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INTEGRATION: EQUIPPING SOCIETY FOR IMMIGRATION

Staffan Nilsson, 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 and their concerns and problems mingle with our own. This situation is made worse by the crisis that our European countries are suffering at the moment. As a result, the mutual enrichment that could and should result from this meeting of diverse peoples and cultures ends up being a source of incomprehension, fear, tension and rejection.

For this coming together to be genuinely mutually-enriching there is a need for policies that make integration a reality, not just a pipe dream. Players at every level must be able to get 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. Integration is, in my view, a process that is based on the reciprocal rights and obligations of third country citizens as well as on those of the host society. We believe that integration is about making immigrants equal with the rest of the population, on the basis of equal opportunities and equal treatment.

In my presidency programme "Engaging people for a sustainable Europe", I emphasise that European civil society must allow more equity between all the people living in it, regardless of the differences between them. This is a prerequisite for social cohesion based on universal freedom and mutual respect.

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 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.

Integration is an integral part of our daily life: it matters at school, in sports clubs, in the street 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 trade 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.

Staffan Nilsson

President
European Economic and Social Committee
THE NEW INTEGRATION AGENDA

Luis Miguel Pariza Castaños, President of the standing study group "Immigration and integration" of the European Economic and Social Committee

Two diametrically opposed political and social agendas today face each other in Europe: one for integration, the other for xenophobia and racism.

The agenda for xenophobia, racism and discrimination has made alarming progress in criminalising immigrants and minorities, with the severity of the economic and social crisis providing a fertile breeding ground. This dark stain is spreading, driven by extremist ideologies and organisations.

It is crucial that the European institutions react vigorously to fight these ideologies and actions – it worries me to see that our institutions continue to respond so feebly. The European Economic and Social Committee will continue to lead from the front, beefing up its commitment to the Charter of Fundamental Rights by backing integration and anti-discrimination measures.

It is now ten years since the EESC proposed that the European Union should implement an agenda for integration as part of a common immigration and asylum policy. In the meantime, the EESC has drawn up many opinions, some of them own-initiative, urging Europe to facilitate the entry of immigrants through legal channels, ensure that human rights are upheld, take account of the situation on the employment markets and face up to the challenge of integration.

In 2002, the EESC proposed to the Commission, Parliament and Council that integration should be one of the basic pillars of the common policy, the European institutions should pursue integration policies, for a fund to be set up to assist Member States and civil society financially, and for a platform actively involving civil society to be created.

These objectives have gradually been met: the EU has introduced a policy agenda for integration; the Integration Fund has been set up; policy coordination at the Council has been improved; the legal basis in the Treaty has been strengthened; and a European Integration Forum has also come into being.

The Forum is a platform that brings together civil society organisations (human rights and immigrant associations) at national and European level, together with a range of experts and representatives from the EU institutions. The Commission and the EESC chair the six-monthly meetings. The EESC, which provides secretarial back-up, hosts the Forum's proceedings, in which members of the EESC’s Permanent Study Group on Immigration and Integration also take part.

Driving forward the work of the Forum, providing a venue for participants and working together with the Commission on the integration agenda is a great honour and a major responsibility for the EESC.
We are now moving into a new phase: the Commission has put forward a new integration agenda for the next five years, and the future of the immigration and asylum funds are under discussion at the Council against the backdrop of the new financial perspective.

I am convinced that integration policies must be linked to the protection of fundamental rights, equal treatment and the struggle against discrimination. There should be a two-way political focus, involving both immigrants themselves and the host societies. Europe must acknowledge that diversity brings new opportunities and new problems, meaning that intercultural and interfaith dialogue need to be promoted.

The challenge of integration is a very stiff one: successfully ensuring that everyone, including third-country nationals, is brought into full citizenship, with the same rights and obligations, in all the towns and villages of Europe. In an approach of this kind, both the authorities and civil society organisations must play a very active part. The EESC believes that new initiatives must be launched by local and regional authorities, since the challenges of integration emerge most clearly at local level. Language-learning and training must also be priorities.

We have suggested that local forums and platforms be set up, bringing together immigrant and minority organisations. It must be remembered that integration is a slow-moving and complex social process, achieved through the relations between individuals and social groups. This is why it is so important to enhance governance by making it easier for people to get involved and boosting the role of civil society organisations. And this is why the EESC and the European Integration Forum are therefore engaged in setting up forums and platforms at every level throughout Europe.

The social partners must also step up their commitment, especially at local level and workplaces everywhere, so that diversity boosts companies' opportunities and equal treatment at work becomes a reality. The EESC welcomes the agenda for social dialogue between the European social partners.

This booklet contains some of the European Economic and Social Committee's most recent opinions, representing its contribution to implementing immigration and integration policy across the European Union. I would like to thank the members of the EESC, and especially the Permanent Study Group, for their commitment. I would also like to express my gratitude to the civil society organisations that have helped to draw up these opinions.

Luis Miguel Pariza Castaños
President
Standing study group
"Immigration and integration"
European Economic and Social Committee
SOC/427
Integration of third-country nationals

Brussels, 28 March 2012

OPINION
of the
European Economic and Social Committee
on the
Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - European Agenda for the Integration of Third-Country Nationals
COM(2011) 455 final

Rapporteur: Cristian Pirvulescu
On 20 July 2011, the European Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

*Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - European Agenda for the Integration of Third-Country Nationals COM(2011) 455 final.*

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 29 February 2012.

At its 479th plenary session, held on 28 and 29 March 2012 (meeting of 28 March 2012), the European Economic and Social Committee adopted the following opinion by 170 votes to 14 with 11 abstentions.

