



## Caritas Europa Migration Forum 2009.

### Free Movement of Workers: Reality or Utopia?

Reinforcing a framework to protect workers' human rights in a process of increasing international mobility of workers.

1

### Table of Contents.

THURSDAY 17 SEPTEMBER 2009

Welcome by **Ms. Karin Keil** on behalf of Caritas Europa Migration Commission.

Welcome by **Rev. Marian Subocz**, Director Caritas Poland.

#### Session I: Keynote Speeches

*"The Foundation of Caritas Europa Position on Migration."*

**Rev. Erny Gillen**, President of Caritas Europa.

*"The European labour market in an international context"*

**William Somerville**, Migration Policy Institute, Washington DC .

#### Session II: Keynote Speeches

*"Protection of workers' rights as a basis for emigration and immigration policies.*

**Marcin Parnowski**, Polish Ministry of Labour and Social Affairs

*"Application and effectiveness of International legal instruments to protect migrant workers' rights in Europe"*

**Patrick Taran**, International Labour Organisation.

Q&A and panel debate

### Session III: Country Practices

#### Perspectives from Moldova

**Irina Oriol**, Caritas Moldova

#### Perspectives from Sweden

**George Joseph**, Caritas Sweden

#### Perspectives from Morocco

**Pieter Van Aken**, Caritas Morocco.

#### Perspectives from Ukraine

**Hryhoriy Seleshchuk**, Caritas Ukraine

Q&A and debate

## SATURDAY 19 SEPTEMBER

Reporting back from the Working Groups.

Concluding Panel Debate:

- **Jessica Santos**, *Respect*
- **Torsten Moritz**, *Churches' Commission for Migrants in Europe.*
  - **George Joseph**, *Caritas Sweden*
  - **Mirosław Bieniecki**, *Caritas Polska*

Closing remarks by Caritas Europa



*This conference is supported by the European Community Programme for Employment and Social Solidarity (2007-2013). This programme was established to financially support the implementation of the objectives of the European Union in the employment and social affairs area, as set out in the Social Agenda, and thereby contribute to the achievement of the Lisbon Strategy goals in these fields. The seven-year Programme targets all stakeholders who can help shape the development of appropriate and effective employment and social legislation and policies, across the EU-27, EFTA and EU candidate and pre-candidate countries. To that effect, PROGRESS purports at: providing analysis and policy advice on employment, social solidarity and gender equality policy areas; monitoring and reporting on the implementation of EU legislation and policies in employment, social solidarity and gender equality policy areas; promoting policy transfer, learning and support among Member States on EU objectives and priorities; relaying the views of the stakeholders and society at large. For more information see: [http://ec.europa.eu/employment\\_social/progress/index\\_en.html](http://ec.europa.eu/employment_social/progress/index_en.html)*

-THURSDAY 17 SEPTEMBER 2009-

**Karin Keil, *President of the Migration Commission.***

The Migration Forum is held every second year and is organised by the Migration Commission in collaboration with the Caritas Europa general secretariat. The Migration Commission consists of 9 experts from national Caritas offices. The aim of the Forum is to facilitate Caritas Europa in better developing its position on EU labour migration policies. We would like to thank Caritas Polska for providing the logistical support in Turno, Poland.

3

**Marian Subocz, *President of Caritas Polska.***

Caritas Polska would like to thank Caritas Poland for the invitation to host the 2009 Migration Forum and also to welcome all the speakers and participants. The Forum is of great importance as it allows for discussion and sharing of experiences in relation to a vulnerable group in our society, migrants. Caritas Polska hopes that the conclusions drawn from the Forum will provide the necessary resources to bring about tangible change to the lives of migrant workers.

**Erny Gillen, *President of Caritas Europa.***

Caritas must deal with the issue of migration as in many instances **it is complicit with gross injustice**. Globalisation has abolished national borders and thus created an increasingly competitive global labour market.

Migrant workers are **inherently vulnerable**. This is due to the divide created by both society and politics. Migrant workers are frequently **excluded from society and even from legal protection**.

The recent encyclical, "*Caritas in Veritate*" determines that our original foundations are laid down in the "old books". The Old Testament depicts the Jewish people as slaves in Egypt. Following their escape they spent 40 years in the desert before settling in Jerusalem as a nation.

Living your faith wherever you are born or settled is one expression of universality. Whether we choose the Human Rights approach or the Christian universalism approach we have to consider **all human beings as belonging to one and the same human family**.

