



CONFERENCE ON

**“IRREGULAR MIGRATION AND DIGNITY OF MIGRANTS :
CO-OPERATION IN THE MEDITERRANEAN REGION”**

PROCEEDINGS

Athens, 3 and 4 October 2001

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Adresse : **Conseil de l'Europe**
F – 67075 STRASBOURG CEDEX

Téléphone : [+33] (0)3 88 41 20 00

Fax : [+33] (0)3 88 41 27 31

Council of Europe Internet Site on Migration :
http://www.coe.int/T/E/Social_Cohesion/Migration

Site Internet du Conseil de l'Europe sur les Migrations:
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OPENING SESSION

Address by Mrs V. PAPANDREOU, Minister of Interior, Public Administration and Decentralisation

Ladies and Gentlemen,

The subject of this conference is very important and is one of the most serious problems facing developed countries : the problem of economic immigration. Population movements are not a new phenomenon in the history of humanity. A multitude of reasons, usually grave or traumatic conditions such as sickness, poverty, environmental disasters, war etc. have always fuelled immigration.

However, during the past years the intensity and frequency of immigration flows have increased due to the great technological progress in the areas of transport and communications. Transport and communications have abolished the geographical frontiers between once "closed" nation - states and created an open society and economy. Globalisation, the opening of markets and technological developments have created wealth but, at the same time, increased inequalities between developed and developing countries. An increasing number of people seek a better fortune in other countries.

At other times immigration concerned two countries exclusively, the country of origin and the receiving country. Having crossed the borders, immigrants constituted an internal affair of the receiving state to be managed by the authorities, usually the security corps, the army and the law enforcement agencies.

The essence of traditional immigration policy lay in the *assimilation* of the alien population by the ruling receiving society. Today immigration constitutes a global social question requiring - in order to be tackled - not only transnational co-operation, but also co-ordination of all the action policies of a State. The essence of modern immigration policy lies in integration of the alien population into the new social environment, where each group maintains its particular identity and communicates with the others therethrough. Modern immigration policy should, furthermore, take into account and address effectively the problems that arise in particular in local societies, testing economic and social cohesion and giving rise to problems of social exclusion, racism and xenophobia.

The foreseeable and already visible world population movements will certainly increase imbalances among various areas, even if the world population explosion of the 20th century stabilises in the near future due to the decline in birth rates in the Third World, as optimistic researchers hope. The rich and developed countries of Europe were the first to stabilise their population, while some are no longer capable of reproducing it. These countries include Greece, which, albeit not as rich and developed as the other big European countries, being incomparably richer and more developed than its geographical neighbours, has already become an immigrant receiving country, while until the recent past it had been a traditional immigrant sending country.

These countries, whose population mainly comprises senior citizens and children, are surrounded by poor countries with armies of unemployed young people trying to get even the most menial jobs in receiving countries. However, such jobs can make them rich by the criteria of their own countries.

These countries, including Greece, facing a new situation, have the following choices:

- either to permit massive immigration ;
- or to raise barriers to immigrants ;
- or to find some other solution.

Massive immigration creates problems in the interior of society, shakes its balance and, finally, transfers the responsibility for the containment of the immigration current from the State to society, in particular local societies, which almost always react by presenting signs of xenophobia and racism.

A blanket prohibition of immigration would not be a viable solution either for the following reasons :

- Developed countries need immigrants due to the demographic problem of their ageing population and the attendant labour and social security problems. Today there are thousands of jobs in Greece that Greek citizens refuse to take. I do not only refer to farming jobs. As a result of the big increase in living standards and average education, of family solidarity and cohesion, the Greeks are very unwilling to take manual or seasonal jobs or jobs that, according to the established evaluation system, are considered “inferior”. Thus, at least to a certain extent, immigrants are necessary both for Greece and for the other European countries.

- A blanket prohibition would be impossible to impose for practical reasons. The vast majority of economic immigrants come from countries whose economies, if not collapsing, face big difficulties. Unemployment rates are usually high, while the fact that in most of these countries their earlier political and ideological regimes have collapsed intensifies and aggravates this phenomenon. The populations of these countries are in a state of lack of security and the fundamentals for survival and, as a result, they are always willing to seek their fortune somewhere else, at any cost.

Therefore, a blanket prohibition would not solve the problem. Immigrants will eventually be coming illegally and living in a state of insecurity and deprivation of their basic human rights. A blanket prohibition would mean that we simply refuse to see the problem.

Ladies and Gentlemen,

The solution is neither a lax framework permitting uncontrolled entry of immigrants nor a police - regulated, prohibitory framework banning their entry. Greece can neither be an “open field” nor a tightly - locked fortress. The solution would be a framework imposing rules and conditions, including planning and a code of ethics, and ensuring balance and prosperity of the society. It is a policy that would :

- manage immigration currents uniformly and flexibly ;
- accept legal immigration ;
- combat illegal immigration, human trafficking, illegal entry of aliens ; and
- secure human rights and freedoms.

Our country, by initially favouring the uncontrolled entry of immigrants from neighbouring countries and having a totally insufficient legislative framework, had to face the serious problem of illegal entry and stay of immigrants. The solution we have opted for is :

Temporary immigration under specific conditions is permitted to those who come to Greece to work or study. This implies a connection between the duration and the purpose of stay. We are talking about temporary immigration. Immigrants come here to work and, once they have stopped working, they return to their countries. The objective of temporariness is easier to achieve in Greece than in other European countries. Given that the majority of immigrants come from the area of the Balkans, immigrants to Greece (Albanians, Bulgarians, Romanians) can easier opt for, or become reconciled with, temporariness of their immigration than in other countries (USA, United Kingdom or France). Moreover, their employment in seasonal jobs is encouraged ; thus, they can return to their countries relatively quickly and easily once their employment has been terminated, to come back when demand occurs again.

What are the conditions that, according to our choice, should govern the controlled entry of economic immigrants ?

- A basic condition is that the State should know who comes, for how long and for what reason (for studies, work etc.). Thus, the receiving State's right to identify the economic immigrant is imposed and secured.

- Immigrants come because they need to work and the State allows them to come because it needs their work. This is a basic condition of any reliable immigration policy. It is also not only a condition securing the social cohesion of the receiving State, but also a basis justifying the assertion of all immigrants' rights. A precondition is a reliable registration of the country's needs in labour and the transmission of this information to the countries of origin, to the potential immigrants.

These conditions are the basis on which the Greek State permits the entry, stay and work of immigrants here. Provided that these conditions are fulfilled, immigrants are not just tolerable in our country ; they are desirable.

The second objective of the law is to ensure the immigrants' life and work under a status of full equality with Greek workers. Except for political rights, which are reserved by our Constitution for Greek citizens only, economic immigrants enjoy all those rights that we all enjoy :

- they are insured with the social security organisations of our country according to their job;
- they are entitled to social welfare benefits;
- they are entitled to unrestrained access to education.

We can not permit, ladies and gentlemen, the creation of a society of inequality, nor the creation of a racial discriminations system. Human rights should always be respected by everyone. Social rights, grounded on the immigrants' legal entry and stay with the express consent of the Greek State, should also be respected.

Xenophobia is now a latent phenomenon in all immigrant receiving countries, including countries that we used to consider immune to this disease, e.g. Sweden or Italy or our country. However, I believe that labour immigration, when controlled and legal, rarely leads to direct competition among ethnic groups, which divides the

working class and creates racist syndromes, since each ethnic group of immigrants tends to create its own ghetto in the economy. We have seen it in our country, we have seen it in other European countries.

Latent xenophobia, however, could harden into overt and dangerous racism if we ignore this phenomenon. A cause that could fuel racism would be an uncontrolled and lax admission policy lacking planning and consistence. Thus, I indirectly respond to the reproaches of those who maintain that the immigrant's will is enough and there is no need for the receiving state's will.

Ladies and Gentlemen,

If the problem is only viewed from the perspective of potential economic immigrants, if we only talk about rights and not about obligations, if we are unable to determine how many and what immigrants we want, then I am afraid that, instead of defending the human and social rights of immigrants, we actually undermine them.

No country and no economy can ensure respect for human rights and equality of social rights if the immigration current is allowed to swell, irrespective of the resistance potential of the society and the economy. In that case the racist current would threateningly swell too, due to the insecurity created in society, while minimum wages and social security would not be guaranteed due to labour oversupply and the weakened endurance of the social security system. In such a case a natural result would be the collapse of institutional guarantees in this area, development of racism and insecurity for economic immigrants.

Ladies and Gentlemen,

It is not so difficult for latent xenophobia to harden into racism. A part of the mass media and part of the political spectrum are always ready to foster, highlight, justify and vindicate this phenomenon, for various reasons, either of foolish populism or silly political speculation. Therefore, when we ignore the need to control the immigration current, when we turn a blind eye to the essential difference between legal and illegal immigration, we should seriously consider if we play into the hands of the racists.

In order to ensure protection of human rights and prevent the occurrence of inadmissible phenomena at all costs, we have included in the law, within the framework of the combating of racism and xenophobia, a provision stipulating the ex officio institution of criminal proceedings when such acts are committed. This regulation constitutes an innovation vis - à - vis the legislation of other states.

We should neither indulge in self - delusion nor let ourselves be misled by voices invoking ghosts of the past. No ghost is hovering over Europe. The real danger is our fears, not the phenomenon, just as it happens with those who are afraid of ghosts.

I have talked about the terms and conditions of immigration. I have referred to the immigrants' full social rights that we ensured by the new law. A third axis is the re-determination of the relevant powers and the distribution of roles among the levels of administration ; that is, the administration and management of immigration policy.

Our objective is, through a consistent and effective central immigration policy, to ensure the essential participation of every agency involved and every level of administration, within the scope of their powers and possibilities. This is exactly what we tried to achieve by the unification of the applicable legislation in Greece. The elaboration and co-ordination of immigration policy was assigned to the Ministry for Home Affairs, Public Administration & Decentralisation. This policy is implemented

through the establishment, at the central level, of an Aliens' and Immigration Service and, at the regional level, of similar aliens' and immigration services in every Region.

- For the planning and rational distribution of immigrants wishing to work in Greece, according to the existing needs of our country, the Greek consular authorities may establish labour offices.

- The power to grant stay permits is no longer exercised by the police authorities and now belongs to the Secretary - General of every Region.

- An Immigration Committee is established in every Region, which invites every alien to an interview and opines on his / her personality, to assist the Secretary - General of the Region in exercising his new power.

- An Immigration Study Centre is established, whose task is to conduct research and prepare studies on the planning and implementation of immigration policy, supervised by the Minister of Home Affairs, Public Administration & Decentralisation.

Within the framework of the above administrative scheme, the roles of the jointly competent ministries and services are specific and distinct.

Ladies and Gentlemen,

A new reality has been created in our country due to the legal and, mainly, illegal entry of economic immigrants during the past decade. The transitional provisions of the law regulate favourably the question of stay permits to holders of green or white cards. We gave the others a second opportunity to have their illegal and insecure stay in our country legalised by submitting an application and evidence that they have stayed in our country for one year. The immigration law will become a tool with which our country will try in the next few years to manage a situation whose underlying causes are outside the country and which is influenced by the decisions made by the Government or the Parliament only to a small extent.

Ladies and Gentlemen,

The phenomenon of immigration is international. International efforts to address the basic causes of forced and voluntary immigration from low - income countries have a long and not particularly successful history. It is obvious that serious efforts are required to address the political, economic and environmental problems pushing those people to leave their countries and take refuge elsewhere.

The object of immigration policy should not be to prevent immigrants from leaving for other countries. It has been historically proved that immigration has been one of the strongest and most positive driving forces in human development. The object at the international level should be the undertaking of initiatives and actions in order for people to feel more secure in their own societies, so that they will immigrate because they so chose and not out of need.

Common sense dictates actions for the improvement of the economic situation in the countries of origin, well - focused investment, fairer trade arrangements, debt relief and effective use of financial aid. It is necessary to create partnerships with the countries of origin and transit and to undertake actions to crack down on human trafficking and illegal import of immigrants. However, structural adjustment and economic liberalisation policies supported by many industrial states and financial institutions have undoubtedly caused immigration currents throughout Africa, Asia,

Latin America and the former communist block. At the same time, immigrant receiving countries sell arms to regimes that persecute their citizens and minority groups. If this contradictory policy is not abandoned, if the gap between rich and poor countries is not reduced, immigration currents will not subside.

This conference, like any other similar initiative, can probably have minimal influence on the underlying causes of the problem. However, I believe that it will contribute to the evaluation of the real size of the problem. It will enable us to promote the protection of human and social rights of immigrants without causing xenophobia and racist syndromes.

Greece, as a multi-cultural country *par excellence*, has never feared contacts with other cultures. On the contrary, it has assimilated all useful elements and enriched its cultural identity through such contacts. We are too ancient a people to be afraid. Ours is an open and tolerant society that can not deny social solidarity and equality to the immigrants who live and work in our country according to the laws of the State.

Ladies and Gentlemen,

Immigration policy aims, in a certain respect, at striking a balance among human sensitivity, respect for human rights, social solidarity and the requirement of every State to know who and for what reason immigrate to its territory, as well as its obligation not to allow fine social and economic balances to be disturbed. The success of this policy will help maximise the immigrants' contribution to the economic development of the area, minimise crime, xenophobia and racism and contribute to the achievement of the immigrants' goals.

I believe that we are under an obligation to balance on this tightrope and I am confident that, through the discussion that will follow and everyone's essential participation, we will contribute to the strengthening of co-operation around the ancient cradle of civilisation, the Mediterranean, and the results of the proceedings will contribute a little bit to the building of a better, fairer and more humane world.

Thank you.

PARTNERSHIP FOR HUMAN DIGNITY

**Address by M. Walter SCHWIMMER,
Secretary General of the Council of Europe**

Excellencies,
Ladies and Gentlemen,

A few weeks ago, on September 9, the bodies of thirteen Moroccans were found on the beach near Rabat, having perished in their desperate attempt to reach the Spanish Eldorado.

The tragic death of these unfortunate migrants and the many others occurring every day on the Mediterranean shore have brought us to Athens today to participate in this Conference on "Irregular migration and the dignity of migrants: Co-operation in the Mediterranean region".

This conference marks an important further step in the Council of Europe's commitment to safeguard the respect of human rights. In particular of those who are in a vulnerable situation and therefore most need protection.

Let me first of all thank the Greek authorities and the Minister for Foreign Affairs, for kindly inviting and generously hosting this cross-Mediterranean event. But I must also thank the speakers and participants from Morocco, Algeria, Tunisia, Egypt and Libya for their presence here today. Co-operation is imperative if we want to deal effectively with a problem of common concern to the whole of the region. A concern which requires creating and sustaining a structural dialogue and a partnership with our non-European invitees. Co-operation and partnership with countries of the Southern Mediterranean is one of the ways forward, but I would like to hear your opinion about other possible solutions.

We have wanted this conference to be a public event open to all interested parties: we have representatives of national administrations of member States of the Council of Europe and States of the Southern Mediterranean as partners on an equal footing for the first time. I am sure they will use the opportunity to create closer bilateral and multilateral links.

I would also welcome members of the Parliamentary Assembly of the Council of Europe, and invite them to convey to their national Parliaments the conclusions of this conference. I am sure they will also help us to alert public opinion to the tragic toll of victims of clandestine migration.

Local and regional elected representatives have a lot of experience to share with us, as they deal on a daily basis with clandestine migrants knocking at their doors.

But, during these two days, together with researchers, representatives of other international organisations and representatives of the social partners, migrants' associations and the civil society at large, we will not only listen to past experience. We will repeatedly ask all of you: what can you propose, what are you going to do to curb this situation?!

Let me recall that the Council of Europe has been long concerned about the human rights of migrants - both legal and clandestine - wishing to enter a member State and about the enforcement of expulsions in the host countries. Needless to say this matter has recently acquired a dominant place on the political agenda.

The Committee of Ministers, as well as the Parliamentary Assembly, regularly draw attention to the extremely dangerous and inhuman conditions in which clandestine migrants, a large number of whom are women and minors, find themselves. Their clandestine situation in the host country often deprives them of their civil, political and social rights and affects their human dignity. Furthermore, by enhancing national anxieties and xenophobic tendencies, the presence of clandestine immigrants also puts at risk the integration of regular immigrants and, indeed, social cohesion at large.

The European Court of Human Rights has on several occasions dealt with cases relating to asylum seekers, refugees or other migrants and with the compatibility of national admission and expulsion procedures with certain provisions of the European Convention of Human Rights. Let me just recall a very recent case: *Boutlif vs Switzerland* of 2 August 2001, won by the claimant who had been refused a residence permit although he was married to a Swiss national.

Furthermore, the CPT, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment has visited several detention facilities for aliens deprived of their liberty under the national aliens legislation. It has published several critical reports about its findings, also regarding the conditions of administrative detention of asylum-seekers.

Moreover the Committee of Ministers has adopted a series of recommendations, covering the "safe third country" concept, the return of rejected asylum seekers and the right to an effective remedy against expulsion.

Last year - in the light of the increasing number of cases in our organisation's member States in which forced expulsion was carried out with a shocking lack of respect for human dignity - the Council of Europe, jointly with the Office of the United National High Commissioner for Refugees, drew public attention to this painful subject. Equally, the Council of Europe and the Commissioner for Human Rights, Mr Gil Robles, strongly criticised that the methods used before and during deportation in certain cases violate human rights.

I am pleased to announce that the first recommendation of the Commissioner for Human Rights, made public ten days ago, deals with the rights of aliens wishing to enter a Council of Europe member State and the enforcement of expulsion orders.

We are all shocked by the way in which clandestine immigrants lose their lives at the hands of traffickers of human beings. Obviously, the restrictions on lawful immigration introduced by European countries increase the recourse to the services of unscrupulous traffickers. Reinforced security measures and control mechanisms at the European borders to apprehend clandestine immigrants should therefore be accompanied by intensified co-operation among States to effectively combat human trafficking. Only thus can this modern form of slavery be eradicated. Effective action is needed to counter the increasingly international dimension of trafficking, slavery and forced prostitution. The Council of Europe is determined to combat this plague.

The – geographically more limited - question of clandestine migration in the Mediterranean area which is the theme of our Conference, was taken up by the Parliamentary Assembly last year and resulted in Rec. 1467 (2000), which condemns

trafficking in human beings and underlines the need to combat the root causes of illegal immigration. Evidently, this phenomenon is not limited to the Straits of Gibraltar alone and clandestine migrants also come from other regions, such as Eastern Europe, Asia or sub-Saharan Africa. It is therefore foreseen to use the results of this Conference as far as possible also in other geographical areas.

The European Ministers responsible for Migration Affairs had - already in 1996 at their Sixth Conference - pointed to the need for an overall strategy on management of migration. The European Committee on Migration's work on such a comprehensive strategy is contained in the report entitled "Towards a Migration Management Strategy".

The starting point of this strategy is identical to that of the Assembly's. Protocol 4 of the European Convention on Human rights consecrates mobility as a human right and mentions that emigration can be exercised in conditions to be fixed by governments in legal instruments.

We therefore need an integrated, orderly migration management respectful of the individual's fundamental rights. This, in turn, depends on co-ordination between Council of Europe member States and the migrants' countries of origin if we want to prevent illegal migration and reduce the probability of attempted illegal entries. Our conference today and tomorrow is a unique opportunity to develop this coordination and establish an effective partnership.

The second point of departure of the comprehensive migration strategy proposed in the report is the political acceptance that Europe as a region has become an area of immigration. Globalisation and world-wide networking, economic, social and demographic imbalances are factors increasing mobility and accelerating international migratory movements.

We are all aware that international migration has an impact on the quality of international relations. Therefore it is of utmost importance to put migration on a common political agenda of States of origin, transit and receiving States. Together, they should deal with issues such as human rights, bilateral technical co-operation, irregular migration as well as obstacles to return. Such a dialogue should ultimately aim at creating efficient co-operation structures. From this perspective, a climate of mutual confidence and understanding is needed allowing the parties subsequently to negotiate on an equal footing.

We want to promote co-ordination with ministries and non-governmental organisations on the southern shores of the Mediterranean in establishing co-operation on the economic, political and sociological causes of irregular migration. On a number of occasions, receiving States have been invited to develop, in co-operation with non-governmental organisations and local authorities, training and development aid programmes at local level in the migrants' countries of origin. Recommendation 1467 (2000) on clandestine immigration and the fight against traffickers stresses that European countries cannot at the same time increase their restrictions on immigration and reduce their overseas development assistance. They should raise their official development assistance to the internationally recognised target level of 0.7% of their gross national product. But how many of our member States comply with this agreed level?

Before closing, I would like to reiterate that the large long-term presence on our countries' territories of clandestine migrants deprived of human rights and of a legal

status is detrimental not only to the victims but also to society at large. In order to preserve social cohesion, we have to refrain from creating scapegoats as targets of public frustration. This is particularly relevant today where the recent terrorist attacks in the United States risk creating a climate of xenophobia and intolerance.

This is why I attach so much importance to this Conference, which brings us together here in Athens at the cradle of our democratic culture and our political values, as the beginning of a long-term co-operation process. You will, today and tomorrow, discuss the various steps to take in this process and your conclusions will be taken into account in the preparation of the next Ministerial Conference on Migration to take place in September next year in Helsinki.

I do sincerely hope that your work will be successful.

**Speech of Mr Grigoris NIOTIS,
Minister of Foreign Affairs**

The Mediterranean has always been a key point of economic and cultural exchange between East and West, North and South as well as a bridge between the people of Europe, Africa and Asia.

The Mediterranean is also one of the most important gates for migration flows entering in Europe.

At the same time, this region is characterized by political crises, economic social and population inequalities.

Socio-economic inequalities, political instability, religious conflicts, lack of infrastructure in social security and relief and in some cases violation of human rights in certain Mediterranean countries are the main causes of migration of their citizens towards more developed neighbouring countries, even through illegal channels.

On the other hand Europe and other developed countries follow, till now, a controversial policy on the subject of migration: They promote, within the frame of globalization the mobility and free passage of human resources and services while on the same time, they implement restriction policies of legal migration.

Another factor that should be considered as encouraging illegal migration is the fact that illegal labour has as a result the decrease of cost and the increase of competitiveness of goods and services with positive macro economic effects in the economies of developed countries.

Illegal migration reflects a deficit between the unlimited number of “candidates” migrants and the limits posed by the eventual destination countries.

According to the International Centre for the Development of Migration Policy 400.000 to 500.000 illegal migrants cross the European borders every year. At international level, about 30 million – non papers – reside illegally in foreign countries.

Migrants traffic has become recently a great problem for the most of rich countries. It is well known that organized traffic syndicates make a profit of 5 to 7 billion \$ per year, a sum comparable only to the drugs profits.

Migration is a fundamental human right. Those that are forced to become illegal migrants are deprived of essential private and social rights, their dignity is violated and in some cases even their life is endangered.

Greece, since the last two decades, was a country of origin for a great number of migrants. Today, the country like Italy, Spain and Portugal has become a receiving country mainly for economic migrants. It's 16.000 km/coastline encourages the illegal entry of migrants. It is considered that 700.000 non-regulars are today in Greece, a great number of which come from Albania and the ex.S.U.countries.

Important measures have already been taken, at national level, within a global migration policy framework.

Nevertheless it is obvious that no country, unilaterally can effectively face this phenomenon and more specifically the problem of illegal migration. The question has to be dealt with on international level.

Mediterranean countries disposing of a common history and cultural proximity could be very effective in fighting illegal migration on a regional level.

The countries of origin could reinforce bilateral cooperation with a view to monitor migration, while the receiving countries could establish structures able to guarantee the fundamental rights of illegal migrants within their boundaries.

The more developed states could undertake educational and development projects tailored made for the states of origin of illegal migrants in order to assist them to upgrade the living conditions of their citizens.

They could also offer the migrants seasonal and determined duration legal jobs.

The Mediterranean has a vast potential of commercial exchanges, investments and prosperity. There is a need for the less favoured countries to have an access to European markets as well as to proceed into structural adjustments of their own economies.

Additionally technology transfer could reduce the development gap in the two Mediterranean shores.

The main objective of this Conference is to launch the dialogue and set-up continuous cooperation aiming to deal with root-causes of illegal migration.

We will have the opportunity to exchange views and come up with interesting proposals on an how to monitor illegal migration and how to promote mutual understating with a view to contribute to the establishment of peace and security in the vulnerable Mediterranean basin.

**Speech of the Ambassador Mr Alev KILIÇ,
Permanent Representative of Turkey to the Council of Europe
on behalf of the Committee of Ministers**

Mr Chairman,
Secretary General,
Ladies and Gentlemen,

It is a great pleasure for me to be attending this major conference focusing on one of the main problems which the international community has had to face in recent years. I am honoured today to be representing the Committee of Ministers in my capacity as Chair of the Rapporteur Group on Social and Health Questions, but I am also the Permanent Representative to the Council of Europe of Turkey, facing the heat of the problems as a country of transit. You will therefore understand that for both these reasons I am more than happy to talk to you about the Committee of Ministers' interest in closer links between Europe and the southern Mediterranean, based on comprehension, mutual respect and solidarity between peoples.

For several decades, the Council of Europe has sought to establish a legal framework for the rights and living conditions of migrants. It has drafted relevant legal instruments such as the European Convention on Establishment (1955), the European Convention on the Legal Status of Migrant Workers (1977) and, more recently, the European Convention on the participation of foreigners in public life at local level (1992). These treaties reflect the desire of Council of Europe member States to promote recognition of the rights of foreign residents and ensure that they are able to integrate into society.

This concern was reiterated at the last Council of Europe Summit in October 1997 by the heads of State and Government who stated their determination "to protect the rights of lawfully residing migrant workers and to facilitate their integration in the societies in which they live." In the Committee of Ministers, we have channelled our efforts in this direction, by adopting, amongst other things, in September 2000, Recommendation (2000) 15 concerning the security of residence of long-term migrants.

Today more than ever before, migration, with all its complex problems, concerns each and every country. Very often, under the pressure of public opinion, countries tend to take action by introducing tougher migration legislation and tightening border controls. However, despite the restrictions introduced, the increase in irregular migration is getting out of control. Although we must be cautious in analysing such a sensitive problem, there can be no room for hesitation. However, the fact that migrants are in an irregular situation is no reason for their dignity to be disregarded. They have inalienable and universal rights – human rights.

The construction, through intergovernmental co-operation of a freer, more tolerant and fairer European society which fully upholds these rights is one of the Council's primary objectives. With these principles firmly in mind, the Committee of Ministers is relying on the expertise of two committees of experts in order to formulate and implement coherent policies in the field of migration. These are the European Committee on Migration (CDMG) and the Ad Hoc Committee of Experts on Legal Aspects of Territorial Asylum, Refugees and Stateless Persons, or CAHAR for short.

At the request of the Committee of Ministers, the CDMG is looking at the underlying causes of irregular migration with a view to adopting prevention guidelines.

The current economic and demographic imbalances which are largely behind migration pressure should not, however, be regarded as the only factors responsible for irregular migration. Political instability, social disparities, conflicts of all kinds, often in association with human rights abuses, are other reasons explaining population movements.

Migration in Europe has altered dramatically in recent years. Diversification is the watchword of the processes currently under way. The number of nationalities concerned is constantly growing. New networks emerge seeking to bypass migration flow controls and making use of trans-national criminal channels. Erstwhile countries of departure are becoming countries of destination; others find themselves now as transit areas, hubs for migration from the immediate vicinity.

In the Committee of Ministers we have taken on board the complexity of the problems leading to irregular migration and the fact that this is increasingly a pan-European issue. Which is why we were keen for this conference to be open to all interested member States.

We attach great importance to the drawing up and implementation of a pan-European strategy to combat irregular migration and the trafficking in human beings and we would like to draw participants' attention to the recently adopted CDMG report "Towards a Migration Management Strategy", which should be fully taken into account. The strategy puts forward a holistic approach to migration management with due regard for the protection of fundamental human rights. Such management relies on co-ordination both among Council of Europe member states and between them and the migrants' countries of origin, in order to prevent irregular migration and reduce the likelihood of people entering Europe illegally.

However, we cannot consider the problem of irregular migration without highlighting the dramatic rise in the number of refugees and asylum-seekers. The right to asylum has been put severely to the test in the industrialised countries for a variety of reasons, including the growing number of refugees and asylum-seekers and the dishonest use of asylum application procedures by migrants attempting to bypass immigration restrictions.

In this connection, the Committee of Ministers would like to stress the importance of the intergovernmental co-operation that takes place within the Ad Hoc Committee of Experts on Legal Aspects of Territorial Asylum, Refugees and Stateless Persons (CAHAR).

Mention should also be made of the various recommendations to member States adopted in this field by the Committee of Ministers, which contribute on a regular basis to the compliance by member states of their commitments under the 1951 Geneva Convention relating to the status of refugees and its 1967 protocol. These texts recognise the importance of being able "to seek and enjoy asylum" or other forms of protection and the Committee of Ministers lends its full support to implementation of these principles.

Finally, before concluding, I wish to inform you that the Human Rights Commissioner of the Council of Europe recently presented to the Committee of Ministers his first Recommendation to the Organisation's member States [CommDH(2001)1]. It covers the rights of foreigners wishing to enter territory of

member States and the enforcement of expulsion orders. It emphasises *inter alia* that States are of course entitled to restrict immigration but this should not be at the expense of fundamental rights that apply just as much to foreigners as to other people and underlines the key role of the judiciary in safeguarding freedoms.

