The basis for integration and the social challenges posed by immigration  
Mario SEPI, President of the European Economic and Social Committee  

The European Economic and Social Committee's contribution to the integration policies of the European Union  
Luca JAHIER, President of the permanent group "Immigration and integration" of the European Economic and Social Committee  

Draft information report of the Section for Employment, Social Affairs and Citizenship on  
The new challenges of integration  
Rapporteur: Luis Miguel PARIZA CASTAÑOS  

Opinion of the European Economic and Social Committee on the  
Integration and the Social Agenda (own-initiative opinion)  
Rapporteur: Luis Miguel PARIZA CASTAÑOS  

Opinion of the European Economic and Social Committee on the  
Integration of immigrant workers (exploratory opinion)  
Rapporteur: Luis Miguel PARIZA CASTAÑOS  
Co-rapporteur: Pedro ALMEIDA FREIRE  

Opinion of the European Economic and Social Committee on the  
Respect for fundamental rights in European immigration policies and legislation  
(own-initiative opinion)  
Rapporteur: Luis Miguel PARIZA CASTAÑOS
THE BASIS FOR INTEGRATION AND THE SOCIAL CHALLENGESPOSED BY IMMIGRATION

Mario Sepi, President of the European Economic and Social Committee

Immigration is one of the most important social and economic issues of our time. Women and men from far-off lands are forced to leave their homes in search of better and more acceptable standards of living for themselves and their families; others come in search of a democratic society and institutions and the rule of law. When they get to Europe, the situation they land in is often difficult, their concerns and problems mingle with our own, particularly in these troubled times, so heavily marked by the economic crisis. This means that what could and should be a positive meeting of diverse peoples and cultures often ends up being a source of incomprehension, fear and tension.

For this coming together to be genuinely mutually-enriching there is a need for rules, financing and policies that make the concepts surrounding integration real and practical. Players at every level must feel involved: from local, regional and national level, all the way to European Union level.

The European Economic and Social Committee has always paid a great deal of attention to these issues and to the promotion of integration policies. Throughout my presidency, which began in 2008, this has been one of our greatest concerns. The Committee views integration as a two-way process, based on the rights and obligations of third country citizens as well as on those of the host society. Integration policies must be geared towards immigrants and host communities alike, with a view to building a society in which all citizens have the same rights and obligations and share the values of an open and pluralist democracy. We believe that integration is about gradually making immigrants equal with the rest of the population, in terms of rights and obligations and access to goods and services, on the basis of civil and political participation founded on equal opportunities and equal treatment.

The European Union's Charter of fundamental rights, which accompanies the Lisbon Treaty, is a key element in the European model and in all the policies and decisions adopted at European level; and this is particularly true of integration. Legislation on immigration should fully uphold the fundamental rights of each individual, as well as the principles of equal treatment and non-discrimination.

Integration policies must also tie in closely with the main objectives of EU social policy. In this way, everyone, including citizens of third countries, European citizens and minority groups, will be able to benefit from the opportunities provided by EU policies. Similarly, the fight against social exclusion should concern everyone, including immigrants and ethnic minorities. The EESC therefore proposes mainstreaming immigrant and minority integration into the EU's various political, legislative and financial instruments as a matter of course, in order to promote equal treatment and non-discrimination alongside integration.

In line with this approach, I decided that in 2010, which is the European Year for Combating Poverty and Social Exclusion, our biennial conference should be dedicated to a subject that has much to do...
with immigration issues: using education to combat social exclusion. There is no such thing as social inclusion without a genuine process of integration. Surely, to become a reality in society, integration must begin with each individual's education and training.

Integration is an integral part of our daily life: it matters at school, in sports clubs, at bus stops and above all at work. Employment is in fact a fundamental element in the integration process and so legislation and public policies should involve cooperation and commitment from both sides of industry. Immigrants' associations and other civil society organisations also play a fundamental role in addition to unions and employers' organisations. Against this backdrop, the Committee, the true European home of organised civil society, plays a key role in bolstering integration policies.

The Committee hosts and co-organises the European Integration Forum with the European Commission. Twice a year, this Forum welcomes 100 participants from all the Member States of the European Union to discuss the problems associated with integration policies. The idea to establish this type of platform for dialogue came from the Committee back in 2002, and I am now proud to see it working well and bearing real fruit.

Mario Sepi
President
European Economic and Social Committee
THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE'S CONTRIBUTION TO THE INTEGRATION POLICIES OF THE EUROPEAN UNION

Luca Jahier, President of the permanent group "Immigration and integration" of the European Economic and Social Committee

EU integration policies have evolved gradually along a path punctuated by occasional slowdowns, hesitations, and vetoes, but also by significant strides forward. A genuine EU immigration and integration policy first came into being in the late 1990s, when the Member States realised that the free movement of persons, a fundamental cornerstone of the EU, automatically gave an EU dimension to migration and the policies for managing it.

Nevertheless, for a long time, these good intentions remained on paper until, in 2002, the European Economic and Social Committee, in cooperation with the European Commission, decided to give fresh impetus to integration policy by holding a large conference involving over 200 civil society organisations operating in the field of integration. On this occasion, the EU Integration Fund was discussed for the first time. But, more importantly, the political foundations were laid for what is being established today, i.e. an instrument for active stakeholder involvement in the discussion and preparation of integration policies and measures.

Since then, we have continued to push for a genuinely participatory integration policy, also building on the clear perception, in our regular contacts with civil society, of its extremely high expectations in this area. Because, ultimately, integration is a dynamic and gradual process that unfolds daily before our eyes. It is a process we experience every day as witnesses, but also as participants. European and national policies should ensure a legal and political framework that promotes integration processes, but this framework must then be applied on a practical day-to-day basis through grassroots work that only the various sectors of civil society are in a position to carry out. The Committee has always asserted that active cooperation with civil society and the social partners is a key aspect of promoting European integration policies.

Thanks to the composition of its membership and its role in the EU legislative process, the Committee is a go-between – a sort of "bridge" – between national-level civil society and the European institutions. As a result, when asked by the Council to establish a platform for civil society dialogue and participation, it was virtually natural for the European Commission to decide to consult the Committee by asking it to study the structure, organisation and functioning of the European Integration Forum. Most of our recommendations were taken into consideration and applied.

As the "home" of European civil society, the Committee hosts the Forum's meetings at its headquarters, and also provides any necessary logistical support. Our commitment was re-affirmed with the establishment of a permanent study group of EESC members, which I am pleased and honoured to have chaired over the last two years. The permanent study group follows the Forum's
work very closely and participates actively in its meetings but, above all, contributes with political input, by drawing up own-initiative opinions and information reports (such as the information report in this publication). This enables us to offer suggestions, impetus, and ideas. But above all, it allows us to optimise two-way interactions between the Forum's discussions and ongoing discussions in the EU institutions, with a view to developing and implementing EU policies.

Luca Jahier
President
Permanent group "Immigration and integration"
European Economic and Social Committee
SOC/376
The new challenges of integration

Brussels, 1 June 2010

DRAFT INFORMATION REPORT
of the
Section for Employment, Social Affairs and Citizenship
on
The new challenges of integration

Rapporteur: Luis Miguel Pariza Castaños
On 18 March 2010, the European Economic and Social Committee decided, in accordance with Rule 31 of its Rules of Procedure, to instruct the permanent Study Group on Immigration and Integration of the Section for Employment, Social Affairs and Citizenship to draw up an information report on:

The new challenges of integration.

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1. **Background**

1.1 In 2002, at a conference held jointly by the EESC and the Commission, the drawing-up of a European programme for integration and the setting-up of a Community fund were proposed for the first time. The national contact points were also established that year.

1.2 In 2003 the Thessaloniki Council was held; in 2004 the Hague Programme was drawn up and the common basic principles (CBPs) for immigrant integration policy were adopted; in 2005 the integration agenda was drawn up; in 2006 the European Integration Fund was established for the period 2007-2013; in 2007 the Potsdam Ministerial Conference was held; in 2008 there was the Vichy Ministerial Conference and the European Pact on Immigration and Asylum was concluded; in 2009 the European Integration Forum was established and the Stockholm Programme adopted. And in 2010, with the Lisbon Treaty in force, the legal basis for integration has been strengthened and the Zaragoza Ministerial Conference has been held. A website on integration has been established, the third edition of the handbook of best practice has been drawn up and indicators are being developed.

1.3 Eight years have passed since the European Union began to establish a common framework for the integration of third-country nationals as part of a common immigration policy. The EU now has various instruments for the coordination of national integration policies based on the adoption and implementation of common basic principles and the exchange of information and practices. There are also assessment mechanisms and a common financial framework.

1.4 During this time the EESC has drawn up in various own-initiative opinions with the aim of assisting the Council and the Commission in implementing these policies with a European approach and taking account of the vital role of civil society (organisations for immigrants, human rights, social partners etc). The Committee has set up a permanent Study Group on

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Immigration and Integration (IMI) within the SOC section and it contributes very actively to the work of the European Integration Forum.

2. **A new phase of integration**

2.1 The European Union is facing a new phase in immigration and integration policies. The Conclusions of the Ministerial Conference on integration\(^2\) held in Zaragoza on 15 and 16 April 2010 call on the Commission to draw up a new agenda for integration and stresses the role of civil society and of the European Integration Forum.

2.2 At its meeting on 28 January the bureau of the European Integration Forum decided that, at the Forum's plenary session to be held on 24 and 25 June 2010, a debate would take place on the objectives of the new integration agenda so that the views of civil society could be made available to the Commission through the Forum.

2.3 The EESC has instructed the IMI study group to draw up this information report in order to facilitate the Forum's debates and contribute to the drawing-up of the new European integration agenda.

3. **The framework of the new integration agenda**

3.1 The new agenda will be drawn up with the Lisbon Treaty already in force, which strengthens the legal base; it will also be drawn up in the framework of the Stockholm Program and the Europe 2020 agenda.

3.2 In order to propose new approaches, the EESC recently adopted opinions\(^3\) on integration which need to be taken into account by the Commission when it draws up its new communication on integration. This information report is complementary to those opinions.

3.3 The Stockholm programme lays down the political agenda for the next five years in the area of freedom, security and justice. This includes the integration of third-country nationals. The programme also calls on the European Commission to develop two specific initiatives in this field: the launch of a coordination mechanism and the establishment of European support modules for the integration process.

3.4 The Zaragoza Conference adopted Conclusions\(^4\), which *inter alia* stress the role of civil society and recognise the work of the European Integration Forum: *"To involve civil society,*

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3 See EESC own-initiative opinion of 17 February 2010 on Integration and the Social Agenda, rapporteur Mr Pariza Castanos, adopted at the plenary session of 17 and 18 February 2010 and the EESC exploratory opinion of 17 March 2010 on Integration of immigrant workers, rapporteur: Mr Pariza Castanos, adopted at the plenary session of 17 and 18 March 2010.

4 See Appendix II.
by recognising its active role within the two-way process of mutual interaction by all immigrants and citizens of the Member States. The establishment of networks, and of dialogue and exchange involving civil society organisations should be promoted, taking note of the work of the European Integration Forum, which in November 2009 discussed “Common EU priorities for a cross-cutting integration policy” touching upon, in particular, education and employment. This platform should continue to be involved in providing input for future initiatives in the field of integration at the EU level”.

4. **The EESC proposal**

4.1 The Committee supported the Commission’s first proposal for implementing an open method of coordination for integration; the proposal was not, however, accepted by the Council in 2003. Now, however, the Council has decided, in the Stockholm Programme adopted in December 2009, to implement a **coordination mechanism** which effectively has the same objective.

4.2 The implementation of this coordination system should form part of the integration agenda, with national and European reports, using as a starting point guidelines based on the CBPs and common indicators. The network of national contact points, the European Integration Forum and the EESC can actively help the Commission and the Council to improve coordination and implement the coordination mechanism.

4.3 The Committee endorses the decision of the Zaragoza Ministerial Conference to promote a pilot project for the evaluation of integration policies.

4.4 **Integration is a social process** of mutual adaptation in the complex social relationships between individuals and groups of people. These social processes must be supported through good governance at the various levels: European Union, national, regional and local.

4.5 The EU brings considerable added value to integration policies. The EESC has underlined the need to link integration with the values and principles set out in the Treaty, the Charter of Fundamental Rights, the European Convention on Human Rights, the Europe 2020 agenda and employment policy and the social agenda. The EESC considers this reference to be of vital importance, as it takes account of the existence of a crisis of values in certain social and political sectors in Europe.

4.6 Integration and economic and social cohesion are two sides of the same coin. Europe is experiencing a grave economic and social crisis, with problems such as economic recession,

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job losses and public sector deficits. It is falling behind in terms of cohesion at a time when governments are cutting public funding for integration. In this difficult situation the EESC considers that integration policies need to be strengthened in order to improve cohesion both at national and EU level.

4.7 For this reason the EESC drew up an own-initiative opinion\(^8\) arguing for greater efforts at EU level to achieve integration in the new social policy agenda and in the framework of Europe 2020. To this end it is essential to continue developing a short and long-term integration policy with a global and cross-cutting approach.

4.8 The Committee considers that the employment of immigrant workers is essential to integration. However, the loss of jobs in the course of the present crisis is forcing many workers of immigrant origin out of the labour market. It is therefore necessary to improve the employability of immigrant workers through training programmes to improve work capacity.

4.9 Many immigrants are the first victims of the economic crisis and the destruction of employment, as they are in a very vulnerable situation.

4.10 Against this background, the EESC also drew up an exploratory opinion\(^9\) at the request of the Spanish presidency aimed at promoting the integration of immigrant workers in employment and in the workplace, with equal opportunities and treatment. The social partners in the various areas (firms, sectors, regions and at national and European level) can play a very important role.

4.11 The common basic principles serve as a guide for the European integration strategy. The first common basic principle states that integration is a dynamic, two-way process of mutual accommodation between immigrants and the host society. The Committee would like to stress this approach at a time when we are seeing a worrying increase in racism, xenophobia and discrimination and their expression in political and social terms.

4.12 The EESC has proposed various initiatives for the development of the CBPs in previous opinions. The European Integration Forum has followed suit at previous meetings. The Committee considers that in the next few years activities under principles 1, 2 and 4 will need to be evaluated and activities under principles 7 and 9 stepped up in the context of the European integration agenda.

4.13 In the assessment of the operation of the European Integration Fund to be carried out in 2010, the links should be strengthened between the CBPs and national activities financed by the Fund, and the EESC considers that national policies that are at odds with the European

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\(^8\) See EESC own-initiative opinion of 17 February 2010 on Integration and the Social Agenda, rapporteur Mr Pariza Castanos, adopted at the plenary session of 17 and 18 February 2010.

\(^9\) See EESC exploratory opinion of 17 March 2010 on Integration of immigrant workers, rapporteur: Mr Pariza Castanos, adopted at the plenary session of 17 and 18 March 2010.
integration strategy should not be financed from European funds. The EESC therefore considers that the **European Commission should have greater capacity to manage** the Fund in cooperation with the national authorities. **Civil society organisations should also be able to participate** at national level in the formulation of the programmes.