We must ask ourselves, **are we an open society or do we create boundaries?** All men and women are created by God, without distinction. Salvation will be the salvation of all people. The common destiny of all people and the final judgment will not be based on religious convictions but on what did you do for fellow human beings. All human beings belong to one family, thus it is ironic that economical and political boundaries are dividing populations. In reality **the EU cannot survive and continue to develop without the contribution of migrants**.

The movie “A day without Mexicans” shows how this is a tangible reality.

- Can migrants find a **new Moses** to lead them out of exile and slavery?  
Caritas Europa has to practice what it preaches and show unity of the entire human race. The Church may be used as a vehicle to do so. (See 1964 “*Lumen Gentium*”).
- In relation to Caritas Europa’s political and advocacy work:
  - Organise migrant workers under **Caritas Europa leadership** and threaten people in power that their “slaves” will leave the land of slavery.
  - Advocate for minimum wages in all countries with minimum line of protection for all.

4

Erny Gillen finished by thanking Lê Quyên Ngô Đình for her commitment as former President of the Migration Commission, for her work with refugees with Caritas and for her participation as special expert at this Forum.

→ Please find original document in annex.

**William Somerville, Migration Policy Institute.**

Caritas has good reputation as advocate for change, working from an evidence based perspective.

The most **important consequence of the financial and economic crisis is unemployment**; current rates are underestimated, and typically, job growth starts approximately 12-24 months after the economy starts recovering .

*Various types of migration are affected differently.*

Irregular migration is at a standstill in the US since 2007 (thus proving that migrants only move to where there is demand). In the EU, Frontex figures **documenting irregular crossings for the first 6 months of 2009 stand at 50% less than in the same period in 2008**. People living irregularly do not return to their countries of origin as there is little promise there due to the global nature of the recession.

Since the accession of the new EU member states in 2004, approximately 1.4 million people have come to the UK. 50% have since left. Interestingly this circulation phenomenon was relatively dormant until the 2004 accession.

**Inevitably, migrants are worst affected by the crisis and soaring unemployment rates.** This can be attributed to their limited language skills, education, discrimination, weaker/smaller social networks, and hate crimes.

- Although **remittances** have inevitably decreased, they have proven to be **less volatile than other sources of financial transfers** to countries of origin.

- Issues for discussion:
  - Labour demand for high-skilled and low-skilled continues and **the job growth in the coming two years will necessitate qualified workers** to increase competition;
  - Slightly alter restrictions in labour market access but do not shut the door completely like in 1970s;
  - EU cooperation and expansion is currently paused (period of retrenchment) and the next round of enlargement to date has received lukewarm support;
  - In relation to labour migration, member states are reluctant to take decisive steps (e.g. blue card initiative is very limited initiative (in numbers)
  - We are now in a **“pregnant” pause**; awaiting the ratification of the Lisbon Treaty, the establishment of the new European Parliament, a new European Commission and of course the Stockholm programme (to be adopted by end 2009).
  
- Conclusions and challenges:
  - Inflows have dropped worldwide, in particular in irregular migration;
  - There is a consensus view that the worst of the crisis is over, but still jobs growth will not be immediate;
  - Migrants have suffered first and hardest (wages, unemployment);
  - Remittances have dropped, but nevertheless show great resilience;
  - Future trends will see net immigration continue over the next 10 – 15 years with governments responding by restricting access to the labour market. EU cooperation and expansion is paused nonetheless new activity is pending.
  
- Challenges for Caritas?
  - The central challenge for Caritas is to strike the **right balance between different objectives**;
    - Impact of recession on migrants (exploitation increased);
    - Resilience of remittances: migrants are more likely to take jobs outside formal economy thus Caritas Europa must find means by which **exploitation in the informal economy is reduced**. The increase of free movement (through EU enlargement) has aided in reducing exploitation;
    - **Public trust** must be increased and **attitudes changed towards migrants**. Migrants must not be considered permanent scapegoats. This is a challenge for integration;
    - Caritas Europa must be honest with the people and acknowledge that **migration has some detrimental effects**; is CSO advocacy adequate?
    - Preference for highly qualified: what about brain drain and competition for “the best”? This should be addressed before adequate work can be done on EU directives.

→ Please find original document in annex.