If we are to manage effectively pan-European migration in the coming years, we will above all have to devote our intergovernmental co-operation efforts to drawing up long-term policies in order to help eliminate the deep-rooted causes of forced and irregular migration, protect the fundamental rights of migrants in irregular situations and prevent them from being exploited.

We must also step up our information and awareness-raising activities in the countries of origin to ensure that potential migrants are fully aware of the conditions governing entry, residence and employment imposed by legislation in the host country. Too often, migrants turn to criminal networks to deliver them to what they feel will be a more promising future, but which in reality is a dangerous and uncertain future.

Lastly, we must give stronger encouragement to bilateral and multilateral negotiations between countries of origin and countries of destination leading ultimately to the conclusion of readmission agreements. Above all, such agreements should protect the fundamental rights of the people concerned in accordance with the relevant international instruments, in particular those provided for by the European Convention on Human Rights and in line with the principles set out in Recommendation No. R (99) 12 of the Committee of Ministers to member states on the return of rejected asylum-seekers.

Genuine border control belongs to a mythical past. If we acknowledge that immigration depends on millions of individual decisions and that it cannot be totally regulated by governments then we have taken an initial step towards realism. A free society is an open society, a society which becomes all the richer because of its many identities.

Thank you for your attention.

**Opening Speech by Mr Tadeusz IWINSKI,
Chair of the Committee on Migration, Refugees and Demography of the
Parliamentary Assembly**

Mr President,
Ministers,
Secretary General,
Ladies and Gentlemen,

It is with great pleasure that I address this conference since it is going to deal with a subject of crucial importance for the countries concerned. The Parliamentary Assembly, and in particular its Committee on Migration, Refugees and Demography, has during the last years devoted much time to analysing and debating the migration flows across the Mediterranean Sea, its causes, possible remedies and the particular problems posed by irregular migration. We are therefore most grateful for the response that the Committee of Ministers has given to our recommendations by convening this important conference and I also like to thank the Greek Authorities on behalf of the Assembly for having offered to host this event.

The Assembly in its most recent debate on this issue expressed its deep concern at the number of victims of clandestine migration in the Mediterranean and at the extremely dangerous and inhuman conditions in which clandestine migrants find themselves every day. It is very unquieting indeed that a large number of these migrants are women, often pregnant, and minors. We believe that living under clandestine conditions invariably deprives people of their fundamental and social rights and their human dignity.

Exploiting human misery like it is done by criminal gangs of traffickers must be stopped and ways must be found to reduce illegal migration. A closer economic co-operation in this region would be an important element in promoting development in the least developed regions, often at the origin of migration flows. Democratic structures must be strengthened where they are weak in order to achieve lasting political stability, which is a precondition for economic and social development.

We believe that a closer co-operation on migration issues is fundamental for its successful monitoring. Last week we held an exchange of views on this issue with a parliamentary delegation from Algeria. Needless to say that terrorism and migration monitoring were central themes in our talks. I have also had contacts with colleagues from other countries on the southern shores of the Mediterranean and others in and bordering the South Caucasus.

These contacts as well as discussions with members of our Migration, Refugee and Demography Committee has led me to think that a new Parliamentary initiative could be taken to look at the problems related to clandestine migration and ways of solving them. I will therefore propose the creation of a Euro-Mediterranean Parliamentary Platform, which could meet on a regular basis in response to the challenges, we are confronted with and that we need to solve together. Criminal activities like human trafficking and terrorism could also be included in this work. Local and Regional Authorities as well as Non-Governmental Organisations and Governments will be our natural partners in this project.

Ladies and Gentlemen,

I hope we can discuss such co-operation initiatives during this conference. My parliamentary colleagues and I are looking very much forward to following your debates. I wish you a most successful conference.

EUROPEAN INTERNATIONAL MIGRATION: EVALUATION OF THE CURRENT SITUATION

**Professor John SALT,
Migration Research Unit, Department of Geography
University College London**

Introduction

This conference is taking place at a time of relative prosperity in Western Europe, one consequence of which has been to indicate the existence of labour shortages in a number of sectors in most countries. The current short-term concern with skill shortages has become concatenated with longer-term concerns with ageing and demographic change to feed a wider discussion about long-term employment strategies and the role that international migration might play in them. Governments have responded mainly by developing programmes to make better use of the existing working age population, through training and retraining, and by adopting a more liberal attitude to labour immigration.

What are the main trends in european migration?

Analysis of migration data for Europe over the last couple of decades indicates several overall trends:

- Western Europe as a whole is now a global player in terms of the numbers of migrants received each year
- International migration is becoming a more important component of population change in most countries and is the major one in many
- European countries have developed their own distinct migration fields
- There is no general convergence between states in their migration patterns and trends overall (unlike fertility and mortality) but there is some convergence of some elements (more women, older migrants)
- There is a large degree of stability in migration patterns and trends at national level with few major new origins
- There is declining interaction within the EU
- Mediterranean states in the EU have become ones of net immigration
- Some Eastern European states now receive large numbers of labour and family immigrants

How big are stocks of foreign population in european countries?

The total recorded stock of foreign population living in European countries stands at around 20.89 million people (Table 1). The foreign population thus appears to constitute some 2.5 per cent of the aggregate population of Europe. The greater part of this foreign stock is resident in Western Europe. The last decade has been one of growth in the foreign population. Between 1988 and the present, total foreign national stocks in Western European countries have increased by 36 per cent.

By contrast, although most countries in Central and Eastern Europe have also experienced some permanent immigration, much of it return migration, flows have been modest and stocks of foreign population remain relatively small, around 653,000 and a tiny part of a total population of over 242 million.

The importance of foreigners in the total population varies considerably from country to country, although proportions have been rising generally. In 1997 (or the latest available date) the largest proportions of foreigners, relative to the total population, were in Luxembourg (34.1 per cent of the total population) and Switzerland (19.4 per cent). In contrast in Mediterranean Europe proportions officially recorded were generally less than two or three per cent.

Trends in naturalisation are significant when reviewing changes in stock numbers. Over the period 1985-96 about 3.3 million people acquired citizenship of an EU or EFTA state. The trend has been upward, from around 200,000 per year in the 1980s to nearly double by 1996. These figures indicate that the real total of immigrant stock in the EU/EFTA region is considerably above the 20 million or so recorded foreign population.

Who are the foreign citizens in western Europe?

Using data for eleven countries in Western Europe with a detailed breakdown of their foreign stocks by nationality we can obtain some idea of the sizes of the different origin groups (Table 2). The largest is that of former Yugoslavs, numbering around 3.3 million. Next come Turks, about 2.8 million, followed by Moroccans, 1.2 million and Algerians, 0.7 million. No other group records more than half a million of its citizens in the destination countries listed here. However, it must be remembered that these figures refer to current nationality and thus exclude those who have become naturalised in their host countries.

Examination of the proportions of each nationality accounted for by individual destination countries is revealing. In most cases one destination accounts for a significantly high proportion. Thus 60.2 per cent of former Yugoslavs are in Germany as are 74.1 per cent of Turks. France has 92.6 per cent of Algerians recorded and 71.3 per cent of Tunisians, while the UK has 59.3 per cent of Indians, 53.4 per cent of Iraqis and 45 per cent of Pakistanis. Thus the selected national groups are anything but evenly distributed, with only the Chinese and, to a lesser extent, Filipinos and Iranians being less concentrated. There is thus clear evidence that particular origin countries send their migrants mainly to specific destinations and not more widely.

What are the flows of migrants into and within Europe?

Net gains have been the order of the day but they have fluctuated. In the first half of the 1980s, inflows of foreign population declined but from the mid-1980s the data suggest that there have been net gains for most countries. Since 1994 net gains have, on the whole, tended to fall in those countries for which data are available, with Germany recording net emigration in 1997, a consequence of the return of Bosnians.

In 1998, the aggregate net gain in Western Europe for the countries listed was 377,600, the main gains being in the UK and Italy (Table 3). This contrasts with 1993 when the net gain was 592,000, around half of which was accounted for by Germany. It should nonetheless be noted that these data probably underestimate total net inflows, since for the most part they exclude asylum seekers and some categories of temporary immigrants, many of whom it is known stay illegally.

The lifting of the Iron Curtain heralded increases in migration flows both within and from Central and Eastern Europe. One estimate is that in the early 1990s the annual average number of officially recorded net migrations from there to western countries was around 850,000 (Garson, Redor and Lemaitre, 1997), compared with less than half this in the three preceding decades (Frejka, 1996; Okolski, 1998).

How many foreign workers are there in Europe?

It is more difficult to obtain accurate and comparable data across Europe for stocks of labour than for the foreign population as a whole. There are problems of knowing who is included, and which sources might be used. In addition, unrecorded workers are almost certainly proportionately more important in the labour market than are unrecorded residents in the total population.

In Western Europe around 1997 (using the latest data for each country) there were about 7.41 million recorded foreign workers (Table 4). This represents an increase of about 27 per cent on the 1988 figure (6.2 million) but only 1 per cent on that for 1994. Indeed, it would appear that over the last few years stocks of recorded foreign labour have changed little.

What are the trends in asylum seeking?

Much of the discussion about the scale of migration into and within Europe separates out asylum seekers from 'normal' (predominantly labour and family reunion) migration flows. There are sound reasons for this. Not only are the motivations of the two sets of moves different, but the data are also collected and presented differently. However, the distinction between the two has become increasingly blurred. Many asylum seekers are not in need of protection and are attempting to migrate for economic and/or family reasons, while the statistical distinction is no longer clear.

Inflows of asylum seekers to the EU and EFTA states have fluctuated in total and between destination countries since the mid-1980s (Table 5). The 19 states received a total of 169,710 asylum seekers in 1985, reached a peak of 695,590 in 1992, falling to 247,500 in 1996 before rising to 422,180 in 1999.

After 1991-92 Yugoslavs came to head the list of origin countries, with Romanians, Turks, Sri Lankans, Somalis, Iranians, Zairians, Iraqis, Bulgarians, Albanians, Nigerians, Lebanese and Chinese also prominent. Many of those fleeing former Yugoslavia, particularly Bosnia and Kosovo, do not appear in the asylum statistics, but are given some form of temporary protected status. In recent years Turkey, former Yugoslavia, Iran, Iraq, Somalia and Sri Lanka have become the major sending countries, all of them having sources of conflict likely to create populations in need of protection. The evidence from recent year indicates that larger proportions of asylum seekers are qualifying for protection.

How many migrants are trafficked, smuggled and illegal?

The darker side of the migration business is trafficking and smuggling in human beings, a process which threatens to create a new geography of international movement. Traffickers and smugglers increasingly determine the choice of migrants' destination countries and the routes taken. Their channelling of migrants reflects their use of local knowledge, of key locations, and their wider intelligence of international weaknesses in regimes of migration control. Knowledge of the trafficking business is currently sporadic, largely anecdotal and often highly sensitive (Salt and Hogarth, 2000).

A review of the estimates of numbers of smuggled and trafficked migrants globally and in Europe reveals two main features. First, there is a preference for nice round numbers. Second, estimates are frequently rehearsed and recycled and take on a momentum of their own.

Table 6 is an attempt to bring together the various estimates made of the scale of smuggling and trafficking at the global and European level. Globally numbers are put at 4 million annually, including up to 2 million women and children. Estimates for the EU as far apart as 1993 and 1999 give the same range of 50-400,000 for both sexes. Numbers of women smuggled and trafficked annually into the EU and Central and Eastern Europe has been put at 300,000. Still regarded as the most authoritative estimate – because the assumptions upon which it was based are available, is Widgren's 100-220,000 in 1994.

Rarely is it clear how the estimates have been derived, though in general they rely on assumptions about the ratio between those apprehended at borders and those who succeed in getting through undetected. The problems in using border crossing statistics to analyze the scale of illegal migration have attracted relatively little detailed comment, mainly because so few studies have attempted to do so. Two examples will suffice. Interviews with border guards and officials in Hungary by Juhasz (2000) found that estimates of the proportion of cases discovered were “*many and varied even within the organization most qualified to make them, the border guard service itself*”. At senior levels there seems to be a high degree of optimism and a belief that the majority of those illegally crossing the border are caught. However, “from the central bodies down to the operative units this optimism decreases dramatically, while those actually patrolling the border judge their own effectiveness to be only ten per cent” (Ibid.).

Differences of opinion regarding the proportions caught were also evident from interviewees in a study in Ukraine (Klinchenko *et al*, 2000). The officials and border controllers said that less than one per cent of those trying to cross the country's western border illegally succeeded but migrants themselves put the proportion between a third and a half. Similar problems beset attempts to calculate the scale of illegal migration. In Ukraine the Ministry of Internal Affairs estimated there were 20-30,000 illegal foreigners, whereas some of the experts interviewed suggested that half- to one million was more realistic, a calculation based on border guard statistics of numbers entering and leaving (ibid.).

A further problem is what is actually to be measured. Juhasz's study (2000) used an “illegal crossing event” as the unit of measurement in creating a database of illegal migration to and from Hungary. Such an event occurs each time an individual is arrested. Creating a statistical record to fit the variety of potential situations soon makes the complexity apparent. Multiple events can occur for a single person who is arrested, sent back, tries again and is again caught. Someone simply turned back at the border or arriving in a refugee camp is not recorded in the database, whereas someone caught by the border guard of a neighbouring country and sent back is recorded. Additional complications arise because crossings may be in or out and both should be included.

Moving on to the estimating of how many illegal crossings are trafficked piles Pelion upon Ossa. Incidences of trafficking are probably severely underestimated in data of illegal border crossings since the involvement of a smuggler is registered only if he or she is caught, or if an immigrant admits to have been assisted by a smuggler. One illustration provided by Juhasz of the under estimation of the incidence of smuggling

was that only one-third of the apprehended migrants from Asian countries was recorded as having received any kind of assistance, despite the unlikelihood that they would have had sufficient local knowledge to cross the borders of the many countries on their route on their own (Ibid.).

How many migrants have been regularised?

One way of assessing the size of the illegal population in a country is through the number of regularizations accepted as a consequence of amnesty programs. These have been a fairly common feature in Mediterranean countries during the last two decades (Table 7).

Three main waves of regularization have occurred, in the 1980s, in the early 1990s and since 1996. Over the period as a whole around 1.45 million regularizations have occurred, but it is the third wave that has been the largest, with 1.12 million since 1996.

Regularization has affected diverse groups of migrants. Clearly the numbers cannot be equated with the total numbers of people living irregularly at any one time. Nor can it be assumed that the countries which have had such programs are those with the largest numbers of in an irregular situation.

THE CURRENT DEMOGRAPHIC, ECONOMIC AND POLITICAL SITUATION IN THE COUNTRIES OF THE SOUTHERN MEDITERRANEAN RIM

**Mr Philippe FARGUES,
National Institute for Demographic Studies, Paris**

Introduction

The opinion is widespread that the number of people wishing to emigrate from the countries of the South far exceeds demand for immigrant labour in the countries of the North - that, roughly speaking, there is no limit to the number of potential emigrants¹. The impression is that, in the Mediterranean region, South-North migration is limited only by restrictions imposed by the North, and the southern countries have no internal limits. The consistently high number of potential emigrants in those countries is ascribed to continuing demographic pressure - in particular among the working population, where growth rates remain higher than in the overall population - combined with a mediocre economic performance, especially as regards creation of jobs and redistribution of wealth.

Political developments, if any, are moreover said to sustain a situation conducive to emigration. In the wake of economic reforms and the easing of restrictions on external trade, borders virtually everywhere are indeed being opened to movements of people, goods and capital and to flows of information, which perhaps have an even greater influence on the decision to emigrate. However, authoritarian regimes remain in power throughout the region, and a number of the countries concerned are still prey to civil wars or external conflicts. The desire to emigrate is regarded as an outlet for frustration with the economic or political situation, which is heightened by this opening-up to the outside world.

This perception of the situation remains valid, with one subtle distinction. A radical change is taking place where one would least expect it: in the demographic situation, which had definitively come to be regarded as a burden but which, we shall see, is perhaps becoming an opportunity². Is this change likely to affect emigration from the southern countries? If we consider the new reasons for leaving and the changing profile of those who emigrate or who are contemplating emigration, the answer is yes.

The end of the baby boom

The cover of the spring 2001 issue of "Foreign Policy" carried a surprising photo for a periodical on international relations: the picture of a newborn baby, with the words "Wanted: More Babies". Does this mean that, after Europe, fear of falling birth rates is gaining ground in America? The answer is no, since the leading article is in fact

¹ This point of view is, for example, expressed in the SOPEMI report, "Trends in international migration", OECD, Paris, 1999.

² This paper is based on an earlier article by the same author, "La génération du changement", in "Jeunesse du monde arabe ; défis et opportunités", edited by Philippe Fargues, published in "Maghreb-Machrek" special issue No. 171-172, January-June 2001, La Documentation Française, Paris.

concerned with the global nature of the collapse in birth rates, which it describes as a “global baby bust”³. It notes that one person in two lives in a country where fertility no longer ensures generation replacement. Not only western Europe and China, with its one-child policy, but also a large number of countries in both the western and the eastern hemispheres have fallen below the critical figure of 2.1 children per woman, the limit under which the next generation is smaller in number. We have not yet rid ourselves of the spectre of a population explosion when that of population decline is already looming.

Two Arab countries - Lebanon and Tunisia - have already fallen below this lower limit. Other countries are not far behind, including Algeria, Morocco and Libya. The Mediterranean is no longer the “gulf” some people like to imagine. With a fertility rate of 1.55 children per woman, Tunis is no longer any different from a European city⁴. It is in Iran, governed by the Ayatollahs under an openly Islamic regime and said to be on the sidelines of modern trends because allegedly cut off from the West, that demographic change has taken place faster than ever before. Fertility, which still stood at 6.40 children per woman in 1986, had fallen to 2.06 by 1998, below the generation replacement level⁵. In the space of only twelve years the country had arrived at a point which the West took a century or more to reach.

In the Arab countries the total fertility rate⁶ averaged 3.5 children in 2000, with considerable differences between countries and social categories. This number may still seem relatively high compared with the world average (2.60), but it is decreasing fast from one year to the next and, above all, it is very low compared with the norm of 7 to 9 children for the previous generation, that is to say until about 1975. On average, young women today have only half or one-third as many children as their mothers. This represents a significant difference between generations.

An attempt might be made to advance specific explanations for this. For instance, the particularly sharp fall in the Algerian fertility rate⁷ over the past decade might be ascribed to the civil and political tensions which are tearing the country apart and placing families in a situation of insecurity scarcely conducive to the birth of a large

number of children. A similar explanation could be given for the fact that, in Lebanon, the decline in fertility, which until the seventies was confined to certain communities, spread to all the religious groups during the fifteen years of the civil war. In Libya the serious crisis resulting from the international embargo during the nineties could be put

³ Nicholas Eberstadt, “The population implosion”, in “Foreign Policy”, March-April 2001, Washington DC.

⁴ The most recent issue of the Tunisian Statistical Yearbook (*Annuaire Statistique*) contains figures for 1999 (INS, 2001) and provides details of fertility for each governorate. The total fertility rate varies from 1.55 children per woman in Tunis to 2.95 in Kasserine, with a national average of 2.09 (the generation replacement level is estimated at 2.10).

⁵ Marie Ladièr-Fouladi (2001), “Démographie, société et changements politiques en Iran”, in “Esprit” No. 277, pp. 154-72, and Mohamad Jalal Abbasi-Shavazi (2001), “Below replacement-level fertility in Iran: Progress and Prospects”, IUSSP seminar, “International perspectives on low fertility”, Tokyo, March 2001, 27 p.

⁶ The final number of children a woman would bear if throughout her life her childbearing corresponded to the age-specific fertility rates observed for given years.

⁷ 2.67 children per woman in 1999, according to data not yet published, which the head of the National Statistics Office kindly made available to the author.

forward as a reason why young people no longer marry - 50% of women are still unmarried at the age of 30 in Libya, a country where over a very short period the age of women at marriage has become one of the oldest world-wide⁸ - and fertility is collapsing.

Explanations of this kind contain an element of truth and reflect the specific context in which demographic change is triggered. However, by bringing to the fore local circumstances, which distinguish countries one from another, they prevent clear understanding of a trend common to the entire region.⁹ Universal factors are at work here: urban growth, schooling, development of service-sector employment, and so on.

Why have these phenomena affected fertility in the Middle East and North Africa approximately two decades later than in other regions at comparable stages of economic and social development, such as large parts of Latin America and Southern Asia? In our opinion, the explanation lies mainly in the specific way the oil-based economy, on the one hand, and political insecurity engendered by the Israeli-Arab conflict, on the other hand, have come together, against the sociological background of the patriarchal system, to create a Welfare State conducive to preservation of traditional family life but transient in nature¹⁰.

A transient Welfare State

During the sixties in the Middle East oil revenue created a unique type of relationship between the State and its subjects. The State, deriving huge wealth from its underground resources and from the sale of oil products in external markets, a form of wealth entirely dissociated from its subjects' labour, became an "allocation State"¹¹. Having no need to raise income from the domestic economy, it was able to perform the redistribution function incumbent on all States without taxing its own population. Since there was no income tax or tax on consumption, the State's only economic link with its subjects was through grants (for consumption, education, health care, etc). This system of redistributing revenue by subsidising the population strengthened the patriarchal system on two levels: that of the family and that of political ties.

At the level of the family, the allocation State eliminated monetary obstacles to high fertility for the duration of a generation. It could in fact subsidise childbearing, firstly by covering the cost of children (health-care, schooling, etc) and secondly by offering

⁸ In the nineties Libya had the highest mean age at first marriage for women of all the Arab countries: 29.7 (League of Arab States, PAPCHILD surveys).

⁹ The most complete, best informed study on the subject is that by Youssef Courbage (1999), entitled "Nouveaux horizons démographiques en Méditerranée", in "Travaux et Documents" No. 142, INED, Paris.

¹⁰ This theory is expounded in chapter 4 of Philippe Fargues' "Génération arabes. L'alchimie du nombre", published in 2000 by Fayard, Paris.

¹¹ Giacomo Luciani (1990), "Allocation vs. production states: a theoretical framework" in Luciani (ed.), "The Arab State", Routledge, London, pp. 65-84.

various incentives for women to remain in the home. Factors such as the development of urban areas and of schooling, which, in other circumstances, would have resulted in changes in family life, were neutralised by a system where redistribution of revenue had the whole of society in its grip. At a political level, the “allocation State” became more “neopatriarchal” in nature¹². It substituted allegiance to a nurturing system for participatory citizenship, making the mere fact of being a citizen a source of advantages in itself. But the price to be paid for not having a citizen’s obligations was deprivation of citizens’ rights.

This system was initially confined to the major oil exporters, Saudi Arabia, the Gulf principalities and Libya, which were moreover not densely populated. However, the Israeli-Arab war of 1973 boosted oil revenues and resulted in their circulation throughout the region in the form of investments and expenditure, development subsidies, repatriation of savings by Arab workers who had emigrated to the Gulf, and so on. At the same time, borders were thrown open to movements of persons and capital. The Welfare State, with its system of subsidising families, spread to most of the Arab countries, whether oil-producing or not¹³. At the time of the *Infitâh* (“opening”) under President Sadat, Egypt’s fertility rate picked up again after having declined under President Nasser.

The economic boom lasted about ten years. From 1984 crude oil prices fell, and with them oil revenues. During the nineties all of the Arab States, with the exception of the oil principalities, were to adopt economic reform programmes. It was families who bore the brunt of the cost of these reforms, with the successive withdrawal of public subsidies on food, health care, education, energy, means of transport, etc. Age at marriage rose, and birth control became widespread. Demographic trends caught up the two decades by which they were lagging behind. A gulf emerged between generations, between the children of the oil boom and those of the recession, the generation of the *Infitâh* and that of structural reform.

The Palestinian Territories are the exception that confirms the rule. They continue to have one of the highest fertility rates world-wide, although it would in fact seem that they combine the universal factors that act as a restraint on childbearing. Urban development, schooling and elimination of the family-based economy have not brought about a fall in fertility rates. There are two reasons for this: international aid and the Israeli occupation. Aid from the UNRWA, an agency set up by the United Nations in 1950 to assist Palestinian refugees, and the redistribution of wealth carried out by the Palestinian militant organisations (the PLO, Hamas) have focused in particular on education, health care, housing and food, that is to say on the costs of having children. As a result, childbearing has become dissociated from these costs. The Israeli occupation has engendered a situation where people are forced to withdraw into the family unit. For example, in Palestine female education (the primary factor behind the fall in fertility rates world-wide) lasts longer than in the other countries of the region (in Gaza girls attend school for an average of twelve years), but this has little impact on the situation that awaits young women on reaching adulthood - a ruined economy, shorn of its production factors (in particular, water, land and capital), and unemployment, offering virtually no alternative other than

¹² Hisham Sharabi (1988), “Neopatriarchy. A theory of distorted change in Arab society”, Oxford University Press, New York and Oxford.

¹³ Morocco was the only Arab country to maintain a direct personal income tax of any significance.

expatriate work. However, crossing the borders to work in Israel or the Arab States is a conceivable solution for men, but not for women, who have no choice other than to fall back on their families. By isolating people within the family unit, the curfew and the cordoning-off of Palestinian areas have helped to sustain the traditional, patriarchal way of life.

Everywhere else, with the change in the size and composition of families, a whole system is toppling, the system which long governed the family hierarchy and which, transposed to society as a whole, resulted in a particular form of political allegiance: the patriarchal system. Anthropologists have shown that this system is based on two forms of subordination - that of women to men and that of younger brothers to the oldest brother, the future patriarch. The decline in fertility rates could well undermine this second relationship. In a two-child family - on average consisting of one boy and one girl - the hierarchy between the oldest brother and his siblings quite simply no longer exists, because there are no younger brothers. This therefore deprives the patriarchal system of one of its two foundations.

The other foundation, women's submission to men, is still enshrined in most of the legislation in force concerning the status and capacity of persons, which has its basis in the Sharia, but is at the same time called into question by sociological change. Girls are given the same education as boys, that is to say far more than their own fathers received, and this conflicts with the values governing the relationship between the sexes and between generations. Then, the fact that they marry late results in a far larger number of single young women, a condition previously unheard of in Arab society. Lastly, through employment in companies or administrations they are admitted to the society of men with whom they are not related, placing them in a situation which breaches all the traditional rules. These are all signs that the patriarch is now a dying breed.

The basis of a new contract between generations

The fact that the small family model is rapidly gaining ground everywhere does not mean that zero population growth is for today. Depending on the country concerned, the number of births per year reached a peak between 1980 and 1990. Since then, there has been a spectacular decline in births in absolute figures, by about 30% in Algeria¹⁴, Tunisia and Morocco, 20% in Egypt, etc. However, the numbers arriving on the labour market will continue to grow until the largest generations (those born between 1980 and 1985) reach their 25th birthday in around 2005-2010. A walk down the street is telling - twenty years ago children abounded, but there are far less children now and more young adults than ever before. The age structure of Arab populations reflects the very high birth-rates of the still recent past. It is their consequences that must be managed.

Since the decline in the fertility rate will affect demand for jobs only in the future, does demography offer any immediate reason for optimism? Perhaps it does, if we

¹⁴ If we take Algeria as an example, the number of births per year peaked at 845,381 in 1985. Fourteen years later in 1999 (the most recent year for which statistics are available) only 593,643 births were recorded, representing a 30% decrease. The rate of natural increase in the population has also declined fast, while remaining largely positive. It reached a maximum in 1984 (32 per 1,000), fell by ten points over the next ten years (22 per 1,000 in 1994) and then by another eight points during the following five years (14 per 1,000 in 1999, the last known figure). See "Statistical Data", National Statistics Office, 2001 (<http://www.ons.dz/Demogr>).

look at things from a different angle, from an individual perspective rather than from the collective perspective of major population groups (the working population, young people, etc). To that end, let us consider how demography affects the (average) situation of a young adult aged 25, looking at three ways in which it may influence his or her choices - competition within his or her own generation, dependency (current or future) of his or her parents and (expected) dependency of his or her future children.

Competition between peers, here measured in terms of the average number of surviving siblings per 25 year-old individual, is affected by two trends having an opposite effect: the decline in infant and child mortality, which increases the proportion reaching adulthood, and the decrease in the fertility rate, which reduces the number of births. The first was initially the sole factor at work, until the second came into play, with the result that the curve for this indicator is bell-shaped, rising and then falling. In the Arab world as a whole, competition reached its peak (an average number of siblings of 5.34) with the generation of 1970, who had their 25th birthday in 1995, and then decreased for subsequent generations. Significant differences can be observed between countries in terms of the height of the peak, the time when it was reached and the speed with which competition subsequently decreased. The extremes are Lebanon, where competition between peers is lowest (the peak was reached as far back as the generation of 1950, with 4.8), and Palestine, where it is highest (for the generation of 1990, with 7.2).

Parental dependency is influenced by the same factors, but in a different way. Here, the decline in mortality has a dual effect: growth in the proportion of children who live to the age of 25 reduces the average burden on each child, but the fact that the parents live longer increases it. The decrease in the fertility rate reduces the number of children sharing the task of caring for the parents, in other words it increases the average burden per child. In the Arab countries, until the generation of 1985, this indicator was virtually stable at the very low level of slightly less than 2 parents for 6 surviving children, or about 0.3 parents per 25 year-old individual (compared with 1.1 in Europe). It is with the generation of 1990, which will reach the age of 25 in 2015, that the effect of the decline in the parents' fertility rate will begin to be felt.