5. **Assessment of principles 1, 2 and 4**

5.1 The CBPs are intended to promote a common approach to integration at European level. They are, however, very general and flexible and they are not binding on Member States. Various interpretations and approaches have been developed at national level, with a very different, contradictory practices. The Committee would therefore like to see coordination systems strengthened to give the CBPs more visibility and ensure that they are known and disseminated throughout the EU.

5.2 CBPs 1, 2 and 4 are particularly relevant in view of their effects on fundamental rights and the general principles of European law (proportionality and non-discrimination).

5.3 Some national policies should be evaluated in terms of their compatibility with the rights and freedoms granted to third-country nationals in Directives 2003/86 on the right to family reunification and 2003/109 concerning the status of third-country nationals who are long-term residents.

5.4 The Third Annual Report on Migration and Integration\(^{10}\), published by the European Commission in September 2007, stated:

- "**CBP 1. A variety of measures are adopted in Member States to foster integration as a two-way process. However, to put this principle into practice in a meaningful way is a long-term challenge requiring further efforts. Structural initiatives targeting the host population to reinforce its ability to adjust to diversity are still underrepresented in national strategies.**"

- "**CBP 2. Basic values such as liberty, democracy, the rule of law and the respect of human rights and fundamental freedoms are considered important elements of new policies. A number of Member States have introduced measures to provide knowledge on basic values in civic orientation programmes.**"

- "**CBP 4. Most Member States consider basic knowledge of the host society language as an essential element of integration. Many countries focus their integration strategies on introduction programmes, including (sometimes compulsory) language and civic orientation courses for newly-arrived. A growing number of Member States increase the flexibility of courses in terms of targeting specific needs. Only a few Member States carry out in-depth evaluation of these activities.**"

\(^{10}\) COM(2007) 512.
5.5 The EESC considers that the **two-way approach should be applied to all activities** in order to prevent some of the imbalances which are arising. Respect for human rights and fundamental freedoms and the values of freedom, democracy and the rule of law are obligations which apply not only to immigrants but also to authorities of the host societies\(^\text{11}\).

5.6 The European Pact on Immigration and Asylum, adopted by the Council at the end of 2008, highlighted the need to strengthen integration policies, particularly those directed at ensuring respect (by immigrants) of the national identities of the Member States of the EU and their fundamental values: human rights, freedom of opinion, democracy, tolerance, gender equality and the compulsory education of minors.

5.7 The importance of CBPs 2 and 4 was confirmed by the Ministerial Conference on integration held at Vichy in November 2008. Similarly, the Stockholm Programme states that "*the interconnection between migration and integration remains crucial, inter alia with regard to the fundamental values of the Union*", and the Council has called on the Commission to support Member States' efforts to "*enhance democratic values*".

5.8 Some recent research projects financed by the European Commission and other studies carried out by experts and academics have shown that CBP 1 has not been sufficiently developed in some Member States, while CBP 2 and 4 have been intensively applied, for example in states like Germany, France and the Netherlands\(^\text{12}\).

5.9 These countries use programmes, tests or legal integration contracts in a binding way and require third-country nationals to demonstrate a knowledge of national values and identities (misleadingly known as "civic integration" programmes) as a precondition for the right of (temporary or permanent) residence, the rights arising from the status of third-country nationals who are long-term residents (Directive 2003/109/EC) and the right to family reunification (Directive 2003/86/EC).

5.10 In some cases tests of integration in the country of origin are carried out (integration courses and tests carried out at embassies or consulates of the Member States in third countries) as a condition for obtaining a visa to enter the EU legally.

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\(^\text{11}\) See for example the contribution of the European Agency for Fundamental Rights (FRA) to the Stockholm Programme, where it refers to some of the most relevant reports carried out by the Agency to date on the vulnerability of the fundamental rights of third-country nationals in the EU.

The FRA has also published various studies on vulnerability in relation to the fundamental rights of undocumented immigrants and Roma.

Over the past five years various European Commission DGs have also financed numerous independent research projects which have highlighted the many barriers which prevent immigrants from enjoying the protection of fundamental rights (Appendix II).

The importance attached at European level to the protection of the fundamental rights of all persons, and to the vulnerability of the existing legal framework when developing and applying policies falling within the ambit of the Area of Freedom, Security and Justice, is reflected in the appointment of a European Commissioner for Justice, Fundamental Rights and Citizenship.

5.11 The EESC considers that these approaches to the CBPs are unbalanced and could conflict with the two-way process of integration through mutual adaptation.

5.12 **Integration is a social, not a solely legal process, but also has a legal dimension.** Integration should be encouraged but must not become a new obstacle to equality or access to fundamental rights.

5.13 Integration develops slowly in the structures of society (the family, schools, districts and villages, the workplace, trade unions, and religious, cultural and sports institutions). It is a process which takes place slowly in people's mentalities, and it therefore needs a long-term vision. The role of civil society is fundamental. Through their policies public authorities can aid the success of these social processes if they adopt this approach, but they can also exacerbate the difficulties with the wrong policies or abrupt policy changes.

5.14 The Committee wishes to highlight the important role in the social integration processes of local, regional and national authorities, which must offer immigrants courses in the language, history, institutions, values and customs of the host society. These courses should be well structured in order to help immigrants to familiarise themselves with the characteristics of the host society.

5.15 The experiment in learning oral and written skills in immigrants' languages of origin currently being carried out in Greece deserves attention: it offers people hope by encouraging good relations with their country of origin.

5.16 People of immigrant origin must have the same rights and obligations as those assigned by national laws to all residents, whether European citizens or third-country nationals.

5.17 Immigrants must be active in language learning and must also be familiar with and respect customs and comply with the laws of their country of residence. Authorities must offer training courses geared to the needs and circumstances of people of immigrant origin.

5.18 But the Committee considers that "examining" people in order to grant or refuse them access to fundamental rights is a procedure incompatible with the EU's values and principles.

5.19 Critical analysis is needed of the implementation of certain policies based on CBPs 2 and 4 which do not take account of two-way process (CBP 1), the relationship with fundamental rights and compatibility of this with the principles of proportionality and non-discrimination, for example the "examinations" for obtaining or renewing a residence permit, obtaining permanent residence status or other rights recognised by European and national legislation. The Committee proposes that the Commission ask the European Union Agency for Fundamental Rights and the Council of Europe to draw up reports.
The EESC strongly doubts the legitimacy and legality of the use of "civic integration" and reception programmes which require immigrants to be familiar with and accept national values and identities in order to have access to a visa, a residence permit and fundamental rights, against the background of a common European immigration policy which, according to the Treaty, must be based on equal and fair treatment.

The Vienna agency must evaluate the compatibility of certain national "civic integration" programmes and "integration tests" with the EU's Charter of Fundamental Rights. The following articles of the Charter should be highlighted, setting out the main rights which need to be considered in the context of integration policies:

- **Article 7: Respect for private and family life** — "Everyone has the right to respect for his or her private and family life, home and communications".
- **Article 21(1): Non-discrimination** — "Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited".
- **Article 22: Cultural, religious and linguistic diversity** — "The Union shall respect cultural, religious and linguistic diversity".

**Stepping up action under principles 7 and 9**

In the new integration agenda the European Commission must strengthen policies based on CBPs 7 and 9. In another opinion the Committee referred to "civic integration" as being "based on bringing immigrants' rights and duties, as well as access to goods, services and means of civic participation progressively into line with those of the rest of the population, under conditions of equal opportunities and treatment".

CBP 7. "Frequent interaction between immigrants and Member State citizens is a fundamental mechanism for integration. Shared forums, intercultural dialogue, education about immigrants and immigrant cultures, and stimulating living conditions in urban environments enhance the interactions between immigrants and Member State citizens".

Over the last year various initiatives aimed at inter-cultural dialogue have been developed and these have been very successful in improving interaction and mutual understanding between immigrants and host societies.

The EESC considers that policies for towns and cities need to be improved. The role of municipal authorities is essential. The EESC has drawn up an own-initiative opinion on the...
role of regional and local government in integration. In the future the European Integration Forum will be able to evaluate best practice.

6.2.3 In many European cities certain districts are deteriorating as a result of a number of interacting factors, including neglect by local authorities. These areas often suffer from poor-quality housing and a lack of public services. Many of their residents, whether citizens or immigrants, suffer material deprivation and lack of opportunity. In some European cities serious social conflicts have arisen in these districts.

6.2.4 In some sectors of host societies xenophobic attitudes have developed, with immigrants being blamed for the deterioration in the situation.

6.2.5 The EESC wishes to stress the importance of the **urban environment** for integration processes. The EESC therefore calls on the Commission to give greater weight to the integration objective in urban policy measures taken in the framework of regional policy.

6.2.6 The URBAN programme should include CBP 7 among its objectives, particularly in relation to housing, local security, improvements in education and training, quality of public areas and services for children and young people.

6.2.7 Parents and particularly mothers should be informed about and receive training in life in cities and suburbs, and their customs, particularly so as to be able to protect their children in their new living environment.

6.3 **CBP 9**: "The participation of immigrants in the democratic process and in the formulation of integration policies and measures, especially at the local level, supports their integration".

6.3.1 The EESC considers that the participation of immigrants in public life is essential for integration. This is the principle which is least developed in the Member States.

6.3.2 The establishment of the **European Integration Forum** is an excellent and positive example to which the Committee draws attention. **Consultative forums and platforms** should be set up in all the Member States **at the various levels**: local, regional and national. At the Zaragoza Ministerial Conference various governments expressed an interest in the activities of the European Forum and in national forums and platforms.

6.3.3 The **participation of immigrants** should be encouraged in trade unions and employers’ organisations, as well as in social organisations, particularly cultural, sports, religious and educational organisations. The Committee wishes to stress the importance of facilitating the participation of immigrant women, who often suffer severe social isolation.

6.3.4 The authorities must **help immigrants to set up organisations** and to develop information, reception and consultative activities.
6.3.5 **Civic and political participation in host societies needs to be improved.** The EESC considers that denying immigrants political rights is not conducive to integration. The two-way approach requires governments to ensure that national laws encourage the **granting of citizenship to immigrants applying for it**, with transparent procedures. Over the last decade some countries have moved in this direction, but in most Member States the process still takes too long, with excessive bureaucratic obstacles.

6.3.6 In order to strengthen integration in political life, the political parties need to **increase the diversity of their executive bodies and their lists of electoral candidates**, making it easier for citizens of immigrant origin to participate.

6.3.7 A global proposal for ensuring equal rights and obligations and integration must include the **right to vote**, which is vital to integration and which is an important signal as to who is included in the community and who is not. Being part of a community means being able to elect representatives and be elected. If the right to vote is not granted to part of the population, this is an indication that it is not part of that society, which hinders any attempts at social integration.

6.3.8 The EESC has adopted an own-initiative opinion\(^ {15} \) on *The implementation of the Lisbon Treaty: participatory democracy and the citizens' initiative (Article 11)*, in which it stresses the need to improve democracy and governance in Europe, highlighting the importance of civil society. However, many people of immigrant origin who are long-term EU residents cannot participate in the right of initiative as they are not EU citizens.

6.3.9 The EESC drew up an own-initiative opinion\(^ {16} \) addressed to the Convention that drafted the ill-fated Constitutional Treaty, calling for European citizenship to be granted to third-country nationals having long-term resident status (five years). The Lisbon Treaty did not take up this proposal, but the Committee considers that it is a question which should be put again in the future.

6.3.10 Some governments and leaders of opinion, taking an exclusionist stance, define national and European identity in a way that sidelines the present-day diversity of European societies and the diverse aspects of many people on account of their ethnic, national, religious or cultural origins. However, our democratic societies are pluralistic in every sense of the word and very rich in diversity. The European democracies are free and open societies, and must be based on the inclusion of all citizens, whatever their identity.

6.3.11 The Committee considers that the quality of democracy could be eroded if fundamental citizenship rights are restricted by a narrow and exclusive view of identity. Integration

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\(^ {15} \) See EESC own-initiative opinion of 17 March 2010 on The implementation of the Lisbon Treaty: participatory democracy and the citizens' initiative (Article 11), rapporteur: Ms Sigmund, adopted at the plenary session of 17 and 18 March 2010.

\(^ {16} \) Own-initiative opinion, OJ C 208, 3.9.2003, p. 76.
policies and immigration legislation should never be used as political excuses for excluding immigrants from rights recognised by law.

6.3.12 We Europeans have to face up to a major challenge: broadening the base of our democracies, including new citizens with equal rights and obligations. In order to achieve this, national and European citizenship rights must include people of all national, ethnic, religious and cultural origins, some of them of immigrant origin.

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N.B.: Appendices overleaf.
### APPENDIX I

**List of Key Sources concerning: Migrants and Human Rights Violations in Europe**

<table>
<thead>
<tr>
<th>Source</th>
<th>Description</th>
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<tbody>
<tr>
<td><strong>FUNDAMENTAL RIGHTS AGENCY</strong></td>
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These studies have been commissioned as background material for a comparative report on housing conditions of Roma and Travellers in EU Member States by the European Union Agency for Fundamental Rights.  
http://fra.europa.eu/fraWebsite/research/background_cr/cr_raxen_roma_housing_en.htm |
In these analytical country reports the 15 RAXEN National Focal Points presented findings regarding discrimination of migrants, minorities and Housing.  
http://fra.europa.eu/fraWebsite/research/background_cr/background_cr_en.htm |
In these analytical country reports the 15 RAXEN National Focal Points presented findings regarding Racist Violence in the 15 EU Member States.  
The analytical country reports are the basis for a comparative report "Racist Violence in 15 EU Member States".  
In these analytical country reports the 15 RAXEN National Focal Points presented findings regarding discrimination of migrants and minorities in Legislation.  
The analytical country reports are the basis for a comparative report "Migrants, Minorities and Legislation".  
| 5) | Minorities and Discrimination Survey Results: April and May 2009  
| **COUNCIL OF EUROPE (COMMISSIONER FOR HUMAN RIGHTS)** | |
| 1) | Criminalisation of Migration in Europe: Human Rights Implications  
https://wcd.coe.int/ViewDoc.jsp?id=1579605&Site=CommDH&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FFC679 |
https://wcd.coe.int/ViewDoc.jsp?id=1237553&Site=CommDH&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FFC679 |
| 3) | Country reports  
See for instance:  
- Memorandum by Thomas Hammarberg, Council of Europe Commissioner for Human Rights, following his visits to the United Kingdom. Issues reviewed: asylum and immigration  
- Memorandum by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, further to his visit to the Zones d'Attente (waiting areas) at Roissy Airport and the Mesnil-Amelot Administrative Holding Centre - CommDH(2008)5 / 20 November 2008  
- Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Greece - Issue reviewed: Human rights of asylum seekers  
Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Italy. - CommDH(2009)16 / 16 April 2009  
Full list of country reports available from: http://www.coe.int/t/commissioner/Activities/countryreports_en.asp |
4) Report: Human rights of irregular migrants; Parliamentary Assembly of the Council of Europe, Committee on Migration, Refugees and Population
   Rapporteur: Mr Ed van Thijn, Netherlands, Socialist Group; Doc. 10924, 4 May 2006.

5) Viewpoints: “Migrants should not be denied their human rights” (2006)

6) European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), 19th General Report, 2009, section on safeguards for irregular migrants deprived of their liberty.