## Question and Answer Session.

6

- *Social models in place in the EU, such as the social support/protection system minimises the destitution of unemployed.*  
Welfare states say that there's a stabilising social security system in place – and EU member states have better position to counter the storm, e.g. because of a higher level of consumption
- *What actual impact can the Blue Card have?*  
It is primarily of symbolic value “EU invites high qualified to EU”. At same time it is important to convince constituencies that it will be limited. It will not be in use until 2013, there is no possibility to move between states, it consists of certain wage conditions, temporary residence permit etc.
- *Integration: to be reconfigured or reconsidered differently?*  
Yes, social cohesion in society instead of ‘integration of migrants’ is desirable. In the EU, the Common Basic Principles on Integration have created a normative framework, and from this, best practices have emerged. Greater exchange and cooperation is needed between local actors and the EU. On the global scale we have experienced significant budgetary cuts in migrant integration, e.g. Ireland has cut its funding in this area by 25% in recent times and the USA invests virtually nothing in migrant integration. These cuts are ironic as it is imperative that investment be made in integration especially considering the current climate. This is a challenge for CSOs. Children of migrants in particular are ignored yet are a growing group in the population. We cannot afford to ignore the role of wider society.
- *The ‘Modern Moses’ position is vacant: how can CE assume that role?*  
CE can take a lead because Caritas meet migrants through social services: do we simply assist them or empower them?
- **Patrick Taran** was hesitant to be so optimistic: we have entered a global employment crisis: estimates indicate that the net loss will be over 50 million lost jobs that will not be replaced immediately. Substantial job growth takes on average 5-6 years and migrants tend not to return to their countries of origin as unemployment is also prevalent in their societies.
- *International legal framework?*  
The Migrant Workers Convention is an excellent normative framework and a good basis for advocacy, but it is not signed by EU Member States, and it is unlikely that this will occur in the near future.
- *We speak about workers, but what about employers?*  
Spanish employers contract Moroccan women to work in agriculture as they are cheap. There needs to be better investigative recruitment strategies and contracts/working conditions

**Patrick Taran *International Labour Office.***

All migrants should be unequivocally entitled to freedom of movement and the exercise of labour rights.

7

- Review of protection of migrants' rights in Europe.
  - Low wages, no social protection, social exclusion, bad working conditions, no access to public service jobs, no unemployment benefits, overrepresented in unemployment statistics, discrimination and unequal treatment;
  - These conditions **prevent integration** (preconditions are non-discrimination and equal treatment);
  - Abuses due to the **absence of health protection** (e.g. work accidents) and financial and other restrictions to access to health care (e.g. obligation to denounce irregular migrants in countries such as Italy)
  
- Importance of labour migration.
  - **Migration is an essential aspect of the labour market** and is capable of responding to fast changing staff needs;
  - Migration can positively contribute to replacing declining workers' rates (ageing populations);
  - It is estimated that by 2050 the standard of living in Europe will be 78% of today's level, if current trends remain the same.
  - The fertility rate in most European countries is too low (below replacement rate);
  - Dependency of elderly is 2/7 now, will increase to 4/7 by 2050;
  - Immigration could be the only significant variable in the equation;
  - Migrants are seen as an attractive, cheap, low-skilled labour force;
  - Migrants are vulnerable to exploitation, in particular irregular migrants, but this situation is tolerated and even unofficially encouraged.
  
- International standards.
  - The **market cannot auto regulate labour demand and offer**: international regulation is necessary under the following conditions:
    - Equal treatment;
    - Human rights apply to all human beings, including irregular residents ("all persons") so in principle they are protected by international law;
  - A broad array of labour standards providing protection apply to all workers, independent of their residence status: Once entered in a work relationship, workers' rights must automatically apply.
  - If the EU member states simply follow the 6 core International conventions they ratified there would be no issue of migrant workers' rights;
  - International law on consular relations regarding protection of foreign nationals includes access to officials of their own country;
  - Convention on trafficking;
  - ILO member states must respect and defend these standards

Equality of opportunities has to be respected (in 3 legal instruments). 82 countries have ratified one or more of the three instruments (2 ILO conventions and the Migrant Workers Convention) which is 2/3 of all countries for whom migration is an important issue. We have to go further than mere “good practices”, we have to use the existing legal framework to defend the rights of migrant workers. The rule of law has to be respected as basis for the protection of rights.

Answers to Erny Gillen’s questions:

8

- i. An effective way to protect workers is **the right to join trade union**. Therefore Caritas should encourage and support unions in accepting migrants as members and to defend their rights.
- ii. Clear national labour standards (minimum wage, labour inspection in particular in “migrant sectors”) should be entirely separated from immigration control measures.
- iii. **Social cohesion** and integration is the key element for resolving challenges posed by migration and challenging discrimination is at the heart of it.
- iv. The Global Forum on Migration and Development seeks to establish a new utopia: programmes that **guarantee the supply of workers but also their return if they are no longer needed**.

The way forward is to **restore the rights based approach**, starting with the correct implementation of ILO Conventions. Since 2001 the European Parliament has adopted 16 resolutions to ratify Migrant Workers Convention.