* * *

1. **Conclusions**

1.1 The Committee welcomes the communication from the European Commission and considers it is a significant step further in understanding and tackling the challenges of integrating third-country nationals in the EU Member States.

1.2 The communication covers the key areas of intervention and clarifies roles and responsibilities in the design and implementation of the integration agenda. The emphasis on the role local and regional authorities have to play is well justified but it remains unclear what are the incentives for these authorities to become more involved in the process. The "modular" approach in designing national policies has significant potential but also risks.

1.3 The communication's approach is comprehensive and structured yet fails to take proper account of the complicated political and socio-economic challenges European societies have to face. The economic crisis, and its effects, is currently the key driver in the integration agenda. It affects the opinion of the European public and puts national and local authorities under financial pressure. The Committee suggests reconsidering the proposal in the light of current socio-economic context and identifying specific institutional and financial instruments to support the integration objectives. The Committee also draws particular attention to the communication dimension. It is already visible that the economic crisis tends to favour anti-immigration attitudes. It is an absolute priority that the European Commission and other...
EU institutions converge in sustained, far-reaching and bold communication actions aimed at curbing anti-immigration discourse and attitudes that in some European countries are moving dangerously close to becoming part of the political mainstream. This is directly affecting the core identity of the EU as an integrated democratic polity.

1.4 The Committee notes the diversity of third-country nationals' status and suggests building this diversity into policy thinking and preparation. The category includes citizens of states having membership perspectives, citizens of non-European countries who live and work in the EU and non-EU citizens benefiting from international protection on EU territory. Acknowledging this diversity should not however lead to gaps in policy or discriminatory actions and more importantly, should not converge towards minimal integration standards and actions. The Committee also considers that the broader integration agenda has to include EU nationals living and working in other Member States. The situation of Roma stands out as particularly problematic. The conditions of entry and residence for migrant seasonal workers from third countries are currently being discussed in the European Parliament and European Council, while the EESC delivered its opinion in 2011. EU policy must tackle the difficult issue of irregular migrants, who are particularly vulnerable.

1.5 The communication places a welcome emphasis on participation of third-country nationals but it fails to convey a more determined message regarding its necessity, support and specific instruments to promote it. Participation in the civic and political life of local and national communities stands out as particularly problematic. The articulation of interests and a capacity to formulate collective proposals in partnership with public and private bodies is in our opinion a prerequisite for a qualitative, participative and efficient integration policy.

1.6 The Committee encourages the EU Commission to focus on integration, either in a dedicated European year or as a key element in one of the other upcoming years, and hopes that the Commission, together with the other EU institutions, will continue linking the integration agenda with other major policy priorities, such as the Europe 2020 strategy but also the agenda on the protection of fundamental rights currently under review.

1.7 The Committee remains deeply committed to cooperating with the other EU institutions on the development of key policies and programmes for integration of third-country nationals. Moreover, it is determined to work on linking European civil society to the integration agenda and facilitating the participation of third-country nationals in a structured dialogue at European level.

2. **Introduction**

2.1 EU cooperation on the integration of non-EU nationals has developed since the Tampere Programme (1999). In 2004, the common basic principles for immigrant integration
policy were agreed at EU level. Their aim was to assist EU Member States in designing integration policies and in defining a broader institutional framework composed of various EU, national, regional, and local actors. The Commission's 2005 Common Agenda for Integration aimed at implementing the common basic principles went one step further but did not tackle the key integration challenges, which remain significant. The EU's integration objectives were also included in the 2009 Stockholm programme and the Europe 2020 strategy but their framing in those major policy agendas has not advanced integration policies in any decisive way.

2.2 In July 2011, the Commission proposed a renewed European agenda for the integration of non-EU migrants, whose focus is on broader and better participation of migrants and enhanced action at local level. It also enables the countries of origin to play a bigger role in policy planning. The main principle of policy-making is flexibility, the EC taking responsibility for putting together a tool-box, available to Member States to use according to their needs and priorities. Common indicators have also been identified in support of the integration agenda.\(^2\)

2.3 In pursuing the integration agenda, the EU maintains a institutional and communication infrastructure: a Network of national contact points on integration; the European Integration Forum, a platform for dialogue involving all stakeholders active in the field of integration; the European Web Site on Integration, the main focal point for direct exchanges of information, documentation and on-line data collection; a Handbook on Integration for policy-makers and practitioners; the European Integration Fund, which supports the efforts of EU Member States in enabling non-EU nationals to integrate into European society. An Immigration Portal was launched on 18 November 2011.

2.4 The introduction of a new legal provision in the Treaty concerning EU support for the promotion of the integration of third-country nationals residing legally in Member States (Article 79.4 TFEU) creates a more solid basis for coordinated action between the EU Member States and continuous commitment from the EC and other EU institutions.

2.5 In the accompanying European Commission staff working paper some key challenges for the integration of third country nationals are indicated: the prevailing low employment levels of migrants, especially for migrant women; rising unemployment and high levels of over-qualification; increasing risks of social exclusion; gaps in educational achievement; public concerns at the lack of migrant integration.\(^3\)


\(^3\) Commission Staff Working Paper, European Agenda for the Integration.
3. **General comments**

3.1 The EESC welcomes the view that integration is a shared responsibility and urges EU Member States to make integration a priority. This is a way to safeguard an open, inclusive and stable democratic environment at national level. At EU level serious efforts still have to be made. The EU institutions already provide a framework for monitoring, benchmarking and exchanging good practice. Yet, there are several directions in which further attention is needed. The European financial instruments should be better geared towards meeting the integration objectives. Serious analysis of existing legislation, especially on labour procedures concerning third-country nationals must be performed.