The second type of dependency - that of children - is in practice influenced by only one factor, the decline in the fertility rate. As a result of the decrease in fertility over the last two decades, young adults can today already expect to have a relatively low number of children to care for. In the case of the generation of 1975, with an average fertility rate of about 3 children per couple for the entire Arab world, the dependency index would be 1.48 children per adult¹⁵, compared with 3.01 for the generation of 1950.

These three indicators - peer competition, parental dependency and child dependency - combine in a very special way to the advantage of the generations of Arabs born in about 1975, the young adults of the early years of this decade, but this situation will be short-lived (see graph). Since they benefit from their parents' high fertility, there are more of them than ever before to share the burden of caring for the elderly, whereas their own, already low fertility ensures that they will have a small number of dependent children. However, because of the relative size of their generation, competition among these young people is at its strongest.

¹⁵ The figures are estimates, since the fertility rate of the generation of 1975 will not actually be known until 2025.

There are two ways of construing this competition. The most common approach is to equate the size of the 20 to 24 year-old population with potential demand for jobs. It can then be said that there are twice as many young people arriving on the labour market today than was the case with their parents' generation. Demography is here perceived as a burden. Another approach takes into account qualifications, the emphasis here being more on the number of years of education received by individuals in a given generation, that is to say the capital of skills offered to employers¹⁶. In comparison with their parents, the capital of skills which young people contribute to the labour market will be all the higher in that schooling has made rapid progress. By way of example, if one compares the generations of 1945 and 1975, this capital has been multiplied by 4 in Egypt, 6 in Algeria and 10 in Palestine.

The Arab countries are therefore traversing a very short period during which demography can become an opportunity, rather than the burden it is readily believed to be, a "demographic window of opportunity" similar in some ways to that from which the "tiger" economies of South-East Asia benefited in the early eighties, with exceptional levels of saving, investments and education. Theoretically, young people can begin their working lives in the knowledge that the fruits of their labour are not already mortgaged to caring for previous generations, which encourages them to save and invest. They can also expect their investments to help improve the quality of life, rather than being used, as in the past, to absorb the impact of demographic pressure.

However, to transform this theoretical advantage into a real benefit, young people must be able to save. Saving entails having an income, and hence a job. Is competition for jobs necessarily sharpened by the number of those entering the market? Yes, if the State is regarded as a major economic player and the main purveyor of employment, since, according to this line of thinking, employment is in a way exogenous to individuals and to the population at large. No, under a concept which leaves the initiative to individuals and private-sector players, making employment an endogenous factor in relation to the population. Here, the State's role should rather be to create an institutional environment conducive to economic initiative, and to establish rules necessary to the functioning of a social economy.

Young people's disenchantment

Demographic opportunity represents a potential which has not been realised. This potential has been underrated in most of the Arab States. Neither governments nor the capitalist classes have succeeded in creating an economy capable of turning it to advantage. Mass access to education and to qualifications has awakened ambitions in the population, but the labour market has offered them unemployment or deskilling. No Arab country is spared by these two phenomena: rising unemployment and a decline in the value of education¹⁷.

Algeria offers an extreme example, with unemployment at almost 30% (1996), and 56% of the unemployed under the age of 25. Apart from having its roots in the local

¹⁶ This capital is here measured as the average number of years of education received by a generation multiplied by the number of individuals in the generation.

¹⁷ Even in the oil-producing Gulf States, where oil revenue had made it possible to develop a huge labour market in relation to the local population, and hence led to mass immigration, unemployment began to be observed among nationals in the nineties.

cultural identity crisis and the spiral of events following acts of police brutality, the movement that began in Kabylia in April 2001 is well and truly a social and economic protest. Oil revenues have helped Algeria's integration in the international market via imports, but not exports, as no export activity has been established. The country's good financial performance contrasts with a worsening social situation. Twelve million people out of a population of 32 million live below the poverty line according to a 2001 survey. The government officially acknowledged this situation in the first paragraph of its "Economic revival plan" published in April 2001: "Our country is in a paradoxical situation, with good macro-economic indicators but difficult living conditions for some of the population."¹⁸

The situation in Egypt is less extreme and typifies the social economy's failure throughout the region. This country is readily held up as an example for its good macro-economic performance in relation to the light of the International Monetary Fund's criteria¹⁹, but social inequality has continued to widen there. The proportion of the population living below the poverty line (estimated at 320 dollars per person per year in 1996) rose from 30.2% in 1981/82 to 39.1% by 1991/92 and 47.6% by 1995/96. What is more, 42% of those classified as poor in 1996 considered that their personal circumstances had worsened since 1991, whereas only 23% thought they had improved. The opposite applied among those who did not qualify as poor (33% and 50% respectively), showing that Egyptian society was becoming polarised²⁰. Unemployment, which had remained insignificant until about 1980, stood at 10% of the working population in 1995-96. Out of every ten young adults, four began their working lives with a period of unemployment, lasting two years on average. A new development was that 96% of the unemployed had qualifications of at least "A" level standard, and 33% of those holding the "A"-level equivalent diploma were unemployed. Unemployment among those with educational qualifications marked the end of a myth which had, for the space of a generation, caused people to regard schooling as the royal road to individual well-being and social progress²¹.

Since the eighties the disenchantment of young people on leaving school or university has become openly at variance with the values of the ruling class. The political élites that emerged when the countries became independent based their legitimacy on the nation's struggle. The education system was vested with a mission of national construction, and, in fact, in many countries having an education conferred an automatic entitlement to civil-service employment. Over the decade which followed the war of 1973, a policy of "opening-up" (along the lines of the Egyptian *Infitâh*) was pursued, a break with the earlier inward-looking economic doctrines, and governments founded their legitimacy on the material well-being of the people. Individualism took over from nationalism, or, to be more precise, the newly successful business classes ousted the classes that claimed to have defended the

¹⁸ Saïd Haddad, "La situation économique et sociale de l'Algérie en 2001", in "Maghreb-Machrek" No. 173 (October 2001), La Documentation Française, Paris.

¹⁹ GNP grew by 5% per annum (at constant prices) during the nineties; inflation fell from 20-25% in 1990 to under 5% in 1997, some success with privatisation of state-owned enterprises, etc.

²⁰ Abdel Fattah Nassef (Ed.) (1997), "Egypt human development report, 1996", Institute of National Planning, Cairo.

²¹ In Morocco the members of a movement of "unemployed graduates" went on hunger strike outside the parliament in February 1998.

nation's honour. Education began to lose value on a labour market that was now governed by the principle of *wasta* (nepotism), where without the right personal contacts a diploma was worthless. When the Welfare State subsequently collapsed along with oil revenues, and the economy was liberalised at the expense of an unpopular structural reform, which governments turned to advantage in order to strengthen repression²², the values of the materialist society, having become inoperative, were challenged by movements that increasingly turned to Islam as a source of legitimacy and moreover offered young people networks that were of greater use to them in solving their economic difficulties.

Conclusion

How are the demographic, economic and social trends described above likely to affect emigration? Demographic tendencies are no longer a factor in the emigration equation, if ever they were one. In themselves, they are more a reason not to emigrate: why, at this brief moment in time when they are advantaged by a particularly favourable age structure in the population of origin, which spares them both the expense of dependent children and that of the elderly, would young people want to swap this gift for the burden of Europe's ageing population?

The reasons for emigrating lie more in the growing discrepancies outside the demographic sphere. Apart from the continuing differential in living standards between North and South, a longstanding but still relevant cause of migration, we have seen that there is a disparity between the desires and expectations of an increasingly educated generation of young people and the barriers they encounter in the real world in terms of employment, access to resources and responsibilities, and so on. Young people's frustration must be seen against the background of the dichotomy between growing economic liberalism and the authoritarianism which still exists in the political sphere²³.

²² Economic liberalisation resulted in political "deliberalisation", to quote Eberhard Kienle ("A grand delusion. Democracy and economic reform in Egypt", I.B. Tauris, London, 2001).

²³ In the case of Lebanon, it is interesting to note that economic insecurity in the wake of the war led as many people to emigrate as political insecurity had done during the war years. The net migration balance was negative at -894,717 during the civil war (1975-1990) and -639,125, almost as much, for the post-war period (1991-97); 32% of the post-war emigrants had received a university education, compared with 16% of the country's total population. See Boutros Labaki (1998), "L'émigration depuis la fin des guerres à l'intérieur du Liban (1990-98)", in "Travaux et jours" No. 61, Beyrouth, pp. 81-142.

Figure 1: A demographic blessing for the Arab world

Source: P. Fargues, "Génération Arabes ..." op. cit., p. 289

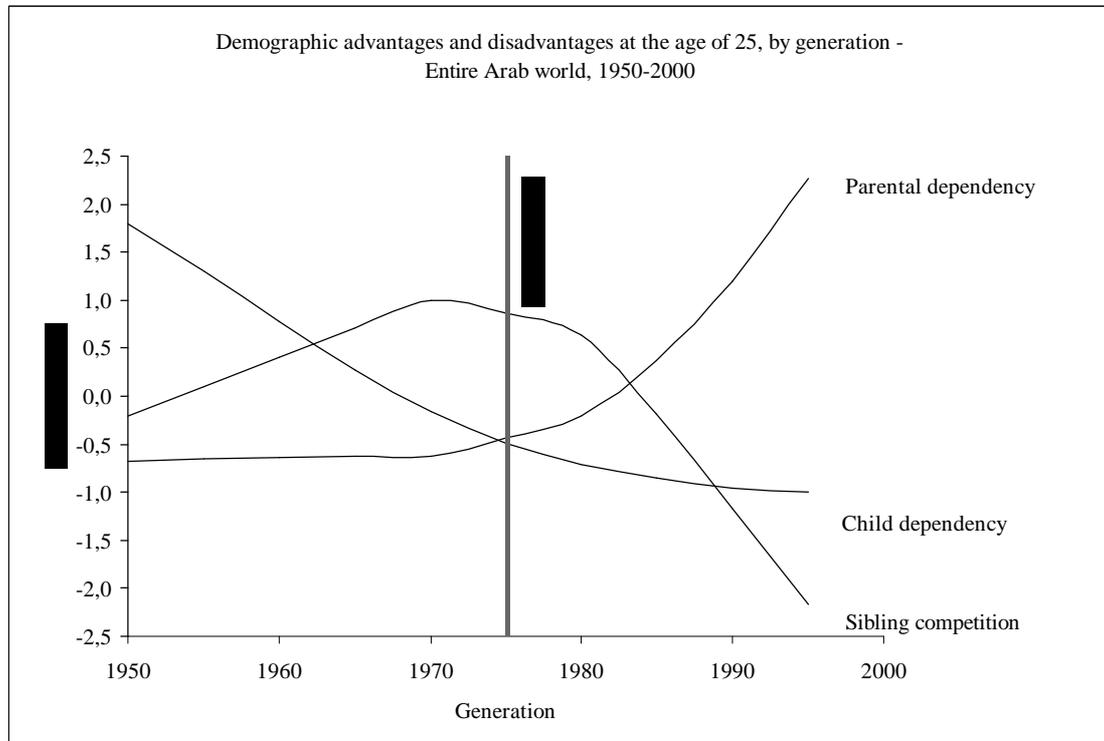


Table 1: Year and level of maximum competition within a generation

Competition / Year of birth	Generation born before 1975	Generation born between 1975 and 1985	Generation born after 1985
Moderate (< 5)	Egypt, Lebanon, Turkey	Mauritania, Sudan	
Strong (5 to 6)	Tunisia, Morocco	Iraq,	
Very strong (> 6)		Algeria, Saudi Arabia, smaller Gulf states, Iran, Jordan, Libya, Syria	Palestine, Yemen

Table 2: First generation to feel the effects of the ageing population*

Generation born before 1975	Egypt, Lebanon, Turkey
Generation born between 1975 and 1985	Algeria, Morocco, Tunisia
Generation born after 1985	Saudi Arabia, smaller Gulf states, Iran, Iraq, Jordan, Libya, Mauritania, Palestine, Sudan, Syria, Yemen

* Generation from which the demographic burden of the parents exceeds 0.350 surviving parents per 25 year-old individual

Table 3: First generation with low fertility (< 3 children per woman)

Generation born before 1975	Algeria, Egypt, Iran, Jordan, Lebanon, Libya, Mauritania, Syria, Tunisia, Turkey
Generation born between 1975 and 1985	Smaller Gulf states, Iraq, Sudan
Generation born after 1985	Saudi Arabia, Palestine, Yemen

SESSION 1: THE CAUSES OF IRREGULAR IMMIGRATION “SITUATION ON THE GROUND”

**Mr Roberto RUOCCO,
Member of the Committee on Social Cohesion,
Congress of Local and Regional Authorities of Europe, Italy**

Mr Chair, Ladies and Gentlemen,

Although many experts had predicted it long in advance, the immigration problem caught Italy and, in particular, the Apulia region off guard because of its sudden and unexpected emergence. After all, only a few decades ago, Italy was still mainly a country of emigration.

Being suddenly propelled to the rank of a country of immigration that was receiving an influx of hundreds of thousands of men, women, elderly people and children with different educational, cultural and religious backgrounds posed problems that foreshadowed serious social, political and cultural consequences, as well as difficulties of a purely administrative and logistical nature.

Since the *Vlora* arrived in Bari harbour in September 1999 carrying approximately 10 000 Albanians fleeing their own country, Italy and, more particularly, Apulia (actually, it is not only Apulia but also two other regions in Italy, namely Sicily and, more recently, Calabria, that have been affected by this irregular immigration) have had to cope with a problem which, except during the Kosovo war and for obvious reasons which I will not go into here, has seen irregular immigrants of different nationalities and ethnic backgrounds landing on our country's shores every day and every night. Only a tiny proportion of them have been intercepted by the authorities.

In the period from 1 January to 30 June 2001 alone, the number of people who arrived clandestinely in Apulia and were intercepted or whose presence was confirmed totalled over 62 000; 32 000 of them were subsequently expelled from the country. In Italy, over 250 000 immigrants who had entered the country illegally over the years have subsequently applied for their situation to be legalised and to be granted residence permits. At least 215 000 of these applications have been granted.

In contrast, we do not know how many have succeeded in avoiding detection. However, considering that irregular immigration since the *Vlora* episode has mainly involved very large numbers of smaller groups carried on rickety vessels that most definitely were not seaworthy, it can reasonably be assumed that the number is much higher than the number of irregular immigrants who have come forward or been detected.

Even though only some of the people concerned have remained in Italy, the country has nevertheless taken in huge numbers compared with the resources at its disposal, quite apart from the fact that they were mainly irregular immigrants who did not have any compatriots already integrated in other European societies.

As I have already said, this irregular immigration has caused serious problems of public order and, in some areas, socio-economic and, indeed, social problems. Fortunately, the latter have not resulted in any violent clashes.

Irregular immigration has brought with it individuals who were already involved in crime or who, because of their clandestine existence, were easily recruited by

shadowy criminal organisations protected by “group solidarity” and Mafia-like rules typical of clans that often made it difficult or impossible for them to be penetrated by ordinary police action.

In addition, this has all happened in regions of Italy like Apulia, Sicily and Calabria which have had and continue to have serious organised crime problems with well-established criminal organisations, with which criminal immigrants and their clans have frequently concluded collaboration “agreements”.

This has generated - or, if you prefer, aggravated - criminal activity that is not only involved in arms and drugs trafficking but also controls prostitution rings and illegal employment (sometimes with methods of unheard-of and unbelievable ferocity). Our regions now have urban neighbourhoods and “sectors” of criminal activity occupied and monopolised by gangs of criminal immigrants.

If we look at the economic aspect of the question, there are sectors such as tourism that have paid a high price for the widespread feeling of insecurity generated by the influx of irregular immigrants, tourists having been directed towards other destinations deemed to be safer, whereas many had already chosen these parts of Italy for their holidays or would have done so.

From the social point of view, too, irregular immigration has had very unfortunate and sometimes even serious consequences.

The first problem was organising facilities for the immigrants intercepted by the police, and then dealing with the second phase in the process. The Italian government was definitely not prepared for what happened or for dealing with such a high number of immigrants. The government’s efforts were greatly assisted by the indefatigable and effective contribution of individuals, organisations and resources, especially the contribution of the Catholic Church and its organisations and that of charitable associations. These various contributions made it possible to set up temporary reception facilities that gradually specialised in specific areas as the days passed. After being separated into different categories there, the irregular immigrants were able to leave and move on to secondary reception centres scattered throughout the country that had been set up in the meantime.

There has been a second consequence on the labour market, which has mainly affected undetected irregular immigrants and those who have managed to slip through the net one way or another. The arrival of workers from outside who, above all, were not subject to any of the rules or insurance contributions that our social protection legislation imposes on employers in workers’ interests has led to the emergence (or, if you prefer, exacerbation) of illegal employment and (unfair) competition both vis-à-vis companies that have chosen not to profit from the illegal labour available and between Italian and illegal workers. This is a serious problem for regions that already have worryingly high unemployment levels, especially among young people.

In some areas, the employment of irregular immigrants has led to the development of ghetto-like settlements in which immigrants with proper residence permits live alongside irregular immigrants (protected by their “community”). Located far from urban centres, these settlements are often viewed with mistrust by the local population, and this mistrust can turn into hostility or degenerate into manifestations of hostility at any time. The immigrant settlements do not maintain any contacts with the local communities, with one side (ie the immigrants) seeking to safeguard the interests of all those living illegally in their midst who are thus protected by their

“community” against checks by the authorities, while the other (the local population) find it difficult to accept them because they themselves are already confronted with the structural problems of their small towns and are having to cope with high levels of short-term and long-term unemployment.

The local reactions can be understood more easily if you consider that the outsiders who come into some small rural communities in southern Italy when certain crops are being harvested account for a significant proportion of the total population.

Yet, in contrast to what may happen in other European countries, this all takes place against a background in which immigrants - irregular or otherwise - are not given information about the “host” country’s socio-economic system and are not familiar with its language, culture or legal system.

It is true that the great solidarity among the Italian population has, in a way, prevented the country from suffering serious consequences in the social sector. However, this can be no justification for continuing with an immigration policy that makes no sense, does not involve any proper regulations and could trigger uncontrollable developments.

For years, Italy has shouldered this problem alone, with complete indifference being shown by the European Union, which has failed to recognise that it was not a local problem but one that affected – and continues to affect - the entire EU and which demanded - and still demands - a comprehensive, co-ordinated policy based on measures aimed at improving the reception, integration and security of immigrants while promoting development in their regions of origin.

At the same time, Italy has pursued an extremely “elastic” policy as regards legalisation of the situation of irregular immigrants to date, setting quotas without establishing effective links either with the labour market’s ability to take on new workers or with what is possible or merely bearable in terms of individual local communities taking in and integrating newcomers. Moreover, the uncertainty about the number of immigrants whose situation would be legalised, which was reviewed upwards several times in the absence of any sound criteria, had the effect of making the country “attractive” to irregular immigrants who regarded it as being much more liberal than its neighbours. The last round of legalisation was followed by an influx into Italy of irregular immigrants who had been living in other EU countries and were hoping that their applications that had been turned down elsewhere would be accepted in Italy.

Even from the point of view of security and public order, the policy Italy has pursued in recent years has not been very firm. Of the 62 931 irregular immigrants intercepted between 1 January and 30 June 2001, only 32 142 were actually prevented from entering the country, removed or expelled. 29,940 irregular immigrants were merely ordered to leave the national territory, and it can therefore be assumed that a large proportion, if not virtually all of them, remained in Italy illegally.

Moreover, in the case of many irregular immigrants who commit crimes in Italy, there is no certainty that they will have to serve prison sentences in the country, as court judgments are often merely followed by expulsion and not by execution of the relevant sentences. The example of an Albanian irregular immigrant is symbolic here: having entered Italy at least five times and having been arrested as many times for various crimes and sentenced to terms of up to 10 years’ imprisonment, none of which he had served, apart from only a fortnight spent on remand, and then being expelled

every time, he came back regularly after each expulsion, always illegally and with a new name in case he was caught again.

Against this background, the measures provided for under Italian legislation in 1998 to facilitate integration, which were actually significant, ended up not producing any real effects.

Italy and Italians are perfectly aware that the problem of immigration has to be tackled in the form of a reply to the question “how” and not the question “if” because immigration is a phenomenon which, for several reasons that have been mentioned more than once, including at this conference, cannot be evaded.

The need to regulate migration properly, to regulate reception and residence arrangements for immigrants, and also to regulate their integration, so as to foster it more effectively, is an issue that can no longer be evaded or put off to a later date. This is not only being demanded by Italy’s citizens - it is also essential for anyone who emigrates to our country and really wants to be integrated there.

To prevent things getting out of control and generating mistrust and tension within society, countries that receive direct immigration are under an obligation to define policies capable of returning population flows to normal levels so that immigrants have real opportunities for integration, fitting into the social fabric of their host country and enjoying decent lives. The host countries concerned are also obliged to do so in order to guarantee social harmony for their own citizens. Otherwise social conflicts will emerge sooner or later which will be even more harmful and threatening than in the past.

We welcomed with great interest the support expressed by the European Commissioner, Mr Vitorino, during his visit to Apulia on 19 June 2001, for a joint strategy against irregular immigration and for proper regulation of migration. He undertook to close the doors to illegal immigration and open up to legal immigration subject to strict rules.

Commissioner Vitorino ended his address with the following comments:

“No migration policy can succeed unless it is accompanied by a policy aimed at integration, which is the key to optimum management of migratory flows and to ensuring that immigrants live in a peaceful environment in which both our values and their own identity are respected.”

I believe that all Italians would agree with the European Commissioner.

And the Italian government is already beginning to act accordingly.

Given past experience and the belief that it is no longer possible to retain a muddled and ineffective immigration policy that causes public discontent without providing practical solutions for people who emigrate to our country wishing to improve their living conditions, the Italian government adopted a bill a few days ago for tabling in Parliament which already incorporates and complies with the objectives of the directive approved by the European Commission and currently being considered by the European Council.

The key aspects of the reform lie in the new way in which integration will be organised: on the one hand, it will be linked to the labour market’s capacity to take on new workers, which will determine the quota of immigrants that can be taken in each year, and, on the other, it will require genuine integration into working life, in other

words residence permits will only be granted to those in possession of employment contracts and for the duration of those contracts.

These changes will be accompanied by new rules to make expulsions more effective, new regulations to strengthen measures for maintaining public order and new guidelines for co-ordinating Italian immigration policy with that of other EU countries.

The government and the majority of Italians believe that this is the only way in which they will be able to offer immigrants from poorer countries than our own real and practical possibilities for integration, to ensure that all the tools and resources regarding integration provided for in our constitution function with maximum effectiveness and, at the same time, to offer Italians the social harmony and conditions that will enable them to continue to show the same solidarity towards immigrants as they have already done without exception to date.

**Mr Manuel MAS I ESTELA,
Mayor of Mataró, Spain**

Mataró is a historic town that stands on the Mediterranean coast 30 km from Barcelona within that city's metropolitan area. It is currently a very active town with an enterprising population of 108 000. Down through its history, Mataró has always stood out by the strength of its economy, firstly with agriculture and then, a little later, with industry, in particular knitwear production, and now with a very diverse range of activities. Its history includes, for instance, the building of the first railway line in the Iberian Peninsula, from Barcelona to Mataró (1848), and the first motorway in Spain.

As far as immigration is concerned, there have been three phases in population growth in Mataró:

First phase

From 1950 to 1975, Mataró took in people from the rest of Spain, in particular Murcia, Andalusia and Extremadura, in that order. The population grew from 31 000 to 97 000, ie it tripled over the period in question. This internal immigration did not present too many problems, as the newcomers shared the same culture as Mataró's own inhabitants, the only exception being their language: Catalan is spoken in Catalonia, whereas people in the rest of Spain speak Castilian. In spite of this difference, however, there were not too many difficulties in terms of integration. In fact, integration took place easily and in a straightforward fashion. Now we are at the stage where the second and even the third generation of this community have been born in Mataró.

Growth in Mataró's population

		Index	
	Population	1900 = 100	CAGR*
1900	19 704	100.00	
1910	19 918	101.09	0.108
1920	24 125	122.44	1.935
1930	28 114	142.68	1.542
1940	27 846	141.32	-0.096
1950	31 011	157.38	1.082
1960	40 407	205.07	2.682
1970	73 125	371.12	6.111
1981	97 008	492.33	2.603
1986	100 021	507.62	0.614
1991	101 510	515.17	0.296
1996	102 018	517.75	0.1
2000	105 686	536.37	0.968
2001	107 787	547.03	1.988

*Cumulative Annual Growth Rate

Second phase

This covered the period from 1985 to 1995. It saw the arrival in relatively small numbers of overseas immigrants, in particular sub-Saharan Africans from Senegal, the Gambia and other countries in that region. North Africans, including Berbers, also arrived from the Maghreb region. The town's population grew from 100 000 to 102 000. The rate of growth was therefore much lower than during the first phase.

During this period, Mataró Municipal Council made very painstaking efforts to help immigrants from other countries and, even more importantly, other cultures. We must not forget that these newcomers do not share our country's language or culture, which makes their integration and satisfactory coexistence with the local population much more difficult. Accordingly, Mataró Municipal Council's actions involve three key strategies:

- a) Addressing the new immigrants' immediate needs and finding out about their places of origin and most characteristic cultural features. In this connection, for instance, the Municipal Council established a tropical medicine department at Mataró Hospital, opened a reception office for immigrants and set up training workshops for immigrant women.
- b) Recognising the role of civic associations founded by immigrants that are working actively to tackle significant aspects of life in the town.

The establishment in 1994 of the Ethnic Minorities' Municipal Council (a name we did not like and which we subsequently changed) confirmed this strategy. The council's objectives are as follows:

- maintaining a flow of information between the Municipal Council and the various sectors of the town and jointly discussing and analysing the services for ethnic minorities needed to create an immigrant-friendly environment;
- fostering a positive climate of dialogue in response to the cultural diversity that exists in our town;
- preventing and resolving problems of coexistence caused by discrimination;
- guaranteeing the rights that we must all enjoy as citizens.

The council is made up as follows:

- Chair: the Mayor or Deputy Mayor;
- a representative of each municipal department and other agency or body that manages services for ethnic minorities;
- a member chosen on the proposal of the citizens' associations and organisations involved in awareness-raising activities concerning the ethnic minorities in Mataró.

- c) Efforts by the local authority to seek the support of other administrative bodies such as other municipal councils and Barcelona Provincial Council, with which we publish various information brochures.

These activities all combine to produce effective networking within the voluntary sector, encouraging work with new immigrants and the local population.

Third phase

This phase stretches from 1995 up to the present day. It has seen a significant influx of immigrants, in particular from sub-Saharan Africa and the Maghreb region. The population has risen from 102 000 in 1996 to 108 000 in 2001.

This situation has forced Mataró Municipal Council to rethink its policy for immigrants and do more work in this area. In 1997, the Municipal Plan for Non-EU Immigration was implemented. It is designed:

- a) to improve the quality of life of the immigrant population and afford it the same fundamental rights as all the other inhabitants of Mataró;
- b) to give immigrants access to all municipal services and promote their social mobility;
- c) to foster the active involvement of immigrants in the community;
- d) to prevent discrimination and encourage interculturalism;
- e) to achieve the full integration of second-generation immigrants.

All of these activities are aimed at tackling the main challenge facing us today as a community: *maintaining social cohesion*. It is important to prevent immigrant ghettos developing in the town and to ensure that the new immigrants set up home in the various neighbourhoods and live with and among the existing population in a dignified and normal manner. The Municipal Council must keep control and must manage the town in a uniform way.

At present, new immigrants make up 5.79% of the population, with the figure obviously being higher in some neighbourhoods (12%) and lower in others (only 2%). In the space of a few years, we have therefore achieved a relatively high level of immigration. This has made us very attentive to the problems, leading us continually to rethink our policy towards these new immigrants, as the situation generates fear, misunderstanding and, naturally, also tension between the newcomers and the local population.

Breakdown of population by neighbourhood and place of birth (%) - 1 January 2001

	Centre	Example	Palau-Escorçador	Rocafonda	Vista Alegre	Molins-Torner	Cirera	Llàntia	Cerdanyola Nord	Cerdanyola Sud	Peramàs	Pla d'en Boet	Mataró
Catalonia	80.31	77.69	57.91	54.64	69.18	59.28	55.62	56.02	56.18	48.92	63.46	58.21	62.48
Rest of Spain	14.71	18.05	30.09	35.56	28.99	37.14	40.54	41.32	38.18	42.27	32.74	35.2	31.73
Other countries	4.98	4.26	12	9.8	1.83	3.58	3.84	2.66	5.64	8.81	3.8	6.59	5.79
TOTAL	100	100	100	100	100	100	100	100	100	100	100	100	100

We have therefore continued to work on policies to deal with the situation and have reviewed the first Municipal Plan for Non-EU Immigration introduced in 1997. We have transformed it into a Plan for New Citizenship, which was adopted in 2001 at a plenary meeting of the Municipal Council, with the unanimous backing of all political groups. The plan is the product of a major exercise in public consultation, co-ordination with other administrative authorities and political consensus-building. It has three main aims:

- a) the integration of new immigrants in accordance with democratic principles and values;
- b) the provision of services, equal opportunities and quality of life for all citizens without distinction;

c) the fostering of social and cultural changes, from consultation through to political consensus.