In a crisis response it is essential to repress racist violence and to increase the capacity of labour inspection to enforce basic labour rights. We also have to remind governments of their obligations related to the anti-discrimination directive in 2000.

To conclude, a greater emphasis is needed on a human rights based approach. The consolidation of democracy and the greater distribution of welfare must also be emphasised in such a framework.

→ Please find original document in annex.

**Marcin Parnowski, Polish Ministry for Employment and Social Affairs**

### **“Protection of workers’ rights as basis for migration policy”**

Immigration is a crucial component to migration policy. States have limited extra-territorial jurisdiction. The protection of workers’ rights falls within domestic affairs.

The free movement of workers (a term associated with the EU) prescribed in Art. 39 TEC states that the free movement of workers encompasses equal treatment between nationals of member states and the interdiction of discrimination based on nationality.

Migrants from member states migrating to Poland are treated as Polish nationals; however third country nationals are restricted in relation to access to the labour market. It is important to justify such restrictions.

**Third country nationals must possess a work permit in order to legally enter into the labour market.** In Poland permits are regulated by a 2004 law on the Promotion of Employment and Labour Market Institutions. An amending Act in December 2008 provided for a simpler procedure and has significantly decreased failure to receive permits.

9

Concerning the protection of workers:

- A permit is issued if the employer ensures labour conditions will be comparable to those applied to Polish workers;
- After the permit is issued, a labour contract must be signed with the migrant worker, stipulating labour conditions and translated into the language the foreign worker understands. The employer is obliged by law to provide the labour conditions as declared in work permit application and labour contract.

The protection of workers is guaranteed in the Polish Constitution; however it is difficult for irregular migrant to exercise such rights.

The role of Polish Consular Offices providing assistance to Polish citizens abroad.

Human and material resources available in countries where many Polish workers live and work allows for the provision of more effective assistance. **The role of the Ministry of Social Affairs is to cooperate with the Ministry of Foreign Affairs and consulates and to monitor implementation on broader level.**

Agencies.

In some instances agencies may be utilised to conclude individual agreement with job seekers. This provides the workers with protection in case they fail to find employment in their country of destination. The agency is also responsible for ensuring the quality of the job offers abroad and thus protects migrant workers from the social dumping phenomenon.

#### Question and Answer Debate.

Comment: *French employers encourage Polish workers to create a corporation in Poland and continue to work in France.*

This phenomenon is becoming increasingly popular. The consequence of such a move entails the same job and the same labour conditions, but outside French labour rules and social protection requirements. This creates a challenge for the French labour inspection units as there are no inspections undertaken by the Polish inspection services.

This kind of **side-stepping is a popular practice** in many EU member states. Economic conditions have changed significantly since 2008 when France opened its labour market for

Polish workers. In other instances it is beneficial for both employer and worker to have trade agreement rather than employment contract.

Comment: *Ukrainian workers in the Polish labour market?*

Ukrainians are largest group of immigrants in Poland however there are no official statistics on irregular employment due to its underground nature. There are between **70,000 and 80,000 legally employed**. Those in irregular employment have no labour contract, and pay no taxes and social security contributions. It is the role of Ministry of Employment and Social Affairs to solve these problems.

10

Comment: There are a series of moral and ethical principles underlying society. The annual cost of EU enforcement budget is far greater than any budget for cooperation initiatives with 3<sup>rd</sup> countries. These mammoth enforcement budgets fail to consider anti-discrimination or integration measures. This conveys a disproportionate imbalance within the mindset of the policy-makers.

We are undergoing a **fundamental remodelling of EU society through the establishment of a two tier society in our dual labour market**. The explicit attention to temporary migration which includes tradeoffs between rights and access in addition to the exemption of migrants from social participation provides a series of advantages for the country of destination;

- (a) Low cost labour force;
- (b) Lower cost of governance by lowering social cost of subsidising social system.

The core **issue at stake is the determination of in what direction Europe is realistically moving and can Caritas present another more inclusive model**. Trade unions engaged in activities with irregular migrant workers must persevere in defending migrants' rights through a human rights based approach. Unions must be provided for this stratum of our society and also provide for the ultimate recognition of their rights must be formalised through the ratification of the Migrant Workers Convention.

Erny Gillen's Reflections:

- (a) Influence **language**: speak about good practices, through the respect of human rights.
- (b) **Ethical principles** are the basis of our legislation.
- (c) Increase the role of Caritas as service providers
- (d) In *Caritas in Veritate* there is a significant emphasis on trade unions, task-sharing between unions and NGOs is necessary, no competition but cooperation; means we have to reflect on our role.