   [http://www.cpt.coe.int/EN/docsstandards.htm](http://www.cpt.coe.int/EN/docsstandards.htm)

### EUROPEAN COURT OF HUMAN RIGHTS

1) **Key ECtHR rulings**

   **On discrimination of the bases of nationality, see for instance**
   - Gaygusuz v Austria, judgment of 16 September 1996;
   - Koua Poirrez v France, judgment of 30 September 2003;

   **On the right to leave the country, see for instance**
   - Sissanis v Romania, judgment of 25 January 2007;

   **On the right to family life, see for instance**
   - Boultif v Switzerland, judgment of 2 August 2001;
   - Rodrigues da Silva and Hoogkamer v. the Netherlands, judgment of 31 January 2006;

   **On detention, see**
   - S. D. v Greece application, judgment of 11 June 2009;

### UNITED NATIONS

1) UNHCR delegation visits detention centre on Greek island, urges closure Greece, 23 October 2009.
   [www.unhcr.org/4ae1af146.html](http://www.unhcr.org/4ae1af146.html)

   [http://www.unhchr.org/4a375c426.html](http://www.unhchr.org/4a375c426.html)

3) **United Nations, Press Release, UN experts express concern about proposed EU Return Directive, 18 July 2008**
APPENDIX II

Declaration of the Zaragoza Ministerial Conference

1. To further develop the core idea of integration as a driver for development and social cohesion. In order to do this, it is essential to continue developing a policy in the short and long term which should include a comprehensive and transversal approach to integration.

2. To stress the need to develop a new agenda on integration, including a coordination mechanism as proposed in the Stockholm Programme which would improve structures and tools for European knowledge exchange and facilitate mainstreeming of integration priorities in all relevant areas.

3. To incorporate integration issues in all the relevant policy areas, ensuring dialogue, institutional coordination and mainstreaming and the involvement of the different levels of administration (European, national, regional and local level) in the process of integration. Further to this, cooperation and synergies at EU level between Ministers in charge of relevant policy areas should be encouraged, taking into account the specific institutional and operational context of each Member State.

4. To reiterate the importance of the National Contact Points on Integration in promoting the integration of immigrants at both European Union and Member State level and to strengthen their role in the development of structures and tools, in promoting an open exchange of ideas with regard to all integration challenges with which Member States are confronted, and in coordinating with other relevant policy areas.

5. To welcome the opportunities created by the Treaty of Lisbon to further develop European cooperation on integration, with the full involvement of the European Parliament.

6. To welcome the Commission’s Report to the Ministerial Conference, "The Consolidation of the EU framework on integration" as an important contribution to the debate.

7. To welcome the third edition of the Handbook on Integration for Policymakers and Practitioners as a contribution to developing good practices in key integration areas, such as mass media, awareness raising and migrant empowerment, dialogue platforms, citizenship, youth, education and the labour market and to build on this successful learning process, and to make full use of the information available on the European Website on Integration in developing future integration initiatives, and to actively contribute to the exchange of information and learning experiences.

8. To underline the importance to analyse the results achieved in the context of the development of the European Fund for the Integration of third-country nationals.

.../...
9. To view cultural diversity as an opportunity for social and economic development in Europe and as a tool for fighting discriminations, and to adopt a comprehensive approach involving various key stakeholders in order to encourage diversity management and the exchange of experiences as well as entrepreneurial actions.

10. To develop the concept of "human capital" by ensuring a cross-sectorial approach covering inter alia education, employment and life-long learning programmes. This approach would help monitor the impact of national reform programmes, guaranteeing access to quality education, including language learning, promoting the gender perspective, finding new ways to recognise qualifications, training or professional skills and work experience of the immigrants, and promoting equity in the labour market in order to avoid segmentation.

11. To stress the importance of developing common European modules that can be used when establishing national or local integration policies, including essential elements such as introductory courses and language classes, a strong commitment by the host community and the active participation of immigrants in all aspects of collective life.

12. To recognise the positive aspects of migration, especially in the context of the economic and financial downturn within Europe, and to continue to promote methods that help to fight racism and xenophobia and all forms of discrimination in our societies. Clear evidence, facts and innovative experiences of creativity, solidarity and attitudes towards living together need to be emphasised in order to meet the challenges related to migration.

13. To involve civil society, by recognising its active role within the two-way process of mutual interaction by all immigrants and citizens of the Member States. The establishment of networks, and of dialogue and exchange involving civil society organisations should be promoted, taking note of the work of the European Integration Forum, which in November 2009 discussed "Common EU priorities for a cross-cutting integration policy" touching upon, in particular, education and employment. This platform should continue to be involved in providing input for future initiatives in the field of integration at the EU level.

14. To strengthen local initiatives and civic participation investing in districts with a high immigrant concentration in order to create a sense of belonging as it is vital that immigrants participate in all aspects of social, economic, and cultural life.

15. To promote the launching of a pilot project with a view to the evaluation of integration policies, including examining the indicators proposed in the Annex to this document and analysing the significance of the defined indicators taking into account the national contexts, the background of diverse migrant populations and different migration and integration policies of the Member States, and reporting on the availability and quality of the data from agreed harmonised sources necessary for the calculation of these indicators. It is also important to promote evaluation mechanisms at local and regional level.
SOC/362
Integration and the Social Agenda

Brussels, 17 February 2010

OPINION
of the
European Economic and Social Committee
on
Integration and the Social Agenda
(own-initiative opinion)

Rapporteur: Luis Miguel Pariza Castaños
Co-rapporteur: Pedro Almeida Freire
On 14 July 2009 the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on

Integration and the Social Agenda

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 26 January 2010.

At its 460th plenary session, held on 17 and 18 February 2010 (meeting of 17 February), the European Economic and Social Committee adopted the following opinion by 158 votes to three with three abstentions.

* * *

1. Conclusions and proposals

1.1 As an institution that is strongly committed to promoting and developing the Social Policy Agenda and fostering the integration of migrants and ethnic minorities, the European Economic and Social Committee has decided to draw up this own-initiative opinion in order that the EU may strengthen the links between its integration policies and the Social Policy Agenda.

1.2 2010 will be a very important year for social policy in the EU: it will be the European Year of Combating Exclusion and Poverty, the EU 2020 Strategy will be drawn up, and a new Social Agenda will be adopted.

1.3 The EESC believes that the 2010 review of the Social Agenda should take greater account of the social effects of immigration.

1.4 As immigration/integration and the social agenda fall within the remit of different Commissioners and different Directorates-General, the EESC proposes that political and administrative cooperation within the European Commission be improved.

1.5 Integration policies must be linked to the main objectives of EU social policy; thus, all people – including third-country nationals, EU citizens from immigrant backgrounds and minorities – will be able to benefit from them. Moreover, the fight against social exclusion should be geared towards all people, including immigrants, whether they be EU citizens or third-country nationals.
1.6 The EESC considers it a priority to strengthen integration at European level, taking account of the economic crisis, the situation of immigrants and minorities in terms of employment, social inclusion, gender equality, poverty, education and training, healthcare, social protection and the fight against discrimination.

1.7 The approach of diversity through immigration should be included across the board when specific policies and measures are drawn up and implemented, in tandem with the development of specific policies and initiatives for the integration of immigrants and ethnic minorities.

1.8 Consequently, taking into account the experience gained from other policies, the Committee proposes that a process of mainstreaming integration be provided for in the EU's different political, legislative and financial instruments, in order to promote integration, equal treatment and non-discrimination.

2. Presentation

2.1 The European Union is taking on a common immigration policy, to which the Committee is contributing through its opinions, highlighting the importance of integration as "the key to successful immigration". It recognises the need for European societies to improve their ability to manage the diversity inherent in immigration in order to increase social cohesion.

2.2 In the last ten years, immigrants have made a significant contribution to Europe's economic and social development. Many men and women from countries outside the EU have entered European labour markets, helping to boost the economy, employment, social security contributions and tax revenues.

2.3 The EESC has proposed the concept of "civic integration" which is based on "bringing immigrants' rights and duties, as well as access to goods, services and means of civic participation progressively into line with those of the rest of the population, under conditions of equal opportunities and treatment".

2.4 2010 will see the renewal of the Lisbon Strategy with the EU 2020 Strategy, and the Social Agenda, and the review of the Integration Fund; the EU also has the Lisbon Treaty and the Charter of Fundamental Rights, a new Commission will have been convened, and the Parliament will be in the first half of its new term.

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18 OJ C 125, 27.5.2002.
19 Issues relating to integration and those relating to the Social Agenda fall within the remit of different Commissioners and different Directorates-General.

.../...
2.5 2010 will also be the European Year for Combating Poverty and Social Exclusion, which will provide an opportunity to renew our commitment to solidarity, social justice and greater inclusion.

2.6 Integration policies must be linked to the main EU social policy objectives. The EESC therefore proposes that political and administrative cooperation within the European Commission be improved.

2.7 With the economic crisis, many immigrants are finding themselves among the most vulnerable social groups, and are becoming the first victims: they are the first to be laid off, have greater difficulties rejoining the labour market, and run the risk of falling below the poverty line, particularly if they are female.²⁰

2.8 Often, the children of immigrants are also more likely to drop out of school.

2.9 The EESC believes that efforts to combat discrimination must be stepped up by implementing existing legislative instruments and strengthening public policies and social commitments to integration.

2.10 Alongside the economic crisis, in the political and social debate in some Member States, increasingly vehement verbal attacks are being made on the rights of immigrants, which is leading to tougher legislation and heightened xenophobia.

2.11 Some governments are also cutting the public resources earmarked for integration policies even though, in times of crisis, investment in social policy should be increased rather than decreased.

2.12 The EESC believes that an adequate integration policy is a factor for economic efficiency and social cohesion, as part of an appropriate common immigration policy.

2.13 Integration policies vary greatly throughout Europe, owing to the differences between social and political norms and legal systems. However, the objectives of integration are linked to social policies in every Member State.

2.14 In the EU, immigrants join the population at different rates. At present, migration processes are lower in the new Member States in central and eastern Europe, and greater in southern and western Member States. Experience shows, however, that in the future all European countries will experience high levels of immigration.

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²⁰ Eurostat.
2.15 The Committee wishes to stress that the links between immigration and development must be strengthened within the framework of a comprehensive European immigration policy. The EESC has drawn up two opinions based on this approach.\(^{21}\)

3. Integration

3.1 The social integration process takes place in various areas of people's lives: family, neighbourhood and city, workplace, trade union, business organisation, school, training centre, association, place of worship, sports club, the armed forces, etc.

3.2 As integration is a social process that occurs within social structures, good governance is required to ensure that this social process is accompanied by appropriate policies on the part of the public authorities. In keeping with the powers they have in the various Member States, local and regional authorities possess political, legislative and budgetary instruments that they must put to good use in integration policies.

3.3 Common Basic Principle 10 (Appendix 1) proposes that integration form part of all policy portfolios at all levels of government (mainstreaming).

3.4 The EESC has drawn up a number of own-initiative opinions calling for proactive integration policies in the EU, with a two-way focus, targeting both the host societies and immigrants, the purpose being to achieve a society in which all citizens, regardless of where they come from, have the same rights and obligations, and share the values of a democratic, open and pluralist society.

3.5 The EESC believes that civil society organisations can play a crucial role in integration. Both immigrants and host societies must show that they are willing to embrace integration. The social partners and civil society organisations must be committed to the implementation of integration policies and anti-discrimination measures.

3.6 Integration is a social process which involves immigrants and the host society alike. All the different public administrations and social players must demonstrate commitment to this process. European, national, regional and local authorities should draw up programmes reflecting the scope of their respective powers. In order to guarantee the efficacy and overall

\(^{21}\) See the following EESC opinions:
OJ C 120, 16.5.2008, p.82.

\(^{22}\) See the following EESC opinions:
OJ C 27, 3.2.2009, p. 95.
OJ C 125, 27.5.2002, p. 112.
OJ C 80, 30.3.2004, p. 92.
consistency of the programmes and actions, they must be properly supported and coordinated.

3.7 In another opinion, the EESC proposed that the local authorities demonstrate greater commitment, because integration presents a challenge primarily at the local and regional level. These policies will enjoy greater success if they involve local and regional authorities and if civil society organisations are actively engaged in them.

3.8 Integration is a two-way process founded on the rights and obligations of third-country nationals and the host society, enabling immigrants to participate fully. In another opinion, the EESC defined integration as "bringing immigrants' rights and duties, as well as access to goods, services and means of civic participation progressively into line with those of the rest of the population, under conditions of equal opportunities and treatment".

3.9 The Committee considers that immigrants should adopt a positive attitude towards integration and that the two-way approach demonstrates that integration affects not only immigrants but also the host society.

3.10 Integration and social inclusion policies should focus on various areas: initial arrival, language teaching, laws and customs, combating discrimination, employment and training policies, gender equality, education for minors, family policy, youth policy, housing, healthcare, addressing poverty, extending social services, and making it easier for people from immigrant backgrounds to become active citizens.

3.11 These policies should help people of an immigrant background to live harmoniously in European host societies, which are becoming increasingly diverse in ethnic and cultural terms.

3.12 In 2002, at a conference organised in conjunction with the Commission, the EESC proposed that the EU institutions draw up a European programme for integration and set up a Community fund. The Commission launched a pilot programme in the field of integration (INTI), and in 2006 proposed setting up the Integration Fund, which was approved by the Council and is now included in the 2007-2013 budget.

3.13 In November 2004, the Council drew up a number of Common Basic Principles for immigrant integration policy in the European Union. These principles complement the

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24 OJ C 125, 27.5.2002, point 1.4 (rapporteur: Mr Pariza Castaños).
25 Conference on The role of civil society in promoting integration, Brussels, 9 and 10 September 2002.
legislative frameworks on human rights, non-discrimination and equal opportunities, and social inclusion.

3.14 The EESC wishes to stress the importance of a **common European approach**, as it brings substantial added value to integration policies and processes by ensuring a cross-cutting relationship with other EU policies such as the EU 2020 Strategy, the Social Agenda and cohesion policy. Such an approach will also strengthen the links between integration and the values and principles of the EU as set down in the European Charter of Fundamental Rights and the European Convention of Human Rights.

3.15 The Integration Fund is a financial instrument intended to boost the development of integration policies with European focus and added value, reflecting the common basic principles. Integration policies are based on Article 63 of the Treaty, and are aimed at third-country nationals, while the ESF is aimed at the entire EU population, including immigrants. The Integration Fund thus complements the ESF.

3.16 The EESC supports the six political objectives\(^{27}\) of the Integration Fund, and hopes to be privy to the mid-term review of the fund in 2010, in order to propose certain changes.

3.17 The **European Integration Forum** has recently been set up to enable civil society and immigrants' organisations to participate in EU integration policies. The Committee is very much involved in the forum's activities.

3.18 In its conclusions on integration of June 2007, the European Council felt that it was necessary to move forward with the 2005 Common Integration Agenda, and developed the common basic principles.

3.19 The EESC wishes to build on this approach, and considers it a priority to strengthen integration at European level, taking account of the situation of immigrants and minorities in terms of employment, social inclusion, gender equality, poverty, education and training, healthcare, social protection and the fight against discrimination.

