

The best hope for a solution to the problem of stocks of irregular migrants is a comprehensive, agreed framework on return, in effect an elaboration of the concept of 'circulation' rather than migration. This concept is based on the fact that much movement is ephemeral; the persons involved circulating between countries in search of temporary work or protection. It acknowledges that many moves between states involve both origin and hosting governments as actors, and that their roles may switch with the direction of migrant flows. A *sine qua non* for a framework of return is for origin countries to take more readily

responsibility for their own citizens. This includes full co-operation with host countries in making readmission agreements work.

(c) *Information exchange on irregular migration*

There is a need for better information systems and for better information exchange on irregular migration. By its nature, this form of migration escapes normal statistical accounting, so that only by co-operation will states be able to combat the problem. Some mechanisms for information exchange are already in existence or being improved, but not all are open to all states. Irregular migration can only be tackled efficiently if there are comprehensive and compatible systems for the collection, processing and distribution of information which involve all participating states. Systems must, however, adhere to the 1981 European Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS N° 108).

(d) *Technical and financial assistance to Central and Eastern European States*

The geographical location of Central and Eastern European states combines with their role as ‘corridors’ and ‘vestibules’ for transit migrants to place a considerable burden upon them in the control of irregular migration in Europe as a whole. They are also the arena for new forms of mobility, for example associated with petty trading and other forms of intensive cross-border movement. These developments reinforce the need for technical co-operation. Frequently the Central and Eastern countries lack the resources available to meet such new migration challenges and both technical and financial assistance are required. Funds such as PHARE and TACIS are important sources of assistance, allied to the development of new border management control programmes throughout the region, and will help build the capacity of these countries to manage migration not only on their own behalf but of that of the states to the west as well.

(e) *Harmonisation of legislation to combat trafficking in aliens*

There is no doubt that a major cause, as well as a method, of irregular migration is trafficking in human beings, which can be seen as a business-seeking customers (who may also be perceived as “commodities”). Governments are only just beginning to understand the nature of the problem and to develop information sources to deal with it. One illustration of this concern was the conference of ministers held in Prague in October 1997 on measures to prevent irregular migration.

For the most part, trafficking is rightly regarded as a criminal activity, but that is not the only perspective that is justifiable. For many migrants, the services of traffickers constitute a lifeline, the only way out for people who need to move. Unless measures are taken to provide alternatives for those who need them, trafficker roles will continue to exist. In so far as trafficking constitutes a migration business, then measures to control the practice must focus on its organisation and institutions.

The nature of trafficking varies across Europe. Confronting it presents different problems for governments, depending amongst other things on accidents of geography. The issues facing transit migration countries in Central and Eastern Europe and the former USSR, with their extensive land borders, are different from those of the islands constituting the UK and Ireland. An attempt by one state to harmonise its policies with those of others must also take account of events and initiatives elsewhere. One government’s legislation may have knock-on effects upon others, so there is a need for mutual awareness as a prelude to the harmonisation process. This awareness can only come from well-developed information systems.

States should also be aware of the need for greater precision in the development of a common legal framework for combating trafficking, with special attention paid to the coercion of migrants by traffickers and its implications for human rights, for example, placing people (especially women and minors) in debt bondage. Hence, it is important for governments to work towards a common understanding of the term “trafficking in aliens”, and to reach agreement on criminalizing the practice in order to apply effective

sanctions on the perpetrators. Each time there is evidence of a relationship between trafficking in migrants and organised crime, the various national and international agencies concerned with crime detection and prevention must work together. Measures to combat trafficking must, however, be developed and instituted in accordance with the relevant international legal and human rights instruments.

5.2 An appropriate capability for protection and return and for dealing with disorderly or sudden movements.

5.2.1 Protection

The last decade has seen the emergence of new protection requirements demanding a Europe - wide response. The framework for dealing with asylum is set by the 1951 Convention and the 1967 Protocol. The way these instruments are interpreted by the competent authorities does not always cover all protection needs. Sudden and massive flows of persons in need of international protection create specific problems; some other complications arise from geographical and historical reasons.

There are several categories of persons. Firstly, those refugees who are granted protection under the 1951 Convention. Secondly, persons who in case of their expulsion to their country of origin would risk torture or inhuman or degrading treatment or punishment, therefore they are protected under Article 3 of the European Convention on Human Rights. Thirdly, persons whose return would be unreasonable or impossible and who are granted protection on humanitarian grounds. Fourthly, there are other persons who have legally valid authorisation to stay in the host country. Finally, there are persons who are neither in need of any form of protection as listed above, nor have other legal grounds to stay in the host country, therefore they need to return to the country of origin. Questions related to the latter category are discussed in detail under the forthcoming chapter (5.2.2. Return).