It includes programmes such as:

- Guidance and training for immigrants: informing, guiding and advising foreigners properly and introducing them to the various municipal and other services.
- Mediation service: fostering communication between individuals, providing information and guidance for new immigrants and directing those interested towards associations connected with their origins.
- Housing: facilitating access to housing for all groups in difficulty.
- Support for the vocational integration of immigrants: providing training for groups in difficulty and ensuring their entry into employment.
- Reception programme: familiarising immigrants with their new environment and integrating adult immigrants into the community.
- Health care programme: facilitating access to information and services and ensuring proper understanding between new immigrants and professionals in the various sectors.
- Educational integration programme: co-operating with education services to facilitate the educational integration and socialisation of newly arrived children and young people.
- Sport and leisure integration programme: co-operating with other services, authorities and associations to foster integration through sport and leisure activities.
- Adult education programme: facilitating adult education and the learning of local languages.
- Programme to promote the voluntary sector: promoting participation by the immigrant and local population and fostering participation by newcomers.
- Programme to improve neighbourhoods with high levels of immigration: fostering coexistence between citizens.

In addition to this plan, we have transformed the former Ethnic Minorities' Council into a new Municipal Council for Coexistence. Its objectives are as follows:

- acting as a social "observatory" and maintaining dialogue between the municipal authority and the various groups in society regarding citizenship, coexistence and immigration;
- promoting activities to guarantee rights and freedoms and foster the integration of individuals into the community;
- fostering intercultural dialogue and coexistence;
- raising public awareness of cultural diversity as an asset based on coexistence and mutual respect.

The council is made up as follows:

- Chair: the *Mayor*;

- Vice-Chair: the councillor with responsibility for equality and solidarity or for immigration;

- Members:

The councillor with responsibility for relations with the public or for public participation;

A representative of each group on the Municipal Council.

A representative of each non-profit-making citizens' association or body whose goals are to encourage coexistence between members of different groups, to develop intercultural relations and carry out activities concerning immigration.

Up to 20% of the total members: *individuals* who express the desire to be members of the council *in their personal capacity*.

Two recognised figures who can make worthwhile contributions on the basis of their personal or professional experience in this field.

SESSION 2 : PRESERVATION OF THE IRREGULAR MIGRANTS' HUMAN RIGHTS DIGNITY

EXPULSION PROCEDURES IN CONFORMITY WITH HUMAN RIGHTS AND ENFORCED WITH RESPECT FOR SAFETY AND DIGNITY

**Mr Tadeusz IWINSKI,
Chair of the Committee on Migration, Refugees and Demography of the
Parliamentary Assembly of the Council of Europe**

I am very happy to be here with you today, and I wish to thank the organizers of the Conference for giving me the opportunity to share with you one of the main concerns of the Committee on Migration, Refugees and Demography: how to guarantee human dignity, for all those who are on the move.

There are rights that are universal by their very nature. They apply to everybody, in whatever country, irrespective of race, nationality, religion, political opinion, membership of a social group, gender or sexual orientation. These rights apply to everyone whatever their legal status may be. Dignity is the universal human right, the fundamental right that lies behind all the others.

And yet, this right is so often violated when foreigners are removed from a country.

Our Committee decided to turn its attention to this issue in 1998, following the tragic death of Ms Semira Adamu, who was suffocated to death with a cushion at Brussels airport while being deported to her country of origin.

Semira's death was not an isolated case: since 1998, eight people have died while being deported.

In 1999 Marcus Omofuma died on a plane, while being returned from Austria to Bulgaria: he had been taped to his seat, with his hands and feet bound and his mouth gagged with adhesive strips.

Khaled Abuzarifeh died in a lift at Kloten airport having been bound and gagged.

Aamir Ageeb died having had his hands and feet bound and a motorcycle helmet placed on his head, which Police Officers held forcibly between his knees.

Moshen Sliti died when he was not given medical care while waiting to be deported at the holding centre in Arenc, Marseille.

Mohamed Ben Said died in a holding centre in Rome while awaiting expulsion. He was a drug addict, and was given a powerful tranquilliser which was known to be incompatible with heroin.

Richard Ibewke died at a holding centre in Vienna, having been beaten by police officers during his arrest, according to relatives.

Xhevdet Ferri died as a result of medical neglect shortly after a failed attempt to escape from a detention centre in Belgium.

Samson Chukwu died in a Swiss detention centre, after being abruptly woken in the middle of the night to be taken to the airport and expelled; he resisted and was immobilised then handcuffed with his face to the ground and his hands behind his back.

Putting a cushion on someone's face to curb resistance, gagging with adhesive strips, using motorcycle helmets or foam boxing helmets to keep the jaws shut and a velcro strip across the mouth, keeping a person strapped to an airplane seat for all the duration of a journey (including take off and landing), beatings, medical negligence... how would you define these treatments? Ill-treatment, inhuman treatment? Degrading treatment? However you label them, they are violations of human dignity.

The cases I mentioned are the ones that attracted media and public attention, since they resulted in the tragic death of the persons involved. But these are just the examples of the worst that can happen during the enforcement of expulsion. All too often, persons awaiting expulsion are subjected, in breach of the European Convention on Human Rights, to discrimination, verbal abuse, dangerous methods of restraint and violence. All too often, officials responsible for enforcing expulsion orders resort to an unjustified, improper or even dangerous use of force. The European Committee for the Prevention of Torture (CPT) believes that there are clear risks of inhuman treatment in the deportation of foreigners – at all stages of the deportation. I share this opinion.

Mrs Vermot-Mangold, Rapporteur of our Committee on 'Expulsion procedures in conformity with human rights and enforced with respect for safety and dignity' has conducted in-depth research on this issue, collecting factual and legal information on the practice of Council of Europe member States relating to the enforcement of expulsion. This piece of research is extremely valuable because it highlights gaps and shortcomings for which WE – States and international institutions – MUST find solutions.

I would like to mention some of the main problems detected by Mrs Vermot-Mangold that I consider of the utmost importance:

1. Expulsion procedures are rarely open to public or official scrutiny. Police and security forces often play a predominant, or indeed exclusive, role. Access to waiting and holding areas is generally limited, if not impossible, for organisations providing humanitarian, legal, medical or psychological assistance to persons awaiting expulsion. The presence of doctors or other health professionals during expulsion procedures appears little more than a formality, and scarcely any professionals are on hand to provide psychosocial support.

NGOs are sometimes 'involved' in the enforcement of expulsion, in the sense that they may be physically present in the premises where the foreigner is held while awaiting expulsion. However, they remain confined to an observer role, and their right of access to the persons concerned remains strictly monitored. It is particularly rare for NGOs to have the right to make unexpected visits to detention or reception centres where persons awaiting expulsion are held.

This lack of transparency and external contact during the enforcement of expulsion bears important consequences: first of all, the difficulty to have access to appropriate medical and psychological care or treatment may impact negatively on the health of the person to be deported. It should be borne in mind that even the most common restraint techniques present a real risk of postural asphyxiation. These techniques can be even more dangerous when added to elements of panic and surprise or when used together. Secondly, limited transparency results in limited possibility that abuses are brought to the attention of the relevant authorities by the person concerned or by third parties.

2. The second concern that I would like to share with you regards the training of the authorities in charge of enforcing expulsion. In concrete terms, the preparation and enforcement of expulsion orders are the responsibility of the law-enforcement agencies, ie

the police or the *gendarmérie*. They are generally responsible for the supervision of detention centres where deportees are held, as well as for escorting deportees. It is the truth that some European states arrange special training for officers responsible for escorting deportees. Belgium, Germany and Austria have introduced special training programmes including legal framework, basic psychology, stress management, conflict mediation and first aid. Escorts are then taught how to use restraint techniques to keep deportees calm. Unfortunately, I wish to stress that this training is too random, and that no specific training is provided for supervising officers at holding centres, nor for the other officials involved in the enforcement of expulsion.

3. Escorts, enforcement officials, police... These authorities are strongly involved all along the expulsion procedure. We are talking here about forced expulsion, or return, or removal. The important term is forced. The returnee has not decided voluntarily to return. This leads me to an element that I consider very important to safeguard and respect human dignity in the context of expulsion: information.

In a number of cases where people object, even violently, to expulsion, their attitude stems partly from their lack of preparation for leaving the country and their feeling of confusion and incomprehension, due in particular to their being seen as criminals. The feeling of panic which causes resistance is often exacerbated by stress or fatigue from the outward journey, the tension in the holding centres, sudden departure and the lack of information. If they are to come to terms with deportation, a period of “mourning” and efforts to explain the situation are necessary. Although obviously it is difficult to imagine that deportation can be completely voluntary, at least a discussed or planned deportation with sufficient advice, information and support, would allow violence and aggression, and certainly a large number of forced deportations, to be largely avoided.

4. We are here today to talk about dignity of migrants. But we are here also to talk about rights, protected rights. The Council of Europe has a long tradition in this field: in addition to laying down a catalogue of civil and political rights and freedoms, the European Convention on Human Rights of 1950 sets up a system of enforcement of the obligations entered into by Contracting States: the European Court of Human Rights. States and – more importantly – individual applicants (individuals, groups of individuals or non-governmental organisations) can lodge complaints against Contracting States for alleged violations of Convention rights. The creation of a supra-national Court of Human Rights is the tangible sign of the importance that the member States of the Council of Europe attach to effective protection.

Also in the enforcement of expulsion, like in any other domain, we must ensure that:

- rights are not just a list of principles on paper, but are effectively implemented and respected by all the actors – including the State and its officials – ;
- a system to appeal against a violation of these rights is in place, whether at national or international level, or both;
- last but not least, that those who think that their rights have been violated are informed of their right to appeal and are put in a condition to appeal.

Sadly, this does not often happen in the course of the enforcement of expulsion. How many people lodge an appeal for having been ill-treated during expulsion, once returned to their country of origin or to another country? Mrs Vermot-Mangold’s report does not mention any.

In recent years some States have undertaken legislative reform or at proposed reform initiatives to improve the situation. Despite these efforts, though, the enforcement of expulsion remains a grey area, and a lot of work is still to be done by all of us to ensure that returnees are protected effectively against abuse.

Our Committee's report, which was adopted unanimously at the beginning of September, contains a series of recommendations to our member governments on how to improve the situation. It will be debated and voted in the Parliamentary Assembly of the Council of Europe in February next year.

To go back to what I said at the beginning of my speech, and to conclude this contribution, that I hope will give way to an earnest exchange of views, I wish to remind you again of an undisputed principle:

– human rights apply to everyone whatever their legal status may be.

There are no exceptions. Human rights, respect for safety and dignity apply to everyone, including illegal immigrants and rejected asylum seekers.

Let's work together to achieve this.

Thank you very much.

THE LEGAL SITUATION OF IRREGULAR MIGRANTS: IS THEIR DIGNITY GUARANTEED IN THE RECEIVING COUNTRIES?

**Dr Ryszard CHOLEWINSKI,
Senior Lecturer, University of Leicester, UK**

I have been asked to speak on the legal situation of irregular migrants and to answer the question whether the human dignity of irregular migrants is guaranteed in the receiving countries. Although national regularisation programmes, such as the measures recently adopted in Greece, are examples of positive measures that can be undertaken in respect of irregular migrants, the answer to the above question must be “no” because European states have focused on common prevention policies to such an extent that the prospect of securing the human rights of irregular migrants in receiving countries has been severely undermined.

My presentation will focus on the following three areas. First, I will emphasise that irregular migrants indeed have rights, particularly in the economic and social fields, and that these rights are protected under general international human rights law. Secondly, I will illustrate by reference to the developing European Union (EU) *acquis* on irregular migration how the focus on a policy of prevention undermines the dignity of irregular migrants in receiving countries to the extent that it is very difficult to seriously talk about the rights of irregular migrants. Thirdly, I will outline some positive measures that would redress this imbalance.

That irregular migrants possess human rights *should* not be in dispute. General international human rights instruments, at both the universal and regional levels, guarantee the rights listed in their texts to all human beings regardless of citizenship and legal status. I should add that this applies not only to political and civil rights but also economic and social rights, which are of particular importance to irregular migrants. Therefore, while states are entitled to encourage the departure of those who are irregularly within their borders or to expel them to their countries of origin or a third country, provided that they respect the fundamental principle of *non-refoulement*, they should not be permitted to deprive irregular migrants of all possibilities for subsistence in the event it is impossible to remove them, whether this be for legal or practical reasons.

Although some specialist international instruments specifically concerning migrant workers apply only to those migrants who are lawfully resident in the State Party,¹ that irregular migrants possess human rights was explicitly recognised in the UN Convention on the Protection of the Rights of Migrant Workers and Members of Their Families, adopted by the UN General Assembly in December 1990. The UN Convention divides migrant workers into two basic categories: those lawfully resident in the country of employment and those who are working without authorisation. It grants both groups a set of rights, although the protections are greater and more detailed with regard to lawfully resident migrants. Irregular migrants are guaranteed economic and social rights in the following areas: rights to equal conditions of work and terms of employment; trade union

¹ See Council of Europe Convention on the Legal Status of Migrant Workers and Part II of ILO Convention No. 143 of 1975 concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers.

rights; social security rights; rights to emergency or urgent health care; rights of children to primary education; as well as a number of specific safeguards when threatened with expulsion. However, the Convention has still not entered into force. Indeed, only one European country, Bosnia and Herzegovina, has ratified this instrument. Of the 16 countries that have ratified it and the 10 that have signed it to date, the vast majority are sending countries. In 1975, ILO Convention No. 143 concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers was adopted by the International Labour Conference which contained a guarantee in Article 1 that “[e]ach Member for which this Convention is in force undertakes to respect the basic human rights *of all migrant workers*”. This Convention too has not been ratified widely, although it is in force. A number of European countries, including a few in the Mediterranean region (Bosnia-Herzegovina, *Cyprus, Italy, Norway, Portugal, Slovenia, San Marino, Sweden and the former Yugoslavia*) have accepted its principles.

What does this poor ratification record in these two instruments indicate about the attitude of states towards irregular migrants and their rights? I think the message that the non-ratification of the UN Convention on Migrant Workers in particular conveys is that many receiving countries are unwilling to commit themselves to express human rights guarantees for irregular migrants. Although these two specialist international conventions make explicit provision for protecting the dignity and basic human rights of irregular migrants, they do not especially add anything new to the commitments that most states have already entered into elsewhere. Consequently, governments cannot avoid their human rights obligations towards irregular migrants by contending that they do not accept the standards laid down in these specialist treaties on migrant workers. They are still bound to the principles they have accepted at the general international level.

I should also emphasise that the UN Convention on migrant workers is not necessarily such a utopian instrument as sometimes it is perceived to be on the question of protecting irregular migrants. It has a clear dual objective in relation to irregular migration. It seeks to *prevent* irregular migration rather than to encourage it. However, it seeks to prevent irregular migration while at the same time recognising that irregular migrants have fundamental rights. Is this dual objective possible to realise? Is preventing irregular migration at all reconcilable with the protection of irregular migrants’ dignity and human rights?

I wish to try and answer this question by looking at the developing EU *acquis* on irregular migration. I will illustrate by reference to a number of examples how such a policy of prevention itself undermines important rights. Combating irregular migration more successfully cannot depend solely on a rigid preventive policy, but must also encompass a more holistic approach that includes safeguarding the basic rights of irregular migrants together with the adoption of other positive measures.

Why I am focusing on the European Union? I think this focus is particularly important and increasingly urgent for a number of reasons. First, the EU is now in the midst of developing a Common Asylum and Migration Policy in the context of Title IV of Part 3 of the EC Treaty on visas, asylum and immigration and other policies related to free movement of persons. Under Title IV, the Council is mandated to adopt measures on immigration policy within, *inter alia*, the area of “illegal immigration and illegal residence, including repatriation of illegal residents” (Article 63(3)(b) EC). I should add here that although such measures include “repatriation”, positive measures guaranteeing rights are clearly not precluded. Secondly, the measures adopted will be *legally* binding in contrast to the soft law adopted in the context of the previous intergovernmental cooperation under the

former third pillar of the Treaty on European Union, which was concerned with cooperation in the fields of Justice and Home Affairs. So, ultimately, the measures adopted will be subject to the jurisdiction of the Court of Justice, which however is more limited under Title IV EC than it is under other parts of the Community pillar. Given that fundamental human rights, as guaranteed by the European Convention on Human Rights (ECHR), are considered to constitute general principles of Community law,² and given the recent solemn proclamation of the EU Charter of Fundamental Rights,³ the Court of Justice will be obliged to adhere to human rights guarantees in exercising this jurisdiction. Thirdly, these EU measures have a potentially broad territorial scope. They are potentially applicable to all EU Member States, which are also Council of Europe Member States. Although Ireland and the United Kingdom do not automatically participate in this part of the EC Treaty, they can opt in to certain measures and the United Kingdom has already opted into two recent measures adopted by the EU Justice and Home Affairs Council, which are relevant to the developing EU *acquis* on irregular migration. Moreover, these measures will also have to be accepted by any state acceding to the EU. Given that the enlargement process currently encompasses 13 countries, all of which are also Council of Europe Member States, the impact of the developing EU policy in this area is particularly important. Finally, as the Council of Europe Secretariat Memorandum, issued for the purpose of this Conference, outlines, some of the EU preventive policies on irregular migration are being “exported” to the countries participating in the Stabilisation and Association Process in the Balkans.⁴

I will now provide three examples of measures from the developing EU *acquis* on irregular migration and indicate how the prospect of securing the rights of irregular migrants has been adversely affected as a result by the undue focus on prevention.

First, the EU *acquis* on irregular migration supports the *criminalisation of irregular migration* by penalising irregular migrants on entry. Article 3(2) of the 1990 Convention implementing the Schengen Agreement, which is now part of Community law as a result of the integration by the Treaty of Amsterdam of the Schengen *acquis* (the Convention and implementing measures) into EC and EU structures, obliges participating Member States “to introduce penalties for the unauthorised crossing of external borders ...”. Indeed, many states consider it entirely reasonable to impose criminal penalties, including imprisonment, on persons who cross their borders without authorisation. In a number of European countries, for example, the penalties imposed for irregular entry range from between a few days imprisonment and/or a fine to up to two years imprisonment.⁵ However, punishing irregular migrants, who cannot be equated to criminals particularly if their only “offence” is to seek a better life for themselves, is very problematic from a human rights standpoint. Indeed, the ILO Committee of Experts on the Application of Conventions and

² Art. 6(2) of the Treaty on European Union.

³ Charter of Fundamental Rights of the European Union, OJ 2000 C 364/1, proclaimed solemnly at the European Council in Nice on 7 December 2000.

⁴ Council of Europe, Secretariat Memorandum, *Irregular Migration*, Conference on “Irregular migration and dignity of migrants: Co-operation in the Mediterranean region”, Doc. MG-FL (2001) 12, Strasbourg, 17 September 2001, at p. 8 (n. 25).

⁵ Belgium (8 days–1 year and a fine); Denmark (6 months); France (1 year and a fine); Germany (1 year; 3 years proposed); Italy (up to 2 years or a fine); Netherlands (6 months). See B. Ghosh, *Huddled Masses and Uncertain Shores: Insights into Irregular Migration* (The Hague: Martinus Nijhoff, 1998), p.99 (Table 4.1) (1995-96 figures).

Recommendations has doubted the validity of imposing such penalties with reference to Article 6(1) of Convention No. 143, which calls upon the imposition of administrative, civil and penal sanctions in respect of those who employ irregular migrants, organise their movements and knowingly assist in such movements. In a recent General Survey on the ILO instruments concerning migrant workers, the Committee has observed that this provision, as well as others in Part I of the Convention aimed at combating irregular migration “are primarily targeted at the demand for clandestine labour rather than supply” and that sanctions against migrant workers in an irregular situation are “contrary to the spirit of the [ILO] instruments”.⁶ The European Parliament has also underlined that “[s]ince immigration is a complex phenomenon involving political, historical, social and economic factors, illegal immigrants cannot be considered to be criminals in the same way as persons guilty of serious offences involving organised crime”.⁷ Moreover, the application of criminal sanctions on irregular migrants hardly makes sense from an economic standpoint. Indeed, a number of countries, such as the United Kingdom, recognise that it is more cost-effective to remove or deport irregular migrants rather than to charge them with criminal offences under the immigration legislation. But the very fact that laws criminalising irregular migration exist hardly serves as a good base for developing a legal framework which also protects the rights of irregular migrants.

A second problematic area is the *cross- or mutual recognition* of national decisions, which forms the basis of EU action in respect of irregular migrants. It is important to emphasise that this approach is very different from harmonisation. Under the EU rules on the crossing of the external border, “infringements of national immigration rules” (Article 96(3) SIA) can trigger repressive state action by the reporting of a person in the Schengen Information System (SIS), a European database of undesirable persons and objects, on the grounds that his or her presence constitutes a threat to public policy or national security. The consequences of such a report is that participating EU Member States are under an *obligation* to refuse future entry to the person concerned in respect of the *whole* of the Schengen territory (Article 5 SIA), although it remains possible to admit him or her to the territory of a single state in exceptional circumstances. The principal mischief of these rules is that reports are made on the basis of national conceptions of public policy and national security and not on the basis of a Community-wide conception. Consequently, “infringements of national immigration rules” may result in the reporting of irregular migrants in the SIS by some states but not by others. Such an approach is clearly unsatisfactory given the serious consequences for the unfortunate individual and has profound implications for the operation of the non-discrimination principle since persons in analogous situations are likely to be treated differently for SIS reporting purposes depending on the Member State in which they find themselves. The concern has since been confirmed in practice by judicial decisions at the national level, particularly in France where SIS reports made by German authorities were challenged before the courts by two third-country nationals (a Moroccan and Romanian) who were refused visas to come to France on the basis of these SIS reports. In both cases, the *Conseil d’Etat* quashed the refusal decisions because neither litigant was provided with sufficient information to

⁶ International Labour Conference, 87th Session, Geneva, June 1999, Report III (1B), *Migrant Workers: General Survey on the reports on the Migration for Employment Convention (Revised) (No. 97), and Recommendation (Revised) (No. 86), 1949, and the Migrant Workers (Supplementary Provisions) Convention (No. 143), and Recommendation (No. 151), 1975*, para. 338.

⁷ European Parliament Resolution of 30 March 2000 on asylum-seekers and migrants – action plans for countries of origin or transit, point 22.

challenge the entry.⁸ The German entries in the SIS were made because the individuals concerned had previously applied for asylum in Germany and their claims had been rejected. In Germany, there is a strong perception that rejected asylum-seekers are essentially foreigners abusing the asylum system and thus constitute a security threat to the cohesion of German public opinion, a perspective other EU Member States have difficulty accommodating.

A similar approach, based on the cross- or mutual recognition of national decisions is being adopted in the context of expulsion. In May 2001, the Council adopted a Directive on the mutual recognition of decision on expulsion of third country nationals,⁹ a measure based on a proposal of the French Government, enabling EU Member States to recognise and enforce expulsion decisions made by another Member State. According to Article 3(1) of the Directive, such recognition may take place in cases where the expulsion decision is based on a “serious and present threat to public order or to national security and safety” in specified cases, including “failure to comply with national rules on the entry or residence of aliens”. There is no requirement that the person concerned must have been convicted of any offence. Although EU Member States are under an obligation to apply the Directive with due respect for human rights and fundamental freedoms (Article 3(2)), the final text is weaker than an earlier draft version of the Directive, which provided that the expulsion decisions and enforcement measures shall comply with the ECHR and other applicable international instruments.

Thirdly, EU policies combating irregular migration may well also have implications for the rights of irregular migrants beyond the borders of receiving countries and on their return to countries of origin. In the revised Council Regulation 539/2001/EC of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, irregular migration is identified as an important criterion in deciding whether nationals of certain countries should be subject to a visa requirement.¹⁰ In recent Commission reports recommending the removal of Bulgaria and Romania from the “negative” or “black” visa list,¹¹ a particularly disturbing feature comes to light. The Commission praises Bulgarian and Romanian attempts to combat the irregular migration of their own nationals. These attempts, however, reveal a ready willingness to prohibit persons, who have been apprehended as irregular migrants in Member States, from leaving their homelands for a considerable period of time, together with commitments to increase the periods of the prohibitions on exit in the future. Bulgarian law imposes a ban on leaving the country for a one-year period on Bulgarian citizens who have violated the immigration law of another country or who have been expelled from another country. Moreover, the Commission’s report refers to a draft amendment providing for an extension of this period to *two years*.

⁸ See the cases of *Hamssaoui* (No. 198344) and *Forabosco* (No. 190384), discussed in E. Guild, “Adjudicating Schengen: National Judicial Control in France” (1999) 1 *European Journal of Migration and Law* 419-439.

⁹ Council Directive 2001/40/EC, OJ 2001 L 194/34.

¹⁰ OJ 2001 L 81/1, Recital 5.

¹¹ See European Commission, *Report from the Commission to the Council regarding Bulgaria in the perspective of the adoption of the Regulation determining the list of third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt of that requirement*, COM (2001) 61 final of 2 February 2001, Vol. 1 and European Commission, *Report from the Commission to the Council - Exemption of Romanian Citizens from Visa Requirement*, COM (2001) 361 final of 29 June 2001.

The information on Romania is more specific. Romanians who have been apprehended while attempting to leave Romania without authorisation or returned there on the basis of readmission agreements can have their passports withdrawn for a maximum period of 12 months, although the Commission's reports on Romania also refer to a proposal to increase this period to *three years*. Statistics are also cited illustrating that over 27,000 Romanian citizens were forbidden to exit the country between 1998 and 2000. Although over 7,000 of these cases were explained by reference to a range of immigration offences, no reasons are provided for the remainder amounting to over 20,000 citizens. While the right to leave any country including one's own country, such as that guaranteed by Article 2(2) of Protocol No. 4 to the ECHR,¹² is not an absolute right and can be restricted in Article 2(3) on a number of grounds, such as in the interests of national security and the maintenance of public order, the extensive measures in place and particularly the more restrictive measures anticipated are unlikely to satisfy the proportionality criteria developed by the European Court of Human Rights in respect of the imposition of restrictions on rights under the ECHR.¹³

Clearly, there are profound human rights concerns in focusing on preventive policies alone in combating irregular migration. What kind of positive measures or more rights-oriented measures, therefore, should be adopted to complement preventative strategies? As I have already argued, there is no reason why such measures cannot form a part of EU or pan-European efforts to harmonise national laws and practices in this field.

First and foremost, *irregular migrants' rights should be explicitly recognised*. Often preventative strategies are formulated on the basis that restrictive measures will act as a deterrent to other migrants contemplating entering Europe without authorisation. Unfortunately, it is forgotten or easily overlooked that protecting irregular migrants' rights and attempting to implement such rights, albeit admittedly a difficulty in practice, would send a clear signal to those who wish to treat them in an exploitative manner, particularly employers and facilitators of irregular migration in receiving countries. Indeed, the UN Convention on Migrant Workers supports this approach and it has also been supported in the past by the European Commission, which in a landmark Communication on Immigration and Asylum Policies in 1994 argued as follows:

Although a generally firm and effective action against illegal immigration is essential ..., it should not be forgotten that the persons concerned can be subject to exploitation and be in an extremely vulnerable position. It should therefore be taken into account that they are entitled to a fair procedure ensuring full protection of the human rights and fundamental freedoms as provided by international law. To this effect, defining minimum standards will be a necessary step which will equally help ensure the *credibility* of restrictive policies concerning illegal immigration.¹⁴

Interestingly, to further this objective, the Commission also recommended that Member States sign and ratify the UN Convention on Migrant Workers.¹⁵ Over seven years later, no Member State has responded positively to this sensible recommendation.

¹² Both Bulgaria (4 November 2000) and Romania (20 June 1994) have ratified this instrument.

¹³ In this context, it is also worth noting Parliamentary Assembly Recommendation 1449 (2000) of 28 January 2000 on Clandestine migration from the south of the Mediterranean into Europe, which underlines that "emigration is a fundamental human right" (Para. 4).

¹⁴ COM (94) 23 final of 23 February 1994, para.109. Emphasis added.

¹⁵ *Ibid.* at pp. 29-30, para. 110.