3.2 In the context of the availability of data, the EESC considers that the EU integration agenda should have clearer objectives and targets. The EESC envisages a system in which EU Member States set specific targets regarding integration and provide their own citizens and other countries with on-going information on their achievement. The overall goal of a competitive and inclusive Europe cannot be achieved if the 4% of the population represented by third-country nationals are left behind.

3.3 The integration agenda is very complex and needs commitment at all levels. The EESC is open to advanced cooperation with the EC, the Committee of the Regions and other EU institutions to give substance to this renewed integration agenda. The focus on the local level is more than welcome. It is also important to empower civil society and businesses active at local level. Migrants themselves should be encouraged to create their own networks and associations that can facilitate access to information, funding and decision-making.

3.4 The development of a European toolbox of integration practices is necessary and brings the handbook of integration practices to a higher level of relevance and institutionalisation. This toolbox should be properly communicated together with opportunities of funding for projects with a significant impact. The EESC expresses hope that the toolbox will be used to take on the most relevant integration challenges at national, regional and local level.

3.5 Second, the European toolbox should not undermine the coherence of integration policy as a whole. The EESC urges national, regional and local authorities to move forward on the basis of integration strategies drafted in a participatory manner. The EESC encourages the Member States and the EC to further empower the national contact points on integration to act as catalysts for the strategic framing of integration actions.

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4 See for synthesis of concerns regarding migration of both national and third-country individuals the results of the first Eurobarometer on Migrant Integration, MEMO/11/529, Brussels, 20 July 2011.

3.6 The EESC welcomes the recent drafting of the Eurostat study on integration indicators\(^6\). It is a very valuable instrument allowing close monitoring of the impact of policies and programmes, comparative evaluation of Member State practices and, generally, a better substantiated policy. As pointed earlier, the indicators are not only relevant for monitoring and evaluation. They enable the setting of concrete targets for integration policy and programmes.

4. Specific comments

4.1 Integration through participation

4.1.1 The socio-economic contribution of migrants

4.1.1.1 The socio-economic contribution of migrants is a key dimension of the integration agenda. The EESC advocates a shift of perspective regarding migrants which in many cases are seen as a potential burden on the social security systems or providers of cheap labour as compared with the nationals of EU Member States. The EESC considers migrants as first and foremost bearers of fundamental rights, but also contributors to the society, economy and culture of the host countries. The EESC also considers integration to be a two-way process and encourages migrants to take an interest in social and cultural exchanges with host communities and societies. This means primarily acquiring language skills and participating in the education system. European societies and citizens must be aware that there are serious medium- and long-term demographic challenges that can be partially addressed through regulated migration.

4.1.1.2 Acquiring language knowledge is an important factor in facilitating integration. It is not however clear what are the specific instruments the European Commission is ready to use to further this objective.

4.1.1.3 Participation in the labour market is a key issue in determining the success of integration. The communication rightly indicates that the employment levels of migrants should be significantly closer to those of nationals, especially women's, which seem particularly affected. Yet this purely quantitative measure does not capture the whole context of employment. Recognition of previous qualifications, pay, benefits, including their transfer, access to training and job security are other related dimensions that must be fully incorporated into the integration agenda. Further emphasis is needed on the employment of women.

4.1.1.4 The EESC acknowledges with great concern the direct and indirect effects of EU legislation on the status of migrant workers\(^7\). Although progress has been made with the EU blue card, the single permit directive and the seasonal workers directive, there are well-founded

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\(^6\) Eurostat, 2011, Indicators of Immigrant Integration - A Pilot Study.

concerns that the directives regarding labour discriminate against workers/migrants on the basis of their origin and skills and reinforce inequalities. EU labour regulations make a distinction between highly-skilled and low-skilled workers granting them differing levels of rights.

4.1.1.5 The EESC warns that encouraging circular migration with inadequate means could lead to more irregular migration and a very low level of protection for the workers. This particular policy is also ethically questionable as long as it aims at sending workers back to their home countries without them being able to transfer benefits or work a reasonable amount of time in the host country.

4.1.1.6 More effort is needed in the education system to increase the participation of youths from migrant backgrounds. Efforts should also be targeted towards early childhood education as a way of increasing participation at a later stage. The communication indicates possible examples of actions including mentoring programmes, parent training and the recruitment of migrant teachers. The EESC considers all these to be useful but asks for a more determined dissemination of such practices and better financing for programmes organised in and around educational institutions.

4.1.1.7 Ensuring better living conditions must remain a priority for the integration agenda. The communication singles out the beneficiaries of international protection as targets of local and national efforts in this direction. While the EESC fully acknowledges the needs of this particular group, it also draws attention to other vulnerable groups. The EESC suggests that the Commission should be attentive and give priority to situations where several vulnerability factors are combined, as in the case of Roma women, for example. Furthermore, the EU now has a powerful, visionary tool in the EU Charter of Fundamental Rights, which could guide legislation on integration.

4.1.1.8 The EESC regrets that the Commission's treatment of the Roma population is so lacking. Many Roma from third countries live in very difficult conditions in the host countries, lacking access to basic infrastructure and services. The EESC considers that although there are major legal differences (between third-country nationals and Member State nationals), the problem of vulnerable groups is the same. Furthermore, fundamental human rights should be protected irrespective of a person's legal status.

4.1.1.9 Better use of EU funding is necessary to meet the objectives of the integration agenda. The EESC notes that the financial crisis puts public spending on social programmes under strain and considers that EU financing could prove critical in supporting key projects that at least build up a solid base of good practice. Information about funding should be easily available and the funding should provide enough incentives for local authorities, and public and private

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institutions to become involved. The available resources should be used to encourage the civil society organisations to connect and act at grassroots level, putting emphasis on the participation of migrant communities.