William Somerville:

In relation to law enforcement EU member states are mostly concerned with combating irregular migration. The latest trend is making services conditional on legal residence.

Torsten Moritz:

Can a Human Rights based approach lead to hard law? **Is the church really a universal church**, or must we take into account more national(istic) considerations? Are we ready to link up with diaspora organisations in advocating for a rights based approach? **Social inclusion is not an individual process** but happens via social networks such as diaspora organisations.

William Somerville:

A rights based framework is the best basis for **strategic coalitions with trade unions and diaspora**. To achieve concrete goals however, one must mobilise civil society. Frequently the most integrated migrants are those most active in diaspora organisation.

11

Patrick Taran:

Proposed lines of action:

- **anti-discrimination and equality of treatment;** work on promoting equality and non-discrimination: talk about equals, not differential society;
- Labour inspection and enforcement of labour standards
- **Access** to services: morally fundamental problem when people are denied access to services including medical care.

It is the church's responsibility is to speak for the voiceless, those who can't speak for themselves, so we always have to keep a place at the table for organisations legitimately representing voiceless migrants.

### Country practices

#### **Moldova, Irina Oriol.**

Irina Oriol spoke at length about the migration situation in Moldova. Most immigrant movement is due to labour migration, family reunification or for studying purposes. There is also significant emigration, which brings with it, its own challenges and difficulties. Trafficking in human beings is an issue in Moldova. Ms. Oriol went on to detail the Church and Caritas' activities.

➔ Please find PowerPoint presentation in annex.

#### **Sweden, George Joseph.**

George Joseph outlined the most fundamental contradiction within the issue of migration to the EU; our growing dependency on migrants and the fact that although migrants do not share parallel democratic rights, they are indeed affected by the same laws and regulations. He went on to summarize the innovative Swedish New Regulation on Labour Immigration which could be used as a best practice example in other EU member states.

➔ Please find original document in annex.

#### **Morocco, Pieter van Aken.**

Pieter van Aken described three projects currently underway at the office in Rabat. These included capacity building of civil society organisations in Morocco, operation 'Small Hearts'

and the CAM (Centre d'Accueil des Migrants). He also described the external impact EU policies have as well as citing migrants' rights in Morocco.

→ Please find PowerPoint presentation in annex

#### **Ukraine, Hyhoriy Seleshuk.**

Hyhoriy Seleshuk depicted the Ukraine as a source country, a transit country and a country of destination. He spoke of the current refugee statistics as well as the importance of circular migration for a more holistic approach to mobility.

→ Please find PowerPoint presentation in annex.

12

**-SATURDAY 19 SEPTEMBER-**

**Feedback from the Working Groups to the concluding panel debate.**

**Introductory remark, Lê Quyên Ngô Đình.**

Caritas Europa decided on theme for the Forum before the economic crisis. With this in mind, the Working Group topics were chosen according to the most vulnerable categories of migrant workers.

The general conclusions of the Working Groups will serve Caritas Europa as an invaluable resource for both 'external' advocacy and internal work strategies.

#### **❖ Agricultural, construction and services sector**

Migrant workers are overrepresented in **agricultural, construction and services sectors** due to the arduous nature of the work. This work is generally poorly paid and demand invariably fluctuates. The exploitation of migration workers, stemming from their vulnerability, makes them an attractive and flexible labour force from the employers' point of view.

In the majority of European countries labour legislation regulates wage and working conditions. **Non-application of the law** however, creates the greatest obstacle to exercising workers' rights. In certain countries there is little risk of employer sanctions as labour inspections are few due to meagre human and financial resources. Effectively, this leads to a **state of impunity**. This impunity is not of concern as there is a **high level of tolerance of exploitation** of migrant workers. This practice of dual standards (nationals versus migrant workers) in law and practice must be eradicated.

→ Recommendations for Caritas Europa action :

This sinister “chain reaction” implies that Caritas, in order to bring about change, has to work on numerous tracks simultaneously. Participants in this working group sessions suggested the following actions:

- Denounce the situation and sensitise the population on the vulnerability of migrant workers;
- Reflect on and **change our own attitude** as Christians (and also as employers) towards migrant workers and sensitise our parishes and communities and other structures employing migrants;
- Reinforce **our service to migrant workers**: we must reach out to them, inform them of their rights and support them in exercising these rights;
- We should not, in doing so, allow states to derogate their obligations. Caritas must advocate for extending the right to free legal assistance to all workers, including those employed illegally and those with an irregular residence status.
- We should also address the situation of migrants in a self-employed situation, by advocating for a **set of minimum standards of social protection for the self-employed**. Legal channels for labour migration should also include labour migration of self-employed persons.