Another issue relates to the need to support by concrete action the recognition in policy statements that certain categories of irregular migrants are also *victims of human rights violations*. For example, this is plainly a concern in the context of those migrants who have also been trafficked into the receiving country, particularly migrant women. EU measures adopted and those in the process of being adopted have arguably devoted insufficient attention to trafficked persons as victims and to their rights. Earlier measures spoke of the possibility of granting victims provisional residence status with a view to enabling them to give evidence in a criminal action against the traffickers.¹⁶ This limited protection, however, is not reiterated in the Commission's recent proposal for a Council Framework Decision on combating trafficking in human beings, which merely obliges Member States to ensure that "a victim of [a trafficking] offence ... is given adequate legal protection and standing in judicial proceedings".¹⁷ This is perhaps the clearest example where combating an undesired activity can only be effective in concert with safeguarding fundamental human rights. In order to prosecute traffickers successfully, victims have to be encouraged to testify against them and they will often only be willing to do so if granted security of status. But this is also an area demonstrating that the human rights of migrants in an irregular situation must be protected independently of any other objective. After all, it may well be argued that the grant of permanent residence should be possible in some circumstances, particularly in those cases where trafficked women do not want to return to their country of origin for fear of serious reprisals against them or members of their families. Indeed, such a possibility is recognised by the Protocol to the UN Convention against Transnational Organised Crime to Prevent, Suppress and Punish Trafficking in Persons.¹⁸

Another "positive measure" is to assist *voluntary return* rather than pursuing involuntary or forced expulsion. Indeed, this is recognised to a certain extent in the EU *acquis*, where Article 23(1) SIA, which is concerned with expulsion and readmission, stipulates that the *first obligation* is on the irregular migrant to leave the territory. Assisting voluntary return is regarded by the Justice and Home Affairs Council as being "in line with the European humanitarian tradition and may contribute to finding a dignified solution to reducing the number of illegally resident third-country nationals in the Member States", while the IOM considers voluntary return as the "most dignified and least costly return option".¹⁹ With regard to the IOM, this approach is also in keeping with that organisation's mandate of ensuring "humane and orderly migration".

A further positive measure is *regularisation* of the status of irregular migrants. Given the current emphasis on combating and preventing irregular migration, it may of course be argued that European countries should not legalise their foreign undocumented population

¹⁶ JHA Council Joint Action of 24 February 1997 concerning action to combat trafficking in human beings and sexual exploitation of children, OJ 1997 L 63/2, para. F(b)(i).

¹⁷ COM (2000) 854 final of 21 December 2000 at p. 18 (Art. 8 of the draft Framework Decision).

¹⁸ The relevant obligations in Arts. 7(1) and (2) of the Protocol read as follows: (1) "[E]ach State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases. (2) In implementing the provision contained in paragraph 1 of this article, each State Party shall give appropriate consideration to humanitarian and compassionate factors".

¹⁹ See respectively Justice and Home Affairs Council Decision of 26 May 1997 on the exchange of information concerning assistance for the voluntary repatriation of third-country nationals, OJ 1997 L 147/3 and IOM, Technical Cooperation Centre for Eastern Europe and Central Asia, *The Return of Irregular Migrants: The Challenge for Central and Eastern Europe* (IOM, 30 Sept. 1999) at p. 19.

too frequently because such actions may well be counter-productive or self-defeating by encouraging further irregular migration.²⁰ Conversely, however, regularisation can be viewed as a legitimate device for reducing the number of irregular migrants present in the country concerned provided that effective measures are taken at the same time to prevent further irregular entry. Regularisation, arguably, undermines the exploitative underground labour market where most irregular migrant workers are found. As Bimal Ghosh has observed “one of the main justifications of regularisation is to end the human suffering and exploitation of irregular immigrants and improve their general working conditions. By removing an important source of cheap and docile labour, it encourages the process of industrial upgrading and structural change in the economy”.²¹ Regularisation is also cost-effective by facilitating the integration of such migrants thus helping them to become useful and productive members of the host society. Moreover, from a humanitarian standpoint, states find it difficult to expel those irregular migrants who have been employed in a country for a lengthy period of time, particularly if their presence has been tolerated by the authorities. Under such circumstances, regularisation becomes the decent and equitable option. Indeed, many Council of Europe and EU Member States have constructed time-limited regularisation programmes. A recent example was Belgium where in January 2000 over 32,000 applications were registered in a three-week period made available to undocumented migrants to regularise their status.²² Such regularisation programmes have also been undertaken periodically in Greece, Italy, Portugal and Spain.²³

The establishment of effective and concrete *cooperation between all countries involved in the process of irregular migration* (countries of destination, origin and transit) is recognised to be of particular importance in preventing and combating irregular migration. It is important, however, that this approach does not focus solely on prevention, but devotes sufficient attention to human rights issues, is developed in concert with the authorities and civil society in countries of origin, and is also supported by adequate material means. In the EU, such activity is conducted within the High Level Working Group of senior civil servants on Asylum and Migration set up in December 1998 with a mandate “to establish a common integrated, cross-pillar approach targeted at the situation in the most important countries of asylum-seekers and migrants”.²⁴ The Working Group prepared action plans on a number of specified countries (Afghanistan, Albania, Iraq, Morocco, Somalia and Sri Lanka). Its approach, however, has been criticised for focusing too much on prevention measures, for failing to devote sufficient attention to human rights issues, for not consulting adequately political leaders and civil society in the target countries, and for the lack of an appropriate EU budgetary allocation to implementation of the action plans.²⁵

²⁰ See also Ghosh, *op. cit.*, p. 150.

²¹ Ghosh, *ibid.* at pp. 150-151.

²² *Migration News Sheet* No. 205/2000 (April 2000) at p. 7.

²³ See the national reports on Greece, Italy, Portugal and Spain in P. de Bruycker, (ed.), *Regularisations of Illegal Immigrants in the European Union* (Bruylant: Brussels, 2000).

²⁴ Terms of Reference of the High Level Working Group on Asylum and Migration; preparation of actions plans for the most important countries of origin and transit of asylum-seekers and migrants, 25 January 1999 (Doc. C4-0133/99), para. 1.

²⁵ European Parliament Resolution of 30 March 2000 on asylum-seekers and migrants -- action plans for countries of origin and transit.

Finally, combating irregular migration in the context of protecting the basic human rights of individual migrants involved in the process and the adoption of positive immigration measures must also mean *keeping open legal channels for migration*. There is a consensus emerging in Europe that primary migration for employment should once again be officially supported. At the EU level, the Commission recently proposed a Council Regulation on the conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed activities.²⁶ In the Council of Europe, the Parliamentary Assembly, in two recommendations adopted in January and June 2000, also supports the need to create greater opportunities for lawful immigration.²⁷ It is important, however, that such policies are not only aimed at highly-skilled workers but also low-skilled workers, who are also in demand in European countries. Otherwise, the availability of such low-skilled positions will continue to attract irregular migrants. Moreover, such policies should not be “guestworker” or temporary migration policies, which have not been successful in the past in ensuring the return of migrants, but should recognise openly that admission for the purpose of employment may well lead to *de facto* permanent residence and thus measures ought to be put into place to accommodate such an eventuality.

²⁶ COM (2001) 386 final of 11 July 2001.

²⁷ See respectively Parliamentary Assembly Recommendation 1449 (2000) of 28 January 2000 on Clandestine migration from the south of the Mediterranean into Europe, para. 14(iii)(a), and Recommendation 1467 (2000) of 29 June 2000 on Clandestine immigration and the fight against traffickers, para. 9: “The Assembly underlines that greater opportunities for lawful immigration have to be created in order to reduce the pressure for illegal immigration, and to find adequate alternatives to clandestine migration. The possibilities of offering fixed-term or seasonal schemes for work purposes have to be reconsidered in the light of the growing demand in Europe for migrant labour”.

TRAFFICKING IN HUMAN BEINGS AND SEXUAL EXPLOITATION: A MODERN FORM OF SLAVERY

**Ambassador Mrs Eva GARAJOVA,
Permanent Representative of the Slovak Republic to the Council of Europe,
Rapporteur on Equality between Women and Men**

Mr Chairman,
Ladies and Gentlemen,

It is an honour for me to address this conference on irregular migration and dignity of migrants. It gives me an opportunity to express my views on a subject that is particularly close to my heart, and to which I have given much thought, particularly in my capacity as Rapporteur on Equality between Women and Men for the Council of Europe's Committee of Ministers.

I am particularly pleased that the conference should be taking place here in Athens, the city which last year played host to an international seminar on action against trafficking in human beings in South-Eastern Europe. This seminar, aimed at developing a regional strategy in such matters, was held at the invitation of the Secretariat General for Equality of the Greek Ministry of the Interior and on the initiative of the Council of Europe, in partnership with other international organisations.

Trafficking in human beings is hardly a new phenomenon in Europe. But whereas up until 1989, most of the victims were from other continents – such as South America, Africa or Asia – since the fall of the Berlin Wall, the percentage of women who come from central and eastern Europe has more than tripled. Over the past ten years, a growing number of people, mainly women and young people under the age of 18, have been tricked, lured, sold or forced into sexual exploitation, without much hope of escape. Lured by the prospect of a better life, transported across the European continent by individuals who often turn out to be part of an organised criminal network, these people find themselves in a foreign country, with no identity papers and forced to earn a living from prostitution.

The Council of Europe, whose member states include countries of origin, transit and destination of trafficking victims, turned its attention to this problem very early on.

Trafficking in human beings is a key area of human rights and since the late 1980s, the Council of Europe, whose main task is to safeguard and promote these rights, has naturally welcomed activities aimed at combating this phenomenon.

At an individual level, trafficking clearly strikes at the very foundation of human rights, namely the equal dignity of all human beings. At the level of society, trafficking is a modern form of slavery and poses a threat to the rule of law and core democratic values.

The Council of Europe, alerted by its member states and by NGOs involved in its activities, held a seminar on the subject back in 1991, although at the time, the issue was not perceived as a political one.

Since then, the problem has acquired a new virulence, particularly in Europe. The number of victims has steadily increased to the point where the media have seized on the issue and people all over Europe have become aware of the horrors of trafficking and sexual slavery.

This was a key stage in the process: trafficking ceased to be a minor, sometimes hidden, problem, and began to move higher and higher up the political agenda. The fight against

trafficking commenced, with nearly all the international organisations joining in the effort and taking some kind of action.

The Council of Europe, which entered the fray very early on, has acquired extensive experience and is currently involved in numerous initiatives, in association with other international organisations, including notably the Office of the United Nations High Commissioner for Human Rights, OSCE/ODIHR, Interpol, IOM and the Stability Pact for South-Eastern Europe as well as numerous NGOs.

Among the recent efforts made by the Council of Europe in this area, I would like to talk to you about the adoption, by the Committee of Ministers, of Recommendation No. R (2000) 11 on action against trafficking in human beings for the purpose of sexual exploitation. This text was the culmination of a lengthy process and comprises a series of measures and guidelines designed to help governments combat trafficking. The recommendation focuses primarily on human rights issues, in particular protecting the rights of victims, and constitutes a genuine programme of action for governments. Its implementation gave rise, moreover, to the international seminar which I mentioned in my introduction. In the course of this seminar, the participants prepared and adopted the necessary elements for a regional action plan against trafficking in human beings. This work is continuing within the framework of the Stability Pact for South-Eastern Europe, under which a Task Force on Trafficking has been set up.

Despite the efforts made and progress accomplished, however, there is still a great deal to be done in the fight against trafficking in women.

In particular, attention needs to be given to the new issues which arise as societies become more developed, such as the use of new information technologies to promote trafficking, for example. In all these areas, it is important to react quickly. This is particularly true in the case of illicit practices on the internet. At the Council of Europe, a group of specialists has begun examining these issues, and the resources that need to be deployed in this area.

But what do we know about the causes of trafficking in women, and the reasons why it has spread to such an extent in Europe?

There are, it seems, many reasons for this rapid growth. First and foremost, trafficking is one of the consequences of economic transition, which in some countries has left people, and in particular women, severely impoverished. The breakdown of traditional legal or social structures and in some cases even the collapse of the rule of law, often coupled with population movements and more relaxed border controls, provide an ideal environment for the expansion of human trafficking networks. In addition, conflict or post-conflict situations are conducive to the growth of all kinds of traffic, for “demand” is undoubtedly a key factor and the presence of large numbers of international military and civilian personnel serves to stimulate demand in the sex market. The clients are thus the mainstay of the prostitution system. Traffickers are capitalising on this demand and extending their field of operation to ever more regions.

Whatever the case, trafficking in human beings has become a highly lucrative business, run by organised criminal networks.

Effective action against such networks requires a multi-sectoral and multi-partner approach. The aim is to work with all the parties concerned in every relevant field. Such an approach has been adopted at international level and machinery for co-ordinating activities, such as the Stability Pact Task Force, has been created.

At European level, the need for co-ordinated action is increasingly making itself felt. This is good news, because it appears that the creation of international networks is one of the most effective ways of obtaining accurate information about the scale of international trafficking in human beings, and of conducting investigations and awareness-raising activities.

To this end, the Council of Europe is currently carrying out a pilot project in Romania and Moldova. This project will make it possible to assess at first-hand the necessary legal provisions in terms of international and regional standard-setting instruments. It will also provide an opportunity to analyse existing Romanian and Moldovan legislation. Such activities will help strengthen this legislation and make for closer co-operation between the two countries. They will thus be in a stronger position to implement the relevant international and regional agreements. This project can then be extended to the whole of South-Eastern Europe, to allow a regional approach to the problem.

Mr Chairman.

Ladies and Gentlemen.

The fight against trafficking in human beings, and in particular women, has gone through numerous phases of development. Today, however, the problem of trafficking has reached such proportions and is affecting so many countries that the international community has begun to rally round. More than ever, we must act in a co-ordinated manner and the full range of resources must be channelled into combating this phenomenon, which is a gross violation of human rights.

We must set about dismantling the criminal networks that trade in human cargo and in particular, we must protect the men and women who are their victims. Ordinary people whose hopes and dreams of a better life have made them easy prey for the traffickers. Exploited in conditions that are often little better than slavery, they suffer physical and mental trauma from which they will never fully recover.

We must concentrate our efforts on securing full implementation of the Committee of Ministers Recommendation on action against trafficking, and consider any measures that might help to improve protection for the victims. One possibility might be for the Council of Europe to draft a new legal instrument that would enshrine the principles set out in the recommendation. A European convention on trafficking would help to co-ordinate action at pan-European level and increase our chances of curbing this new form of human exploitation.

Thank you for your attention.

**Speech by Mr Demetri DOLLIS,
The Secretary General for Greeks Abroad**

Xenophobia is a pathogenic social phenomenon, that recently has become a head ache for migration policy makers and a subject of scientific research in the field of mass psychology.

The term is composed by two Greek words; “xenos” which means alien and “phobos” which means fear.

In Ancient Greece the alien (xenos) was a sacred person, protected by the father of Gods, Zeus (Xenios Zeus). The most known world wide word, deriving from “xenos” is “philoxenia”, that is to say affection and respect for the alien.

Nowadays, the word “xenos” is, unfortunately, brings us in mind the term xenophobia describing fear and indirectly animosity against humans of foreign origin.

“O tempora O mores” Many things have changed in the globe and in Greece since antiquity.

Globalization evokes a general economic uncertainty (Peter Stalker) in our societies. Employment decrease, due to factors such as technology (automatisation, robotics), free trade, favoring large-scale production at the expenses of small scale production, structural readjustments programs in developing countries, put pressure on state subsidies and jobs in the public sector.

According to many analysts, globalization has led to the accumulation of wealth in the hands of few on national and international level. As a consequence, many countries are unable to meet the needs of a great part of their citizens. These last often become migrants in search of better living conditions. Greece as a newcomer in the club of host countries, receives the last years hundreds of thousands of economic migrants.

It should be expected from more developed countries – in the process of their integration into the economic globalization – to follow a policy promoting free movement of laborer, and free circulation of goods and services. The main streaming though is to limit the reception of migrants, resulting in an increase of illegal migration. Even the use of term “illegal migration” represents a threat to the respect of human rights and dignity of non-papers, since they are excluded of legal protection. The term illegal refers also to connotations relating migrants with criminality, unemployment and social pathology.

Frequent reports in the international mass media refer to migrants and more specifically to illegal migrant as responsible for the increase of criminality in the receiving countries.

The fact that recently, the term “illegal” has been substituted by the term “irregular” doesn’t really affect the way migrants are treated by governments and national societies. Words can create realities and stereotypes which is difficult to change.

Migration is still encountered by many states, on national and intergovernmental level, as a threat to their stability and security. Political declarations within International Organization us the UN, the Council of Europe and the European Union refer to the migration as an enriching factor of all societies and stress the need to be dealt with by the states in a positive way. These declarations have a low impact in every day practice both of politicians and social groups. It goes without saying that this attitude entails xenophobia, social exclusion and discrimination.

There are several phenomena characterizing even the more progressive host countries; such as extremist political parties encouraging animosity towards foreigners, through their programmes adopting xenophobic attitudes, habituation to discrimination supported by a part of press and mass media, direct or indirect prejudice against foreigners within several national institutions, increasing religion intolerance and so on.

We now come to the Greek migration policy. As it has been mentioned before, Greece has become a country of destination of migratory flows only recently. Migrants in Greece come from Balkans, Middle East, African and Asian countries and they consist a group with a great racial, religious and cultural variety. In their great majority originate from neighboring Balkan countries, and more specifically from Albania (approximately 350.000), Bulgaria and Poland. Others come from Iraq, Kurdistan, Sudan, Ethiopia, Ghana, Nigeria and Maghreb countries (Libya, Morocco, Tunisia, Algeria, Mauritania). The Asiatic group of migrants includes people coming mainly from Philipines and Bangladesh. A great part of them, some say up to 600.000, were illegal. We must assume that both the government and the Greek society were unprepared at a first stage, to receive properly the migration flows which arrived in the country in the begging of 90's.

We must as well point out that there have been no serious incidents, related to racism, xenophobia and violence in the Greek society.

The legal protection of human rights of foreigners living in Greece is provided by the Constitution (article 5 par2) stating that "all aliens residing in Greece, regardless of their nationality, race, language, religion or political attitude are entitled to legal protection of their life, their dignity and their freedom". Legislation on migration and social groups with specific characteristics, based on the Amsterdam Convention, recently has been put in force.

Greeks are more tolerant towards migrants compared to other Europeans. There are 7 millions of Greeks living out of the country. Their relatives and friends left behind are well informed about the difficult leaving conditions that their compatriots faced, while seeking a new homeland. As a consequence they have a better understanding and tolerance regarding migrants.

The repatriation of many people of greek origin from the ex Soviet Union countries has contributed a lot to this attitude.

Nevertheless, it would be unrealistic to say that greek society, sticks to its "philoxenia" principle, totally unaffected from international xenophobic tendencies. Recent research proves the appearance of isolated phenomena of social pathology in Greece too.

Press and the mass media quite often relate migration and more specifically illegal migration, with criminality increasing rates on national level, creating negative stereotypes in the public opinion. For instance, it seems that a great part of public opinion associates the increasing unemployment with the presence of migrants in the country.

Likewise, according to statistics on primary education, a large number of parents consider that migrants children should go to separate schools.

Last but not least, research proves that migrants are subject to discrimination by a part of those working in the public sector, especially in social services. The Greek State has undertaken a crusade aiming to the social integration of migrants and repatriated Greeks and the fighting, consequently against xenophobic phenomena.

I would like to make a reference to the promotion of intercultural education in Greece through a pilot project, the establishment of receiving classes for non Greek-speaking

pupils, the information provided to the migrants concerning their legal status and their fundamental rights.

Let me also refer to the Migration Guide issued by the General Secretariat for Greeks Abroad with the financial contribution of the European Union. The Greek Government, within the framework of European Programs, enacts projects against exclusion from the labour market, promoting structural development on employment and supporting services for migrants and repatriates. I would not stick to the illegal migrants regularization, since this subject has been thoroughly presented by the Minister of the Ministry of Interior.

I would like hereby to elaborate a little on the fight against xenophobia and social exclusion on international level.

It has been admitted by all democratic states that xenophobic acts consist a violation of migrants human rights. Nevertheless there is a great gap between declarations and every day practice.

One of the most important measures for the fighting against xenophobia is the revision of national curricula permitting an opening to multiculturalism, that is to say their enrichment with historic and social elements from other cultures and the endorsement of special lessons on human rights.

It is important for new generations to learn to be tolerant to the cultural diversity and to accept all human beings regardless of their background.

Governments could take initiatives, in cooperation with mass media and the relevant NGO's, to render public opinion sensitive towards migrants.

It is more than clear that governments bear the burden of fighting social pathogenic phenomena, not only by adopting the relevant legal frame but also by implementing policies to this direction, involving all social partners. International cooperation is indispensable on all levels, in order to fight migrants social exclusion.

Greece is the birthplace of humanitarian ideals, and Ulysses' homeland. It can contribute through its cultural values and its longstanding experience as a country "exporting" migrants to the fight against all migrants discrimination.

We would like to cooperate on this issue with other countries in our Mediterranean neighborhood and all over the world.

All statesmen and political parties should address explicit messages to their audiences supporting the acceptance of differentiation and condemning prejudice and animosity against migrants.

Fighting xenophobia and social exclusion is of public interest. Pathogenic social phenomena threaten democracy and civilization. Disregard to human rights violation endangers the cohesion of our societies much more than the presence of aliens in our homelands.

MULTILATERAL AND BILATERAL CO-OPERATION STRUCTURES TO PREVENT IRREGULAR MIGRATION

Mr Jonas WIDGREN, Director General of ICMPD

Introduction

1. Co-operation between the police and frontier authorities of neighbouring European states on illegal migration and related trans-frontier crime has existed since the 1920's, when the foundations of the present aliens' policies in Europe were laid. However, it was only in the late 1970's that the national police authorities of Western European states established specialized units to combat illegal migration. This became a necessity against the background of the increase in illegal migration following the immigration restrictions which were introduced all over Europe in the mid-1970's as a result of the oil-crisis and the ensuing recession. Since then, illegal immigration has been a preoccupation of the administrations of most states in Western Europe.

2. Nevertheless, it was only some 15 years thereafter, from the early 1990's onwards, that the combat of illegal migration was given a place of its own on the multilateral agenda at the European and later at the global level. There were three basic factors behind this delay. One was the circumstance that from 1980 most irregular migrants who sought to circumvent the immigration restrictions in Western Europe made use of the asylum systems. The number of asylum-seekers in Western Europe rose from 80,000 in 1983 to nearly 700,000 in 1993. About two thirds of the applicants were not in need of protection and were hence rejected. But as the remaining third indeed was in need of protection, and as this crisis affecting the national asylum systems necessarily evoked a host of ethical questions relating to the commitment of states to human rights and the 1951 refugee Convention, it was not possible to deal with this issue as though it related to illegal migration only.

3. A number of international fora were therefore established to deal with this asylum crisis, notably the "informal consultations" which were created by Sweden in 1985 and which later developed into IGC (the Inter-governmental Consultations on Asylum, Refugee and Migration Policies in Europe, North America and Australia). IGC has a Secretariat in Geneva (hosted by IOM and UNHCR) and 17 participating states. These 16 members are the dominant Western immigration authorities. Since 1993, however, IGC also deals with the combat of illegal migration and has established a special confidential reporting system on this (TIES). Likewise, when the EC (the predecessor of EU) initiated its work on immigration and border control in 1986 by way of the Ad Hoc Working Group on Immigration, the focus was on asylum, leading in 1990 to the Dublin Convention, but from the 1990's the EU deals extensively with the combat of illegal migration. Also CAHAR of the Council of Europe and the Sub-Committee on International Protection of UNHCR dealt with the asylum crisis, which was resolved by way of a number of measures in all affected states, including changes in the French and German constitutions. Hence, asylum figures fell down to 250,000 in Western Europe in 1996. In other words, it was only at the beginning of the 1990's, when measures had been devised to resolve the asylum crisis, that consistent work could be devoted to the general issue of how to combat illegal migration.

4. The second factor which helped setting the combat of illegal migration on the top of the international agenda was obviously the dramatic changes in the East. In 1989-1990, the previous Warsaw Pact States (Bulgaria, Czechoslovakia, Hungary, Poland and Romania) as

well as Albania abolished exit control, GDR was unified with FRG, and in 1991 both Yugoslavia and USSR were dissolved. This led immediately to a substantive rise in East-West movements, and the Western European States feared a continued rise of these irregular flows as well as of transit flows, through Central and Eastern Europe, of Asian and African irregular migrants.

5. And, finally, the third factor was that in 1990 the world leaders – in the new global political context – realized that South-North migration rapidly was on the rise: excessive population growth in the South in combination with poverty would unavoidably exacerbate massive irregular movements to the North. This required sustained work at the global level with a view to combating the root causes of irregular migration, fighting illegal migration and the people-smugglers and designing a new global migration order. A number of fora was therefore created at the European and global level to achieve these aims.

6. Whereas until the mid-1980's there were only about five international fora dealing with various aspects of migration (ILO, UNHCR, IOM, OECD and the Council of Europe), there is now about 50. Many of these fora specialize in the combat of illegal migration, whereas other deal with refugee/asylum or the establishment of regional or global systems to better cope with growing migration pressures. Half of the about 50 existing fora have emerged in the EU context, aiming at creating a single European space with free circulation inside this space and with joint external borders. In the following, only those multilateral fora will be mentioned which in some way or another contribute to the combat of illegal migration.

International co-operation at the global level to combat illegal migration

7. As indicated above, illegal migration is a complex issue, closely related not only to other forms of migration (regular migration of workers/experts, family members etc. as well as protection of refugees) but also to other forms of crime (drug-smuggling, counterfeit of documents, corruption etc.). The combat of illegal migration is at international level carried out by a multitude of fora, some concentrating on police co-operation and related intelligence, others with border or air traffic control, still some others with consular co-operation, and still some others with legislative harmonization and development etc. There are few overriding fora and processes, covering all aspects relating to illegal migration and involving a multitude of countries, other than the EU/ Schengen co-operation and the Budapest process (see below). At the UN-level, activities aiming at combating illegal migration from a general perspective has been introduced only lately.

8. The oldest organization involved in matters related to illegal migration is *Interpol*, created in 1923. Through its worldwide computerized search-system, Interpol ensures the exchange of information at global level, through national Interpol-offices, on convicted and suspected criminals, including those involved in trans-frontier crime. Given the growing problems world-wide with regard to people smuggling and illegal migration, Interpol has during the last years considerably upgraded its activities in this field, under the supervision of its Organized Crime Branch. A number of specialized seminars have been held with Interpol experts, and a special project to enhance co-operation is carried out with "the Visegrad states", through the ICMPD Liaison Office at the Hungarian Border Guards, with a view to establishing a special intelligence system for Central and Eastern Europe. Another project ("Bridge") aims at counteracting illegal migration from China. Interpol and ICMPD (see below) have concluded a co-operation agreement in 2000. Lately, Interpol and Europol (see below) have initiated co-operation on how to combat illegal migration.

9. Interpol is not a UN-organization, but the UN-organs *ICAO* (International Civil Aviation Organization) and *IMO* (International Maritime Organization), both established in 1944, form part of the UN-system. Both ICAO and IMO deal with undocumented aliens and how to control that they do not enter airplanes and boats. ICAO co-operates closely with IATA (the International Air Transport Association), through a special Working Group established decades ago, on how to practically implement Art. 6 of the Chicago Convention relating to inadmissible passengers.

10. Since its inception in 1919, *ILO* (the International Labour Office), a UN-organ, deals with migrant workers and their protection as well as with irregular migration. However, quite as *OECD* (the Organization for Economic Co-operation and Development, a non-UN organ, with a special Working Party on Migration), ILO concentrates on analyzing the phenomenon of irregular migration from a labour market perspective and not how to hinder illegal migration as such through law enforcement measures.

11. The *IOM* (the International Organization for Migration, a non-UN organ), was created in 1951 to organize the transfer of migrants from Europe to overseas countries. In the 1990's, IOM's membership has grown considerably world-wide, and the organization increasingly deals with topical migration policy issues, among them trafficking in migrants. IOM is launching information campaigns in many countries in the world to deter trafficking and concentrates thereby on measures to avoid trafficking in women and to ensure their protection, particularly in South East Europe. However, IOM is not an immigration law enforcement organization and has no regular co-operation with police and border control agencies at the international level.

12. In 1997, Austria launched an initiative in the UN to initiate the work on a *UN Convention* aiming at penalizing world-wide the crimes of people-smugglers and traffickers. This initiative reflected the growing concern in Europe at large, as expressed through the Budapest process and in the EU (see below), of the necessity to fight illegal migration in the context of a global action plan. The Austrian initiative resulted in 1998-2000 in the drafting of two protocols to be annexed to the new UN Convention against Transnational Organized Crime. Namely, when the issue of people smuggling/ trafficking was properly analyzed (also by ICMPD in its 1999 analysis of the relationship between illegal migration and organized crime, carried out in close consultation with the UN), it emerged that smuggling and trafficking of persons are two separate crimes, as smuggling only aims at bringing someone illegally over the border whereas trafficking may imply lifelong slavery and exploitation. The two UN-protocols "Protocol against Smuggling of Migrants by Land, Sea and Air" and "Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children") were adopted by the end of 2000 in Palermo but are not yet in force. All nations will now have to amend their national legislation accordingly.

13. Parallell to the drafting of the two protocols, together with all UN members, the UN Office in Vienna and its *UN CICP* (UN Centre for International Crime Prevention) has established two global programmes (one on anti-smuggling and one on anti-trafficking) to promote the implementation of the protocols. Although the work of the UN on these issues proceeds slowly, the two protocols and the follow-up process implies that a first global framework for the combat of illegal migration finally has been established.

International co-operation at the European level to combat illegal migration

General

14. As indicated above, it was only in the early 1990's that European countries initiated structured efforts at the multilateral level to enhance measures aimed at controlling irregular migration. Most of these efforts have been closely related to the work initiated by the EC/EU in 1986 to create an internal market, with a free flow of capital, goods, services and people within a European space controlled by joint external borders. This enormous reform plan has been reinforced by the Maastricht, Amsterdam and Nice treaties as well as by the 1999 Tampere summit, concentrating on Justice and Home Affairs. The entry of three of the EFTA states as EU-Members in 1995, as well as the parallel applications for EU Membership of ten of the states in Central and Eastern Europe, implies that this joint European border control area may encompass some 25-27 countries in some ten/fifteen years time only.