4.1.10 The EU should be open to local, regional and national migrant networks and organisations. Building up networks and social capital helps bottom-up integration and creates an environment in which migrants feel empowered and responsible for the assertion of their rights and potential. Networks and organisations should however support integration and not become vehicles for further segregation. The EESC suggests that these organisations and networks establish partnerships with organisations in the host countries. The EU should be open to new forms of participation and cooperation, facilitated by information technology and increased mobility.

The EESC recommends that the European Commission take action in rethinking legislation on migrant labour, a vehicle for discrimination and inequality in its current formulation, and continue its work on facilitating the efforts of Member States toward more and better integration.

4.1.2 Rights and obligations – achieving equal treatment and a sense of belonging

4.1.2.1 The EESC welcomes the special attention granted to the political participation of the migrants, as elected officials or voters or as part of consultative bodies. This is a major test case for European democracy. Only having a political voice can secure the medium- and long-term integration of migrants and prevent them suffering discrimination. A political voice and institutionalised forms of collective action can bring migrants into the political process. This prevents alienation and radicalism. Political participation should be supported by rethinking the current citizenship rules in each country. The EESC thus supports granting voting rights in local, regional, national and European elections for third-country nationals and a corresponding right to stand for election. Linked to that, a possible option would be to grant legal migrants EU citizenship. The EU can once again be at the forefront of democratic innovation and test new forms of participation and cooperation.

4.2 More action at local level

4.2.1 The focus on the local level is fully justified. Apart from being a focal point of service provision, the local level creates the immediate environment for integration. Depending on the size of the local community, successful integration projects can have a significant impact on the life of communities and migrants. It is vital that interested local authorities and private entities have good information and access to funding, either EU or national.

4.2.2 The EESC recognises that urban settlements, especially large ones, are problematic. They draw a larger number of migrants who in many cases build peripheral and rather isolated neighbourhoods. Access to public services and jobs is just part of the problem. A broader
challenge is urban planning, which has to be both sustainable and inclusive. The EESC recommends the EC actively support projects that take the integration agenda further to include the fundamental issues of housing and urban planning.

4.2.3 The bottom-up approach is very promising but only if it is adequately promoted and funded. It is very important that for the next financial perspective the EC keeps its commitment to simplify the funding procedures and direct adequate resources to local projects\(^9\). More coordination between different sources of funding, like the proposed Asylum and Migration Fund, which deals with asylum, integration and return, the proposed Internal Security Fund, the European Social Fund and the European Regional Development Fund, can be critical in empowering local-level actors.

4.3 **Involvement of countries of origin**

4.3.1 Bringing the countries of origin into the process is a very necessary step in building a comprehensive integration agenda\(^10\). There are EU countries demonstrating good practice in establishing links with countries of origin. Yet, we have to note that many such countries have, for various reasons, little incentive to cooperate with the EU on migration matters. In the case of potential beneficiaries of international protection the limitations are more obvious\(^11\). The EU’s Global Approach to Migration provides a good institutional framework facilitating cooperation with third countries and solving pressing matters regarding mobility. However, framing migration mainly within the EU’s labour market demands might lead to a lower level of protection for migrants and even discrimination.

4.3.2 The EU should continue working with countries of origin in order to ease the pre-departure procedures. It has to be noted that in many countries departing to the EU is a sought-after opportunity and this can create grounds for corruption. The EU must be determined in curbing this potential as it increases the costs for future migrants and affects their motivation to return to the country of origin.

4.3.3 The EESC considers that the best way to contribute in the long term to the development of the countries of origin is to design sensible labour regulations but also to empower migrants to start transnational businesses or return to the country of origin and transfer skills and motivation. The EESC recommends developing support schemes for start-ups and entrepreneurial initiatives on a bilateral basis for migrants returning in their country of origin. Both countries of origin and host countries can work in partnership to create opportunities for

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10 OJ C 44, 16.2.2008, p. 91–102. The topic on EU immigration and cooperation policy with countries of origin to foster development was dealt too by the 6th meeting of the European Integration Forum (see link: http://www.eesc.europa.eu/?i=portal.en.events-and-activities-european-integration-forum-6).

their citizens, companies and communities. There are examples of cooperation where the needs of employers are matched with the skills of migrants.

4.3.4 Encouraging circular migration is legitimate as long as the instrument is not legislation affecting, directly or indirectly, the rights of third-country nationals.\textsuperscript{12}

Brussels, 28 March 2012.

The President
of the
European Economic and Social Committee

Staffan Nilsson

\footnote{12}{See footnote 5.}
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.

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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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14 OJ C 125, 27.5.2002.
15 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 female16.

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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16 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\(^\text{17}\).

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\(^\text{18}\) 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

\(^{17}\) See the following EESC opinions:
OJ C 120, 16.5.2008, p.82.

\(^{18}\) 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

20 OJ C 125, 27.5.2002, point 1.4 (rapporteur: Mr Pariza Castañas).
21 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\(^\text{23}\) 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.

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\(^{23}\) Appendix 2.
4.2 Due to the time at which it was drawn up, the Renewed Social Agenda\(^\text{24}\) (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\(^\text{25}\) 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\(^\text{26}\) 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\(^\text{27}\) 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


\(^{27}\) 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\(^{28}\), 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\(^{29}\), 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).

5.3 **Employment**

5.3.1 The EESC is currently drawing up an exploratory opinion\(^\text{30}\) 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\(^\text{31}\) (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.