(a) How the 1951 Convention responds to these needs

The current complexity of the asylum issue, together with the growth of mass movement in search of protection has strained the 1951 Convention. Persons in need of international protection flee from individual persecution or, among others, general deterioration of conditions in the country of origin.

The concept of well – founded fear of persecution is restricted to a certain number of reasons. The interpretation by competent authorities of this concept in several European states has created a situation in which for some persons in need of international protection, a ‘protection gap’ has emerged.

The Convention provides the cornerstone of the asylum system, but flexible and comprehensive additional instruments in the field of international protection need to be identified, established and implemented.

(b) A new protection and assistance framework

The development of a new framework is suggested, based on the totality of international mechanisms and dispositions that can be put in place by states in response to protection needs, also capable of providing a wide range of humanitarian assistance in response to whatever emergencies occur.

Guiding principles should be developed as a basis for harmonising approaches dealing with those protection needs, which are not covered by the 1951 Convention. Where necessary, protection arrangements of temporary nature should be offered, followed by return to the country of origin.

There should be active encouragement to the country of origin to ensure respect for the human rights of all citizens, including marginalised and minority groups.

Such framework should provide more assistance for refugees remaining in the region for protection purposes. Minimum standards for the reception of those seeking protection should be assured.

Finally, there should be acceptance by governments of the principle of international solidarity. This involves humanitarian evacuations, financial, operational and other technical assistance. Use should be made of the relevant Council of Europe instruments, including the European Social Charter and others relating to human rights. The Council of Europe is well placed to serve as a forum for such discussions.

5.2.2. Return

Migratory movements include the voluntary return of migrants to their country of origin. Migrants in an irregular situation are often sent back to their country of origin or previous residence. Refugees may return when the conditions in their country of origin have changed and protection is no longer needed. This group includes those who were admitted on a temporary basis. Asylum-seekers who have not been granted refugee status are often sent back to the country of origin.

(a) *The need for dialogue*

A step-by-step approach to return is required, that involves both countries of origin and host countries. An active dialogue is an essential pre-requisite. Return by migrants to their country of origin takes several forms, each requiring a different policy approach. Some of these movements are voluntary, requiring little assistance from governments beyond the provision of information and, in some cases, help with re-integration. Other returns may pose more problems, notably where deportation is involved or where readmission agreements may be required. Refugee return and reintegration may also present policy dilemmas, in the context of minimum guarantees for safe and dignified return.

A particular problem for host countries emerges when the country of origin is unwilling or administratively unable to provide the necessary information in the process of return. As a result, host countries themselves are hesitant to go to the expense of finding and deporting those aliens who have no legal right of residence. The situation is exacerbated by the economic importance of remittances in many countries of origin, the loss of which as a result of large-scale returns might bring about serious economic difficulties. In the circumstances, there is a strong case for exploring ways of encouraging countries of origin to take back their own nationals. Linking co-operation on return with development assistance is a policy issue to consider.

These forms of dialogue often begin bilaterally but ultimately should be multilateral, in the framework of an integral approach to return.

(b) *An integral approach to return*

The need for temporary protection exists until circumstances in the country of origin significantly change. After that, return to the country of origin is the preferred long-term solution. Effective return arrangements are essential to the maintenance of both orderly approaches to migration and the integrity of protection regimes. The present system is not sustainable because the ability to stay irregularly devalues it in the eyes of the host population, while acting as an encouragement for others without a well-founded case for protection. Effective return and readmission schemes are therefore necessary.

(c) *Return and readmission agreements*

Efficient return and readmission policies are an integral part of the immigration systems of states and they are particularly important in combating irregular migration. All states should readmit their own nationals under international law. However, voluntary return is preferred in contrast to enforced

return. A well-functioning return system requires the full co-operation of countries of origin and transit countries with the host countries. Suitable readmission agreements may be concluded on a bilateral or multilateral basis. A standard form of such agreement would be desirable. A number of readmission agreements have already been concluded among European countries. This network should be developed and extended between European and non-European countries as well. Countries wishing to return aliens who have no right to stay, may need to commit resources to make such schemes effective.