Remaining questions for panellists

- i. Can the labour market be fully regulated?
- ii. Can we think of sources of financing of social protection schemes, other than through contributions of workers and employers?

❖ Social cost of labour migration

Having heard the examples of different countries, we concluded that the distance of the migratory movement and indeed the freedom of movement have an impact on the social cost of migration. It was found that where it is physically (distance) and legally (border crossing) easier to travel back and forth between the country of employment and the country of origin, healthy family relations are better maintained. The **extended family must also assume a certain degree of responsibility** in ensuring close ties are kept with the family member abroad and assume where necessary the parental role. This in turn will mitigate the disadvantageous social costs of labour migration.

On the other hand, migration affects families and local communities in a variety of ways:

- **change in the family role patterns** leads to tensions in family relations;
- Remittances could lead to a passive attitude on the side of the beneficiary, including loss of motivation/incentive for children to study;
- Compensating for the loss of parental support and guidance, children develop undesirable attention-seeking behavioural patterns;

- One of the worst “social costs” of migration is the phenomenon of **children abandoned in the street.**

→ Recommendations for Caritas Europa action :

Participants urge Caritas to work on three levels:

- Find *immediate* practical solutions for individual migrant workers who ask for our **assistance**: provide information on their workers’ rights through counselling centres, hotlines, pro bono lawyers, legal clinics etc.;
- In the *mid-term*, propose **structural changes** by campaigning for **legal labour migration channels**, enabling free movement between country of employment and country of origin and along with full social rights, including the right to family life;
- Compare national **social protection mechanisms** that facilitate a work-family combination, selecting the best social protection mechanism system (through combining certain elements of sustainable systems). The financial viability of these systems must also be prioritised.
- In the *longer-term* advocate for better and **family friendly social protection systems** in countries of origin (child allowances, higher and longer unemployment benefits for families with children, ...)

This requires cooperation with strategic partners and campaigning should be centred on giving a human face to migration.

❖ Domestic workers.

- i. Domestic work is mostly done by women and in particular by migrant women.
- ii. Domestic work must be **recognised as a “normal” sector of the labour market**. This includes regulation such as job descriptions defining what exactly the domestic work entails. This measure would effectively curb the risk of exploitation.
- iii. A fair legal framework is necessary for this kind of work, and it is essential to know and follow the ILO process in order to reinforce domestic workers rights.
- iv. It is important to encourage people to employ legally on all levels. There will be different approaches in every country, because good practices can’t be simply “copied”.
- v. We perceive that there is an increasing demand for domestic workers and at the same time we know that legal channels for this sector are limited. Therefore, we need to continue the discussion opening the EU labour market for third country nationals in this sector.

→ Recommendations for Caritas Europa action :

- Initiate a fundamental debate on value and importance of care work(ers)
- Find alternative ways to regulate and organise home care work.
- Advocate for the recognition and respect of workers' rights, including those employed in the informal labour market.

These objectives will require cooperation in a **broad alliance with trade unions/social partners.**

❖ National and EU policies on labour migration

There is an urgent need for a human rights based approach which (through international minimum standards), encompasses all workers (including irregular migrants involved in irregular employment). Much more than “integration of third country nationals” is needed. **Social cohesion** should guide policy orientations and choices. It is imperative to remind states of their responsibility to guarantee access to social rights and services and to incite States to scrutinise the crucial aspects of their social protection systems, such as access to services and benefits, protection priorities and viable financial options. There should be an increase in working conditions inspections resulting in sanctions where necessary. Additionally, cooperation between social inspection agencies and consulates of countries of origin could effectively enhance this monitoring.

→ Recommendations for Caritas Europa action:

- Proactively create a comprehensive framework of migration policy (including proposals for policies/directives);
- Labour migration to come under the competency of Ministries of Employment and Social Affairs. We must move away from the security debate;
- Ensure **equal opportunities**, in particular target quality of education of children and social environment in which children grow up;
- **Advocacy** on the EU level should reflect work done by national Caritas offices (research done, data collected) and emphasise that migration restrictions also restrict mobility of workers;
- Xenophobia: raise awareness and fight xenophobia within the population but also in state institutions, and within our own working structures;
- Provide **training** on existing international standards and available legal instruments and tools for MOs (UN, ILO, CoE);
- Build **coalitions** with other CSOs and encourage trade unions to include migration-related issues in their work.

Remaining questions for panellists

- i. Transparency of global labour market?
- ii. Matching demand and offer?
- iii. Organisation and inspection of international recruitment channels?
- iv. Stronger emphasis in the CE strategic plan on anti-discrimination?

❖ Conclusion.