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\(^{30}\) EESC exploratory opinion on the *Integration of immigrant workers* (SOC/364).

\(^{31}\) 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.

.../...
5.6.4 Most Europeans, including immigrants and minorities, live in urban environments. In another opinion\(^{32}\), 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.

5.6.5 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.

5.7 **Healthcare and other services**

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

5.7.2 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.

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

5.7.4 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.

5.7.5 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.

5.7.6 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.

5.8 **Poverty and social exclusion**

5.8.1 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

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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36 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 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 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.

38 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 39, 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 40. 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 41 on the Integration of immigrant workers. In it, the EESC proposes a number of initiatives to improve integration in terms of employment.

39 EESC opinion of 4 November 2009 on Fundamental rights in European immigration legislation (SOC/335).
41 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\(^{42}\) 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.

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
SOC/449
The contribution of migrant entrepreneurs to the economy

Brussels, 18 September 2012

OPINION
of the
European Economic and Social Committee
on
The contribution of migrant entrepreneurs to the EU economy
(own-initiative opinion)

Rapporteur: Ms King
On 19 January 2012, 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

*The contribution of migrant entrepreneurs to the EU economy.*

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 3 September 2012.

At its 483rd plenary session, held on 18 and 19 September 2012 (meeting of 18 September 2012), the European Economic and Social Committee adopted the following opinion by 135 votes to 2 with 10 abstentions.

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9. **Summary and recommendations**

9.1 The contribution of migrant entrepreneurial activities in Europe has been increasing over the last decade. They contribute to economic growth and employment, often by rejuvenating neglected crafts and trades, and increasingly participate in the provision of value-added goods and services. They also form an important bridge to global markets and are important for the integration of migrants into employment, creating employment for themselves but also increasingly for immigrants and the native population.43

9.2 The EU has publicly recognised the key contribution that migrant entrepreneurs can make to sustainable growth and employment. However, it is important that this recognition should not be considered in isolation or separately from the immediate priorities of EU policy makers. Indeed, a vibrant, sustainable and growth-orientated migrant entrepreneur sector should be part of the Growth and Jobs Strategy, the Small Business Act, Europe 2020 and the new COSME as these have already placed the importance of high growth, value-added SMEs at the heart of an EU Economy orientated towards sustainable growth.

9.3 Migrant entrepreneurs also enhance social opportunities for migrants, create more social leadership, are role models in society, especially for young people, increase self confidence and promote social cohesion by revitalising streets and neighbourhoods.

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9.4 The Committee welcomes the Commission’s communication\textsuperscript{44} recognising "The important role of migrants as entrepreneurs" and stating that "their creativity and innovation capacity should also be reinforced". The EESC also welcomes the statement that the “promotion of transnational entrepreneurship through a more dynamic strategy will favour entrepreneurs operating in both EU Member States and in partner countries. Such enterprises can create employment in the countries of origin and bring benefits in terms of both integration of migrants and increased trade between countries”.

9.5 With increasing unemployment making the creation of quality jobs a critical priority for the EU, it is now even more important that EU policy makers recognise the important asset that migrant-owned businesses represent for the EU economy, both locally but also increasingly in international markets where there remains a demand for goods and services originating from the EU. This fits with the Commission’s strategy aimed at helping small and medium-sized enterprises to expand their business outside the EU, as international activities reinforce growth, enhance competitiveness and support the long term sustainability of companies within the EU.

9.6 The Committee recommends that if the "creativity and innovation capacity" of migrant entrepreneurs are to be reinforced, specific measures must be taken at EU, Member State and local level. This is to eradicate discrimination and create equal conditions for all so that they can contribute to inclusive growth and quality jobs.

9.6.1 At EU level policy-makers should:

- Recognise the potential of migrant entrepreneurship for more economic growth within the EU 2020 strategy.

- Recognise the potential of migrant entrepreneurship as a creator of jobs by including it in the European Employment Strategy. Currently this strategy only focuses on paid employment as a means to the integration of migrants.

- Recognise migrant entrepreneurship in the European integration policy for migrants.

- Define and collect reliable and harmonised statistics on the economic and social contribution of migrant entrepreneurs throughout the EU, in conjunction with Eurostat and Member States. This can help the EU frame better immigration policies.

- Continue to facilitate public support for entrepreneurs to ensure that innovation, entrepreneurship and business growth are not adversely affected because a viable business is unable to access appropriate finance.

\textsuperscript{44} "European Agenda for the Integration of Third-Country Nationals" – COM(2011) 455 final and SEC(2011) 957 final.
• Introduce a framework to raise awareness, and encourage the sharing, of good practice in programmes that build the capacity and sustainability of migrant entrepreneurs.

• Develop strategic relationships with those countries of origin that now proactively seek to directly engage their EU Diaspora communities in enterprise activities in both the country of origin and the EU.

• Use trade agreements, where appropriate, as a mechanism for the encouragement of joint venture enterprise activity between EU-based migrant entrepreneurs and their countries of origin. This will support the EU strategy to help small- and medium-sized enterprises to expand their business outside the EU.

9.6.2 EU Member States should:

• Recognise and promote migrant entrepreneurship as part of wider integration policies.

• Review the regulatory and structural framework for setting up businesses in general, by reducing unnecessary administrative requirements that can be barriers to starting a business.

• Minimise the risk of illegal immigration and in particular illegal employment by implementing Directive 2009/52/EC\(^{45}\) of the European Parliament and of the Council dated 18 June 2009. Article 14 of this directive requires Member States to "ensure that effective and adequate inspections are carried out on their territory".