Schengen and EU

15. It was clear already in 1986 that the abolition of internal border controls between European states would have to be substituted by a perfectly functioning system for external border control, with harmonized visa and immigration policies, a joint computerized search system and a new joint system for the internal control of aliens, so as to avoid a rise in illegal migration and various forms of organized international crime. The *Schengen* states (originally Benelux, France and Germany) took already in 1985 a lead in this regard, and established a co-operation machinery for this outside the EU system. This co-operation machinery produced joint visa policies, new forms of police co-operation, the *SIS* and *SIRENE* search systems, and became the hub also in the EU efforts to stem illegal migration. By way of the Amsterdam Treaty, the Schengen co-operation became in 1999 integrated with the EU, and a total of 15 states are now fully participating in the system (the EU members UK and Ireland do not, but the non-EU members Iceland and Norway have been allowed to join Schengen on the basis of special decisions).

16. A great number of the about 100 legal acts (the "acquis") which have been issued since 1990 in the framework of the EU co-operation on Justice and Home Affairs define measures which in one way or another contribute to the combat of illegal migration. Within the JHA (Justice and Home Affairs) meeting structure, under the *JHA Council of Ministers* and the *SCIFA-group of Senior Officials*, measures relating to the combat of illegal migration are notably dealt with in the relevant EU/Schengen-groups (incl. SIS/SIRENE) as well as by the *Working Party on Frontiers* and the *Working Party on Expulsion*. In 1993, a special working group for the analysis of trends in illegal migration was created, CIREFI. The *CIREFI-group* meets some 3-4 times a year, and initiated a few years ago the work on an early warning system on illegal migration for the Member States. The Candidate States are invited to attend certain CIREFI-meetings and to provide CIREFI with data according to the special forms which have been elaborated, but do not yet receive confidential CIREFI information at a reciprocal basis. Some of the CIREFI data is transferred to *Eurostat* (the statistical body at the European Commission), which compiles the trend data in annual reports. Also within the *Directorate General for Justice and Home Affairs of the European Commission*, which engineers all the related work within the EU together with the *Unit for Justice and Home Affairs in the Council of the European Union*, much work is devoted to issues relating to the combat of illegal migration.

17. Thus, EU has no specialized body outside the European Commission, the Council and the related working groups under the JHA Council of Ministers which deals with

immigration. However, *Europol*, established by the EU in the Hague as an ad hoc body in the mid-1990's to tackle drug-smuggling in the EU area, has progressively obtained a wider mandate. It is now an independent organ within the EU, tasked to reinforce police co-operation. Europol has a specific mandate to counter smuggling and trafficking in migrants and organizes several meetings a year with Member States on this and also issues an annual confidential report on trends in illegal migration.

South East Europe

18. Taking into account the special dimensions of illegal migration, trafficking and smuggling of migrants and organized crime in South East Europe, several special initiatives have been taken during the last years with a view to tackling these problems in the region. In 1998, Germany took the initiative to establish a special *Working Group on South East Europe* within the Budapest process. The Group undertook in 1999 on-the-spot examinations of illegal migration over the Black Sea, of Bucharest airport and of the border control between Bosnia and Herzegovina. It proceeded in 2000 with support to the build-up of the new border service in Bosnia and Herzegovina, and examined Tirana airport as well as the Albanian-Italian co-operation to stem illegal migration. In 2001, the Group made an examination of Yugoslavia and gathered the border guard authorities of Bosnia and Herzegovina, Croatia, Macedonia and Yugoslavia with a view to reinforcing their co-operation.

19. Ever since the meeting of the Group in Skopje in 2000, in which some 20 countries actively participated, the Group closely co-operates with the *Stability Pact for South East Europe*. The Pact was established in 1999 to ensure the stabilization of the region and comprises a total of about 30 countries, of which Albania, Bosnia and Herzegovina, Croatia, Macedonia and Yugoslavia are beneficiaries. Under *Working Table III* of the Pact there is a special *sub-group for Justice and Home Affairs*. This sub-group has established working groups against organized crime and corruption, and there is an anti-trafficking initiative (see below) as well as a Migration and Asylum Initiative (MAI). For the latter, a special *Support Unit* has recently been established in Vienna, hosted by ICMPD, and with secondments from Sweden, Germany, Austria, IOM and UNHCR. ICMPD also supports the Pact with a network for the border guard authorities in the region, which is to produce reform plans to be financed with the CARDS-programme of the EU.

20. A special Stability Pact group to combat *trafficking in women in South East Europe* was established by the Austrian OSCE Presidency in 2000. It is led by a former Austrian Minister for Women's Affairs and has about 10 sub-groups; a joint Ministerial declaration was issued in Palermo in 2000. The Group is very active.

21. Also the EU has since 2000 set up special structures and a Working Group to tackle illegal migration to, from and through South East Europe. A *Sarajevo declaration* on the combat of illegal migration was issued by the EU Trojka at Ministers and Commissioners level in the autumn of 2000, at which the Interior Ministers of all the countries in the region participated. A close co-operation is carried out between the Stability Pact, the EU and ICMPD/ the Budapest process.

22. The SECI (South East European Co-operation Initiative) was created at the instigation of USA in 1995 to forward economic co-operation in the region. Since 1999 SECI, with Secretariat in Vienna, is increasingly involved in the fight against corruption and organized crime, and hence also against illegal migration. A special *SECI Centre against organized crime* has been established in Bucharest, partly with the assistance of FBI and partly of the countries in the region.

23. The UN Bosnia mission *UNMIBH*, actively assisting in establishing the BiH State Border Service, has lately initiated a co-operation circle among the Interior Ministers of Bosnia and Herzegovina, Croatia and Yugoslavia, aiming at fighting illegal migration, and a Ministerial declaration was issued in 2001.

24. The "*Blair-initiative*" was taken by the end of 2000 by the UK Prime Minister, with the aim of sending police Liaison Officers to mainly Bosnia and Herzegovina and Croatia to operationally assist in combating illegal migration. Some ten extra secondments to the region has taken place thereafter.

25. The former Italian Prime Minister took in 2000 the initiative to establish a special Working Group on illegal migration within the *Adriatic-Ionian initiative*. The Group, which gathers all the countries around the Adriatic as well as Turkey has met three times. Italy forms the link to other working groups gathering several Mediterranean states (including France, Spain and Maghreb) in the fight against illegal migration, such as the "*4+3 group*" and sub-groups under the *Barcelona process*.

ICMPD, the Budapest process and the Siófok process (IBPC)

26. Between the three entities mentioned above exists a close co-operation and joint synergies with regard to the fight against illegal migration. It is significant that all three entities deal with illegal migration in an overall perspective, treating all its components, and in a pan-European framework. Simply speaking, ICMPD in Vienna is the Secretariat of the Budapest process to combat illegal migration (under the Chairmanship of the Hungarian Ministry of Interior), which provides political guidance to the Siófok process of the European Border Guards (under the Chairmanship of the Hungarian Border Guards), served by the ICMPD Liaison Office in Budapest.

27. In 1991, the German Minister of Interior gathered 26 of his colleagues in Europe in Berlin to establish an action plan to fight illegal migration. Austria took care of the follow-up through a number of working groups dealing with very concrete issues, leading to the 1993 Budapest Ministerial Conference to prevent uncontrolled migration, at which 36 Ministers gathered. The Budapest Ministerial Conference established the *Budapest Group* to ensure follow-up, and *ICMPD* (the International Centre for Migration Policy Development), established in 1993 in Vienna, became in 1994 the Secretariat of the Group. More than 30 working meetings were held, leading to the successful *1997 Prague Ministerial Conference*. The Conference adopted 55 recommendations relating to legal harmonization, the harmonization of entry and visa policies, return of inadmissible aliens and readmission, information exchange on illegal migration and financial assistance. Since Prague, annual Budapest Group meetings have been held in Warsaw, Rome, Lisbon and Sofia and more than 35 working meetings have been held, dealing with visa harmonization (under Slovenian leadership), information exchange (under EU leadership), readmission (under French/Polish leadership) and South East Europe (see above). A new Ministerial Conference is under preparation for 2002-2003.

28. The Budapest process is unique as it gathers officials from Ministries of Interior of 43 countries and 10 international organizations in a joint combat of illegal migration. The synchronization of the activities of the Group with the EU is close, which is one of their basic assets.

29. The *Siófok process* (IBPC) was initiated in 1993 as an initiative by the Hungarian and Bavarian/German Border Guards. At annual meetings, now gathering the border guards of some 35 states, strategic issues relating to pan-European border guard co-operation are discussed. Whereas the IBPC previously much concentrated upon establishing an

information exchange system for Central/Eastern European Border Guards which could develop in harmony with CIREFI (see above), the work has since the 200-2001 annual meetings taken further shape: there are several Working Groups, dealing with the development of border guarding guidelines, the fight against illegal migration, etc. A joint Secretariat for IBPC was created in 2001 by the Hungarian Border Guards and ICMPD, which has its Budapest Office at the compound of the Border Guards.

30. As there is no single international organization for border management issues, like *WCO* (World Customs Organization) for customs control, IBPC with the assistance of ICMPD has to some extent developed into a general clearing-house for border management issues at the European level. ICMPD issues annually border guard statistics on illegal migration in Central and Eastern Europe and is providing a survey of the border management systems in ca. 25 European states, incl. those of the EU States.

Final comments

31. As emerges, the co-operation machinery to combat illegal migration in Europe is now very complex. In addition to the major multilateral fora mentioned above, there is a host of bilateral and sub-regional groups dealing with illegal migration at the technical and operational level. This whole co-operation network reflects the preoccupation of European politicians that maybe 500,000 aliens a year immigrate into the EU area and that total Europe-wide border apprehensions are up at the level of 250,000. Only through a very close co-operation between the the various international bodies concerned could the issue of illegal migration to Europe be tackled.

SESSION 3: MIGRATION MANAGEMENT STRATEGY

IMPROVING CO-OPERATION BETWEEN COUNTRIES OF ORIGIN AND COUNTRIES OF DESTINATION: WHAT CONCRETE MEASURES SHOULD BE TAKEN?

**Mrs Samia CHOUBA,
Director of External Relations and International Cooperation Office,
Ministry of Social Affairs, Tunis**

Tunisian emigration began relatively recently. It started in the 1960s with manpower agreements with, first, France and then Belgium, the Netherlands and Germany, as a result of labour shortages in those countries and a favourable economic context. This wave of emigration lasted up until the 1970s, when the European countries unilaterally decided to stop labour immigration. Tunisians continued to emigrate to Italy as it was one of the last European countries with no visa requirement.

In 2000, the number of Tunisians legally residing abroad was around 698 000, 85% of whom lived in Europe and 62% in France. As Tunisians working abroad are considered an integral part of the national community, Tunisia, in consultation with the host countries, has striven to safeguard their rights and constantly improve their living and residence conditions, firmly believing that immigration is a feature of society and civilisation that combines economic, human, cultural and social aspects.

Tunisia has striven to establish regular dialogue between the two shores of the Mediterranean in order to devise programmes and joint action to tighten the bonds between the two groups. The association agreement concluded with the European Union in 1995 contains, in addition to economic and political provisions, social provisions aimed at regular social dialogue, improved worker movement, and equal treatment and social integration of Tunisian and EU nationals *legally* residing in host countries. This dialogue deals with:

- the living and working conditions of migrant communities;
- migration;
- illegal immigration and arrangements for returning illegal immigrants to their country of origin.

The social section of the association agreement also provides for a wide range of co-operation in social matters, such as:

- reducing the numbers wishing to migrate, in particular by creating jobs and developing training in priority zones;
- improving living conditions in underprivileged areas with high population density.

A joint development and partnership policy would make it possible to ease migratory pressure. The focus would need to be on certain types of action and on promoting employment in regions of heavy migration, in particular by developing small businesses.

Improving living conditions is one means of persuading would-be emigrants to remain in their regions of origin. To be specific:

- as one of the motives for emigrating is to seek better living conditions and social welfare, improving living conditions, in rural areas in particular, is an incentive to people not to leave;
- development of vocational training helps young people find work;
- an economic and social rehabilitation fund could be set up for persons repatriated after entering a foreign country illegally.

To manage migratory flows, Tunisia has signed a labour agreement with Italy based on the quota system. Italian legislation lays down the number of non-Community workers allowed to enter the country each year according to labour needs. Negotiations are being held with Spain to draw up a similar agreement.

Finally, on the multilateral side, in 1999 Tunisia joined the International Organisation for Migration and signed a co-operation agreement which led to the opening of an IOM Mission in Tunis in February this year and to regional seminars in Tunisia.

Tunisia and the IOM are currently planning a multilateral conference in 2002 on dialogue and regional consultation on migration between the western Mediterranean countries.

CLOSING SESSION

**Mr Miguel Angel MARTINEZ,
President of the Executive Council of the North-South Centre**

It is a great satisfaction for the North-South Centre to have been involved in the preparation and in the organisation of this Conference, mainly through the work of our collaborator Fifi Benaboud. By the way I am delighted to congratulate the Council of Europe and Mme Gabriela Battaini-Dragoni for the excellent organisation and for the success of such a significant event.

Our Centre is also very honoured to have been invited to chair this closing session. I shall, therefore, first of all, use this opportunity to confirm the availability of the North-South Centre, as a particularly adequate instrument of the Council of Europe, to be used on issues and in initiatives which do respond to the concerns that have led us into this Conference.

Our Centre is particularly fit because of its flexibility to operate, and because of its own structures which bring together representatives of the Governments of our member States, Parliamentarians, both from the European Parliament and from the Assembly of the Council of Europe, officials from our local and regional authorities and delegates from associations, that is to say from civil society.

Acting as a body based on such a quadrilogue, we are a well suited platform for political dialogue between the societies of the North and those of the South, bearing in mind, moreover, that the Mediterranean region has been defined as an area of strategic priority for the involvement of our Centre.

We may say that the North-South Centre enjoys nowadays a consolidated experience, thanks to our Transmed Programme which has been developed since 1994. This way, we have produced a significant net of contacts, but even more, a net of confidence which includes people from all Mediterranean countries. By the way, a good evidence of what I am saying is shown by the fact Morocco has recently applied to become a full member of our Centre.

That is why invite you all – including very much the Secretary General of the Council of Europe – to use as much as possible this instrument which is the North-South Centre. Let me call your attention and ask you to be cautious: please, do not buy a new bus, every time one of you has the good idea to make a trip. Before buying a new bus, go and have a look into our garage; you will find probably excellent buses waiting there for you and for your project. Indeed you will have to buy the necessary petrol, but that will be certainly cheaper than having to pay for a new bus as well as for the petrol to have it going forwards.

Well, I sincerely believe that our North-South Centre may be a very good bus to drive into a number of initiatives and to carry out a number of programmes precisely in the very field which we have been dealing with all along this interesting Conference.

Having said that, I should like to share a couple of more general comments with all of you. The first one is rather a matter of information, which also shows how much these issues are currently a top priority in the agenda of the European Union; and probably it is going to remain so for the coming years.

I may tell you, also in my capacity as a Member of the European Parliament, that our Chamber witnessed last Tuesday, a couple of days ago, two debates which fall exactly

in the very heart of our Conference subject. Actually we were discussing two Declarations made by the European Commission: the one refers to asylum, refugees and the necessary measures to homogenise the rules and procedures to grant the relevant status to asylum seekers in all fifteen member States of the Union. The other had to do with the urgent necessity to establish common European policies on the question of migration. By the way, one of the positive outcomes of this second debate was that practically everybody insisted upon the fact that one has to make a clear cut distinction between migration and terrorism, this last issue, being also, of course, one in the Parliament's current agenda.

I do not have time here and now to comment the two mentioned Declarations issued by the European Commission under the efforts and the impulse of Commissioner Antonio Vitorino. But it will be certainly interesting for you to learn that both documents do anticipate decisions to be taken by the European Council, the sooner the better I believe that the resolutions which the Parliament will have voted yesterday will also influence the decisions which the Council will have thus to approve, both on migration policy, and on asylum questions. Indeed, I offer to all of you my intermediation to send you the Commission Declarations and the Parliament resolutions, but probably you all know how to get them directly, for instance through internet.

My second comment expresses rather a serious concern which leads me straight to claim the pressing necessity for the Council of Europe to be strongly reactivated as the guardian of a number of values which I regard as the main identity features for the Europe which is under construction.

This concern of mine has been inspired directly by one of the concepts contained in the title of our Conference: "Dignity of migrants"; of course, the dignity of all migrants – regular or less regular ones – is something which we have to fight for. But I feel that it is more and more necessary that we also give a serious thought to our own dignity; to the dignity of the Europe which is under construction; to the dignity of Western society; and to the dignity of Western civilisation, at large.

I refer, by the way to a dignity which may be measured, among others, by the respect which we show towards the dignity of those who come to live among us.

As a matter of fact and as a member of that society, I must confess that I have been deeply shocked by two quite relevant events which we have all followed in recent days or weeks. On the one side, we have heard a distinguished Western leader daring to state the superiority and the supremacy of Western Culture, and even our right – almost our duty – to impose it to other peoples. On the other side, another distinguished leader, geographically quite distant from Europe, but an outstanding partner in Western civilisation, when faced with a ship containing several hundred asylum seekers, found that the best solution was to send his navy and to threaten and push the ship out of its territorial waters in the most aggressive way....

My friends: when realising that those two voices speak as a part of the collective voice of the Western world, I do insist in stating that the Council of Europe must undertake a renewed task and a renewed responsibility; "un second souffle", against those pragmatic ones who do believe that the era of the Council is gone and that therefore it is slowly at decline and loosing momentum.

On the contrary, who, if not the Council of Europe, will stress the absolutely timely and decisive character of the values which we have claimed for decades to be our

“raison d’être”. I mean freedom, democracy, respect for human rights, social justice, solidarity and the prevalence of the rule of law.

We always described those values as being universal ones – not specifically “ours” – and therefore, able to be shared with others. Those values are also fundamental and will be instrumental when it comes to counteract ignorance and arrogance of those who speak about supremacy and superiority of some cultures and some religions upon other cultures and other religions. To counteract the Taliban, our Talibans, those of the West; and to fight this way the Taliban from other regions, cultures or religions.

The values which I am referring to are those which we strongly must keep and even relaunch, in order to oppose all over Europe the growing phenomena of racism and xenophobia. Those are values through which Europe will be able to take serious action in favour of a more democratic and more solidararian world order; this means, more than anything else, to operate for the democratisation and governance of globalisation, in order to turn it into an instrument for peace, for stability, for justice and for social progress. Here too, the unavoidable responsibility of the Council of Europe may find a relevant instrument in our North-South Centre: we are ready and willing to serve.

Let me finish by thanking our Greek hosts, paying tribute to the strong support which they have granted our Centre for many years. I am happy to remember here that it was in Rhodes, in close co-operation with the Greek authorities, where our Centre organised the first contacts and dialogue between Palestinian and Israeli leaders, together with others from European and different Arab countries. That was a very serious contribution to pave the way for the peace process in the Middle East, and we did play a significant role at a moment when that conflict – like nowadays – was undergoing quite a tense and difficult situation.

I really hope that Greece will try again now to enter an issue for which I want to commit full co-operation of the North-South Centre. I have in mind a number of initiatives related with specific items which we have been dealing with in this Conference. I am sure that there is plenty to do in order to promote dignity of migrants, dignity of Europe and dignity of a world which will at last be worth to live in.

Thank you for your attention, and now I shall give the floor to the Secretary General of the Council of Europe, Walter Schwimmer, who will thus produce the closing remarks for this Conference.

Closing declaration

**Mr Jonas WIDGREN,
Director General ICMPD**

Mr. Secretary General of the Council of Europe,

Mr. Chairman,

Ladies and Gentlemen,

I thank you for the trust given to me to act as your Co-Rapporteur now at the very final stage of our Conference. We have agreed to share the job between the two co-Rapporteurs, to the extent that I will seek to provide general impressions from our deliberations these two days, whereupon my Greek colleague Mr. Christos Dimitriou, previously vice-Chair of CDMG of the Council of Europe, and now Director at the Secretariat General for Greeks abroad here in Athens, will fill out with some views on the Conference outcome from the perspective of the host country.

When the invitation to this Conference reached the potential participants, the reaction was obviously very positive, for three reasons: (i) it is a fact that much too little efforts have been carried out at the multilateral level the last years to seek to gather the countries around the Mediterranean in a structured dialogue on how to tackle irregular migration over the Mediterranean basin and its causes, based on the principle of equal partnership, and within a comprehensive approach; (ii) it is also true that too little attention has been devoted to balancing the issue of human rights and the dignity of irregular migrants, on the one hand, with the issue of state sovereignty on the other, when it comes to safeguarding the control of borders and to decide whom to let in, and also with regard to the right of states of combating illegal migration and related forms of transfrontier crime; the Council of Europe is obviously very well placed indeed to allow for a juxtaposition of these two sets of rights at a Conference like this; and finally (iii) the host country Greece offers a particularly interesting case, as Greece only until some twenty years ago was a prominent emigration country, now confronted with growing irregular flows of migrants from both neighbouring and far away countries, given her geopolitical position.

I think that all of us agree that the introductory speeches of Minister Vasso Papandreou, responsible for among others legislation relating to immigrants, and the Secretary General of the Council of Europe Mr. Walter Schwimmer, were very helpful as they did set the general framework for the issues to be discussed. Ms. Papandreou highlighted how the issue of irregular migration, of growing political importance as it is at world level, is linked to globalization in general, and how necessary it is to establish partnerships with source countries to reinforce human, social and economic development, and good governance, and also to ensure a steady flow of private investments for job-creation, and to enforce trade liberalization, so that the source countries more easily can sell their products on the world market, and finally to continue the process of debt relief. The Secretary General, on his side, warned that if industrialized states will continue to at the same time restrict both immigration and development assistance, then they are indeed heading for even bigger migration-related problems domestically. He also warned for the risk of a surge of xenophobia after the 11 September attacks. And he finally referred to the migration management strategy report which the Council of Europe has issued – and as a matter

of fact, this very Conference is by the Council of Europe considered to be a follow-up of that very exercise.

In fact, I had the honour, together with Mr. de Lary and Professor Salt, both here present, and together with a number of other experts, to be part of the team which prepared the report and also to be General Rapporteur at the major Conference where its recommendations were discussed. It goes without saying that this migration policy strategy, with its four legs (orderliness, prevention, integration and co-operation) form a very important basis for this our exercise here, as it provides a framework for making presently disorderly flows more orderly.

There are also some other major strategy frameworks, most of which were referred to in the statements here, which advocate a comprehensive and holistic approach to the issue now under consideration, notably the immense work programme on immigration and asylum which is to be accomplished by the European Union Member States until May 2004, according to the Maastricht Treaty, reinforced at this process became through the 1999 EU Summit Tammefors/Tampere conclusions.

There is also the Commission communication of November last year, also referred to in our debate, presented by Commissioner Vitorino, on an active immigration policy, which focuses on the replacement of disorderly by orderly migration, and the follow-up communication this summer on a planning frame for a joint EU immigration policy, based on annual national action plans to be submitted by the 15 Member States. As you know, the Commission initiatives are to be discussed at a major Ministerial Conference in Brussels in less than four weeks, where not only the Members of the EU 15 will participate, but also Candidate and Maghreb States, in a spirit of partnership. It is to be hoped that the recent and necessary control measures to reinforce the fight against terrorism which the JAI Council decided upon two weeks ago, will not overshadow the specific goals of the Brussels Ministerial Conference, namely to agree upon a long-term framework for European immigration policy.

And there is the so-called HLWG, also referred to here, namely the EU High Level Working Group, installed following an initiative by the Dutch Prime Minister in 1997, and aiming at developing comprehensive action plans for a number of source countries, to ensure a process of development, partnership, legal reform and migration policy co-operation, conducive to orderly instead of disorderly movements. Two of the countries here represented, namely Albania and Morocco, are the specific targets for dialogue and action, and funds are soon to be disbursed for a first implementation phase.

And finally, of great importance for Greece and her neighbours to the North, is the Stability Pact for South East Europe, which, as you have heard today, under all its three Working Tables is handling issues relating to migration and refugee movements and their causes. In particular, under the sub-table for JHA (Justice and Home Affairs), an impressive programme has been established for comprehensive four-year action to combat illegal migration and trafficking, and to safeguard asylum through the Stability Pact Migration and Asylum Initiative (MAI); in this initiative UNHCR, IOM and ICMPD work closely together as implementing organizations, and we are proud to host the MAI Support Unit in Vienna.

So, Ladies and Gentlemen,

the situation differs much from some five years ago, when a holistic European multilateral approach to the issues discussed at this very Conference was lacking. And globally, there is also considerable progress, as are the Palermo Protocols, and the

UN-CICP action plans against trafficking and smuggling. The comprehensive and balanced approach is there now, and Governments will have to work together with full speed to ensure implementation and further policy development. That was, it seems to me, one of your major conclusions.

At the outset yesterday, we were listening to some very sobering introductory overviews by academics, such as those of Professor Salt and Dr. Fargues, sobering because Salt said that in the world there are only 2,5 per cent migrants which means that the by far vast majority of people stay and want to stay at home. He also said that immigration to Europe is not dramatic in statistical terms, and that grosso modo third country gross inflows to Western Europe amount to only about some 600,000 – 700,000 a year. A sobering message also came from Dr. Fargues, as he provided ample evidence that radical demographic change is under way in North Africa, and in a number of other developing countries, presently suffering of emigration. Fertility rates seem to fall from 6 to 2 per cent in several states concerned, and he said that Tunisia and Marseille now display equal fertility rates. Obviously, such demographic evidence is of enormous importance not only from the point of view of immigration policy planning, but also in the fight against prejudice. Mr. Garçon of OECD also helped keeping the debate on solid ground, by describing analytically the particulars of a modern labour market inviting to further refinery in terms of circumventing labour standards and aliens legislation.

We also listened to a set of panel debates on the characteristics of irregular migration providing many useful insights into the specific Greek situation, as well as on the main issue of the dignity and rights of irregular migrants. We then turned, this afternoon, to the issue of how to manage disorderly migration, and on how to transform it into orderly and mutually beneficial flows, in trustful dialogue between all concerned. The American saying that immigration should take place through the front door of a nation house and not through the back door by way of illegal migration, came to my mind. This is actually what the present European exercise is about.

Dear Conference participants,

we will soon be listening to the Secretary General of the Council of Europe on how he perceives the further contribution of his organization of the Council of Europe to bring this process forward, and on concrete action which could be taken by this very institution.

But allow me before that, Mr. Chairman, and before passing over to my Greek friend and co-Rapporteur, to provide a few summing-up comments on three of the key issues discussed.

The three key items I would now shortly like to dwell upon are: (i) the balance of the rights of individual irregular migrants and the sovereignty right of states when it comes to the control of immigration; (ii) whether it is good or bad to allow for amnesty or regularization programmes for irregular migrants and (iii) finally and most important, how to create sustainable structures for partnership and dialogue over the Mediterranean to resolve the joint migration and development challenges.

To the first issue. I am not sure that my impressions with regard to the debate on the dignity of migrants truly reflect those of all Conference participants, but I feel having the duty to raise a warning finger. The Secretariat paper to our Conference is a masterpiece from the point of view of analysing the rights of irregular migrants according to international law, as was the statement of the representative of the

Council of Europe Commission on Human Rights, and of other panel representatives this morning. Obviously, it bestows an organization like the Council of Europe to emphasize the human dignity of all migrants, irrespective of their legal status. Obviously, with the introduction of efficient controls at the EU's external borders, an array of necessary additional enforcement measures will be put into place, and it hence becomes even more necessary to ensure and introduce new safeguards with regard to the right of asylum, and to humane treatment when it comes to detention, expulsion and readmission.

But to allow for a general drifting or blurring of the legal language in the direction of rights for migrants *irrespective* of their status, as we can note in some of the meeting documents and statements, as well as we can see e.g. in the conclusions of the recent UN anti-discrimination Conference in Durban, may actually be counterproductive with regard to the goals we all stand for. These goals seem to be orderly migration and human dignity, less action and profit space for the people-smugglers and traffickers and the creation of one wide pan-European circulation space with joint external borders, much bigger than the present one. There will always have to be external borders somewhere. What if Turkey, as a Candidate country to the European Union, having recently committed herself (as a principle) to the Schengen control system, would abrogate from that in the interest of free flows from her unstable neighbours to the East and South? An unthinkable situation.

For those of us who spent endless nights at the Council of Europe in Strasbourg in the 1970's to negotiate the badly implemented Council of Europe Convention on the rights of migrants, and who equally spent endless nights negotiating the corresponding UN Convention in the 1980's, the blurring of the distinction between legally staying foreigners and illegals is an outright invitation to the smugglers and traffickers to raise their profits and to ensure that their dirty activities become the prime income source for organized crime, and no longer drugs. And the blurring of this important legal distinction would also be an effective instrument to bring the architecture of a unified big pan-European free space of circulation to an end. I think many participants share my views.