16

The findings of the Working Groups will provide Caritas Europa with a multi-dimensional understanding which will greatly contribute and enhance the upcoming **Caritas Europa Strategic Plan on Migration**:

- i. **Human Rights Based Approach** for equal rights through regulation of the global labour market). Pivotal rights include;
  - a) Minimum wage and equal pay irrespective of gender;
  - b) Working conditions;
  - c) Social protection;
  - d) Family life (reunification);
  - e) Anti-discrimination;
  - f) Access to services;
  - g) Access to legal redress.

Possible intermediary targets:

- Review bilateral agreements on social benefits?
- EU directive on Minimum Working Conditions:
- Parallel rights to nationals working in same sector and non-negotiable minimum standards regarding wages etc. (reflection the rights prescribed in Migrants Workers Convention);
- Free movement of *all* workers in the EU;
- Review the Family Reunification Directive in view of protecting right to family life;
- Advocate for increased EU legal competency in Social Policy, in particular in employment.

- ii. **Social cohesion approach:** all citizens to accept all citizens as full and equal members of society.

Future Strategy.

➔ Build strategic alliances with trade unions (respecting workers rights, unionising migrant workers, sensitise “national” workers) (ETUC/ITUC?), diaspora (information on joining trade union, workers rights) and other organisations (coordinate targeted advocacy on national, regional, global level) (CCME, ICMC, Church structures, other?)

## The Final Debate.

**Torsten Moritz, Churches' Commission for Migrants in Europe.**

17

The times of zero migration policies are over. Despite a current restrictive stance, a **radical shift of paradigm** is foreseen. Migrants, in particular undocumented migrants, have inevitably been struck by the economic crisis, however migrant labour is a remained a relatively stable factor in our economies. This is indicative of the fact that the **flexible work of migrants is becoming increasingly central** to our respective economies. Official policy change will come with novel challenges and NGOs are unprepared for this change of logic.

Misinterpreting and underestimating the issue at hand is evident through the language used and priorities defined. Some organisations use the terms refugee and migrant interchangeably whereas others disproportionately emphasise the detrimental effects of trafficking and neglect the rights of migrants as a whole. It is imperative that we defend human rights across the board, regardless of categories or delineated groups.

Notwithstanding the ripe debate on migration, it is crucial to note that migration to date is still essentially an **intra-EU phenomenon**. This facet of migration is evolving and in the near future, an increasing number of migrants will come from further afield. In anticipation of this arrival, we must consider the implications of such movement on our society.

It is predicted that the **integration debate** will be accelerated in the coming years. Complex self-reflective questions must be asked in relation to minimum levels of **coherence, common values and diversity**. This also leads to the illusive question of common EU values and what exactly they entail.

A sincere and open debate in times of increasing migration must include mechanisms to embrace rising diversity within our societies. This is not a mere external debate; it is also considerably pertinent in the intra-EU discourse. Irrespective of status/European citizenship, legal migrant workers are significantly disadvantaged in comparison to their national counterparts. Regrettably, **legal status does not necessitate the complete exercise of rights**.

Undeniably, the EU has adopted a particularly **disadvantageous segmented approach to labour migration** in the EU and a horizontal approach is not foreseeable in the coming years. In order to contend with such provisions, NGOs must continue to argue that certain social rights are simply non-negotiable.

Concerning the informal economy, greater proactive measures need to be taken to provide some scope of protection to these workers. There are two viable options:

- (a) Leave this sector **unregulated**;
- (b) Establish a legislative mechanism with encompasses **certain minimum rights**, which allow for lower wages/state supported wages.

Although a controversial proposition, this proposal would **provide a solution for a very substantial segment** of the working population who are systematically excluded from any form of protection.

Our **perception of migration** must be scrutinised at length. Many organisations emphasis migrants as poor and misfortunate individuals whereas others use strong fear tactics and classify them as clandestine and suspicious. Entertaining either of these discourses is polemic. Migrants should unequivocally be considered as **a resource and beneficial** to both the economy and the receiving society.

18

Popular coined terms such as '**circular migration**' must be explored in greater depth. Circular migration is effective when one is independent, however families cannot be considered so does this really advantage them?

It is contended that the governing principle of labour migration are based on self-interest and egotism. This is not distinctly controversial and in fact can be considered entirely plausible. Nevertheless policies must reflect other elements of migration such as humanitarian space and the social costs of labour migration.

A wider and perhaps more controversial debate needs to be addressed. **Global justice** or lack thereof underpins much migratory movement. The debate far exceeds simplistic conclusions such as people merely being poor. An honest debate on governance and related issues needs to be initiated.