• Help increase long term employment rates by providing more support for existing migrant businesses, especially those run by women and young people, so that these businesses become more sustainable.

• Boost awareness and strengthen the capacities of intermediary organisations, such as trade associations, chambers of commerce and cooperatives, so that they can support these businesses in meeting legal requirements such as labour and tax regulations.

9.6.3 Local authorities and civil society, including the social partners, should:

• Continue programmes that increase the human and social capital of migrant entrepreneurs by providing various services, such as advice and information, training, networking and mentoring.

• Create or enhance opportunities for migrant entrepreneurs, by improving access for their organisations to mainstream organisations.

• Increase the sustainability of migrant businesses. More attention should be given to existing migrant enterprises, especially those in high-value sectors, instead of solely focusing on start-ups.

• Access to credit is a very important issue for entrepreneurship, therefore more programmes should be put in place to increase the financial capital of migrant entrepreneurs, by:
  – making them aware of funding sources
  – providing them with specific training
  – increasing the knowledge, expertise and understanding of credit institutions of this specific group of corporate clients.

10. **General comments**

10.1 Europe is facing important demographic changes: population decline evident in several regions, the transition to a much older population, and low birth rates. However, the overall population in the EU increased by around 2 million people each year between 2004 and 2008, largely due to net migration. Migrants have contributed to the economic growth of receiving countries in many ways, bringing new skills and talents with them, helping to reduce labour shortages, and as entrepreneurs, creating new firms and businesses.

10.2 Migrants’ contribution to the economy through the direct creation of new businesses is an aspect that has received limited attention. This opinion will expand on the existing knowledge of migrant entrepreneurship and make recommendations to foster and recognise the success of migrant enterprises and further enhance their contribution to economic growth.

10.3 Comparing entrepreneurship and employment creation by migrants across EU countries is challenging, due to the different data sources available for different countries and the lack of an internationally-agreed definition of a migrant entrepreneur.

10.4 This paper is largely based on the presentations given at the EESC Permanent Study Group on Immigration and Integration hearing on migrant entrepreneurs’ contribution to the EU economy on 24 November 2011\(^{46}\).

A migrant entrepreneur is defined as a business owner born outside the EU "who seeks to generate value through the creation or expansion of economic activity". The entrepreneur can be self-employed, i.e. employing only themselves, or employ staff.

This opinion concentrates on self-employed entrepreneurs using labour force survey data to allow comparisons between Member States and between migrant entrepreneurs and native entrepreneurs. In addition, the analysis concentrates on non-agricultural entrepreneurs, as this is the norm applied to research on entrepreneurship.

Characteristics of migrant entrepreneurs

Migrants are more entrepreneurial

The EU Labour Force survey shows that the trend of migrant entrepreneurship varies across the EU, with the share of migrant entrepreneurs in total employment being 1.5 to 2.9 percentage points higher than natives in the United Kingdom, France, Belgium, Denmark and Sweden. However there is a lower share of migrant entrepreneurs when compared with natives in Portugal, Spain, Italy, Greece, Ireland, Germany and Austria.

Regionally there is a higher overall rate of self-employment (native and migrant) in southern Europe and central and eastern Europe. However, in central and eastern Europe, migrants tend to have a higher self-employment propensity than the natives, while the opposite is true in southern Europe.

This over-representation of migrants in self-employment in Poland, the Slovak Republic, the Czech Republic and Hungary is partly due to relatively flexible visa regulations for migrant entrepreneurs and the employment situation in these countries. Southern European countries’ lower rates of migrant entrepreneurship may be a consequence of the fact that migrants in these countries may not have had time to build the necessary human, physical and social capital to start a business as they might not be fluent in the native language, or may have difficulties getting their qualifications recognised.

Data on the number of new entrepreneurs in a given year also suggests that migrants tend to be more entrepreneurial than natives. During the period 1998-2008, the average annual number of new migrant entrepreneurs doubled in Germany (to over 100 000 per year) and in the United Kingdom (to almost 90 000 per year). In Spain and in Italy the average annual

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47 OECD’s established definition of entrepreneur, OECD, 2008.
numbers increased by 6 times (to over 75,000 per year), and 8 times (to 46,000) respectively. In France there has been a small increase (to 35,000) over the same period.\footnote{Stats link: \url{http://dx.doi.org/10.1787/888932442104}}

11.1.5 In addition, migrants are more entrepreneurial in relative terms with respect to their population than natives. For example in the UK, while migrants represent 8% of the UK population, they own around 12% of all UK SMEs.

11.1.6 This finding is consistent with a recent US study that reveals that the immigrant share of small business owners is 18%, compared with their proportion of the overall population of 13%, and of the labour force of 16%.\footnote{http://www.fiscalpolicy.org/immigrant-small-business-owners-FPI-20120614.pdf}.

11.2 **Sustainability of migrant businesses**

11.2.1 While transitions into entrepreneurship from one year to another are higher among migrants, transitions out are also higher. This lower survival rate can indicate that self-employment is a mechanism to move into wage employment or it can indicate a higher failure rate of migrant firms. For example, in France, only 40% of the firms owned by foreign nationals were still operating five years after their creation compared with 54% for French nationals.\footnote{Breem, Y. (2009), "Les entreprises créées en 2002 par des ressortissants des pays tiers : de plus grandes difficultés à survivre", Infos Migrations, No. 13, Département des statistiques, des études et de la documentation (DSED), Ministère de l’Immigration, de l’Intégration, de l’Identité nationale et du Développement solidaire.} The OECD study\footnote{Open for Business: Migrant Entrepreneurship in OECD Countries, 2010.} found that even after controlling for qualifications, experience and other factors, migrant businesses are 27% less likely to survive relative to native businesses.