4. **The Social Policy Agenda**

4.1 The international financial situation has led to a serious economic crisis in the EU, which is causing the social situation to deteriorate significantly. The crisis is having a highly detrimental effect on integration.

\(^{27}\) Appendix 2.
4.2 Due to the time at which it was drawn up, the Renewed Social Agenda\textsuperscript{28} (2008) does not take into account the negative effects of the economic crisis, increased unemployment and the decline in public finances and the social situation.

4.3 The European Commission predicts that economic recovery will be slow and that it will take longer for new jobs to be created.

4.4 The EESC considers that social recovery will, in any event, take much longer than economic recovery. In this context, the role of the European social policy will be key.

4.5 2010 will be a very important year for social policy in the EU: it will be the European Year of Combating Exclusion and Poverty, the EU 2020 Strategy will be drawn up, and a new Social Agenda will be adopted, with the necessary measures and instruments.

4.6 The Renewed Social Agenda (2008), which acknowledges the important contribution of immigration to employment in Europe, proposes that integration be improved and social policies be implemented in the fields of education, healthcare and housing.

4.7 In its January 2009 opinion\textsuperscript{29} on the Renewed Social Agenda, the EESC recognised the success of this new approach and considered the problems caused by the increase in migratory flows and the inadequacy of social policies, highlighting the need to analyse these further.

4.8 The French presidency of the EU asked the Committee to draw up an exploratory opinion\textsuperscript{30} on A new European Social Action Programme, which was adopted in July 2008. The EESC believes that the new social action programme should be useful in tackling the difficult economic and social situation. The Committee has proposed that the new programme take into account integration policies, equal treatment, the development of the open method of coordination, and the increase of resources earmarked for the Integration Fund.

4.9 On 6 May 2009, the Parliament adopted a resolution\textsuperscript{31} on the Social Agenda, in which it stated that immigration policy should be based on human rights, strengthen anti-discrimination laws and promote a strategy for integration and equal opportunities.

4.10 Individuals who do not have the right papers ("illegal immigrants") are extremely vulnerable, are open to abuse by exploitative labour networks, to poverty and extreme social exclusion. The Committee therefore proposed, that under the European Pact on Immigration and

\textsuperscript{28} COM(2008) 412 final.
\textsuperscript{29} OJ C 182, 4.8.2009, p. 65.
\textsuperscript{30} OJ C 27, 3.2.2009, p. 99.
\textsuperscript{31} 2008/2330 (INI).
Asylum, these individuals could be given legal papers, for the sake of social harmony and employment. The EESC also considers that the EU's social policies should not exclude "illegal immigrants" from the goals and programmes for social inclusion and from the ESF.

4.11 The coming years will see an increase in the internal mobility of European citizens and immigration to Europe by many third-country nationals. These processes will increase the EU's national, ethnic, religious and cultural diversity.

4.12 Nevertheless the current Renewed Social Agenda only takes into account to a limited degree the diversity of European societies, the integration of immigrants and minorities, equal treatment and the fight against discrimination. The EESC believes that the review of the Social Agenda in 2010 should take greater account of the social effects of immigration on both immigrants and the host society.

4.13 Consequently, the links between the Social Agenda and integration should be strengthened, and the EESC therefore proposes that integration should be promoted by mainstreaming it into the EU's different political, legislative and financial instruments.

5. **Political scope**

5.1 **Children and young people**

5.1.1 Youth policies should consider the needs and circumstances of young immigrants in their transition to adult life and their social integration.

5.1.2 Many young people – sons and daughters of immigrants, achieve professional success and become very active members of their community, but many, even second and third generation immigrant children – are also at a high risk of or are experiencing social exclusion, with high levels of academic failure and thus a higher risk of unemployment.

5.1.3 **Support for families** is fundamental; as proposed by the Committee\(^\text{32}\), the EU should have a more active family policy.

5.1.4 The open method of coordination in matters relating to young people should include indicators for diversity, immigration and non-discrimination.

5.1.5 It is important to make the most of the opportunities offered by the European programmes for lifelong learning, mobility, entrepreneurship and citizenship among young people, in order to overcome the specific obstacles that young immigrants face, and foster the exchange of experiences.

5.2 **Education and training**

5.2.1 Member States' integration policies include education and training as key elements in the process. However, young immigrants and minorities face specific obstacles and challenges which require particular attention.

5.2.2 Schools are often overwhelmed by problems and challenges they are ill-equipped to deal with. Schools should be given additional resources, the spirit of openness should be further developed and support in intercultural training and managing diversity given to teachers.

5.2.3 Education quality indicators should be developed, and should be flexible enough to meet the needs of an increasingly diverse student body.

5.2.4 The framework provided by the open method of coordination for education should serve to identify good practices in response to academic failure among young people of an immigrant background.

5.2.5 This will mean defining **indicators** such as: socio-economic status; completion of studies (compulsory schooling) by young people; the diversity and intercultural skills of teaching staff; the education system’s capacity to allow social mobility; the concentration of pupils from an immigrant background; the promotion of multilingualism in the education system; and how open education systems are for all children and young people, etc.

5.2.6 In its opinion on *Migration, mobility and integration*\(^{33}\), the EESC stressed that the disadvantages facing people from a migrant background carry over into adult education too: they participate less in continuous training and the courses they are offered usually concentrate on the acquisition of language skills. To improve integration, the scope of continuous training should be extended to the entire population, with particular focus on equal access for people from immigrant backgrounds.

5.2.7 Education and training programmes in Europe should include schemes that teach the customs, history, values and principles of European democracies, as well as knowledge of the culture and values of the societies of origin of the immigrant population (where numbers allow).

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\(^{33}\) *OJ C 218, 11.9.2009, p. 85.*
5.3 **Employment**

5.3.1 The EESC is currently drawing up an exploratory opinion\(^{34}\) at the request of the Spanish presidency on the "Integration of immigrant workers", which also contains proposals for the European Social Agenda.

5.3.2 **Access to the labour market** is key, and is an essential part of the integration process, because decent jobs are vital to immigrants' self-sufficiency, and they facilitate social relations and mutual understanding between the host society and immigrants.

5.3.3 However, immigrant workers often find themselves at a disadvantage and suffer direct or indirect discrimination. They also face legal difficulties in getting their qualifications recognised, while some immigration laws restrict career development and changes of activity.

5.3.4 As a result, immigrant workers often have poor-quality jobs, with lower pay and under precarious conditions. Women, in particular, find themselves in this difficult situation.

5.3.5 Those without identification papers, whose situation is not legally recognised, face the most precarious conditions: they work in the informal economy and may find themselves exploited.

5.3.6 The new generation of employment policies, along with the initiatives of the European Social Fund and the Progress programme, should include specific criteria and indicators for improving immigrants' access to socio-occupational pathways to integration, including self-employment. These pathways could include (in addition to learning the language and culture) measures to boost immigrants’ training in new technologies and the prevention of occupational risks.

5.3.7 The EESC believes that legislation and public policies must complement one another through cooperation with the **social partners**, because integration into the labour market is also an issue of society's attitudes and of commitment on the part of unions and employers.

5.3.8 Immigrant workers are more willing to **relocate**, but national legislation prevents and restricts such mobility. The Directive on the status of third-country nationals who are long-term residents\(^{35}\) (which has been poorly transposed in some national legislation) could facilitate mobility. The **EURES** network could also be used more effectively to boost the mobility of immigrant workers in the EU.

\(^{34}\) EESC exploratory opinion on the *Integration of immigrant workers* (SOC/364).

\(^{35}\) Directive 2003/109/EC.
5.4 **Entrepreneurship among immigrants**

5.4.1 Many migrants decide to be self-employed or start up their own business. The number of businesses started up by people of immigrant background is constantly increasing.

5.4.2 The EESC considers that the EU should support migrants' entrepreneurship and ESF instruments to promote entrepreneurship should consequently take the immigrant population into account.

5.4.3 Employers' organisations and chambers of commerce should also open their doors to entrepreneurs from immigrant backgrounds and actively promote their access to management positions.

5.4.4 Many business initiatives by immigrants are furthermore developed within the [social economy](#), and so the Committee considers that they should be supported by the ESF instruments and the national authorities.

5.5 **Social protection**

5.5.1 A number of different national pension systems operate in Europe. It must be ensured that immigrant workers pay into pension systems and are entitled to receive the corresponding benefits without discrimination.

5.5.2 The portability of pensions should be guaranteed, in order to improve mobility, and to ensure that in returns procedures, the corresponding pension rights are respected.

5.5.3 The open method of coordination should include indicators to assess whether immigrant workers are covered by pension systems without exclusions or discrimination.

5.6 **Housing**

5.6.1 The economic crisis has in many cities led to an increase in the number of homeless people, many of whom are of an immigrant background.

5.6.2 Many people, especially young people, are now finding it hard to access housing.

5.6.3 Immigrants and minorities also have many specific difficulties in accessing decent housing. As a result, the EESC considers that Member States' housing policy should form a part of policies on integration, combating poverty and social exclusion.

.../...
Most Europeans, including immigrants and minorities, live in urban environments. In another opinion\textsuperscript{36}, the EESC highlighted the role of local and regional authorities in integration policies. A good urban policy can encourage integration and prevent the rundown urban ghettos which form in some cities.

Housing policies should therefore include criteria, measures and indicators to remove existing obstacles. A proactive approach is required, involving all layers of society together with the public authorities and social partners.

**Healthcare and other services**

In some Member States, national legislation leaves many immigrants without access to healthcare systems and thus severely unprotected.

The system of coordination in the field of healthcare and European legislation on immigration must guarantee the immigrant population access to public health services and high-quality healthcare under equal conditions. Healthcare systems must therefore be brought into line with social diversity.

The Committee wishes to emphasise that in some Member States, many healthcare professionals and carers are immigrants.

Efforts should also be stepped up in the field of occupational health, because immigrant workers are often exposed to greater risks and are not familiar with laws and prevention programmes.

In some Member States, people from immigrant backgrounds do not have full access to social services, and these services are not set up to deal with the diversity of populations. The Committee proposes that the Commission assess the quality of public services from the viewpoint of integration, diversity and non-discrimination.

In the EESC's view, immigrants should not be discriminated against in healthcare and social policies, because they pay taxes and social security contributions, just as the rest of the population does. Given the current economic crisis and budgetary problems, it must be ensured that everyone pays their taxes and social security contributions, to guarantee sustainable public services.

**Poverty and social exclusion**

Many people from an immigrant background live in poverty or are at risk of falling into poverty. The current economic crisis, growing unemployment and under-employment are

\textsuperscript{36} OJ C 318, 23.12.2006, p. 128.
exacerbating these situations. People from an immigrant background and minorities must be able to access retraining programmes, unemployment protection, housing and other public social services.

5.8.2 In 2010, the EU will celebrate the European Year of Combating Exclusion and Poverty. The Committee believes that active inclusion targeting immigrants and minorities should be improved, in order to guarantee the minimum wage, boost access to public services and resources, and to the labour market.

5.8.3 The EESC calls attention to the actions of some criminal networks that exploit illegal immigrants, (particularly in the areas of trafficking and prostitution of women and minors). Along with the legal and policing measures to fight these gangs, there should be policies to assist and protect victims.

5.9 Combating discrimination

5.9.1 The European Parliament recently adopted a resolution on the new Directive against discrimination, which complements the three directives already in place. The EESC also delivered an opinion endorsing the Commission proposal and recommending that multiple discrimination be taken into account.

5.9.2 The new directive implementing Article 19 of the Treaty on the Functioning of the European Union will, once adopted, extend the principle of non-discrimination to areas such as education, health, social protection and housing. The EESC calls on the Council to adopt this directive, taking account of the Committee opinion.

5.9.3 People from an immigrant background, whether women, men, old or young, often face situations of discrimination, which are made worse by the fact that these individuals' legal status as third-country nationals offers them less legal protection. Many people suffer multiple discrimination.

5.9.4 The EESC proposes that the European Commission draw up an action plan to combat multiple discrimination and offers its services to assist with this task.

5.9.5 The European Union Agency of Fundamental Rights should continue to draw up reports on the direct or indirect discrimination suffered by many immigrants.

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40 The EU-MIDIS ('European Union Minorities and Discrimination') Survey asks 23,000 members of immigrant and ethnic minority groups about their experiences of discrimination, racially-motivated crime and policing in the EU.
5.10 Gender equality

5.10.1 Women of immigrant background face specific problems due to the fact that they are women, and integration policies therefore need to adopt the appropriate gender perspective.

5.10.2 The EESC considers that the Common Basic Principles for integration and the Social Agenda must reinforce the gender-based approach, to ensure that migrant women and women from ethnic minorities enjoy equal opportunities and do not face discrimination.

5.11 Immigration and development

5.11.1 In other opinions, the EESC has proposed\(^{41}\) that immigration policy could contribute to the economic and social development of the countries of origin, and that the EU should consequently make immigration legislation more flexible.

5.11.2 In its foreign policy, the EU should, within the United Nations, promote an international legislative framework for migration and sign the convention\(^{42}\) currently in force.

6. Instruments of the Renewed Social Agenda

6.1 Mainstreaming

6.1.1 Mainstreaming integration will involve (re)organising, developing and assessing political processes, so that integration, equal opportunities and treatment and non-discrimination against immigrants could be included in all the objectives, actions and instruments of the Social Agenda, at all levels and stages, by all those involved in its adoption.

6.1.2 Because cultural models differ across the European Union, mainstreaming should ensure, in a global framework, that people's experiences, skills, interests and needs are included, in an approach based on integration and diversity, in all initiatives of any type and social range, and that actions are assessed.

6.1.3 The first step in the process should be to conduct an impact assessment in order to anticipate requirements and ensure that social diversity is properly taken into account in all the areas concerned. This will mean speeding up the process to define integration indicators, complementing those covered by the open method of coordination for social inclusion. The European Integration Forum could take part in drawing up these indicators.

\(^{41}\) OJ C 44, 16.2.2008, p. 91.

\(^{42}\) UN Convention on the protection of the rights of migrant workers.
6.1.4 For this mainstreaming to be successfully implemented, political leadership and the involvement of all public and private stakeholders are key. To this end, a framework for cooperation must be designed, through which decision-making processes can be developed with a view to achieving change.

6.2 Legislation

6.2.1 The Committee considers that the quality of common European legislation on immigration should be improved and that the directives should afford immigrants adequate protection. With this aim in mind, the EESC has drawn up an own-initiative opinion\(^43\), which proposes that EU immigration policies and legislation fully respect human rights.

6.2.2 After the adoption of the Stockholm Programme, the EESC believes that it will be easier to progress with harmonising legislation on immigration and asylum.

6.2.3 The new anti-discrimination legislation now being drawn up on the basis of Article 13 of the Treaty should be taken into account when European immigration legislation is drafted.

6.3 Social dialogue

6.3.1 The social partners have a responsibility to promote, through dialogue and negotiation, equal treatment in companies. The EESC and the Dublin Foundation held a hearing as part of the opinion-drafting process\(^44\). The conclusions of that hearing, set out in Appendix 3 below, could prove extremely useful to the social partners and the Commission, so that integration into the labour market takes place on a level playing field, without discrimination between workers from the host country and immigrants.

