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REPORT

on immigration from Central and Eastern Europe and on the harmonization of family reunion policy

Committee on Civil Liberties and Internal Affairs

Rapporteurs: Mrs Claudia ROTH
Mr Amédée TURNER

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* Consultation procedure
simple majority

** Cooperation procedure (first reading)
simple majority

**II Cooperation procedure (second reading)
simple majority to approve the common position
absolute majority of Parliament's component Members to reject or amend the common position

*** Assent procedure
absolute majority of Parliament's component Members except [illegible]

***I Codecision procedure (first reading)
simple majority

***II Codecision procedure (second reading)
simple majority to approve the common position
absolute majority of Parliament's component Members either to adopt a declaration objecting to reject the common position, or to amend or confirm the rejection of the common position

***III Codecision procedure (third reading)
simple majority to approve the joint text
[illegible]

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By letter of 2 March 1993 the Committee on Civil Liberties and Internal Affairs requested authorization to draw up three repots on immigration from Central and Eastern Europe, family reunion policy and visa policy.

At the sitting of 27 May 1993 the President of the European Parliament announced that the committee had been authorized to draw up a joint report on these subjects and that the Committee on Culture, Youth, Education and the Media and the Committee on Women's Rights had been requested to deliver opinions.

At its meeting of 8 June 1993 the Committee on Civil Liberties and Internal Affairs appointed Mrs Claudia Roth rapporteur on immigration from Central and Eastern Europe, Mr Nordmann rapporteur on family reunion and Mr Froment-Meurice rapporteur on visa policy.

At its meeting of 21 December 1993 the committee decided to remove visa policy from this report and to incorporate it instead into the report on the Commission proposal for a Council regulation determining the third countries whose nationals must be in possession of a visa when crossing the external borders of the Member States (C3-0012/94).

At its meetings of 1 July, 29 September and 24 November 1993, and 15 February, 25 February and 14/15 March 1994 the committee considered the draft report.

At the latter meeting it adopted the part of the motion for a resolution dealing with immigration from Central and Eastern Europe unanimously.

The following took part in the vote: Turner, chairman; Roth, rapporteur; Beazley, Caudron, Elliott, Imbeni, Magnani Noya, Marques Mendes, Mebrak-Zaïdi, Nordmann, Terron i Cusí, Van Outrive and Verhagen.

As the rapporteur, Mr Nordmann, no longer wished to be responsible for the part of the report dealing with family reunion policy, it was assigned to the chairman of the Committee on Civil Liberties and Internal Affairs, Mr Turner.

At its meeting of 15 March 1994, the committee adopted the part of the motion for a resolution dealing with the harmonization of family reunion policy by 10 votes to 7.

The following took part in the vote: Turner, chairman and rapporteur; Salisch, vice-chairman; C. Beazley, van den Brink, Cooney, Defraigne, Elliott, Imbeni, Langer (for Taradash pursuant to Rule 138(2)), Magnani Noya, Marques Mendes, Mebrak-Zaïdi, Newman, Nordmann, Terron i Cusí, Van Outrive and Verhagen.

AT its meeting of 28 March 1994 the Committee on Civil Liberties and Internal Affairs cancelled its decision to submit the report on the harmonization of family reunion policy separately.

The opinions of the Committee on Culture, Youth, Education and the Media and the Committee on Women's Rights are attached to this report.

At its meeting of 14/15 March the committee decided, pursuant to Rule 99 of the Rules of Procedure, to request that the Parliament should adopt its report without debate.

The report was tabled on 30 March 1994.

The deadline for tabling amendments will appear on the draft agenda for the part-session at which the report is to be considered.

A.