(d) *Assisted voluntary return schemes*

Assisted return should include, where appropriate, financial and organisational assistance, provision of necessary information, measures to assist the re-integration of returning migrants, etc. Governments should assist refugees who do not need protection any longer and who would wish to return to their country of origin by providing them with information on the conditions in the country of origin and return opportunities (e.g. radio, newsletters, reconnaissance travels, dialogue meetings). Vocational training could qualify for the labour market in the country of origin or to start a business. Co-operation projects can be set up, aimed at, for example, the rebuilding of war stricken areas or socio-economic development of regions of origin. Both governments and the private sector can be involved in this type of activities with the objective to give refugees the best possible opportunities to create a good future for themselves.

5.3 An environment conducive to integration

5.3.1 Promotion of integration

Efforts by governments to stress the positive contribution of immigrants to hosting societies are undermined by the emphasis most migration policies place on entry control. It is important that this emphasis is reduced in such a way that the control element in immigration policies is placed in an overall strategy that values international migration and the presence of immigrants.

The main elements of integration policies are secure residence and related rights, promotion of equal socio-economic and civil and political rights, easy and fair naturalisation and the adoption of legal and other measures to combat racial and ethnic discrimination.

(a) *Residence rights*

With reference to security of residence and related rights, there is a direct link between entry control and integration. The granting of a permanent or temporary right to stay is an immigration instrument. Both forms of entry should contain the right to: a) security of residence, including protection against expulsion; b) access to services to familiarise immigrants with the language and customs in the hosting society; c) provision of work for both the migrant and spouse.

The political, social and economic integration at the level of the European Union (and the foreseen enlargement to Southern and Eastern European countries) makes it necessary and inevitable that the (candidate) members harmonise their residence policies. Such a process is in everyone's long-term interests and is realistic in that it makes the legal situation correspond better to the *de facto*. Association and other agreements between the Union, its member states and third countries already have a harmonising effect.

(b) *Measures to promote equality of opportunities*

Securing legal residence rights does not guarantee immigrants are able to rely on equal treatment in the provision of work, housing, education or political participation. Many countries have stepped up their efforts to promote the inclusion of disadvantaged groups, for example, by providing them with

the skills and information they need to gain access to employment, housing and education in particular. In particular, language training should be provided for immigrants, since it not only helps them to obtain employment but is essential for participation in the daily life of the host society, enabling them to contribute to and benefit from social and economic opportunities.

All countries should be aware of the need for such measures and take appropriate steps to put them into place. Measures may be general, targeting society at large (such as urban renewal programmes and housing subsidies), or specific, aimed at disadvantaged groups many of which are immigrants or ethnic minorities. They should also promote recognition for immigrant cultures among the host population.

The 1996 Warsaw meeting of Ministers responsible for immigration affairs stressed that integration and participation go hand in hand. It is still a matter of debate whether political participation, expressed in the right to vote, is the final objective of integration, or an essential means of achieving it. To create an environment more conducive to integration, lawfully resident immigrants should have the right to vote in local, regional and European elections, but the right to vote in national elections should follow rather than precede naturalisation.

(c) *Naturalisation and citizenship*

Once residence rights have been granted to foreign nationals, there should be easy access to naturalisation, granting full citizenship rights, after a short period and at low cost. Acquiring the nationality or citizenship of a country should be seen as an element in the integration process, not as the result of integration. Hence, part of an immigration policy must be a straightforward naturalisation policy, including a clear position on dual nationality.

(d) *Action to combat racism, xenophobia and intolerance*

Action to combat racism, xenophobia and intolerance needs to be seen as a crucial part of integration and community relations policy. Moreover, it is clear that integration is a long-term process involving several generations. This means that particular attention needs to be given to the children of immigrants and refugees (as agreed at the Council of Europe ministerial meeting at Athens in 1993).

Within the range of possible actions, there are several important elements. First, there must be reaffirmation by governments that legally resident immigrants are an integral part of the host society, and that racist and xenophobic violence and harassment are unacceptable and must be effectively tackled. Second, adequate laws against discrimination should be in place and effectively implemented. Third, there should be support for positive action by the media to address the problem of discrimination and violence against minorities, and for the sensitive presentation of issues concerning immigrants. Fourth, action at the local level is needed in order to improve community relations between host and immigrant populations.

(e) *Co-ordination between government agencies within states*

Integration and community relations policy needs to be based on a clear national strategy setting the context for appropriate action by government agencies, local and regional authorities, and non-governmental bodies. The precise approach chosen in different countries will vary in accordance with their differing migration histories and legal and constitutional traditions. To be effective, a national strategy implies co-ordination between all administrative agencies at national, regional and municipal level, and a clear assignment of ministerial responsibility for ensuring that such co-ordination takes place.