6.3.2 Social dialogue in different areas can promote the active inclusion of workers from immigrant backgrounds and minorities. Where business is concerned, it is easier to ensure the active participation of workers of an immigrant background.

6.3.3 Europe's social partners should be properly consulted and their opinion should be taken into account when the new Social Agenda is drawn up.

6.3.4 The Spanish presidency of the EU has requested that the EESC draw up an exploratory opinion\(^45\) on the Integration of immigrant workers. In it, the EESC proposes a number of initiatives to improve integration in terms of employment.

\(^{43}\) EESC opinion of 4 November 2009 on Fundamental rights in European immigration legislation (SOC/335).

\(^{44}\) OJ C 318, 23.12.2006, p. 128.

\(^{45}\) EESC exploratory opinion on the Integration of immigrant workers (SOC/364), rapporteur: Mr Pariza Castaños.
6.4 Civil dialogue

6.4.1 Together with social dialogue, civil dialogue is an excellent governance procedure that forms part of the European social model and, in the EESC's opinion, is an essential instrument for the implementation of the European Social Agenda and for integration.

6.4.2 At the European level, in integration policy and in the Social Agenda, there is a need to further involve civil society organisations specialising in human rights and in assisting immigrants and minorities.

6.4.3 The European Integration Forum should be consulted and should play an active role in drawing up the EU's new Social Agenda.

6.4.4 The European Union should continue to promote intercultural dialogue, which goes hand in hand with integration and the social policy objectives.

6.5 The open method of coordination

6.5.1 As recommended by the European Commission and the EESC, an open method of coordination should be established in the field of immigration policy.

6.5.2 The Council has decided to improve the current form of coordination and give the Commission a more substantial role. The EESC supports this decision, but believes it should be more ambitious.

6.5.3 This method of coordination should provide specific qualitative and quantitative indicators, which could be drawn up in collaboration with the EESC and the European Integration Forum.

6.5.4 The different open methods of coordination that exist in the field of social policy should improve the goals and indicators for integration in policies for employment, social protection, healthcare, combating poverty and social exclusion, etc.

6.6 Funding

6.6.1 In the Committee's view, the synergies and complementarity between the Social Fund and the Integration Fund should be further developed.

6.6.2 The European Social Fund is aimed at those facing particular difficulties in finding work, such as women, young people and older workers. It helps businesses and workers to adapt to the changes brought about by new technologies and the ageing of society. The ESF should
incorporate the approach of diversity through immigration more fully into its goals and programmes both in the current programming period (2007/2013) and in future.

6.6.3 After 2013, the Integration Fund's financial resources will also need to be increased and the Commission given greater management powers.

6.6.4 The Progress programme, which aims to provide financial support in order to meet the EU's objectives in the field of employment and social affairs, should also strengthen integration and diversity among its five main areas for action (employment, social protection and integration, working conditions, non-discrimination and diversity and gender equality).

7. More inclusive European citizenship

7.1 Europe's democracies are open, free societies that should be based on the inclusion of all people. Integration policies and immigration legislation should never be used as political excuses for excluding immigrants and minorities from the right to citizenship.

7.2 The EESC believes that the foundation of our democracies should be broadened to include new citizens with equal rights and obligations. National and European citizenship rights should include diversity in all its forms, without discrimination.

7.3 The EESC reiterates the proposal made in another opinion\(^46\) whereby Union citizenship should be granted to third country nationals with long-term resident status. The Committee proposes that the Commission, the European Parliament and the Council take this proposal into account in their objectives for the new term of office.

7.4 The European Commission should adopt a new initiative to promote civic-mindedness amongst third-country nationals and encourage them to participate in social and political life.

8. The new European Commission

8.1 With a view to achieving integration, the EESC believes that, in the new Commission, it is not appropriate for immigration issues to be covered by the same department as security, when there is a separate portfolio for justice and fundamental rights.

8.2 Linking immigration to security sends a negative message to European society and to immigrants, which is at odds with the first of the basic common principles for integration – its two-way focus. There are too many messages in Europe that make immigration a crime!

8.3 The Committee believes that a more integration-friendly message would be conveyed by placing immigration and asylum under the portfolio of justice and fundamental rights.

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8.4 In this context, it is particularly necessary to step up the mainstreaming of integration in the Social Agenda and other Community policies, especially when it comes to defending and protecting immigrants' fundamental rights.

Brussels, 17 February 2010.

The President
of the
European Economic and Social Committee

Mario Sepi

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N.B.: Appendices overleaf.
APPENDIX 1

The common basic principles

1. "Integration is a dynamic, two-way process of mutual accommodation by all immigrants and residents of Member States".

2. "Integration implies respect for the basic values of the European Union".

3. "Employment is a key part of the integration process and is central to the participation of immigrants, to the contributions immigrants make to the host society, and to making such contributions visible".

4. "Basic knowledge of the host society's language, history and institutions is indispensable to integration; enabling immigrants to acquire this basic knowledge is essential to successful integration".

5. "Efforts in education are critical to preparing immigrants, and particularly their descendants, to be more successful and more active participants in society".

6. "Access for immigrants to institutions, as well as to public and private goods and services, on a basis equal to national citizens and in a non-discriminatory way is a critical foundation for better integration".

7. "Frequent interaction between immigrants and Member State citizens is a fundamental mechanism for integration. Shared forums, intercultural dialogue, education about immigrants and immigrant cultures, and stimulating living conditions in urban environments enhance the interactions between immigrants and Member State citizens".

8. "The practice of diverse cultures and religions is guaranteed under the Charter of Fundamental Rights and must be safeguarded, unless practices conflict with other inviolable European rights or with national law".

9. "The participation of immigrants in the democratic process and in the formulation of integration policies and measures, especially at the local level, supports their integration".

10. "Mainstreaming integration policies and measures in all relevant policy portfolios and levels of government and public services is an important consideration in public policy formation and implementation".

11. "Developing clear goals, indicators and evaluation mechanisms are necessary to adjust policy, evaluate progress on integration and to make the exchange of information more effective".

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.../...
APPENDIX 2

In accordance with the common basic principles, the six main policy objectives to which the Fund shall contribute are:

1. facilitating the organisation and implementation of admission procedures for migrants, by strengthening their integration component and anticipating the needs of third-country nationals;

2. contributing to the organisation and implementation of introduction programmes and activities for third country nationals, by way of capacity building, policy development and implementation (common basic principle No 4);

3. increasing civic, cultural and political participation of third country nationals in the host society, in order to promote their active citizenship and recognition of fundamental values (common basic principle No 7);

4. strengthening the capacity of Member States’ public and private service providers to interact with third country nationals and their organisations and to answer in a better way the needs of different groups of third country nationals;

5. strengthening the ability of the host society to adjust to increasing diversity by targeting integration actions at the host population;

6. increasing the capacity of Member States to develop, monitor and evaluate integration policies.

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APPENDIX 3

1. **New challenges for employment integration** (some of the conclusions of the Dublin hearing)

1.1 Through their work, immigrants make a positive contribution to Europe's economic development and social well-being. The EESC considers that immigration in Europe can provide new opportunities for businesses' competitiveness, for working conditions and for social welfare.

1.2 Employment is a key part of the integration process, because decent jobs are vital to immigrants' self-sufficiency, and they enhance social relations and mutual understanding with the host society. The EESC proposes that integration into the labour market should take place on a level playing field, without discrimination between workers from the host country and immigrants, taking the necessary professional requirements into account.

1.3 Europe's migrant workers must be treated fairly, because they are protected by international human rights conventions and the principles and laws enshrined in the ILO conventions. The EESC reiterates its proposal that EU Member States sign up to the UN's 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

1.4 The EU directives on equal treatment in employment and equal treatment irrespective of racial or ethnic origin are essential legal instruments in shaping legislation and practice in the Member States in combating discrimination and fostering employment integration.

1.5 In the field of employment, legislation and public policies must complement one another through cooperation with the social partners, because integration into the labour market is also an issue of society's attitudes and of commitment on the part of unions and employers.

1.6 Public employment services must boost programmes to help immigrants find work and these programmes might include: helping with the recognition of professional qualifications, improving language learning and occupational training, and providing adequate information on employment systems in the host country.

1.7 At grass-roots level, unions, employers' organisations, immigrant associations and other civil society organisations play a key role in conveying information and in helping immigrants to find employment. Social organisations are actively involved across Europe in helping immigrants and their children to find employment by means of vocational training courses, employment advice, support for small business start-ups, etc.

1.8 Companies are increasingly benefitting from the opportunities and growing diversity brought by the integration of immigrants into the labour market. The EESC considers that companies...
could help to raise awareness within the host society against discrimination, and provide employment contracts that are not xenophobic and do not encourage exclusion.

1.9 Procedures must be set up based on the planning of migratory flows, which should be carried out in the source countries and should reflect the real possibilities for labour integration and, therefore, for social integration.

1.10 Poor quality employment is also a factor for discrimination, when immigrants are used as the "most vulnerable" workforce available.

1.11 Unions sometimes demonstrate corporatist tendencies, only defending a few vested interests and excluding immigrants. The EESC considers that unions must welcome immigrant workers into their ranks and help them to attain representative and management positions. Numerous trade unions implement best practices which guarantee that workers enjoy equal rights, regardless of their origin or nationality.

1.12 Employers' associations face a major challenge in terms of ensuring transparency in the labour markets. The EESC considers that, together with the unions, they must cooperate with regional and local public authorities to avoid situations of discrimination and to foster attitudes that favour integration.

1.13 The social partners, who are key players in the operation of the labour markets, and who are cornerstones of Europe's economic and social life, have an important role to play in integration. In the context of collective bargaining, they must accept their share of the responsibility for integrating immigrants, eliminating any direct or indirect discrimination from collective agreements and from employment laws and practices.

1.14 There are many examples of good practice amongst the social partners and civil society organisations in Europe, which the EESC would like to see more widely adopted. At the Dublin hearing, positive experiences in businesses, trade unions, employers' associations and social organisations were looked at, and some that the Committee wishes to highlight are: the commitments given by the social partners in Ireland to manage diversity within companies and to combat discrimination, and the agreement reached by the social partners in Spain to legalise illegal employment and immigration and to manage labour migration through cooperation and social dialogue.

1.15 The EESC believes that active policies and new commitments on the part of the social partners are needed, in order to foster social attitudes that encourage integration, equal treatment and the efforts to combat discrimination in the workplace. European social dialogue can provide an appropriate framework enabling the social partners to give new commitments.
1.16 European social dialogue is the exclusive responsibility of the social partners; The EESC and UNICE have drafted the agenda for European social dialogue and the EESC hopes that the objectives it sets out will be attained.

1.17 The EESC can form a permanent forum for dialogue on good practices in the areas of integration and immigration. It is, therefore, set to continue working in cooperation with the Dublin Foundation and the ILO to foster the development in Europe of integration-friendly policies and practices. It will organise further meetings and forums bringing together the social partners and other civil society organisations with the aim of examining and exchanging instances of current best integration practice in Europe.
SOC/364
Integration of immigrant workers

Brussels, 17 March 2010

OPINION
of the
European Economic and Social Committee
on the
Integration of immigrant workers
(exploratory opinion)

Rapporteur: Mr Pariza Castaños
In a letter dated 23 July 2009, and in accordance with Article 262 of the Treaty establishing the European Community, Mr Diego López Garrido, State Secretary for the European Union of the Ministry for Foreign Affairs and Cooperation, asked the European Economic and Social Committee, on behalf of the future Spanish Presidency, to draw up an exploratory opinion on the

Integration of immigrant workers.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 23 February 2010.

At its 461st plenary session, held on 17 and 18 March 2010 (meeting of 17 March), the European Economic and Social Committee adopted the following opinion by 138 votes to five with eight abstentions.

* *

1. Conclusions and proposals

1.1 The EESC emphasises the European added value of employment policies and immigration and integration policies. Purely national policies do not work; it will be necessary to strengthen the European grounding of these policies.

1.2 Immigrant men and women are making a positive contribution to economic development and well-being in Europe. As a result of its demographic circumstances, the EU will need to take in more new immigrants.

1.3 Integration processes need to be improved in the interests of both economic efficiency and social cohesion. Employment is a key aspect of integration.

1.4 Integration is a two-way social process of mutual accommodation that must be facilitated by means of good governance and sound legislation. The EESC calls on the Council to adopt a Directive guaranteeing a common framework of rights for immigrant workers, and to enhance existing anti-discrimination legislation.

1.5 Workplace integration accompanied by equal opportunities and equal treatment represents a challenge for the social partners too, which they must uphold in collective bargaining and the social dialogue, including at European level. Immigrant workers must also be receptive to integration.
1.6 Businesses are operating in an increasingly diverse environment. They must adopt a positive approach to cultural diversity, in order to enhance integration and also to maximise their opportunities.

1.7 The EESC proposes that the Commission request an exploratory opinion on the creation of a European platform for dialogue on managing labour migration, as set out in the Stockholm Programme.

2. **Scope of the opinion**

2.1 The Spanish Presidency has asked the EESC to draw up an exploratory opinion on how the EU can better integrate immigrant workers. Consequently, in the present opinion the Committee will concentrate on the integration of immigrant workers in employment and on other aspects relating directly or indirectly to the labour market.

2.2 The broader aspects of immigration and integration policy will only be touched upon insofar as they impinge directly on the opinion. The Committee has adopted a number of opinions on integration\(^7\) with a more general focus, and has drawn up an own-initiative opinion\(^8\) aimed at ensuring that integration figures more prominently on the EU’s new social policy agenda, in areas such as education and training, gender equality, healthcare, housing, family and youth policy, poverty, social exclusion and so on.

2.3 Europe must sharpen its focus on integration within the common immigration policy. The Committee has set up a permanent study group on immigration and integration to work with the European Integration Forum.

2.4 The Treaty of Lisbon has a more solid legal foundation\(^9\) for the EU to provide "support for the action of Member States with a view to promoting the integration of third-country nationals residing legally in their territories".

\(^{47}\) OJ C 27, 3.2.2009

CESE 1710/2009 of 4.11.2009 – SOC/335: *Fundamental rights in European immigration legislation*

OJ C 80, 30.3.2004.

OJ C 318, 23.12.2006

OJ C 125, 27.5.2002


\(^{48}\) CESE 1523/2009.

\(^{49}\) Article 79.
3. Immigrants contribute to Europe's economic development and well-being

3.1 In recent years, Europe has received many people coming from third countries as emigrants in search of new opportunities. However, the restrictive policies implemented by many European governments constrain the legal recruitment of immigrant workers by companies.

3.2 In its *Employment in Europe 2008 Report*\(^50\), the European Commission stated that "immigrants have made a significant contribution to overall economic and employment growth in the EU since 2000, addressing labour and skill shortages and increasing labour market flexibility".

3.2.1 In its Joint Employment Report (2009/2010)\(^51\), the Commission points out that although the EU is undergoing a crisis in which jobs are being destroyed, certain Member States and employment categories continue to experience a shortage of labour. The Commission further proposes to step up the integration of those immigrants who have already arrived and who are especially hard hit by the crisis, and also to encourage companies to diversify their workforces and introduce "diversity charters".