11.3 **High Value Sectors**

11.3.1 The range of activities that migrant entrepreneurs undertake in their host countries is as wide as that of natives. This transformation, from businesses that cater mainly to populations from their ethnic enclaves, is due partly to the increasing educational attainment of many migrants, as well as shifts in the economic structures of post-industrial societies.

11.3.2 In Europe, although a high proportion of foreign-born entrepreneurs work in sectors more traditionally associated with migrant businesses (i.e. wholesale and retail trade), many work outside the traditional ethnic business sectors, with almost 18% of migrant entrepreneurs in the construction sector; around 8% in the professional, scientific and technical sector; around 6% in manufacturing and another 6% in human health and social work.
11.4 Profile

11.4.1 The general profile of migrant and native entrepreneurs is similar in that they tend to be *skilled* and *male*, with more than three out of four being *over the age of 35*. Migrant and native entrepreneurs are on average older than wage and salary workers. This result might be explained by the need to accumulate enough social and physical capital, as well as experience, before being able to start a business.

11.4.2 Migrant entrepreneurs have a *higher average educational level* than their native counterparts with around 30%-40% of migrant entrepreneurs having a tertiary education.

11.4.3 Almost two-thirds of migrant entrepreneurs have been in the receiving country *for more than ten years* compared with just above 50% for migrant wage earners.

11.4.4 Migrants from different regions of origin have different propensities to become entrepreneurs, with Asian migrants having the highest propensity and Latin-American and African migrants the lowest. Differences in education and wealth may explain an important part of the differences in entrepreneurship behaviour between migrant groups. An additional explanation is that some origin countries traditionally have a higher share of entrepreneurs in their economies, and individuals that migrate from such countries are more likely to establish a business in the recipient country.

11.4.4.1 It should be noted that the migrant experience by region of origin isn't homogeneous. For example, figures from the UK indicate that if the employment rates of its Pakistani migrant community matched those of their Indian counterparts, the proportion of male and female workers in this group would rise by 24% and 136% respectively, an increase of some 96 000 people in work.

12. The EU context

12.1 The Stockholm Programme sets the agenda for the European Union's actions in the area of Justice and Home Affairs for the period 2010-2014; one of the aspects is the successful integration of migrants to enhance democratic values and social cohesion, and to promote intercultural dialogue at all levels.

12.2 With a budget of EUR 825 million for the period 2007-13, the European Integration Fund supports national and EU initiatives that facilitate the integration of non-EU immigrants into European societies and includes projects in the field of migrant entrepreneurship and entrepreneurship education for migrants.\(^\text{54}\)

12.3 The Commission communication 55 "European Agenda for the Integration of Third-Country Nationals" acknowledges the important role of migrant entrepreneurs, but their potential to contribute to sustainable growth and jobs is absent from flagship European initiatives such as the EU 2020 Strategy.

12.4 The EU Employment package focuses on paid employment as a means to integrate migrants. However, it excludes the role of migrant entrepreneurs, who can contribute to the creation of quality, sustainable jobs and facilitate the economic and social inclusion of migrant and native citizens.

12.5 EU policy makers should actively and consistently include migrant entrepreneurship as part of the EU strategies. In addition, the role of migrant entrepreneurs in the integration strategy for migrants should also be recognised and supported.

13. Contribution of migrant entrepreneurs

13.1 Labour Market

13.1.1 The EU Labour Force Survey (1998 – 2008) highlights the positive contribution of migrant entrepreneurs to employment, even though most entrepreneurs (native and migrant) employ only themselves.

13.1.2 They create on average between 1.4 and 2.1 additional jobs. However, the comparisons with native entrepreneurs suggest that migrant entrepreneurs create relatively fewer jobs. The exceptions to this general observation are the Czech Republic, Hungary, the Slovak Republic and the United Kingdom, where migrant entrepreneurs seem to create more jobs than native entrepreneurs.

13.1.3 This contribution to overall employment has been increasing over time. From 1998 to 2008, the number of individuals employed by migrant entrepreneurs increased in Spain, Italy, Austria, Germany, and the Netherlands, while in the United Kingdom and France, the contribution to employment has been consistently high. For example, in both 2007 and 2008, migrant entrepreneurs annually employed more than 750 000 individuals in Germany, around half a million in the United Kingdom and Spain, almost 400 000 in France and around 300 000 in Italy.

13.1.4 In relative terms, this contribution to employment is equivalent to between 1.5-3% of the total employed labour force. The countries where migrants contribute the most to overall employment are Luxembourg (8.5%) and Ireland (4.9%). While data limitations do not allow us to establish whether migrants employ mostly other migrants or not, some studies have shown that migrants employ natives as well as other migrants.

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13.2 Economy

13.2.1 Migrant entrepreneurs’ contributions are not limited to job creation, they also contribute to the overall economic growth of the receiving country. It is very difficult to gather true empirical evidence as regards the actual contribution to the EU economy, however, there is data from the UK which shows that their contribution is estimated at GBP 25 billion to the UK economy per year - 6% of the total SME Gross Value Added (GBP 430 billion in 2007).\footnote{http://www.bis.gov.uk/assets/biscore/enterprise/docs/b/11-515-bigger-better-business-helping-small-firms.}

13.2.2 This compares with a US study that shows small businesses in which immigrants make up half or more of the owners contribute an estimated USD 776 billion per year – 13% of total small businesses (USD 6 trillion in 2007).