MOTION FOR A RESOLUTION

Resolution on immigration from Central and Eastern Europe and on harmonization of family reunion policy

The European Parliament,

- having regard to the Treaty on European Union and the Treaty establishing the European Economic Community, in particular Articles 3, 6, 100, 235 and K.-K.9,

- having regard to the European Convention for the Protection of Human Rights and Fundamental Freedoms, in particular Articles 8(1) and 12,

- having regard to Rule 148 of the Rules of Procedure,

- having regard to the report of the Committee on Civil Liberties and Internal Affairs and the opinions of the Committee on Culture, Youth, Education and the Media and the Committee on Women's Rights (A3-0204/94),

ON IMMIGRATION FROM CENTRAL AND EASTERN EUROPE

A. whereas the persecution and discrimination of ethnic groups, conflicts between nationalities, wars and civil wars, the destruction of the population's basic necessities of life as a result of the environmental destruction caused by man and the increasing impoverishment of the countries of Central and Eastern Europe and of the former Soviet Union are some of the principal causes of flight and emigration,

B. whereas people fleeing persecution, discrimination, conflicts between nationalities and, above all, the civil war in the former Yugoslavia are seeking shelter and refuge in the European Union, and

C. whereas, coupled with the geographical proximity, the significant wealth differential which exists between the States of the EU and the countries of Central and Eastern Europe and the former Soviet Union is a further factor in the strong attraction of the European Union for immigrants from that region,

D. whereas the Member States of the EU are de facto countries of immigration although their self-perception does not acknowledge this,

E. whereas this self-perception together with the economic interests of the Member States of the EU have led to a restrictive asylum and immigration policy which complies neither with international standards on the protection of refugees, nor with the principle of freedom of movement demanded for decades by Eastern Europe,

F. whereas, as a result of this restrictive policy, it is now almost impossible for most refugees and migrants to enter EU Member States legally,

G. whereas the neighbouring countries of Central Europe are gradually adopting this restrictive policy so that international standards of refugee protection policy are being increasingly eroded,

H. whereas the regulations of the Member States which place third country workers at a disadvantage in the search for employment and in terms of professional qualifications represent a form of institutionalized discrimination,

I. whereas the contracts with workers from Eastern Europe concluded in certain sectors in many Member States due to the lower costs and the demand for manpower represent a deliberate circumvention of proper protection under employment and social security legislation for those concerned,

J. whereas the problem of illegal employment, particularly due to the minimal pay rates, is a potential source of social conflict and whereas the illegal workers generally have to endure horrendous working conditions,

K. whereas visa applicants face all manner of administrative obstacles and excessive charges in the embassies and consulates of the Member States, the victims of which are not the important politicians, rich businessmen and industrialists, but ordinary people and young people,

L. whereas Article K6 of Title VI of the Treaty on European Union is also applicable in this case and whereas the European Parliament must be informed and heard in good time and in advance as regards this matter also,

ON THE HARMONIZATION OF FAMILY REUNION POLICY

M. whereas, under Article K.1 of the Treaty on European Union, Member States shall regard the spheres of immigration policy and family reunion policy as matters of common interest,

N. whereas, in accordance with that Article, the conditions of entry and movement by nationals of third countries on the territory of Member States and the conditions of residence by nationals of third countries on the territory of Member States, including family reunion and access to employment, form part of the above-mentioned spheres,

O. deploring the resolution on which the Member States' ministers responsible for immigration, meeting in Copenhagen on 1 June 1993, agreed as regards the harmonization of national policies on family reunion,

P. whereas measures against immigration from third countries in the Member States also obstruct family reunion, thus hampering the family life of immigrants from third countries,

Q. whereas women and children are especially badly hit by the Member States' restrictive practices regarding family reunion for citizens from third countries,

ON IMMIGRATION FROM CENTRAL AND EASTERN EUROPE

1. Calls for observance of the international agreements ratified by most of the Member States: European Convention on Human Rights, Convention on the Rights of the Child (United Nations), European Convention on the legal status of migrant workers (Council of Europe);

2. Calls on the Member States of the Union not to turn back any asylum- seekers at the border, but to grant them the right to remain until the conclusion of a fair and constitutional procedure,

3. Calls on the Member States not to send any asylum-seekers back to so-called 'safe' third countries until it has been established beyond all doubt that they would not face deportation from that country to the country of persecution,