3.3 Since 2000, in the EU 21% of GDP growth and 25% of new jobs have been created due to the contribution of immigrants, to such an extent that growth in certain economic sectors would have stagnated or slowed down if they had not been largely made up of immigrant workers, both men and women.

3.4 It should be borne in mind that restrictions on citizens from the new Member States working in the EU have been removed in several countries (United Kingdom, Ireland, Sweden, etc.).

3.5 The Committee wishes to highlight the significant entrepreneurship displayed by many immigrants, who set up businesses in Europe and therefore help to create jobs and generate wealth, even though immigration laws place almost insurmountable barriers in their path.

3.6 Although the intensity of migration flows has varied between EU Member States, it can be seen that economic and employment growth has been greatest in those countries taking in most immigrants. In some Member States, including Spain, the United Kingdom, Ireland and Italy, the percentage is higher still\(^52\).

\(^{50}\) COM(2008) 758 final.


\(^{52}\) *The Economic and Fiscal Impact of Immigrants*, National Institute of Economic and Social Research, October 2007, and *Coyuntura española – Los efectos de la inmigración sobre el empleo y los salarios*, Informe Mensual de la Caixa, no. 295 ("The current economic situation in Spain – the effects of immigration on employment and pay levels", La Caixa savings bank monthly report), October 2006.
3.7 The growth of immigration in European societies also raises new problems and poses a major challenge for social cohesion. European societies are faced with myriad social problems arising from immigration, which require a comprehensive approach as the EESC has proposed in a number of opinions.

3.8 The Committee considers that these social problems (racism, low-level crime, gender violence, marginalisation, failure at school, etc.) largely illustrate the need to achieve better integration. Government, especially at the local level, is often overwhelmed by the problems.

3.9 The media sometimes take a sensationalist approach to immigration issues, whipping up popular concern. Certain political leaders act opportunistically, irresponsibly turning problems to their advantage.

3.10 The Committee notes with concern that racism and xenophobia are spreading through numerous sectors of society. Extremist parties and movements exploit the problems generated by immigration to spread fear among the population and to promote intolerant, violent policies that run counter to human rights.

3.11 Racism is classified as a criminal offence, but political authorities and leaders of society themselves often display unacceptable levels of tolerance towards it. The police and judicial authorities, opinion-formers, the media and political figures need to adopt a new attitude and combat racism more determinedly and play a leading part in educating society.

4. **Immigration into Europe is set to increase in the future**

4.1 The demographic picture in the EU suggests that, as a result of an ageing population and a low birth rate, the labour markets are going to need the input of large numbers of immigrant workers. According to Eurostat's most recent demographic forecasts, the working-age population will begin to decline after 2012, even if immigration during the decade is maintained at 1.5 million a year. Unless migration flows increase over the next decade, the population of working age will fall by 14 million.

4.2 In parallel with this, it is clear that international worker mobility is set to increase around the world, as many people in third countries are compelled to emigrate because of the lack of decent work in their countries of origin, and some of them want to come to Europe to seek new employment and personal opportunities.

4.3 The EESC sees the desire of new immigrants to focus their migration projects on Europe as a major opportunity.
4.4 The Committee considers that policies that improve social integration are needed if immigrant workers are to find the opportunities they seek and European societies are to achieve better cohesion: successful migration projects – from the point of view of both immigrant workers and the host societies – depend on how integration processes unfold.

4.5 The economic crisis and rising employment are affecting all sectors of society, local workers and immigrants. Labour market data across Europe indicates that low-skilled immigrant workers in the lowest-quality jobs are the first victims of the crisis, and that immigrant women are more affected by unemployment.

4.6 In spite of the current recession and rising unemployment in Europe, demographic forecasts show that once the crisis is over and economic and employment growth levels have recovered, new immigrants will be needed to meet the European labour market requirements, according to the specific circumstances of each Member State.

5. **European entry legislation: the forthcoming challenge**

5.1 Ever since the EU set out ten years ago on the path which is to lead to a common immigration policy, the greatest difficulty has lain in drafting legislation governing the entry of new immigrants, with each Member State's own legislation having a very different approach.

5.2 Immigration policies and laws, and access to employment, are tied to labour market developments. As a result, the social partners must play an active part, but policies and laws must also be based on compliance with immigrants' human rights.

5.3 The Committee considers that immigration legislation should facilitate integration and view immigrant workers as new citizens, as human beings with rights that must be safeguarded and not purely as a pool of labour from which to meet the needs of the labour markets.

5.4 The social partners must participate at all the different levels. The Committee notes with interest the Commission's proposal to set up a European platform for dialogue on managing labour migration, in which the social partners can be involved.

5.5 The EESC has proposed a common immigration policy and harmonised legislation, so that immigrants arrive by legal means, are treated fairly, their fundamental rights are protected and integration is improved.

5.6 Europe has not however greeted immigrants with appropriate legislation and policies: rather, due to the restrictive nature of most policies and national laws, many immigrants have entered via irregular channels and are compelled to work in the informal economy. The Committee believes that the EU must take fresh initiatives to turn informal work into legal employment.
5.7 The Committee considers that facilitating procedures for legal immigration will reduce irregular immigration and the risk of some irregular workers falling victim to criminal networks involved in smuggling and people trafficking. The Stockholm Programme contains new EU undertakings to combat these criminal networks.

5.8 The EESC considers that restrictive policies have a very harmful effect on integration processes, since they single out immigrants as people who are unwelcome and unaccepted.

5.9 Such policies have sometimes been accompanied by political and social attitudes casting immigration in criminal terms, generating exclusion and promoting xenophobia and discrimination.

5.10 The European Pact on Immigration and Asylum is now to be implemented over the coming years through the Stockholm Programme. With the Lisbon Treaty, it is likely to be easier for agreements to be adopted at Council, and European Parliament co-decision will facilitate harmonisation of legislation.

5.11 The EESC would have preferred horizontal legislation, but the Council and Commission have opted for sectoral directives. The Blue Card Directive\(^{53}\) was recently adopted to facilitate the entry of highly-qualified workers. The Commission plans to draw up fresh proposals for directives over the coming months.

5.12 The Committee considers it crucial for the EU to have proper entry legislation, since integration is closely associated with equal treatment and non-discrimination. For this reason, the EESC supported\(^{54}\) (albeit with some proposals for improvements) the framework Directive on the rights of third-country workers proposed by the Commission\(^{55}\), which is still under discussion by the Council. The approach taken in the version that the Council is now working on is inadequate and unacceptable to civil society and to the Committee.

5.13 The Council must adopt the framework Directive in order to ensure a proper level of rights for all immigrant workers and prevent discrimination. The Committee proposes that the Spanish Presidency recast the debate in the Council on the framework Directive, leading to its prompt adoption provided that it comprises a proper set of common rights throughout the EU, based on equal treatment in particular with regard to labour and social rights for immigrant workers.


\(^{54}\) OJ C 27, 3.2.2009, p. 114.

The EESC recently adopted an own-initiative opinion urging that fundamental rights be respected in immigration legislation. It proposed an advanced framework of rights and obligations. The Directive on family reunification also needs to be reformed.

6. **Employment is a key element in the integration process**

6.1 Integration is a two-way social process of mutual accommodation involving both immigrants and the host society. This is the first of the common basic principles for integration that were adopted by the Council in 2004.

6.2 Integration requires strong leadership on the part of the authorities, social partners and organisations. Public policies can facilitate these social processes, and the active involvement of civil society is also crucial. In an earlier opinion, the EESC highlighted the important role of local and regional authorities.

6.3 Immigrant workers must also be receptive to integration, and make an effort to learn the language, laws and customs of the host society.

6.4 The EESC, together with the Commission, is engaged in the activities of the European Integration Forum, and wishes once again to emphasise the importance of civil society organisations being involved and consulted at the various levels of governance.

6.5 Integrating people of immigrant origin goes beyond the realm of employment covered by the present opinion, as integration is especially important in the family setting, in schools and universities, towns and neighbourhoods, religious institutions, sports and cultural bodies, etc.

6.6 Work represents a fundamental part of the process of social integration, since decent work is vital to immigrants’ self-sufficiency, and it facilitates social relations and mutual understanding between the host society and immigrants.

6.7 Social Europe is founded on work, and integration is crucial to developing a social Europe. European businesses are vital social players and are both concerned by, and engaged in, integration.

6.8 The economic crisis and the rise in unemployment are weakening integration processes and exacerbating a number of conflicts within society and the labour market. The EESC considers that under these circumstances, efforts in favour of integration need to be redoubled by all those involved: immigrants themselves, the public authorities, the social partners and civil society.

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6.9 Europe's migrant workers must be treated fairly, because they are protected by international human rights conventions and the principles and laws enshrined in the ILO conventions. In another opinion\(^{58}\), the EESC listed the rights and obligations that European legislation must guarantee to immigrant workers.

6.10 The EESC considers that legislation and public policies must be backed up by cooperation with the social partners, because integration into the labour market is also an issue of society's attitudes, and of commitment on the part of unions and employers.

6.11 Public employment services must boost programmes to help immigrants find work and these programmes might include helping with the recognition of professional qualifications, improving discrimination-free language learning and occupational training, and providing adequate information on employment systems in the host country.

6.12 Trade unions, employers' organisations, immigrant associations and other civil society organisations play a key role in conveying information and in helping immigrants to find employment.

6.13 Most companies in Europe are small- or medium-sized. They provide employment for the bulk of the working population, including immigrants. In consequence, social integration processes unfold largely in SMEs.

7. Equal treatment and non-discrimination as the pillars of integration

7.1 The EESC sees the initial reception and treatment given by the authorities and by businesses to immigrant workers as fundamental; they frequently find themselves at a disadvantage compared to host country workers.

7.2 Although the situation varies between Member States, as do labour laws and social practices, many immigrant workers experience disadvantages and difficulty in finding employment and the non-recognition of vocational qualifications. In addition, they often do not speak the language and are unfamiliar with local laws, customs and social institutions.

7.3 Sound anti-discrimination legislation is the starting point, but legislation that discriminates between host country and immigrant workers still exists at national level, mostly consisting of directly or indirectly discriminatory practices towards workers on account of their national, ethnic or cultural origin.

7.4 Equal treatment and anti-discrimination policies represent the pillars of integration policies. Reflecting its two-way focus on integration, the Committee believes that businesses, trade


.../...
unions and the authorities must assure immigrant workers equal treatment and prevent all forms of discrimination.

7.5 Employers and immigrant workers must comply with labour standards and the collective agreements in force in each company or sector, in accordance with national laws and practices. The Committee would emphasise that racism and discrimination are forms of criminal behaviour that must also be penalised in companies under labour law.

7.6 In order to facilitate labour integration, immigrant workers must be informed of the labour laws and collective agreements that govern their workplace rights and obligations.

7.7 A political and social environment that is integration-friendly will make it easier for immigrant workers to follow paths towards integration and programmes that the authorities must provide for them, such as learning languages, laws and customs.

7.8 The EU Directives on equal treatment in employment\(^\text{59}\) and equal treatment irrespective of racial or ethnic origin\(^\text{60}\) are essential legal instruments in shaping legislation and practices in the Member States to combat discrimination and foster integration at work.

7.9 The European Parliament recently adopted a resolution on the new Directive against discrimination\(^\text{61}\), which complements the directives already in place. The EESC also delivered an opinion endorsing the Commission proposal and recommending that multiple discrimination be taken into account. This new directive, once adopted, will extend the principle of non-discrimination to areas such as education, health, social protection and housing.

7.10 The EESC considers that the anti-discrimination directives have not been adequately transposed into national legislation, and consequently some Member States lack sound anti-discrimination laws. The new Directive, once adopted, will be a very valuable legislative instrument.

7.11 The social partners, who are key players in the operation of the labour markets, and who are cornerstones of Europe's economic and social life, have an important role to play in integration. In the context of collective bargaining, they must accept their share of the responsibility for integrating immigrants, eliminating any direct or indirect discrimination from collective agreements and from employment laws and practices.

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\(^{59}\) Directive EC/2000/78.

\(^{60}\) Directive EC/2000/43.

With regard to collective bargaining, especially within companies, mechanisms must be put in place to ensure that access to employment and recruitment practices comply with the principle of equal opportunities. It is particularly important in this sphere to have instruments that can prevent not only direct, but also indirect discrimination.

At present, however, equal treatment in pay and working conditions is not guaranteed in practice for many immigrant workers. The social partners and labour authorities must introduce arrangements to prevent discrimination, and they must be proactive in promoting equality.

Dual-standard labour models are springing up in Europe, with high-quality employment for the majority of European citizens and highly-qualified immigrants, and low-grade jobs for the majority of immigrants. Low-grade employment is therefore also a factor for discrimination when immigrants are used as a pool of "more vulnerable" labour.

The EESC has urged in a number of opinions that the Member States should improve arrangements for recognising vocational qualifications, and that the EU should have a system for recognising qualifications that can be used by immigrant workers. Many immigrants are working in European companies at levels below their qualifications.

Many immigrants also suffer from disadvantages and discrimination when it comes to career development and promotion. Labour laws, collective agreements and business practice must uphold the principle of equal promotion opportunities for workers. It is up to the social partners to launch new initiatives in this respect.

Vocational training is an instrument of great importance for improving the employability of immigrant workers, although under some national laws and practices third-country nationals are excluded or limits are imposed on them. The EESC considers that the public authorities and the social partners must facilitate immigrant workers' access to training under equal conditions.

Some Member States cooperate with businesses to provide training programmes in the countries of origin before a residence permit is granted, to assist the labour integration of third-country nationals once they arrive in Europe.

The European Union has still not satisfactorily resolved the question of the portability of pension rights for European workers. Immigrant workers also experience numerous problems arising from national laws that do not properly safeguard pension rights acquired when

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working in Europe. The reasons for this are very varied, depending on national laws and agreements with third countries.

7.20 The Committee proposes that the European Commission should take legislative steps to make it easier to guarantee the pension rights of immigrant workers in the EU when they change their place of residence within the EU, return to their country of origin or go to live in another country.

7.21 Trade unions must welcome immigrant workers into their ranks and help them to attain representative and management positions. Most trade unions in Europe have implemented best practices to guarantee equal treatment and tackle discrimination.

7.22 The EESC believes that active policies and new commitments on the part of the social partners are needed, in order to foster social attitudes that encourage integration, equal treatment and efforts to combat discrimination in the workplace. European social dialogue can provide an appropriate framework enabling the social partners to take on new commitments.

7.23 The European Union Agency for Fundamental Rights has investigated labour discrimination on ethnic grounds on the European labour markets, and has confirmed that there is a high level of discrimination in spite of legislation.

8. **Managing diversity**

8.1 European societies are increasingly diverse, and this diversity is going to increase in the future. Immigrants cannot be properly integrated at work unless a positive view is taken of cultural diversity, which increasingly touches upon businesses and workers.

8.2 Large companies have their own in-house business culture which they have built up over time among their workers, the social environment and their links with clients.

8.3 European companies carry out their business in cities that are ever more diverse. The Committee of the Regions and the Dublin Foundation have, by means of the CLIP Network, pooled their experiences with a view to enhancing diversity in municipal employment.