This brings me to my *second* observation, and I will be very short on that, namely regularizations. The fact that there have been a total of 1,8 million regularizations of irregular migrants in Western Europe since 1970, of which the bulk in recent years, is a sign of failure more than of success. A failure, as channels for orderly intake did *not* exist, and as proper control instruments were *not* in place. I think it is important to signal this to two very different settings, namely to the EU Candidate States on the one hand with their growing foreign populations, and a total of 50,000 asylum-seekers this year. It should be said to the EU Candidates that regularizations are an emergency fall-back, and that regularizations should not form part of regular immigration policies. And the same signal should forcefully be set to the people-smugglers. I know that many of you participants also join me in this.

And *third* and finally, the need for partnership, for dialogue between target and source countries, for co-development and sustainable multilateral structures, not only including the Council of Europe or OSCE Member States, but including *all* States around the Mediterranean. The EU Mediterranean process has still not brought about the needed amalgamation between security, economic, social and migration policies with the partners in the South, and a set of new initiatives are needed, as was strongly underlined this afternoon, to ensure a comprehensive and close dialogue over the Mediterranean, both long-term and short-term oriented, to solve the joint migration

challenges, fully including the Maghreb countries in the dialogue. It is all our hope, and I know that I here speak on behalf of all participants, that this message is strongly put forward by the Secretary General to the Committee of Ministers and the Parliamentary Assembly.

I hope that I have not violated your own impressions of this constructive Conference and that this short report could help bringing the process forward in the common interest.

Thank you.

**Conclusions of the Conference
as introduced during the Closing Session,**

**Mr W. SCHWIMMER,
Secretary General of the Council of Europe**

Policy Development

Implementation of the migration management strategy

The Committee of Experts on migration flows (MG-FL) has drawn up a strategy for orderly management of migration flows which puts the emphasis on cooperation with all the actors including the countries of origin. This strategy now needs to be implemented. For this purpose co-operation with the sending countries is essential. Countries of the southern shore of the Mediterranean will be closely associated in the work of the MG-FL Committee.

Demographic Dimension of Migration

Data on international migration covering legal and sociological aspects are collected almost exclusively in the receiving countries. However the phenomenon cannot be properly understood unless such data are also collected in the sending countries. Co-operation for the collection of data in both the sending and the receiving countries is therefore essential.

Political Dialogue

(a) Need for a wider and more flexible dialogue. The European Centre for Global Interdependence and Solidarity (North South Centre) in Lisbon has, in the framework of its programme, been pursuing this dialogue. Stocktaking of this 7 year long co-operation should now be carried out to explore which programmes and initiatives would need to be developed to strengthen this co-operation.

(b) Observatory to follow the social and demographic implications of migration flows. This Observatory could be created under the management of Greece.

Project Development

Network of pilot cities. Setting up of a network of receiving cities to study the impact of innovatory legislation and practice with regard to the regularization and integration of irregular migrants. This network should be setup in close co-operation with the Congress of Local and Regional Authorities.

Promotion of the Ratification of Three Council of Europe Legal Instruments

- The Convention on the Legal Status of Migrant Workers
- The Convention on Social Security
- The Convention on the Participation of Foreigners in the Local Public Life

Promotion of the above-mentioned legal texts will be carried out with the Parliamentary Assembly and the Congress on Local and Regional Authorities.

Conclusions

Mr G. PAPANDREOU, Greek Minister of Foreign Affairs

Greece is one of the relatively new destination countries of immigration currents. Alien immigrants in Greece mainly come from the Balkan peninsula countries, the Middle East, Eastern Europe and certain countries of Africa and Asia.

They form a mixed group of people with a variety of origins, cultural backgrounds, religious beliefs and social experiences.

It is also a fact that the main reasons underlying mass immigration, such as socio economic and demographic inequalities, political instability, conflicts of any kind, lack of health and social security infrastructure and violation of human rights in certain countries are not likely to be eradicated in the near future.

Our country's experience to date has shown that the massive presence of foreign immigrants in Greece has caused a number of important changes in all areas of activity without any exception.

It is certainly very difficult to assess "profits" and "losses" in such a complex phenomenon as immigration, but, *grosso modo*, we can distinguish :

"Positive" effects, including the significant contribution of aliens to the invigoration of agricultural economy and the viability of small and marginally viable enterprises. One could also add the population increase in certain areas and the slowdown in population ageing.

"Negative" effects could include, *inter alia*, the stress exerted on the social infrastructure and the substitution of immigrants for natives in some jobs.

It is a fact that both the Greek State *per se* and Greek society were not prepared and ready to tackle this unprecedented phenomenon for our country, which had been a traditional exporter of immigrants until recently.

The Greek State tried to regulate this situation by legislative initiatives, in 1991, 1997 and this year by L. 2910 / 2001. This effort was indeed crowned with success.

Firstly, in 1997 more than 230,000 "green cards" were granted, while more than 352,000 persons residing illegally in Greece have filed applications for legalisation at the current stage.

However, so long as the objective conditions in the countries of origin do not change, it is utopian to believe that suppressive measures taken by a country or group of countries - no matter how strict and morally acceptable they may be - could prevent or even curtail illegal immigration.

However, this does not mean that the countries that bear the brunt of the problem should not co-operate for the eradication of illegal cross-border trafficking networks.

This effort should be made with respect for human rights and every sovereign state's inalienable right to determine its operational practices.

Efforts should focus on controlling the phenomenon by tackling illegal immigration, eradicating organised illegal trafficking network through broader co-operation among states of origin, transit and final destination of illegal immigrants and the

taking of joint initiatives and exchange of information and experience at the bilateral and, mainly, multilateral levels.

At the same time, any effort to integrate immigrants should take into account the particular needs of social cohesion and maintenance of a sense of security.

Protection of, and respect for, human rights should move in parallel with the creation of a framework of obligations for these aliens and the implementation of voluntary repatriation policies.

Finally, control of immigration flows, in the sense of interactive updating on the real conditions and needs of the countries of origin, plays a decisive role in the crackdown on illegal immigration.

During the proceedings of this Conference a discussion was held within the Council of Europe on whether Greece, with its traditional and historical links with the countries of the Southern Mediterranean and in particular the Arab-speaking world as well as non - member countries of the Council of Europe, could contribute, in particular after the recent events, to the strengthening of the ties between the Council of Europe and those countries, especially in the area of culture (educational and other exchanges and programmes) and, if necessary, through the establishment of a special agency for the promotion of mutual understanding and cooperation.

Exact translation from Greek of the attached original document

Athens, January 2, 2002

The translator of the Ministry of Foreign Affairs

Vassilios D. Belecoukias

APPENDIX I

Programme

2 October 2001, 9 pm

Registration of participants

3 October 2001

Opening Session

- President: Mr Dollis, Secretary General for Greeks abroad
- 9.30 – 10.30 Mrs V. Papandreou, Minister of Interior, Public Administration and Decentralisation,
Mr Walter Schwimmer, Secretary General of the Council of Europe,
Mr G. Niotis, Minister of Foreign Affairs
Mr A. Kiliç, Ambassador, representing the Committee of Ministers of the Council of Europe,
Mr Claude Casagrande, Vice-President of the Congress of Local and Regional Authorities of Europe
Mr T. Iwinski, Chairperson of the Committee on Migration, Refugees and Demography of the Parliamentary Assembly of the Council of Europe
- 10.30 – 11.00 Coffee break
- 11.00 – 12.30 Evaluation of the current situation (quantitatively: stocks and flows)
Mr John Salt, member of the Group of Specialists on the demographic characteristics of immigrant population (PGS-MIG)
- Evaluation of the current situation (qualitatively: political and economic issues for the countries of the Southern shore of the Mediterranean)
Mr Philippe Fargues, INED
- 12.30 – 13.00 Debate
- 13.00 – 14.30 Lunch break

Session 1: Causes of irregular migration

- Chair : M. De Lary, Chair of the Committee of Experts on the Migration Management Strategy
- 14.30 – 15.30 Root causes: Poor economic and social development in the countries of origin
Mr Abdelkader Djamal, General Director of the Labour National Institute
Illegal Migration in Greece: the way to prevent it
Mrs Viki Yavi, Head of Department of Citizenship, Ministry of Interior, Public Administration and Decentralization, Greece
- 15.30 – 16.00 Debate

- 16.00 – 16.30 Coffee break
- 16.30 – 18.00 Traffic and Illegal Employment
 Mr J.-P. Garson, Head of Non-Member Economies and International Migration Division, OECD
 Networks of smuggling in Migrants – Measures for tackling the problem
 Mr Panagiotis Yannoulas, Police Director, Deputy Director of the Alien Division of the Hellenic Police Headquarters, Greece
- Policies to combat illegal employment
 Mr Constantinos Chrysini, Head of Department of Employment in the Ministry of Employment and Welfare, Greece
 Field Situation
 Mr Roberto Ruocco, member of the Social Cohesion Committee, Congress of Local and Regional Authorities of Europe and r Manuel Mas I Estela, Mayor of Mataró, Spain
- 18.00 – 18.30 Debate
 Dinner offered by Mr Dollis, Secretary General for Greeks abroad

4 October 2001 **Opening: Mr A. Yannitsis, Minister of Labour and Social Security**

Session 2: Preservation of the irregular migrants' human dignity

- 9.30 – 10.30 Chair: Prof. George Kaminis, Deputy Ombudsman for Human Rights
 Preventive and control measures, including forced return and their human rights implications
 Mr Muller-Rappard, Director, Human Rights Commissioner
 Expulsion procedures in conformity with human rights and enforced with respect for safety and dignity
 Mr T. Iwinski, Chairperson of the Committee on Migration, Refugees and Demography of the Parliamentary Assembly of the Council of Europe
- 10.30 – 11.00 Debate
- 11.00 – 11.30 Coffee break
- 11.30 – 12.30 The legal situation of irregular migrants: is their human dignity guaranteed in the receiving countries?
 Mr Rizard Cholewinski, Senior Lecturer, University of Leicester, UK
 Trafficking in human beings and sexual exploitation : a modern form of slavery
 Ms Eva Garajova, Ambassador, Permanent Representative of the Slovak Republic to the Council of Europe
 Xenophobia: Measures to prevent phenomena of social exclusion
 Mr Demetri Dollis, Secretary General for Greeks Abroad

12.30 – 13.00 Debate
 13.00 – 14.30 Lunch break

Session 3: Migration Management Strategy

Chair: Mr Garrido, Vice Governor of the Development Bank of the Council of Europe

14.30 – 15.30 Multilateral and bilateral cooperation structures to prevent irregular migration – necessity and efficiency

Mr Jonas Widgren, Director General, ICMPD

Enhance co-operation between countries of origin and countries of destination: which concrete steps to take?

M. Claude-Valentin Marie, consultant

15.30 – 16.30 Panel discussion with members of the Parliamentary Assembly, the CPLRE and their Southern shore counter partners, UNHCR, IOM, ICMPD and the Social partners and NGOs representatives

16.30 – 17.00 Coffee break

Closing session Chair: M. Miguel Angel Martinez, President of the European Centre for Global Interdependence and Solidarity

17.00 – 17.30 Presentation of the Rapporteurs' (Mr Widgren and Mr C. Dimitriou) conclusions and their adoption by the participants

17.30 – 18.00 Closing remarks by the Mr Walter Schwimmer, General Secretary of the Council of Europe

Press Conference

19.15 Reception offered by the Secretary General of the Council of Europe

APPENDIX II

Recommendation of the Commissioner For Human Rights concerning the rights of aliens wishing to enter a Council of Europe member State and the enforcement of expulsion orders

The Commissioner for Human Rights, acting in accordance with Resolution (99) 50 of the Committee of Ministers on the Council of Europe Commissioner for Human Rights adopted on 7 May 1999 (“the Resolution”),

Having noted during his various trips and visits to Council of Europe member States that a problem common to most of them is the precarious legal and humanitarian situation of aliens wishing to enter their territory;

Recalling that this problem has already been the subject of many studies at the Council of Europe and, in particular, several recommendations of the Committee of Ministers;

Noting, however, that there has been no significant improvement in the situation since the adoption by the Committee of Ministers of Recommendation R(94)5 on “guidelines to inspire practices of the member States of the Council of Europe concerning the arrival of asylum seekers at European airports”;

Recalling that the conditions in which asylum seekers and other people are held in airport waiting areas have been the subject of a number of surveys carried out by the European Committee for the Prevention of Torture and Inhuman & Degrading Treatment or Punishment (“the CPT”);

Bearing in mind the work currently being carried out by the Parliamentary Assembly’s Committee on Migration, Refugees and Demography to produce a report on “Rendering more humane the procedures for expelling illegal immigrants and rejected asylum seekers”;

Recalling the seminar organised by the Commissioner for Human Rights on “Human rights standards applying to the holding of aliens wishing to enter a Council of Europe member State and to the enforcement of expulsion orders”, which took place from 20 to 22 June 2001 in Strasbourg;

Recalling that the seminar was attended by representatives of national and international NGOs, government experts, representatives of professional trade unions, including the *Association belge des pilotes de lignes* (Belgian association of airline pilots), representatives of the United Nations High Commission for Refugees, as well as members of the Council of Europe’s Parliamentary Assembly, the Registry of the European Court of Human Rights, and the Secretariat of the CPT;

Recalling that during the seminar the participants studied the legal framework and practice with respect to foreigners arriving at the border of a member State, particularly in relation to the European Convention for the Protection of Human Rights (“the ECHR”), the 1951 Convention relating to the Status of Refugees, and the relevant provisions of the Charter of Fundamental Rights of the European Union;

Considering that Article 3e of the Resolution states that the Commissioner for Human Rights shall “identify possible shortcomings in the law and practice of member States concerning the compliance with human rights as embodied in the instruments of

the Council of Europe, promote the effective implementation of these standards by member States and assist them, with their agreement, in their efforts to remedy such shortcomings”;

Bearing in mind Article 81 of the Resolution,

Would like to issue the following recommendations:

I. Rights of aliens on their arrival at the border of a member State

1. Everyone has the right, on arrival at the border of a member State, to be treated with respect for his or her human dignity rather than automatically considered to be a criminal or guilty of fraud.
2. On arrival, everyone whose right of entry is disputed must be given a hearing, where necessary with the help of an interpreter whose fees must be met by the country of arrival, in order to be able, where appropriate, to lodge a request for asylum. This must entail the right to open a file after having being duly informed, in a language which he or she understands, about the procedure to be followed. The practice of *refoulement* “at the arrival gate” thus becomes unacceptable.
3. As a rule there should be no restrictions on freedom of movement. Wherever possible, detention must be replaced by other supervisory measures, such as the provision of guarantees or surety or other similar measures. Should detention remain the only way of guaranteeing an alien’s physical presence, it must not take place, systematically, at a police station or in a prison, unless there is no practical alternative, and in such case must last no longer than is strictly necessary for organising a transfer to a specialised centre.
4. Detained foreigners must be given the right to contact anyone of their choice in order to notify that person of their situation.

II. Detention conditions

5. As far as possible, member States should bring their national legislation into line in terms of the procedural guarantees available to foreigners being held and the maximum period of detention permitted at each stage of the proceedings.
6. Member States should avoid holding unaccompanied minors, pregnant women, mothers with young children, the elderly, and people with disabilities in waiting areas. Where appropriate, unaccompanied minors must be placed in specialised centres, and the courts immediately informed of their situation. Members of the same family should not be separated.
7. Aliens held pending authorisation of entry must be placed in a specialised centre, and under no circumstances during their detention must they be placed with ordinary prisoners. The same applies to aliens awaiting enforcement of an expulsion order except, of course, in the case of persons expelled on having served their sentence and persons detained at the border with a view to being extradited.
8. All detainees, however long they are held, must have the right to emergency medical care as required by their state of health.

On no account must holding centres be viewed as prisons.

Governments must guarantee maximum transparency in respect of how holding centres operate, by ensuring at least that independent national commissions, ombudsmen and NGOs, lawyers and close relatives of detainees have access to them. In particular, their operation must be regularly monitored through the courts.

It is essential that the right of judicial remedy within the meaning of Article 13 of the ECHR be not only guaranteed in law but also granted in practice when a person alleges that the

competent authorities have contravened or are likely to contravene a right guaranteed by the ECHR. The right of effective remedy must be guaranteed to anyone wishing to challenge a *refoulement* or expulsion order. It must be capable of suspending enforcement of an expulsion order, at least where contravention of Articles 2 or 3 of the ECHR is alleged.

III. Implementation of expulsion measures

9. Where forced expulsion is unavoidable, it must be carried out with complete transparency in order to ensure that fundamental human rights have been respected at all stages.

The best way to avoid using methods which might traumatise both those being expelled and those responsible for enforcing expulsion orders is to have the person concerned agree to return voluntarily.

When expulsion orders are to be enforced, it is crucial at every stage of the procedure to inform the persons concerned of what lies ahead so that they can prepare themselves psychologically for their return. In accordance with Article 4 of Protocol No4 to the ECHR, collective expulsion is prohibited.

Threats must not be used to persuade persons subject to an expulsion order to board any form of transport. The wearing of masks making it impossible to identify staff executing forced expulsion orders must be banned outright.

Holding centre staff and immigration and expulsion officers must receive proper training so as to minimise the risk of violence.

The following must be prohibited outright:

- use of any means which may cause asphyxia or suffocation (adhesive tape, gags, helmets, cushions etc) and use of incapacitating or irritant gas; use of restraints which may induce postural asphyxia must also be avoided;
- use of tranquillisers or injections without prior medical examination or a doctor's prescription;

For safety reasons, the use during aircraft take-off and landing of handcuffs on persons resistant to expulsion should be prohibited.

The Commissioner for Human Rights invites the authorities of the member States of the Council of Europe to take account of these recommendations when drawing up and applying their legislation and practices in this field.

APPENDIX III

List of participants

Chair/Président Mr Demetri DOLLIS, The Secretary General for Greeks Abroad

MEMBER STATES OF THE COUNCIL OF EUROPE

Albania/Albanie:

Mr Kosta BARJABA, Chief of Cabinet of Minister and Director, Department of Migration, Ministry of Labour and Social Affairs, Rruga e Kavajes 53, TIRANA

Tel: +355 42 40 412 – Fax: +355 42 40 412; E-mail: kbarjaba@yahoo.com (E)

Andorre/Andorra:

Armenia/Arménie

Mr. Davit HAKOBYAN, Deputy Head of the Governmental Department for Migration and Refugees of the Republic of Armenia, 4, Hr. Kochar, 375033 YEREVAN, REPUBLIC OF ARMENIA

Tel: +374 1 22 58 65 – Fax: +374 1 22 58 24 – E-mail: migration@dolphin.am (E)

Austria/Autriche:

Azerbaijan Republic/Azerbaïdjan:

Mr Vahab MAMMADOV, Head of Employment and Demography Policy, Ministry of Labour and Social Protection of Population, House of Government, room 920, 9th floor, 370016 BAKU (E)

Tel: +99 412 93 96 69 - Fax: +99 412 939669/939472 ; E-mail: mlspp@azerin.com

Belgium/Belgique:

Bulgaria/Bulgarie

Mr Dimitar FILIPOV, Head of Department, Ministry of Foreign Affairs, 2 Al. Jendov Str., 1040 SOFIA, BULGARIA,

Tel: +3592 71 43 25 4 8 – Fax: +3592 73 84 13 – E-mail: consuler@mfa.government.bg (E)

Ms Elka MILEVA, Head of Labour Market Section, Ministry of Labour and Social Policy, 2, Triaditza Street, 1051 SOFIA, BULGARIA

Tel: +3592 /9884720 ; 9332507 – Fax: +3592 / 988 47 20 ; 9815376 – E.mail: emileva@mlsp.government.bg (E)

(remboursée)

Ms Anelia IVANCHEVA, Deputy Director of the International Cooperation Directorate, Ministry of Interior, 29 Shesti Septemuri Str., 1000 SOFIA, BULGARIA

Tel: +3592 982 41 57 – Fax: +3592 988 52 40 – E.mail: sms@mur.bg (F)

Croatia/Croatie :

Cyprus/Chypre :

Mr Doros CHRISTODOULIDES, Member of Parliament, Council of Europe, House of Representatives, NICOSIA, Cyprus (E)

Tel: +357 2 307310 – Fax: +37 2 668611

Czech Republic/République tchèque:

Denmark/Danemark

Estonia/Estonie :

Mr Artur AGANITS, Head of the Department of refugees and illegal immigration, Estonian Citizenship and Migration Board, Endla 13, 15179 TALLINN, ESTONIA

Tel: +372 6126966 – Fax: +372 631 3744 – E-mail: Artur.aganits@mig.ee (E)

Finland/Finlande:

France :

M. Henri DE LARY, Sous-Directeur, Office des Migrations Internationales (OMI), 44 rue Bargue, 75015 PARIS, FRANCE

Tel : +33 (0)1 53 69 51 36 – Fax : +33 (0)1 53 69 53 69 (F)

M. Philippe FARGUES, Directeur de Recherche, INED, 133, bvd Davout, F – 75020 PARIS

Tel : +33 1 56 06 20 17/78 – Fax : +33 1 56 06 21 93 – E-mail: fargues@ined.fr (F)

M. Claude-Valentin MARIE, Expert-Consultant, 11, rue Antoine Vollon, 75012 PARIS,

Fax : 01 44 38 34 47

Georgia/Georgie:

Mr Zurab TINIKASHVILI, Deputy Director, Consular Department, Ministry of Foreign Affairs, UFA, Tshitadze 6, 38 0018 TBILISI, GEORGIA

Tel: +995 32 93 62 60 - +995 32 98 94 30 – E.mail: zuratini@hotmail.com (E)

Germany/Allemagne:

Dr. Christoph HAUSCHILD, Deputy Head of Section, Federal Ministry of Interior, Alt-Moabit 101D, D-10559 BERLIN, GERMANY

Tel: +49 1888 681 1918 – Fax: +49 1888 681 51918 – E-mail: christoph.hauschild@bmi.bund.de (E)

Dr. Frank HEMPEL, Ministerialrat, Bundesministerium für Arbeit und Sozialordnung, Rochusstrasse 1, Postfach 14 02 80 – D- 53107 BONN, GERMANY

Tel: +49 228 527 2270 - Fax: +49 228 527 1176 – E-mail: fr.hempel@bma.bund.de (E+F)

Greece/Grèce:

Yannis Mourikis Ambassador, Ministry of Foreign Affairs

Dionyssios Lellos, Minister Plenipotentiary, Ministry of Foreign Affairs

Dionyssios Kountoureas, Embassy Counsellor, Ministry of Foreign Affairs

Galanis Konstantinos Ministry of Interior, Public Administration and Decentralisation

Kasnakoudi Sotiria, Ministry of Interior, Public Administration and Decentralisation

Didioudi Stamatia Ministry of Interior, Public Administration and Decentralisation

George Mitropoulos, Brigadier, Director General of the Alien Division of Police Headquarters, Ministry of Public Order

Kyriaki Bardani Director General of Correctional Policy, Ministry of Justice,

Elli Xenou, Ministry of Justice,

Despina Markossoglou, Advisor of the Secretary General, Ministry of Labour and Social Affairs

Christos Dimitriou Rapporteur

Hungary/Hongrie:

Iceland/Islande:

Ireland/Irlande:

Italy/Italie:

Mr Francesco CAMERINO, Prefetto, Ministero dell'interno Commissione Centrale Riconoscimento status rifugiato, Via Giudubaldo del Monte 54, 00197 ROMA, Italy

Tel: +39 06 809 11833 – Fax: +39 06 807 6062 – E-mail: ccrsr@mininterno.it

Mr Giovanni CATALDO, LTC Chief of Section of Organized Crime Office, Carabinieri Headquarters, Viale Romania n. 45, I- 00197 ROMA

Tel: +39 06 80982274 – Fax: +39 06 80982184 – E.mail: gcataldo@carabinieri.it (E)

Mr Massimo DE MAJO, Officer of Immigration and Border Police Service, Ministry of Interior, Department of Public Security, Via Cavour 6, 00100 ROME, Italy

Tel +39 06 4653 9411 – Fax: +39 06 4653 9993 (E)

Mr Luigi MONE, Head of Immigration and Border Police Service, Ministry of Interior, Department of Public Security, Via Cavour 6, 00100 ROME, Italy (E)

Tel: +39 06 4653 9634 – Fax: +39 06 4653 9633

Ms Elisabetta ROSI, (*apologised for absence, excusé*) Judge, Ministry of Justice, Via Arenula 70, I- 00186 ROMA

Tel: +39 06 68852385 – Fax: +39 06 68897531 – E.mail: elisabetta.rosi@giustizia.it (E)

Mr Andrea GUGLIEMI, Interpol Italian Liaison Officer, Ministry of Interior, Department of Public Security, Via Skousa n° 9, ATHENS, Greece

Tel: 0030 9372 22 666 – Fax: 0030 1361 5583, E-mail: andrewill@libero.it

Latvia/Lettonie:

Mr Juris GROMOVŠ, Adviser of Head of Department of Citizenship and Migration Affairs, Raina Bvd. 5, LV-1050 RIGA, REPUBLIC OF LATVIA

Tel: +371 7219231 – Fax: +371 7331123 – E-mail: (E)

Liechtenstein:

Lithuania/Lituanie:

Luxembourg :

Malte :

Moldova :

Netherlands/Pays-Bas:

Norway/Norvège :

Poland/Pologne :

Mr Marek SZONERT, Head of European Integration and International co-operation Department, Office for Repatriation and Aliens, Ministry of Internal Affairs and Administration, ul. Koszykowa 16, 00664 WARSAW
Tel: +48 22 601 44 42 - Fax: +48 22 848 29 47; E-mail: dmu2mswa@mswia.gov.pl (E)

Mr Marcin SAMSONOWICZ-GÓRSKI, Head of European Integration Unit, Office for Repatriation and Aliens, Ministry of Internal Affairs and Administration, ul. Koszykowa 16, 00664 WARSAW
Tel: + 48 22 601 57 61, Fax: 48 22 848 29 47, E-mail: dmu2mswa@mswia.gov.pl (E)

Portugal :

Mme Maria José LIMA RAMOS, Directora Regional, Serviço de Estrangeiros e Fronteiras, Av. Antonio Augusto de Aguiar, 20, 1069 – 118 LISBOA, PORTUGAL

Tel : +351 21 3153885 – Fax : +351 21 3520334 – E.mail: mjlramos@sef.pt (F)

Romania/Roumanie:

Russian Federation/Fédération de Russie:

Mr Andrey DEMIDOV, Deputy Director of the Department, Ministry of Foreign Affairs, SmolenskayaSennaya 32/34, 121200 MOSCOW, RUSSIAN FEDERATION

Tel: +7 095 244 30 25 – Fax: +7 095 244 30 45 – E-mail: dgpch@mid.ru (E)

San Marino/Saint-Marin:

Apologised for absence /excusé

Slovak Republic/République Slovaque :

Mr Miroslav SAMEK, Director, Bureau of Border and Aliens Police, Budyšinska 2/4, 81272 BRATISLAVA
Tel:+421 9610 50700 – Fax: +421 9610 59074 – E-mail: borgula@minv.sk (E)

Slovenia/Slovénie :

Spain/Espagne :

Sweden/Suède:

Switzerland/Suisse:

Mme Caroline BRÜESCH, Collaboratrice scientifique, Office fédéral des Réfugiés, Quellenweg 6, CH– 3003 BERN-WABERN

Tel : +41 (0)31 325 99 70 – Fax : +41 (0)31 325 92 38 – E-mail: Caroline.Bruesch@bff.admin.ch (E)

Mme Geneviève GUMY-GAUDARD, Collaboratrice scientifique, Office fédéral des Etrangers, Quellenweg 9, CH – 3003 BERN-WABERN

Tel : +41 (0)31 325 95 83 – Fax : +41 (0)31 325 96 51 – E-mail: Genevieve.Gumy-Gaudard@bfa.admin.ch(F)

“The Former Yugoslave Republic of Macedonia”/“L’ex-République Yougoslave de Macédoine”:

Mr Ljupco FARMAKOSKI, Chief Inspector in Department for Foreigners and Immigration Issues, Ministry of Interior, “Dimce Mircev” – BB, 1000 SKOPJE, REPUBLIC OF MACEDONIA

Tel: +389 2 11 67 31 – Fax: +389 2 14 34 08 – E.mail: lfarmako@moi.gov.mk (E)

Mr Nafi DOKO, Undersecretary, Ministry of Interior, “Dimce Mircev” – BB, 1000 SKOPJE, REPUBLIC OF MACEDONIA

Tel: +389 2 11 67 31 – Fax: +389 2 14 34 08 – E.mail: ndoko@moi.gov.mk (E)

Turkey/Turquie:

Mr Ahmet N. ALPMAN, Minister Plenipotentiary, Deputy Director-General for Overseas Turkish Affairs, Ministry of Foreign Affairs, KOYT, Disisleri Bakanligi, Anit Caddesi n° 12, 06580 TANDOĞAN ANKARA

Tel: +90 312 262 89 32 – Fax: +90 312 212 76 46 – E-mail: ytgy@mfa.gov.tr (E+F)

Mr Erol ETCIOGLU, Head of Illegal Migration Control Department, Ministry of Foreign Affairs, Disisleri Bakanligi, Anit Caddesi n° 12, 06580 TANDOĞAN- ANKARA