13.2.3 Another indication is data from France which shows that in 2009, immigrants in France received EUR 47.9 billion from the French state (welfare, housing, education, etc.), but they contributed EUR 60.3bn. In other words, immigrants contributed a net EUR 12.4bn to public finances\footnote{http://www.europeanvoice.com/article/imported/time-to-value-migrants-contribution/74527.aspx.}.

13.2.4 The EESC believes that the EU contribution could be higher if migrant entrepreneurs working in the informal economy could be given the support needed to make the transition to the formal economy.

13.3 Trade

13.3.1 There is also evidence that migrant entrepreneurs help create trade opportunities for the receiving country by lowering trade-related transaction costs with their countries of origin, using their contact networks and knowledge about the markets in their countries of origin. For example in Sweden, 22% of foreign-owned businesses target their goods and services, at least partially, towards the international market, compared with 15% of native-owned businesses\footnote{Swedish Agency for Economic and Regional Growth (2007).}. It has also been shown that a 10% increase in the migrant stock in Sweden has been associated with a 6% increase in exports and a 9% increase in imports on average\footnote{Hatzigorgiou in OECD (2010).}. This finding suggests that migrants can play an important role as facilitators of foreign trade by reducing implicit trade barriers with their countries of origin.

13.3.2 Another example is the UK. Migrant entrepreneurs provide direct access to a growing Diaspora community, with an estimated disposable income in excess of EUR 30 million, as
well as opening up new business opportunities in global markets such as India, China and
countries in Africa, the Caribbean and Latin America.

13.4 It should be noted that migrant entrepreneurship is not only about job creation and the
economy. It can enhance social opportunities for migrants, create more social leadership,
increase self confidence and promote social cohesion among citizens by revitalising streets
and neighbourhoods.

Brussels, 18 September 2012

The President
of the
European Economic and Social Committee

Staffan Nilsson
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.

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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 with a more general focus, and has drawn up an own-initiative opinion 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 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".

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60 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

OJ C 208, 3.9.2003 – SOC/141: *European citizenship*

61 CESE 1523/2009.

62 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*[^63], 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)[^64], 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[^65].

[^65]: 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 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.
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.

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.

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

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.

The EESC would have preferred horizontal legislation, but the Council and Commission have opted for sectoral directives. The Blue Card Directive 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.

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 (albeit with some proposals for improvements) the framework Directive on the rights of third-country workers proposed by the Commission, 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.

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.

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5.14 The EESC recently adopted an own-initiative opinion urging that fundamental rights be respected in immigration legislation.\textsuperscript{69} 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\textsuperscript{70}, 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.

\textsuperscript{69} CESE 1710/2009 of 4.11.2009 – SOC/335: *Fundamental rights in European immigration legislation.*

\textsuperscript{70} OJ C 318, 23.12.2006.
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 71, 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

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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\textsuperscript{72} and equal treatment irrespective of racial or ethnic origin\textsuperscript{73} 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\textsuperscript{74}, 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.

\textsuperscript{72} Directive EC/2000/78.

\textsuperscript{73} Directive EC/2000/43.

\textsuperscript{74} P6_TA (2009) 0211.
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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78 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\textsuperscript{79} 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\textsuperscript{80}, 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

\textsuperscript{79} OJ C 204, 9.8.2008.

\textsuperscript{80} Council of the European Union, 13440/08, 24 September 2008.
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

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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{81}.

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{82}. 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{81} COM(2009) 262 final, 10.6.2009.
\textsuperscript{82} 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. 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 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, 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 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 opinion calling for its ratification.

2.14 In the Programme for Europe, 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.

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".

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

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

**A Europe of rights**

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.

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.

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.

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.

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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90  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"\(^{91}\), 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\(^{92}\);

\(^{91}\) EESC opinion, OJ C 286, 17.11.2005, p. 20.

\(^{92}\) 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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93 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.

94 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\(^{96}\) 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\textsuperscript{97} will provide a European framework of legal and procedural guarantees of protection\textsuperscript{98}, 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\textsuperscript{99} 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\textsuperscript{100}, which may last up to six months (and can be extended for a further 12 months)\textsuperscript{101}.

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

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{97} Directive 2008/115/EC.
\item \textsuperscript{98} e.g. Articles 12.1 and 12.2, 13.1 and 13.2, 13.3 and 13.4, 14.1 and 14.2 of the Directive.
\item \textsuperscript{100} Article 15(1).
\item \textsuperscript{101} Articles 15(5) and 15(6).
\end{itemize}
\end{footnotesize}
be subjected to the death penalty, torture or other inhuman or degrading treatment or 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.\(^\text{102}\)

4.6.7 The ECHR has interpreted Article 3 of the European Convention on Human Rights\(^\text{103}\) 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.\(^\text{104}\)

4.7 Detention centres


\(^\text{104}\) 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.\(^{105}\)

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

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\textsuperscript{106}, 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\textsuperscript{107}. 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.

\textsuperscript{106} EU Council, 1344/08, 24 September 2008.

\textsuperscript{107} For example, \textit{Boultif v. Switzerland}, no. 54273/00, §§ 39, 41 and 46, 2 November 2001, ECHR 2001-IX. \textit{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\textsuperscript{108} 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. \textbf{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\textsuperscript{109}.

\textsuperscript{108} EESC opinion, OJ C 185, 8.8.2006, p. 42.

\textsuperscript{109} Article 13 of the Treaty establishing the European Community.
5.5 The EESC drew up an own-initiative opinion\textsuperscript{110} 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

\textsuperscript{110} Own-initiative opinion, OJ C 208, 3.9.2003, p. 76.
Immigration:
Integration and fundamental rights

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