8.4 The cultural diversity arising from immigration poses a new challenge that must be faced if business culture is to be broadened in order to integrate new workers at all levels: senior and middle management and the rest of the workforce.

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65 Cities for Local Integration Policy – a network of more than 30 cities, operated by Eurofound.
Globalisation is also making it easier for companies to operate in new social and cultural environments, and in new markets with clients from different cultures.

Many companies recognise the value of managing diversity. The shift over recent decades to a service economy has given greater weight to contact between companies and their clients; moreover, globalisation has prompted businesses to seek out new markets around the world. The clients and users approached by companies are increasingly diverse.

Efficient management of in-company diversity allows the skills of all workers of diverse origins and cultures to be better harnessed, and makes for more effective external company relations in a market which is similarly diverse.

Companies that handle diversity well are better placed to draw on "talent" from anywhere in the world, as well as to attract clients on the new markets. Moreover, they can enhance the creativity and capacity for innovation of their employees insofar as all their workers (including immigrant ones) operate in a climate that is conducive to this.

Small businesses in Europe often do not have dedicated human resources management departments: consequently, they need to be supported by specialist structures provided by the authorities and by employers' organisations.

Management of diversity is based on the strict application of measures for equal treatment and non-discrimination. In addition, however, it entails introducing reception programmes for immigrant workers; measures to cater for cultural differences; communication systems that reflect linguistic diversity; mediation procedures for conflict resolution, etc.

Training is needed in order to manage diversity. In-company training can apply to various groups: senior managers, middle managers and the workforce as a whole, as well as trade unions and employers' organisations.

Companies, trade unions and employers' organisations should all have specialist diversity management services to promote initiatives, evaluate results and foster change.

The public authorities will be required to contribute to managing diversity in companies, not least by means of economic and tax incentives in support of businesses that draw up their own diversity plans, and to facilitate sharing of best practice, implementation of training programmes and promotion campaigns.

**Integration difficulties in the informal economy and irregular immigration**

Irregular immigrant workers "without papers" are obliged to work in the informal economy and irregular jobs, which increases their relative weight in those Member States that have the largest numbers of irregular immigrants.
9.2 Irregular immigrants are frequently subjected to extreme forms of labour exploitation by certain employers. The EESC has adopted an opinion on the draft directive proposing sanctions against employers who exploit irregular immigrants.

9.3 Undocumented women workers in domestic employment are in a highly vulnerable position, which in some cases amounts to semi-slavery. Some national laws do not fully guarantee labour and social rights for this type of work. These problems are further aggravated for people whose situation is irregular and who work in the hidden economy. The Committee proposes that the European Commission launch new initiatives to assure proper protection for the labour and occupational rights of these women workers.

9.4 In recent years some national laws have criminalised humanitarian associations that help people in an irregular situation to prevent them becoming socially excluded and promote their integration. The Committee warns that such laws run counter to human rights and the moral principle of solidarity. The European Commission and the Vienna Agency must assess these situations and respond with the necessary initiatives.

9.5 Since social integration is more difficult when immigrants are in an irregular situation, the Committee has suggested introducing individualised regularisation procedures for irregular workers that take account of the degree to which they have settled in social and employment terms. This should be based on the undertaking by the European Council under the European Pact on Immigration and Asylum, in which it was agreed to use case-by-case regularisations under national law for humanitarian or economic reasons, especially in employment sectors with high concentrations of persons in irregular circumstances.

10. Stockholm Programme initiatives

10.1 The Commission has proposed to set up a European platform for dialogue on managing labour migration, bringing together employers, trade unions, employment agencies and other stakeholders.

10.2 The EESC proposes that the Commission follow the same procedure as for the establishment of the European Integration Forum, and request an exploratory opinion in the course of 2010. The Committee, with input from all the stakeholders, could then propose how to set up the European platform, with which it would wish to cooperate.

10.3 The Commission has also proposed that the EU adopt an immigration code to assure legal immigrants a uniform level of rights that is comparable with that of European citizens. This

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codified version of existing legislative texts will include any amendments that may be needed to simplify or flesh out existing provisions and improve their implementation.

10.4 The EESC considers that European immigration legislation must go hand in hand with a horizontal common framework of rights (European status) which ensures respect and protection for immigrants' rights and freedoms in Europe, irrespective of the kind of job they do or their legal status. If the framework directive being discussed at the Council were to be adopted and provide a high level of protection, it would represent a powerful legal tool for protecting immigrants' rights.

10.5 The Committee welcomes the Commission's initiative to present a European Immigration Code, provided that it takes the form of a legislative proposal guaranteeing immigrants' fundamental rights and a uniform level of rights comparable with that of Community citizens.


The President
of the
European Economic and Social Committee

Mario Sepi
SOC/335
Fundamental rights in European immigration legislation

OPINION
of the
European Economic and Social Committee
on
Respect for fundamental rights in European immigration policies and legislation
(own-initiative opinion)

Rapporteur: Mr Pariza Castaños
On 26 February 2009 the European Economic and Social Committee decided to draw up an own-initiative opinion, under Rule 29(2) of its Rules of Procedure, on

*Respect for fundamental rights in European immigration policies and legislation.*

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 15 October 2009. The rapporteur was Mr Pariza Castaños.

At its 457th plenary session, held on 4 and 5 November 2009 (meeting of 4 November), the European Economic and Social Committee adopted the following opinion unanimously.

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1. Presentation and background

1.1 The EESC has decided to draw up an own-initiative opinion to propose that EU policies and legislation on immigration and borders should comply fully with human rights and focus principally on the freedom and security of all.

1.2 The EU is equipping itself – with great difficulty at the Council – with a common legislative framework in the field of immigration, providing supranational rights and guarantees that go beyond the changing (and sometimes restrictive) laws of the Member States. The EESC welcomes the progress made: drafting common legislation for 27 Member States is no easy task, especially in an area as sensitive as immigration.

1.3 However, the minimal nature of harmonisation of many of these items of legislation stands in the way of full, appropriate safeguards for human rights. Moreover, the transposition of European directives into national law is not proceeding properly in some Member States where the protection of fundamental rights is concerned.

1.4 Over the years, the EESC has drawn up a number of opinions calling for the common immigration policy to be based on a comprehensive approach, reflecting not only the needs of the EU Member States, but also cooperation with the countries of origin and respect for the human rights of immigrants.

1.5 On 16 October 2008 the European Council reached agreement on the European Pact on Immigration and Asylum, expressing the EU’s strong political commitment to making...
progress on the common immigration policy. In the course of the Swedish Presidency, the EU is to adopt the Stockholm Programme\textsuperscript{68}.

1.6 The Lisbon Treaty is also expected to come into force, which could give new impetus to the implementation of immigration policies to be adopted by means of the ordinary legislative procedure, and will give a binding legal character to the Charter of Fundamental Rights.

1.7 Over this period, the EESC has stepped up cooperation with civil society organisations, and a lasting link for participation has been established with the European Integration Forum\textsuperscript{69}. The Committee has committed itself strongly to ensuring that civil society is involved in implementing integration policies.

1.8 The Committee is concerned at rising intolerance, racism and xenophobia against immigrants, "the Other", in Europe, and fears that the social effects of the financial crisis will serve to nourish this. Politicians and others with influence in society, together with the media, must act with the utmost responsibility and set a clear political and social example in order to prevent such behaviour. Education in human values, fundamental rights, equality and non-discrimination must be given a more prominent place in primary and secondary school curricula.

2. **Fundamental human rights and immigration policies**

2.1 Among the various international instruments, the Universal Declaration of Human Rights proclaims the universal nature of a common system of principles and values.

2.2 The European Convention on Human Rights, signed in Rome in 1950 and to which all the Member States have adhered, and the European Court of Human Rights (ECHR), are the basis and guarantee of compliance everywhere in EU territory.

2.3 The Court of Justice of the European Communities (or "European Court of Justice", ECJ) has recognised that the European Convention on Human Rights and the ECHR form part of the Community's legal system and constitute general principles within that system.

2.4 This was confirmed by Article 6 of the Treaty on European Union (TEU), which strengthened the guarantee of fundamental rights in the European legal system, and the ECJ's competence to enforce compliance with them in the actions of the European institutions and the Member States in areas subject to Community law.

\textsuperscript{68} COM(2009) 262 final, 10.6.2009.

\textsuperscript{69} European Integration Forum and the EU website on integration.
2.5 Although states have a sovereign entitlement to control entry and grant residence permits to third-country nationals, the EESC recalls that they must comply with their obligations under international and European instruments and conventions on fundamental human rights and their interpretation (and implementation) by the competent courts.

2.6 The Charter of Fundamental Rights of the EU incorporates new rights not included in the European Convention on Human Rights 70. A large number of these rights, moreover, apply regardless of a person's nationality. The Charter will be binding once the Lisbon Treaty has been ratified, and will increase the legal certainty of the protection of fundamental rights. The Charter will be applicable to the European institutions and the Member States especially when they apply Community law, and will strengthen respect for fundamental rights in matters relating to immigration.

2.7 The entry into force of the Lisbon Treaty will give the Union the option of adhering to the European Convention for Human Rights, strengthening the EU’s commitment to human rights.

2.8 The Committee also backed 71 the creation of the EU Agency for Fundamental Rights. In 2008 the European Council adopted the multi-annual framework for the Agency covering nine thematic areas, among them racism and xenophobia; discrimination; asylum, immigration and integration; and visas and border control. The EESC wishes to be involved in the Agency, in order to strengthen the part played by organised civil society in its work.

2.9 However, in spite of these Community instruments and structures, many civil society organisations and reports from independent and university researchers have shown that some national and European policies and laws do not adequately respect fundamental rights.

2.10 With regard to Community policies, there are also abundant reports pointing to violations of immigrants' human rights in several Member States; on other occasions, European policies legitimise certain national migration practices which are incompatible with human rights and the rule of law.

2.11 In a recent opinion 72, the EESC took the view "that immigration policy and legislation should fully respect the human rights of all people, equal treatment and non-discrimination. To strengthen this objective, the EESC proposes that two new common principles should be included" for the future European immigration policy as laid out in the Stockholm Programme: "Fundamental Rights, and the Rule of Law and Fundamental Freedoms".

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2.12 The Fundamental Rights should be granted to all, not only citizens of the Union. Asylum seekers and immigrants are protected by the European Convention on Human Rights and the Charter of Fundamental Rights of the European Union. In addition, European immigration and border law and ECJ case-law provide a series of guarantees and rights that go beyond the Member States' margin of discretion.

2.13 The EESC has also proposed\(^73\) that, within the framework of external policy, the EU should promote an international legal framework for migration on the basis of the Universal Declaration of Human Rights, the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights. This framework should incorporate the main ILO conventions and the UN International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, which has not yet been ratified by the EU Member States although the EESC had adopted an own-initiative\(^74\) opinion calling for its ratification.

2.14 In the Programme for Europe\(^75\), the Committee also proposes that fundamental rights and human rights be respected in the EU, and specifically in immigration and asylum policies.

2.15 The EESC considers that the values and principles of the EU, protection of human rights and freedoms, must be strengthened by means of a visible and robust political authority at European level. It therefore supports President Barroso's proposal to create a post for a European Commissioner responsible for Justice, Fundamental Rights and Civil Liberties. The Committee trusts that this department will be equipped with the political tools and organisational and financial resources needed to discharge such a major responsibility.

2.16 The Committee regrets, however, that immigration and asylum are not included in this portfolio, being classed with internal security matters under the responsibility of another Commissioner. Linking immigration with security, and separating it from the protection of fundamental rights, sends the wrong political message.

3. The universality of human rights

3.1 Europe today faces a major challenge: ensuring that every person enjoys human rights within the framework of the EU and Member State legal systems, which are based on the traditional concept of citizenship, denying some of these rights to "non-citizens", and on a legal distinction between citizens and aliens, between legal and irregular immigrants.

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\(^{73}\) EESC opinion, OJ C 44, 16.2.2008, p. 91.

\(^{74}\) EESC opinion, OJ C 302, 7.12.2004, p. 49.

3.2 Bodies of law on immigration in Europe do not adequately guarantee immigrants' status as right-holders and as persons entitled to protection. The tight legal link between work and residence permits makes it perfectly clear that immigrants are not viewed as people but as a workforce, a tool at the service of the labour market that foregoes the chance to stay legally once no longer required. As such, they lose many of their rights due to a change in their administrative status: they become "undocumented".

3.3 Human rights are universal, irrevocable and protect all, regardless of condition or legal status.

4. **Human rights and immigration policy: ten operational priorities for Europe to be an area of freedom, security and justice**

4.1 **A Europe of rights**

4.1.1 In recent years, the defence and promotion of human rights has slipped down the EU agenda. State security has been the political priority, and has been seen as incompatible with more freedom and the protection of fundamental rights.

4.1.2 Any security policies that are adopted must safeguard the values of freedom and justice. The EESC considers that these policies should take the protection of the fundamental rights guaranteed by the European Convention on Human Rights and the Charter of Fundamental Rights as their starting point.

4.1.3 Strengthening security must not jeopardise the fundamental values (human rights and public freedoms) or democratic principles (the rule of law) that are shared throughout the Union. Personal freedom must not be curtailed under cover of the objective of collective and state security. Some policy proposals repeat a mistake that was made in previous periods: sacrificing freedom to improve security.

4.1.4 In this regard, the EESC welcomes the Commission's June 2009 Communication on *An area of freedom, security and justice serving the citizen*, whose priority is to protect the fundamental rights of European citizens.

4.1.5 The EESC supports the Commission's initiative to "lock in a culture of fundamental rights" from the earliest stages of the legislative procedure, including immigration policy. Respect for fundamental rights must a common goal of all the Community institutions. This should be accompanied by a common European system of periodic ex-post evaluation of the application of European policies adopted at national, regional and local level in terms of their compatibility with fundamental rights and their effectiveness. The EESC and organised civil society should also play a key role in such evaluations.

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77 This would be in keeping with Article 60 of the Treaty of Lisbon.
4.2 Admission legislation

4.2.1 The EESC has previously argued that the EU must be equipped with a common immigration policy and harmonised legislation. The EU and the Member States need to have open legislation allowing immigration for employment purposes through legal, transparent channels for workers in both highly-qualified and less-qualified jobs. Immigrants' rights will be properly protected in this way.

4.2.2 The Committee has proposed horizontal legislation, but the Member States, the Commission and the Council have decided to draw up specific directives for certain groups of immigrants, a fact which may give rise to instances of discrimination.

4.2.3 In its opinions on the Commission's legislative initiatives, the EESC seeks to ensure overall consistency and the protection of fundamental rights, together with equal treatment and non-discrimination, regardless of immigrant workers' occupational category.

4.3 Rights of immigrant workers and their families

4.3.1 The principle of non-discrimination should be the foundation (Article 21 of the Charter). Immigrant workers, regardless of the period for which they are authorised to reside and work, must have the same economic, labour and social rights as other workers. This is also in keeping with Article 15(3) of the Charter, stating that "nationals of third countries who are authorised to work in the territories of the Member States are entitled to working conditions equivalent to those of citizens of the Union".