Migrants are frequently unaware of their rights and **accept sub-standard working conditions** as they consider it the norm. This perception needs to be altered through informing and thus empowering migrants to demand their rights.

**Jessica Santos, RESPECT**

RESPECT is a network of migrant domestic workers and other supporting organisations campaigning for rights of migrant domestic workers in Europe .

In most instances domestic work done by migrant workers and the family unit increasingly depends on **migrant domestic workers as primary breadwinners**. This is not to assume that domestic work is done exclusively by women. There are a growing number of men also active in this sector.

Evolving labour conditions and societal expectations have led to increasing numbers of European women working fulltime, thus resulting in increasing numbers of migrant workers in the family households. It is acknowledged that few western Europeans will occupy positions as domestic workers.

Domestic work is **one of the only opportunities** to enter into the labour market for women. Other, less desirable possibilities include prostitution. The private home is difficult for trade unions to permeate and thus, labour laws are not respected.

Regardless of this migrant workers have transformed themselves into **transnational social actors contributing to economic, political social and cultural development in both their receiving and home countries.**

→ Please find PowerPoint presentation in annex.

19

**Mirosław Bieniecki, Caritas Poland.**

The EU must allow for a minimum amount of movement in order to respond to its own labour demands. Irrespective of border controls, there are a large number of irregular migrants already residing on European territory. Some nationalities, reflective of the history of the EU state in question, are permitted to work without a permit (e.g: Ukrainians in Poland?) A similar system to that earlier proposed (by Torsten Moritz) was supported as a means of some form of legislative protection. Legal channels of labour migration must also be facilitated. The EU needs to reflect on the root causes of poverty in developing countries, and be honest in its scrutiny of its policies which have a detrimental ricochet effect on these third countries. It is not plausible to imagine a common EU foreign policy and lobbying at national levels must still be prioritised.

**George Joseph, Caritas Sweden.**

The social cost of migration is an issue which has been repeatedly neglected by academia and organisations alike. The paranoid debate on migration has failed to consider permanent detrimental results produced in countries of origin and the effect of these results on future generations to come. The 'security debate' and the criminalisation of migration have been tirelessly refuted by NGOs and other relevant stakeholders however it is difficult to extinguish. The cornerstone of all actions must reiterate that in excess of 8 million people contribute to wealth in the EU but are without legal status or rights. NGOs need to give a human face to migration, highlight their rights as human beings and empower migrants to demand these rights. For this to be realised, a novel approach must be adopted by politicians, the Church and NGOs towards migration and migrants.

We need to reaffirm our commitment to row against the tide, to challenge the tide by offering concrete support to migrants themselves, offering our services and campaigning for a change of mindset in society. But above all, are we prepared to change our own perceptions?

**Debate.**

Concrete action plans need to be implemented to bring about sustainable change in this sphere. Our messages must be strong and striking. There has been much positive evolution

in the past 50 years and we should retain this momentum in our work. One must consider migration as a whole and be open to discussions on the possibilities that not all side-effects of migration are positive. We should extract honest answers and arguments to discuss the difficult issues from such debates in order to find means by which to limit the detrimental impact of migration. We must also question potential social cohesion and also deliberate on how much diversity is realistically possible without entirely destabilising the balance.

It is of use to look at best practices from other European member states. The Swedish example is particularly forward-thinking. When the debate on labour immigration was sparked, the possible consequences for local communities were considered. The Church played a leading role in pressing for humane legal channels for labour migration. This resulted in the adoption of a law providing for such channels. At all times, moral arguments must be clear, truthful and unambiguous to acquire the support of the people.

Migrants have few expectations upon arrival in countries of destination and this leaves them exceedingly vulnerable to exploitation. The small numbers of migrants who demand their rights are seen as a threat to national social benefits. It is for these reasons that we must also focus on EU social policy.

Labour migrants migrate where there is demand. Countries such as Sweden adopted a labour law which led to the arrival of 40,000 people. This legislation provided for equal social rights for both migrant workers and nationals. This practice may not be necessarily feasible in all EU member states however and due consideration should be given to minimum rights. The low-wage sector cannot even be considered an option by some as minimum wages are already insufficient. This controversial proposal may also hamper further measures to improve working conditions and respect for Human rights for migrant workers.

**For further information please contact:**

Peter Verhaeghe,  
Migration Officer,  
Caritas Europa Migration Department,  
Rue de Pascale, 4,  
1040 Bruxelles.  
Tel : +32 (0)2 235 03 96  
+32 (0)4 78 54 33  
E-mail : [pverhaeghe@caritas-europa.org](mailto:pverhaeghe@caritas-europa.org)