Tel: +90 312 212 89 22 – Fax: +90 312 212 89 66 – E-mail: Erol.Etcioglu@mfa.gov.tr (E)

Ukraine:

Mr Viktor POBYEDONOSTSEV, Deputy Director, State Department for Nationalities and Migration, 9, Volodymyrska Str., KYIV, 01025 UKRAINE ,

Tel/Fax: +380 44 228 70 98 (E)

United Kingdom/Royaume-Uni:

Mr Nick ANSTISS, Inspector, UK Immigration Service, Status Park, 6 Noble Drive, Harlington, HAYES, Middlesex, UB3 5EY (E)

Tel: +44 20 8745 4186 – E-mail: nick.anstiss@homeoffice.gsi.gov.uk

Miss Yasmin CAPLIN, Higher Executive Officer (Development), International Policy Directorate, Immigration and

Nationality Directorate, 2nd Floor, Apollo House, 36 Wellesley Road, CROYDON, CR9 3RR

E-mail: yasmin.caplin@homeoffice.gsi.gov.uk (E)

Mr Graeme HOPKINS, Head of Employment and Business Policy – Immigration and Nationality Policy Directorate,

UK Immigration and Nationality Directorate, Room 1106 Apollo House, 36 Wellesley Road, CROYDON, CR9 3RR, United Kingdom

Tel: +44 20 8760 8783 – Fax: +44 20 8760 8777 -

E-mail: Graham.Hopkins@homeoffice.gsi.gov.uk (E)

Miss Jenny RUMBLE, Director – International Policy Directorate, Immigration and Nationality Directorate, 2nd Floor, Apollo House, 36 Wellesley Road, CROYDON, CR9 3RR

Tel: +44 20 8760 8380 – E-mail: jenny.rumble@homeoffice.gsi.gov.uk (E)

Mr. John SALT, Professor, Univeristy College London, Department of Geography, 26, Bedford Way, LONDON WC1H OAP, UNITED KINGDOM

Tel: +44 20 7679 5525 - +44 20 7679 7565 – E-mail: jsalt@geog.ucl.ac.uk

(E)

Mr Ryszard CHOLEWINSKI, Dr/Senior Lecturer in Law, Faculty of Law, University of Leicester, UK - LEICESTER LE1 7RH

Tel: +44 116 2522331 – Fax: 44 116 2525023 –

E-mail: ricl@leicester.ac.uk (E)

**NON MEMBERS STATES OF THE COUNCIL OF EUROPE /
PAYS NON MEMBRES DU CONSEIL DE L'EUROPE**

Algeria/Algérie:

M. Abdelkader DJAMAL, Directeur Général, Institut National du Travail, BP n°5, ALGER, Algérie,

Tel : +213 21 55 01 60 – Fax : +213 21 55 02 44 – E-mail: djamal-abdelkader@hotmail.com (F)

M. Mohammed El Hadi RAIS, Chef de Cabinet du Ministère du Travail et des Affaires Sociales, (F)

Fax : 00 213 21 66 35 19

M. El Hadi MELBOUR, Directeur Général du Centre national d'Etudes et analyse pour la planification, 98, rte Nationale 1, BP 34, Birkhadem, ALGER, Algérie,

Tel : 00 213 21 54 30 86, Fax : 00 213 21 54 21 49 (F)

Bosnia-Herzegovina:

Mr Aleksander DAMJANAC, Ministry of Human Rights and Refugees of Bosnia and Herzegovina, Trg Bosne i Hercegovine 1, 71000 Sarajevo, Bosnia and Herzegovina (E)

Tel: +387 33 206 655

Egypt/Egypte:

Mr Reda ZAKI, Director of the office of the Assistant Minister for European Affairs, Ministry of Foreign Affairs, European Affairs Department, room # 1528, Maspero, Cornisch El Nile (E)

Tel: +20 2 57 47 825 – Fax: +20 2 57 49 740 – E-mail: reda_zaki@hotmail.com

Dr Abdel FAHMI, Ministry of Justice, CAIRO, Egypt, (E)

Mr Mohammed MAHMOUD, Deputy Director of the Authority of Passports, immigration and citizenship, Ministry of the Interior, CAIRO, Egypt,

Fax: 00+20 279 262 00 (E)

Federal Republic of Yugoslavia:

M. Zoran CELEBIC, (*apologised for absence / excusé*) General Secretary, Federal Secretariat of Labour, 11070 NOVI BEOGRAD, YUGOSLAVIA

Tel: +38111 136 685 – Fax: +38111 311 7127 (E)

Ms Brankica GRUPKOVIC, Assistant Minister, Federal Ministry of Interior, Buđvar Mimaza Pupina No. 2, 11000 BELGRADE, Federal Republic of Yugoslavia

Tel: +381 11 311 5831 – Fax: +381 11 311 4879 – E-mail: bgrupkovic@sezampro.yu (E)

Mme Anka VOJVODIC, Council of Secretary, Federal Secretariat of Labour, 11070 NOVI BEOGRAD

Tel: +38111 136 685 – Fax: +38111 311 7127 (E)

Mme Dušica MILJANOVIC, Senior Council, Federal Secretariat of Labour, 11070 NOVI BEOGRAD

Tel: +38111 136 685 – Fax : +38111 311 7127 (E)

Iran :

Libya

Mr Abdul Hafize DERBI, Counsellor, Cabinet of the GPC of the African Unity, Libyan Arab Jamahirya (E)

Morocco/Maroc :

M. Abderrahmane ZAHI, Secrétaire Général de la Fondation Hassan II pour les Marocains Résidant à l'Etranger, 67, bd Ibn Sina Agdal, B.P 8156, RABAT, MAROC (F)

Tel : +212 37 67 02 00/04/05/07 – Fax : +212 37 67 02 35 – E-mail:

Tunisia/Tunisie:

M. Bechir JAMAI, Directeur Général, Office des Tunisiens à l'Etranger, 23, rue El Khartoum, TUNIS 1002, TUNISIE

Tel : +216 1 782 005 – Fax : +216 1 780 967 (F)

Mme Samia CHOUBA, Directeur du Bureau de la Coopération Internationale et des Relations extérieures, Ministère des Affaires sociales, 25, Bld Bab Benat, 1006 TUNIS– La Kasbah, TUNISIE

Tel : +216 1.- Fax : +216 1 568 722 (F)

**OTHER PARTICIPANTS / AUTRES PARTICIPANTS
EUROPEAN COMMUNITY/COMMUNAUTE EUROPEENNE**

European Commission / Commission européenne

General Secretariat of the Council of the European Union/ Secrétariat Général du Conseil
de l'Union européenne

**OBSERVERS/OBSERVATEURS
NON-MEMBER STATES/ PAYS NON-MEMBRES**

Australia/Australie:

Holy See/Saint Siège:

Japan/Japon :

Mexico/Mexique :

M. Miguel-Angel CACERES, Counselor, Embassy of Mexico, Platia Philikis Heterias 14, 5th Floor, 106 73 – ATHENS, GREECE (F)

Tel: +301 729 4780 – Fax: +301 729 4783 – E.mail: embgrecia@sre.gob.mx

United States of America/Etats-Unis d'Amérique:

**INTERNATIONAL INTERGOVERNMENTAL ORGANISATIONS /
ORGANISATIONS INTERNATIONALES GOUVERNEMENTALES**

International Labour Office (ILO) / Bureau international du Travail (BIT)

International Organisation for Migration (IOM) / Organisation internationale pour les migrations (OIM)

Mr Luca DALL'OGGIO, Chief of Mission and Regional Coordinator for the Mediterranean, IOM, 62, via Nomentana, I – 00161 ROMA

Tel: +39 6 442 31 428 - Fax : +39 6 440 25 33 –

E-mail: MFRROME@iom.int or Ldalloglio@iom.int (E)

Mr Daniel ESDRAS, Head of Mission, IOM, Dodekanissou Street 6, Agios Panteleimon (via Odos Vouliagmenis), Alimos, 17456– ATHENS, GREECE

Tel: +301 99 19 040 – Fax: +301 99 10 914 – E-mail: iomathens@iom.int (E)

Mr Redouane SAADI, Chargé des relations extérieures avec les pays de la Méditerranée occidentale, OIM, 17, route des Morillons, CH 1211 – GENEVE

Tel : +41 22 717 93 21 – Fax : +41 22 798 61 50 - E.mail: rsaadi@iom.int (E+F)

Organisation for Security and Cooperation in Europe- Office for Democratic Institutions and Human Rights/ Organisation pour la sécurité et la coopération en Europe (OSCE)/ODIHR

Apologised for absence/excusé

Organisation for Economic Co-operation and Development (OECD) / Organisation de Coopération et de Développement Economiques (OCDE)

M. Jean-Pierre GARSON, Chef de la Division des Economies non membres et des Migrations Internationales, OCDE, 2, rue André-Pascal, 75775 PARIS Cedex 16, France (F)

Tel : +33 (0)1 45 24 91 74 – Fax : +33 (0)1 45 24 76 04 – E-mail: Jean-Pierre.GARSON@oecd.org

United Nations High Commissioner for Refugees / Haut-Commissaire des Nations Unies pour les Réfugiés (UNHCR)

M. Jean-François DURIEUX, Deputy Director for Central and Western Europe, United Nations High Commissioner for Refugees, Case postale 2500, CH –2111 Genève 2 Dépôt (F)

Ms. Flor ROJAS RODRIGUEZ, UNCR Representative, ATHENS, GREECE (E)

United Nations Educational Scientific and Cultural Organisation (UNESCO) / Organisation des Nations Unies pour l'Education, la Science et la Culture (UNESCO)

Apologised for absence/ex cusée

European Free Trade Association (EFTA)/Association européenne de libreéchange (AELE)

Budapest Group-ICMPD/ Groupe de Budapest-ICMPD

Mr Jonas WIDGREN, Director General, ICMPD, Möllwaldplatz 4, A– 1040 VIENNA, AUSTRIA

Tel: +43 1 504 46 77 – Fax: +43 1 504 46 77 75 – E-mail: icmpd@icmpd.org (E)

INTERNATIONAL NON-GOVERNMENTAL ORGANISATIONS / ORGANISATIONS INTERNATIONALES NON GOUVERNEMENTALES

INTERNATIONAL NON-GOVERNMENTAL ORGANISATIONS TO THE CDMG/ ORGANISATIONS INTERNATIONALES NON GOUVERNEMENTALES AUPRES DU CDMG

Churches' Commission for Migrants in Europe (CCME) / Commission des Eglises auprès des migrants en Europe (CEME)

Ms Doris PESCHKE, General Secretary, CCME, 174, rue Joseph II, B – 1000 BRUSSELS, BELGIUM

Tel: +32 2 234 68 00 –32 2 231 14 13 – E-mail: ccme@wanadoo.be (E)

Ms Maria FRANGOULI-PAPANTONIOU, KSPM, member of CCME, 174, rue Joseph II, B – 1000 BRUSSELS, BELGIUM

Tel : +32 2 234 68 00 – Fax : +32 2 231 14 13 – E-mail: ccme@wanadoo.be (E)

International Catholic Migration Commission (ICMC)/ Commission internationale catholique pour les migrations (ICMC)

European Trade Union Confederation (ETUC) / Confédération européenne des Syndicats (CES)

M. Mohammed Anouar HAIDOUR, Adjoint Confédéral politique social, Commissions ouvrières (CC.OO.),

Tel : 34 91 702 80 88, Fax : 34 91 702 81 56, E-mail: mhaidour@cco.es

Union of Industrial and Employers' Confederations of Europe (UNICE) / Union des Confédérations de l'Industrie et des Employeurs d'Europe (UNICE)

Apologised for absence/excusé

OTHER INTERNATIONAL NON-GOVERNMENTAL ORGANISATIONS/ AUTRES ORGANISATIONS INTERNATIONALES NON GOUVERNEMENTALES

Alliance Internationale des Femmes

Mme Samira YASSNI, Coordinatrice /Afrique du Nord, Alliance Internationale des Femmes, 65, Bd Abdelakrim Al Khattabi, RABAT, MAROC

Tel : +212 61 10 02 50 – Fax : +212 37 67 20 18 – E-mail : samirayassni@hotmail.com (F)

Amis familles des victimes de l'immigration clandestine khouribga Maroc

34, Rue My Abdellah Khouribga, 25000 MAROC

Tel : +212 234 91261 – Fax : +212 234 92331 – E-mail : aafic@hotmail.com

M. Khalil JEMMAH Président,

Mme Nadia OULACHGUER, Responsable Commission Statistiques et Recherches

M. Hicham RACHIDI, Responsable des relations publiques et communications

M. Karim TAOUFIQI, Responsable commission financement et développement

Amnesty InternationalCaritas hellasDoctors of the WorldDoctors without BordersEcumenical Refugee ProgramForum des Migrants de l'Union Européenne/European Union Migrants' ForumGreek Council for RefugeesHellenic Red CrossInternational Social Service (Hellenic Branch)Labour Institute of GSEEManpower Employment Organisation OAEDMarangopoulos Foundation for Human Rights

SOS Racism

PARTICIPANTS INDEPENDANTS

Mr. Paolo RUSPINI, Marie Curie Research Fellow, Centre for Research in Ethnic Relations, University of Warwick, COVENTRY CV4 7AL, UNITED KINGDOM

Tel: +44 (0) 2476 52 49 27 – Fax: +44 (0) 2476 52 43 24 – E-mail: p.ruspini@warwick.ac.uk (E)

Mme Michela Camilla PELLICANI, Professeur de Démographie, Dip. Per lo Studio delle Società Mediterranee, Université de Bari, Piazza Cesare Battisti, 1, I- 70121 BARI

Tel : +39 080 5717107/ 39 335 8420818 – Fax : +39 080 5717272 – E-mail: micafe70@hotmail.com
(apologies/excusée) (F)

Ms. Jennifer HILL, Immigration Research and Statistics Service, Research Development and Statistics Directorate, Home Office, Apollo House, Room 1309, 36 Wellesley Road, CROYDON, CR9 3RR, UNITED KINGDOM (E)

Tel: +44 20 8760 8079 – Fax: +44 20 8760 8364 – E-mail: Jennifer.Hill@homeoffice.gsi.gov.uk

SPEAKERS

Chair of the Conference: Mr Demetri DOLLIS, Secretary General for Greeks Abroad /
Secrétaire Général pour les Grecs à l'Étranger

3 octobre/october 2001

Président : M. George Papandreou, Ministre des Affaires Étrangères / Minister of Foreign Affairs

Mme V. Papandreou, Ministre de l'Intérieur, de l'Administration publique et de la Décentralisation / Minister of Interior, Public Administration and Decentralisation,

M. Walter Schwimmer, Secrétaire Général du Conseil de l'Europe / Secretary General of the Council of Europe,

Mr M. Chrysochoedes, Ministre de l'Ordre Public / Minister of Public Order

M. l'Ambassadeur A. Kiliç, représentant le Comité des Ministres du Conseil de l'Europe / Ambassador, representing the Committee of Ministers of the Council of Europe,

M. Claude Casagrande, Vice-Président du Congrès des Pouvoirs Locaux et Régionaux de l'Europe / Vice-President of the Congress of Local and Regional Authorities of Europe

M. T. Iwinski, Président de la Commission des Migrations, des Réfugiés et de la Démographie de l'Assemblée parlementaire du Conseil de l'Europe / Chairperson of the Committee on Migration, Refugees and Demography of the Parliamentary Assembly of the Council of Europe

M. John Salt, membre du Groupe de Spécialistes sur les caractéristiques démographiques des populations immigrées (POS-MIG) / member of the Group of Specialists on the demographic characteristics of immigrant population (POS-MIG)

M. Philippe Fargues, Directeur de Recherche, INED

pm :

Président : M. De Lary, Président du Comité d'experts sur la mise en œuvre de la gestion des migrations / Chair of the Committee of Experts on the Migration Management Strategy

M. Abdelkader Djamel, Directeur de l'Institut national du Travail, Algérie / Director of the National Labour Institute, Algeria

Mme Viki Yavi, Chef du Département de la Citoyenneté, Ministère de l'Intérieur, de l'Administration publique et de la Décentralisation, Grèce / Head of Department of Citizenship, Ministry of Interior, Public Administration and Decentralization, Greece

M. J.-P. Garson, Chef de la Division des Économies non-membres et des Migrations Internationales, OCDE / Head of non-Member Economies and International Migration Division, OECD

M. Panagiotis Yannoulas, Directeur de la Police, Directeur adjoint de la Division des Étrangers au siège de la Police hellénique, Grèce / Director, Deputy Director of the Alien Division of the Hellenic Police Headquarters, Greece

M. Constantinos Chrysinis, Chef du Département de l'Emploi, Ministère de l'Emploi et du Bien-être, Grèce / Head of Department of Employment in the Ministry of Employment and Welfare, Greece

M. Roberto Ruocco, membre de la Commission de la Cohésion sociale, Congrès des Pouvoirs Locaux et Régionaux de l'Europe, Italie / member of the Social Cohesion Committee, Congress of Local and Regional Authorities of Europe

M. Manuel Mas i Estela, maire de Mataró, Espagne / Mayor of Mataró, Spain

4 octobre/October 2001

Ouverture : M. A. Yannitsis, Ministre du travail et de la sécurité sociale / Minister of Labour and Social Security

Président : Prof. George Kaminis, Adjoint à l'Ombudsman pour les Droits de l'Homme / Chair, Deputy Ombudsman for Human Rights

M. A. Gil-Robles, Commissaire aux droits de l'homme, Conseil de l'Europe / Commissioner for Human Rights, Council of Europe

M. T. Iwinski, Président de la Commission des migrations, des réfugiés et de la démographie de l'Assemblée parlementaire du Conseil de l'Europe / Chairperson of the Committee on Migration, Refugees and Demography of the Parliamentary Assembly of the Council of Europe

M. Ryszard Cholewinski,

Mme Eva Garajova, Ambassadeur, Représentant permanent de la République slovaque auprès du Conseil de l'Europe / Ambassador, Permanent Representative of the Slovak Republic

Mr Demetri Dollis, Secrétaire Général pour les Grecs à l'Etranger / Secretary General for Greeks Abroad

p.m

Président : M.I. Garrido, Vice Gouverneur de la Banque de Développement du Conseil de l'Europe / Chair, Vice Governor of the Development Bank of the Council of Europe

M. Jonas Widgren, Directeur général, ICMPD, Director General, ICMPD

M. Younes Bathaoui, Inspecteur de l'Administration Territoriale chargé du Service Emigration, Ministère de l'Intérieur, Maroc / Inspector of the Territorial Administration Emigration Service, Ministry of Interior

M. Claude-Valentin Marie, Expert-Consultant,

Session de clôture / Closing session

Président : M. Miguel Angel Martinez, Président du Centre Européen pour l'Interdépendance et la Solidarité mondiales / Chair, President of the European Centre for Global Interdependence and Solidarity

Présentation des conclusions des Rapporteurs (M. Widgren et M. C. Dimitriou) et adoption de ces conclusions par les participants / Presentation of the Rapporteurs' (Mr Widgren and Mr C. Dimitriou) conclusions and their adoption by the participants

Remarques finales par M. Walter Schwimmer, Secrétaire Général du Conseil de l'Europe / Closing remarks by Mr Walter SCHWIMMER, Secretary General of the Council of Europe

et /and by Mr Demetri DOLLIS , Chair of the conference, Secretary General for Greeks Abroad / Président de la Conférence, Secrétaire Général pour les Grecs à l'Etranger

LOCAL ORGANISING COMMITTEE/ COMITÉ D'ORGANISATION LOCAL

General Secretariat for Greeks Abroad, Ministry of Foreign Affairs, 417, Acharnon Street, 111 43 ATHENS

Tel: +30 1 2 25 30 429 – Fax: +30 1 25 31 651 – E-mail: ggae@mfa.gr

Mr Demetri DOLLIS, Secretary General for Greeks Abroad/ Secrétaire Général pour les Grecs à l'Etranger

Mrs Constantina KOLIOU, First Counsellor of Embassy

Mrs Nassia IOANNOU, Special Adviser to the Secretary General

Mr Christos DIMITRIOU, Director, Division of Finance and Administration,

Ms Kyriaki DAGADAKI, Head of Department of International Organisations and International Cooperation

Ms Valia ZOTOU, Head of Department of Cultural Affairs

Ms E. PAPADATOU

COUNCIL OF EUROPE / CONSEIL DE L'EUROPE

COMMITTEE OF MINISTERS / COMITE DES MINISTRES

M^{me} l'Ambassadeur Eva GARAJOVA, Rapporteur sur l'égalité entre les femme et les hommes (RAP-EG), Représentant permanent de la République slovaque auprès du Conseil de l'Europe,
(E)

Tel : + 33 (0) 3 88 36 57 17 – Fax : + 33 (0) 3 88 36 54 44 – E-mail : MISSLOV@wanadoo.fr

M. l'Ambassadeur Alev KILIÇ, Président du GRSOC, Représentant Permanent de la Turquie auprès du Conseil de l'Europe, 23 boulevard de l'Orangerie, 67000 STRASBOURG, FRANCE

Tel : +33 (0)3 88 36 50 94 – Fax : +33 (0)3 88 24 03 73 – E-mail : turkeuro@noos.fr
(E)

PARLIAMENTARY ASSEMBLY / ASSEMBLEE PARLEMENTAIRE

Mr Tadeusz IWINSI, Chairman of the Committee on Migration, Refugees and Demography of the Parliamentary Assembly of the Council of Europe, Delegation of the Republic of Poland to the PACE, ul. Wiejska 4/6/8, PL-00-902 WARSAW, POLAND

Tel: +48 22 694 15 47 - +48 39 12 24 00 – E.mail: qnetta.kosieradzka@sejm.gov.pl
(E)

Dr Doros CHRISTODOULIDES, Member of the Cyprus Parliament, 24 King Constantine St. 6030 – LARNAKA, Cyprus

Mr Michael LIAPIS, Member of the Greek Parliament, Vissarionos 3, GR- 10672 ATHENS
Tel: +30 1 364 5949 – Fax +301 363 8101 – E-mail: mliapis@parliament.gr

Mr Kimon KOULOURIS, Member of the Greek Parliament, 13 Nikis str., GR – 10557 ATHENS

Mme Eleonora KATSELI, Member of the Greek Parliament, Marvrokordatou 9 str., GR – 106 78 ATHENS

Mrs Liana KANELLI, Member of the Greek Parliament, Chambre des Députés, Syntagma Sqr, GR – 10021 ATHENS

Mme Clemencia TORRADO, Députée, Apartado 773, 03600 ELDA (ALICANTE), Espagne

**CONGRESS OF LOCAL AND REGIONAL AUTHORITIES OF EUROPE (CLRAE)/
CONGRÈS DES POUVOIRS LOCAUX ET RÉGIONAUX DE L'EUROPE (CPLRE)**

M. Claude CASAGRANDE, Vice-Président du CPLRE, Conseiller Municipal, 16, rue de la Souche Picard, F - 91580 ETRECHY, FRANCE

Tel : +33 (0)1 69 92 28 49 - Fax : +33 (0)1 60 80 45 91 - E-mail : cl.casagrande@wanadoo.fr
(F)

Mr Roberto RUOCCO, Membre CPLRE, Regione Puglia, Via Mazzini 4, I – 71042 CERIGNOLA, ITALY

Tel: +39 33 783 7838 - Fax: +39 08 854 15480 – E-mail: Rob2001@katamail.com
(E)

M. Manuel MAS I ESTELA, Alcalde, Ayuntamiento de Mataró, La Riera 48, 08301 MATARO, SPAIN

Tel : +34 937 58 21 08 – Fax : +34 937 58 21 12 – E-mail: mmas@ajmataro.es (F)

**OFFICE OF THE COMMISSIONER FOR HUMAN RIGHTS
BUREAU DU COMMISSAIRE AUX DROITS DE L'HOMME**

Mr Ekkehart MULLER-RAPPARD , Director of the Office, Directeur du Bureau

Tel. +33 03 88 41 21 54 – Fax : +33 03 88 41 27 13 – E-mail: ekkehard.muller-rapparf@coe.int

**DEVELOPMENT BANK OF THE COUNCIL OF EUROPE / BANQUE DE
DEVELOPPEMENT DU CONSEIL DE L'EUROPE**

M. Ignacio GARRIDO, Vice Gouverneur de la Banque de Développement du Conseil de l'Europe / Vice Governor of the Development Bank of the Council of Europe

**EUROPEAN CENTRE FOR GLOBAL INTERDEPENDENCE AND
SOLIDARITY/CENTRE EUROPÉEN POUR L'INTERDÉPENDANCE ET LA
SOLIDARITÉ MONDIALES**

M. Miguel Angel MARTINEZ, Président, Avenida Da Liberdade, 229-4°, P-1250
LISBONNE

**COUNCIL OF EUROPE SECRETARIAT/SECRETARIAT DU CONSEIL DE
L'EUROPE
F – 67075 STRASBOURG CEDEX**

Mr Walter SCHWIMMER, Secretary General of the Council of Europe / Secrétaire Général du
Conseil de l'Europe, 67075 STRASBOURG CEDEX

Ms Renate ZIKMUND, Principal Administrator, Private Office of the Secretary General
(E)

Mr Alexander BARTLING, Principal Administrator, Private Office of the Secretary General
(E)

Mme Fifi BENABOUD, Coordinatrice du Programme TRANSMED/ TRANSMED
Programme Coordinator, Avenida Da Liberdade, 229-4°, P-1250 LISBONNE
(F)

Tel : +351 21 352 49 54 – Fax : +351 21 353 13 29 – E-mail : Fbenaboud@NSCENTRE.org

Mme Francine ARNOLD-PAULI, Secrétariat du Comité des Ministres Tel : +33 (0)3 88 41 32
79 – Fax : +33 (0)3 88 41 37 77 – E-mail : francine.arnold-pauli@coe.int (F)

Directorate General III – Social Cohesion / Direction générale III – Cohésion sociale

Ms Gabriella BATTAINI-DRAGONI, Director General of Social Cohesion/Directrice Générale
de la Cohésion sociale;

Tel. : +33 3 88 41 21 78 – Fax : +33 3 88 41 27 31 ; E-mail : gabriella.battaini@coe.int

Mr Henry SCICLUNA, Chef du Service des Migrations et des Roms/Tsiganes

Tel : +33 3 88 41 21 71 – Fax +33 3 88 41 27 31 ; E.mail: henry.scicluna@coe.int

Ms Maria OCHOA-LLIDÓ, Chef adjointe du Service des Migrations et des Roms/tsiganes,
Tel: + 33 3 88 41 21 79 - Fax: + 33 3 88 41 27 31 - E-mail: maria.ochoa-llido@coe.int

Ms Kirsty McDOWALL, Personal Assistant/Assistante secrétariale,

Tel: +33 3 88 41 35 39 - Fax: +33 3 88 41 27 31 - E-mail: kirsty.mcdowall@coe.int

APPENDIX IV

Publications in the migration and Community relations field

COMMUNITY RELATIONS series

Série RELATIONS INTERCOMMUNAUTAIRES

1. **The legal status of persons admitted for family reunion : a comparative study of law and practice in some European countries**, 2000
Steve Peers, Robin Barzilay, Kees Groenendijk and Elspeth Guild, (ISBN 92871-4388-9)
Le statut juridique des personnes admises au regroupement familial : étude comparative de la législation et de la pratique de certains pays européens,
Steve Peers, Robin Barzilay, Kees Groenendijk et Elspeth Guild 2000, (ISBN 92 871-4387-0)
Price/Prix : 85 FF / 21 US / 12,96 €
2. **Diversity and Cohesion : new challenges for the integration of immigrants and minorities**, 2000,
(ISBN 92-871-4345-5)
Diversité et Cohésion : de nouveaux défis pour l'intégration des immigrants et des minorités, 2000,
(ISBN 92-871-4344-7)
Price/Prix : 85 FF / 21 US / 12,96 €
3. **Framework of integration policies**, 2000, (ISBN 92-871-4341-2)
Cadre des politiques d'intégration, 2000, (ISBN 92-871-4340-4)
Price/Prix: 50 FF / 12 US / 7,62 €
4. **Religion and the integration of immigrants**, 1999, (ISBN 92-871-4041-3)
La religion et l'intégration des immigrants, 1999, (ISBN 92-871-4040-5)
Price/Prix : 95 FF / 25 US / 14,48 €
5. **Political and social participation of immigrants through consultative bodies** , 1999, (ISBN 92-871-3891-5)¹
Participation politique et sociale des immigrants à travers des mécanismes de consultation,² 1999,
(ISBN 92-871-3890-7)
Price/Prix : 85 FF / 21 US / 12,96 €
6. **Security of residence of long-term migrants : a comparative study of law and practice in European countries**, 1998, (ISBN 92-871-3788-9)
Kees Groenendijk, Elspeth Guild and Halil Dogan
Sécurité de résidence des immigrants de longue durée : étude comparative de la législation et de la pratique des pays européens, 1998, (ISBN 92 871-3787-0)
Kees Groenendijk, Elspeth Guild et Halil Dogan
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Mme Maria OCHOA-LLIDÓ

Fax: 33 (0) 3 88 41 27 31

E-mail: maria.choa-llido@coe.int

ou à :

Mrs Chiara MAROLLA

Fax : 33 (0) 3 88 41 27 31

E-mail: chiara.marolla@coe.int

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