5.4 Dialogue and co-operation with countries of origin and transit countries

Migration is usually viewed from the perspective of home affairs and internal policy making. However, regular or irregular movement of people from one country to another, on a temporary or permanent basis, and for whatever reason, is also a matter of international relations and foreign policies. International migration has an impact on international relations in the sense that it may improve these relations or may have a negative or destabilising effect on them. For a range of reasons, migratory movements of all kinds have become more prominently an issue for relations between states. Therefore, migration should be on the agenda of political dialogue between states of origin, of transit and hosting states and issues such as human rights, bilateral technical co-operation, causes of migration, irregular migration as well as obstacles to return should be discussed.

International treaties define the rights and obligations of migrants and asylum seekers and of hosting and origin countries. These treaties are an integral part of the (still developing) international human rights instruments, which to a certain extent regulate international relations.

As this dialogue aims at sustainable co-operation, and as the countries of origin are not particularly interested in the return of emigrants, it is important to first establish a climate of confidence and mutual understanding, which will subsequently allow both parties to negotiate on an equal footing. There is something for everybody in such a situation and it is therefore in the interests of each party to fulfil his side of the contract.

The priority is to align and where possible incorporate migration policies into foreign policies with the aim of creating a suitable environment for co-operation. Relations with origin countries should be developed with the objective of alleviating the conditions, which create emigration pressures. With regard to economic pressures for emigration, it must be recognised that development programmes can only work in the medium to long term (15 years or more), so a major element in policy should be to educate host populations on the need to support attempts at economic, social and political development in origin regions.

There must also be the objective of alleviating political pressures to emigrate through the use of diplomacy. In diplomatic exchanges, states should be aware of the need to prevent sudden and large-scale movements of population. Diplomatic intervention may also be appropriate to prevent smaller scale movements by minority groups who feel they are being repressed.

Dialogue should place migration into a broader foreign and trade policy context, linking it with discussions about trade and capital flows. Origin countries are unlikely to co-operate in taking steps to reduce emigration flows unless the root causes of those flows, expressed in sharp differences in standards of living, are tackled. Trade policies that restrict the ability of origin countries to market their products may well be counter-productive where there is also an aim to reduce immigration pressures.

These attempts should be accompanied by information programmes aimed at potential emigrants designed to educate them with regard to conditions such as those of entry, job and accommodation availability. In this way false expectations and speculative moves will be deterred.

Training programmes should be introduced for staff in institutions including border controllers involved in migration management in order to help them work more efficiently and sympathetically in dealing with migration issues.

6. SUMMARY

The strategy proposed accepts the reality that Europe is a region of immigration, the management of which has to be organised on a comprehensive basis. It adopts a flexible approach and is co-ordinated both between and within countries. It assumes roles for all of the various actors in the migration process and is to be transparently negotiated and communicated.

The strategy emphasises that the protection of individual human rights is the basis of management. It strongly supports measures to integrate foreign populations, while accepting that integration is a two-way process. Integration policy is not simply a central government concern but has to be pushed downwards to local community levels. It is also acknowledged that there will be some emigration pressures from within Europe and the CIS, to which the package of measures suggested here may also apply. In involving all actors in the migration process it spreads the burden of control, while accepting that government is the ultimate arbiter.

Many of the migration problems now confronting governments have resulted from a piecemeal approach to specific problems, such as asylum, irregularity or return. This approach is no longer sustainable. The management strategy proposed here is a comprehensive whole, to be applied over the long term. It recognises that a complex set of problems requires an integrated set of solutions.

Here are the main principles of the strategy:

A comprehensive approach should satisfy certain basic criteria.

First, migration policy should be open and transparent, so that all interests know the rules and how they are applied.

Second, policy-makers and their social partners should be well informed, using information that is as accurate and up-to-date as possible.

Third, the rules and regulations formulated by policy makers and their agents should be as clear and unambiguous as possible.

Fourth, any strategy should be manageable in terms of the resources available, including those of finance, information and time.

Finally, and most importantly, policy must have clear aims and objectives, ideally pursued in a consistent manner.

With these things in mind we developed a management strategy based on four principles:

- **orderliness**
- **protection**
- **integration**
- **co-operation**

Our integrated management strategy is designed to bring these four principles together. But in order to establish it, a number of conditions will need to be met by individual governments:

- First, all countries should develop a comprehensive migration policy.
- Second, policy should be internally co-ordinated.

- Third, a strategic approach to management of migration matters requires the input of all actors in the migration field, including a wide range of NGOs.
- Fourth, migration policy should be transparent.
- Finally, national policies should be internationally co-ordinated.