4.3.2 Equal treatment at work concerns working conditions, pay, dismissal, workplace health and safety, and the right to join a trade union and to strike.

4.3.3 The EESC considers that equal treatment should also be promoted in relation to other social and fundamental rights, as it proposed in an earlier opinion: "In specific terms, the EESC proposes a series of rights that should be granted to third-country nationals temporarily and legally working and residing within the EU"\(^\text{78}\), such as:

- the right to social protection, including health care
- access to goods and services, including housing (Articles 34 and 35 of the Charter);
- access to education and vocational training (Article 14 of the Charter);
- the recognition of degrees, certificates and qualifications in the context of Community law;
- the recognition of the social and labour rights of migrant workers who are posted within the EU\(^\text{79}\);

\(^{78}\) EESC opinion, OJ C 286, 17.11.2005, p. 20.\(^{79}\) In connection with the proposal for a directive that the Commission is to adopt in the coming months.
– the right to the education of minors, including funding and study grants;
– the right to free legal aid in cases of need (Article 47 of the Charter);
– the right of access to a free placement service (public service);
– the right to be taught the language of the host society;
– respect for cultural, religious and linguistic diversity (Article 22 of the Charter);
– the right to free movement and residence within the Member State.

4.3.4 Being able to exercise fundamental rights depends on public services being endowed with the means of respecting them (resources, staff training) and their representatives being legally bound to treat individuals independently and neutrally. Furthermore, the EESC remains to be convinced, in this period of crisis, that the budgetary resources available to the Member States of the Union and the level of resources that they are prepared to disburse, both nationally and at European level, are sufficient to make the protection of human rights, particularly those of immigrants, a reality.

4.3.5 The Committee does not agree with the proposal for a framework directive, which allows the Member States to restrict the right to equal treatment in relation to certain working conditions (including pay and dismissal, health and safety in the workplace and social protection) and freedom of assembly, association and to strike to persons actually in work. These restrictions may also undermine the principle of non-discrimination and Article 12 of the Charter.

4.3.6 The EESC hails the Commission's initiative to present a European Immigration Code, which should encompass the fundamental rights and guarantees of all immigrants to the EU.

4.4 Family reunification

4.4.1 The right to family life as one of the human rights that the EU and the Member States must protect and guarantee in their policies and legislation on immigration.

4.4.2 The minimalist nature of Council Directive 2003/86/EC on the right to family reunification enables some national laws not to fully guarantee the right to family reunification to third-country nationals. This was confirmed in the Commission report on the application of the directive which raises doubts about the compatibility of applying integration measures as a precondition for admission to the territory under the right to family life (Charter Article 7) and the principle of proportionality.

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80 COM(2007) 638 final, Article 12(2)(e) and (d). According to the provisions of the proposal, the Member States can also apply restrictions concerning study and vocational training grants, and limit access to public housing to those with residence rights for a minimum of three years.

81 As confirmed by the ECJ in Case C-540/03 European Parliament v. Council.

4.4.3 The Committee believes that the Blue Card Directive takes a less restrictive view of family reunification than does Directive 2003/86. This approach should be extended to all categories of immigrant, regardless of whether they are highly-skilled or otherwise.

4.4.4 Consequently, the Committee proposes that in the course of the 2010, the Commission should draw up a proposal to amend Directive 2003/86.

4.5 

Borders and irregular immigration

4.5.1 The EESC wants effective border control that respects the fundamental right to asylum (Article 18 of the Charter) and the principle of "non-refoulement", which prevents individuals from being returned to countries where their lives or freedom would be in danger (Article 19 of the Charter). Many people requiring international protection arrive at the external borders using clandestine routes. The authorities must ensure that such persons can submit their requests for protection, and that their requests are examined without exception in accordance with international and European conventions and with Community and national legislation.

4.5.2 The EESC proposes that before strengthening the FRONTEX Agency's operational powers, there should be an independent evaluation of the human rights compliance of joint border control operations, and that European and national parliamentary oversight should be stepped up. Compatibility with the guarantees set out in the Schengen Border Code, especially Articles 6 and 13, should also be assessed.

4.5.3 EU control and surveillance measures concerning irregular immigration are also being geographically extended beyond the EU’s external border, by means of joint operations in Africa. The UNHCR and several NGOs have warned about the lack of guarantees for respect of human rights when border control operations take place outside EU territory?

4.5.4 The European border control strategy makes heavy use of security technology; however, databases handling vast quantities of personal data (Schengen Information System (SIS II) and Visa Information System (VIS) have been set up and are used for ethnic and cultural/religious profiling, which presents challenges when it comes to safeguarding the right to non-discrimination under Article 21 of the Charter of Fundamental Rights.

4.5.5 Similarly, the system proposed in the Commission's 2008 border package\(^3\) raises doubts regarding the proportionality and reasonableness that are essential for any new EU legislation, and also gives rise to the same serious concerns regarding how the protection of personal data (Article 8 of the Charter) and the principle of non-discrimination enshrined in Article 13 of the EC Treaty will be fully ensured given the use of certain technologies initiatives (e.g. the automatic border control procedures system).

4.5.6 The EESC considers that in order to ensure respect for fundamental rights, EU solidarity with those Member States that, because of their geographical location, have to deal with large numbers of victims of criminal trafficking networks who arrive by irregular means, should be enhanced. The EESC proposes that the European Asylum Support Office begin functioning.

4.5.7 The EU must also promote cooperation with the countries of origin in order to improve respect for human rights, head off irregular immigration, foster legal immigration and combat criminal people-trafficking networks.

4.6 **Return and readmission**

4.6.1 The Directive on Return[^84] will provide a European framework of legal and procedural guarantees of protection[^85], which the EESC appreciates, such as the effective remedy to appeal against decisions related to return before a competent judicial or administrative authority or a competent independent body, as well as free legal representation and assistance, certain safeguards pending return, conditions of detention, etc.

4.6.2 However, the EESC shares the opinion of many civil society organisations and independent experts of the UN Human Rights Council[^86] who point to a number of discrepancies between the common system introduced by the Directive and the fundamental rights of immigrants. There will be a need for detailed monitoring of the transposal and implementation phases at national level regarding expulsion measures, detention, appeal procedures and the treatment of vulnerable people under the Directive.

4.6.3 The Committee proposes that European return policy should be based on a voluntary approach and on the greatest possible regard for humanitarian values. The legitimacy and credibility of European immigration policy elsewhere in the world depends on this. The exceptions contained, for example, in Article 7(4) of the Directive ('risk of absconding' concept) may empty return of its voluntary nature as a result of the discretion granted to the Member States in transposing and interpreting it. Moreover, the Directive fails to ensure proper protection for persons left in a legal limbo pending their expulsion, or with regard to the conditions justifying detention[^87], which may last up to six months (and can be extended for a further 12 months[^88]).

4.6.4 Article 19 of the Charter expressly prohibits collective expulsions and ensures that no one may be removed, expelled or extradited to a state where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or

[^84]: Directive 2008/115/EC.
[^87]: Article 15(1).
[^88]: Articles 15(5) and 15(6).
punishment – the "non-refoulement" principle (Articles 4 and 19 of the Charter). The Charter reinforces respect for fundamental rights. However, the UNHCR and several NGOs have condemned instances of collective expulsion and expulsion of irregular immigrants and asylum seekers to countries where human rights are violated.

4.6.5 The EESC recalls that Articles 3, 5, 6, 8 and 13 of the European Convention on Human Rights and Articles 3, 4, 19, 24 and 47 of the Charter contain provisions that are applicable to any European policy on irregular immigration – with a special focus on protection in the event of return, expulsion or extradition. Many irregular immigrants find themselves in a difficult humanitarian position, which is why whatever laws and practices are implemented must be drawn up and applied in compliance with strict human rights criteria and in keeping with solidarity-based moral principles.

4.6.6 The rule of law protects the fundamental right of everyone to effective remedy as enshrined in Articles 47 and 48 of the Charter. In addition, Article 6(2) of the Schengen Border Code stipulates that border guards shall not discriminate against persons on grounds of sex, racial or ethnic origin, religion or belief, disability, age, or sexual orientation. Similarly, in accordance with Article 13, third country nationals who are refused entry shall have the right to appeal against the decision, and they shall be given a form stating the reasons for the refusal.\(^89\)

4.6.7 The ECHR has interpreted Article 3 of the European Convention on Human Rights\(^90\) to mean that persons with serious physical or mental illness may not be detained or expelled, as they are in need of medical care. The situation of minors also requires specific attention and protection. The EESC supports the Commission's initiative regarding the situation of unaccompanied minors.

4.6.8 The EESC considers respect for human rights to be an indispensable precondition for signing readmission agreements with third countries, and is opposed to the EU or the Member States entering into repatriation or border control agreements with countries which have not signed the main international legal instruments to protect human rights, or where there is evidence that such rights have been violated. Special attention must be paid to the fundamental right to effective judicial protection of asylum seekers.\(^91\)

4.7 Detention centres

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91 As indicated by the ECJ in Case C-133/06, European Parliament v Council.
4.7.1 The EESC restates its opposition to keeping asylum seekers and irregular immigrants in detention, which must remain an extraordinary measure.\(^2\)

4.7.2 The circumstances under which prolonged detention currently takes place in a number of Member States are unacceptable, and should be analysed in detail from the perspective of fundamental rights, including the right to good administration as laid down in Article 41 of the Charter.

4.7.3 The Committee calls for greater transparency concerning detention centres within and outside the EU, for the UNHCR to be kept informed of the situation of persons detained in them, and for such persons to be afforded appropriate assistance by NGOs.

4.7.4 The EESC believes that pregnant women and minors should receive special protection, and should not be detained in these centres.

4.8 **Undocumented persons**

4.8.1 The EESC does not see an undocumented person as a person without rights: consequently, the EU and the Member States should protect their fundamental rights.

4.8.2 The expression "illegal immigration", when referring to migrants, requires some clarification. Although it is not legal to enter a country without the proper documents and authorisations, people who do so are not criminals. The link made in much of the media and in political speeches between irregular immigration and crime does not reflect reality, and stirs up fear-driven and xenophobic attitudes among the population of the host country.

4.8.3 The Committee considers that certain Member States need to provide better protection of the fundamental rights of undocumented immigrants, and that the EU should consider them as one of the most vulnerable groups, preventing their labour exploitation and by ensuring their access to health services, other social services and education for minors.

4.8.4 The fight against trafficking in human beings (children, women and men) for sexual and labour exploitation needs to be stepped up, in accordance with Article 5(3) of the Charter. The Member States must provide effective protection for victims, making it easier for them to cooperate the judicial authorities and regularise their situation.

4.9 **Regularisation**

4.9.1 In the Committee's view, governments are acting hypocritically. Return policy is not the only answer to irregular immigration. Many Member States have implemented procedures to put

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irregular immigrants on a legal footing, seeing regularisation under specific conditions as appropriate in order to guarantee fundamental rights and in the light of their economic and social needs.

4.9.2 The EESC agrees that the flow of information between Member States concerning regularisation should be improved, and that European implementing guidelines should be drawn up, on the basis of the Council’s commitment under the European Pact on Immigration and Asylum, in which it was agreed to carry out case-by-case regularisations under national law, for humanitarian or economic reasons.

4.9.3 Return by means of an expulsion order should, for persons whose residence permits have expired, be considered as the most extreme measure. Before taking such a step, consideration should be given to whether such persons have expressed an intention to renew their residence.

4.9.4 The EESC considers that in a democratic society, the need for expulsion must be assessed (principle of proportionality) in keeping with the interpretation under ECHR case-law. The Committee proposes that the Member States make use of the option to regularise the situation of these persons, as provided by Article 6(4) of the Directive on Return.

4.9.5 The effects (and viability) of expulsion on the fundamental right to private and family life, as set out in Article 7 of the Charter must also be taken into account.

4.10 Integration policies

4.10.1 The EESC has drawn up several own-initiative opinions calling for proactive integration policies in the EU with a two-way focus, directed towards the host societies and immigrants. Integration is a social process that takes place within a single society, between immigrants and the host society, and between the host society and immigrants.

4.10.2 The EESC is promoting a European approach to integration, reflecting the fact that each Member State has its own legal systems, social institutions and different cultural systems and models.

4.10.3 A common European approach entails very considerable added value for integration policies and processes: the cross-cutting link with other EU policies, (amongst others) the Lisbon strategy, employment policy, the social agenda and cohesion policy. The same can strengthen links between integration and the EU’s values and principles, set out in the Charter and the European Convention on Human Rights.

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94 For example, Boultif v. Switzerland, no. 54273/00, §§ 39, 41 and 46, 2 November 2001, ECHR 2001-IX. Üner v. the Netherlands [GC], no. 46419/99, 18 October 2006, § 58.
4.10.4 During 2008, the Committee participated actively in the European Year of Intercultural Dialogue, the purpose being to facilitate integration and promote more inclusive European citizenship through dialogue in an environment of diversity in European societies. The EESC has proposed that handbooks be prepared.

4.10.5 The EESC proposes a positive approach to integration. However, some governments understand integration from a negative point of view, as a new means of discrimination, and as a further obstacle to equality and access to fundamental rights. The EESC is convinced that such an approach runs counter to the provisions of Articles 21 (right to non-discrimination) and 22 (right to cultural, religious and linguistic diversity) of the Charter.

4.10.6 Examples of best practice include the creation of consultative forums and platforms involving civil society at national, regional and local level, and the EESC therefore urges all the Member States to set up such structures. The European Integration Forum, recently set up with the cooperation of the Commission and the EESC, is a major tool for strengthening integration from a European perspective.

5.  More inclusive European citizenship

5.1 Some governments, taking an exclusionist, nationalist stance, define national and European identity in a way that sidelines the present-day diversity of European societies and the diverse aspects of many people on account of their ethnic, national, religious or cultural origins.

5.2 Our democratic societies are plural and enjoy a wealth of diversity. Each European citizen is a melting-pot of different identities. The European democracies are free and open societies, and must be based on the inclusion of all citizens, whatever their reference points for their identities.

5.3 The quality of democracy could be eroded if citizenship rights are restricted by a narrow and exclusive view of identity. Integration policies and immigration legislation must never be used as a political fig leaf for excluding immigrants and minorities from citizenship rights.

5.4 The EESC considers that the foundations of our democracies should be extended to include new citizens, equal in rights and obligations. National and European citizenship rights must embrace all forms of diversity, without discrimination.

95 EESC opinion, OJ C 185, 8.8.2006, p. 42.
96 Article 13 of the Treaty establishing the European Community.
5.5 The EESC drew up an own-initiative opinion addressed to the Convention that drafted the ill-fated Constitutional Treaty, calling for European citizenship to be granted to third-country nationals having long-term resident status. The Committee urges the Commission and the European Parliament to include this proposal as a priority for the new term of office.

Brussels, 4 November 2009.

The President of the European Economic and Social Committee

Mario Sepi

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97 Own-initiative opinion, OJ C 208, 3.9.2003, p. 76.
In 2009, the EESC was awarded the prestigious “Ecodynamic Enterprise” label by the Brussels Institute for Management of the Environment (IBGE), obtaining 3 stars, the highest level possible. This label rewards organisations for good environmental performance.