4. Calls on the Member States to recognize persecution on ethnic grounds, persecution specifically targeted on women, war and civil war as grounds for granting asylum and to grant asylum-seekers a guaranteed right to remain in the country;

5. Regrets the fact that the Council has so far not been able to adopt a common, liberal regulation on the admission of refugees from the civil war in former Yugoslavia and calls on the Council to take appropriate measures; and further calls on the Council and the Member States under no circumstances to send back groups of refugees in accordance with paragraph 2 of this resolution;

6. Calls on the Commission to draw up a statute for refugees as called for by the European Parliament in its Resolution A3-0280/92;

7. Calls once again on the Commission to initiate urgent work on a European Fund for Refugees and to draw up an emergency plan for taking in refugees, distributing them evenly amongst the countries of the European Union;

8. Calls on the Council to adopt refugee policy rules which also affect other countries outside the EU (such as the rules on third countries) only in cooperation on an equal footing with these third countries, non-governmental organizations and the UNHCR;

9. Calls on the Member States to be on their guard against any attempted trafficking in women and children from Central and Eastern Europe.

10. Calls on the Council, the Commission and the EU Member States to support the reconstruction of the economy in Central and Eastern Europe and in the former Soviet Union, particularly by opening up the EC markets to products from Eastern Europe, and to assist them in the creation of social security systems;

11. Calls on the Council, the Commission and the EU Member States to develop economic reconstruction programmes and infrastructure measures jointly with those concerned in order to help improve the at times calamitous living conditions of ethnic minorities in Central and Eastern Europe;

12. Affirms the need to promote the development of civil society through the Union's support programmes, and the vital importance of establishing decentralized partnerships with non-governmental organizations and associations;

13. Welcomes the success of the Tempus programme and the fact that the Commission, in close cooperation with the countries eligible, is carrying out a careful study of the best way of using this programme, according to

whether it is concerned with the needs of economic restructuring or with reforming higher education;

14. Calls on the Council, the Commission and the EU Member States to expand economic and technical cooperation with Eastern Europe to provide suitable work and research opportunities for highly skilled workers in workers' own countries and thus counteract the 'brain drain';

15. Calls on the Member States to revise regulations which put workers from third countries at a disadvantage, in favour of a non-discriminatory policy and expects governments to provide genuine equality of access to education and vocational training;

16. Calls on the Member States to make available all the resources required for teaching the language of the host country, which is an essential instrument of integration, particularly by means of literacy programmes for women and children;

17. Calls on the Member States to ensure that workers from third countries are employed in the Union under the same conditions as EU citizens;

18. Calls particularly for the admission of young persons to work experience programmes for vocational training to be facilitated by simplifying the granting of long-term visas and of work and residence permits;

19. Calls also for the awarding of university grants (inter alia under the Tempus programme) to be facilitated;

20. Calls on the Member States to combat illegal immigration and to be particularly vigilant about any attempts to traffic in children from Central and Eastern Europe;

21. Calls on the Member States to facilitate the establishment of arrangements for exchanging information and multicultural creation as means of collective enrichment;

22. Calls for the visa regulations to be simplified in cases of individual invitations, and for the time taken to grant visas and for the costs involved to be reduced;

ON THE HARMONIZATION OF FAMILY REUNION POLICY

As regards procedure

23. Asks that, henceforth, work be carried out in accordance with the procedures under Title VI of the Treaty on European Union;

24. Asks that, in accordance with the procedure under Article K9, the Council decide to apply Article 100c of the Treaty establishing the European Community to the field of family reunion for nationals of third countries;

25. Calls on the Commission, as a subsidiary measure, to draw up a draft convention on family reunion under Article K3 of the Treaty on European Union and to make the Court of Justice responsible for interpreting these provisions and ruling on any dispute as regards their application;

26. Asks to be consulted by the Presidency on the proposed convention before its adoption by the Council;

27. Asks that its views be duly taken into account by the Council and asks the Presidency to ensure that this is done;

As regards substance

28. Considers that the right to family reunion must be fully recognized and that it is an essential element in integration;

29. Considers that failure to recognize this right constitutes an attack on the family with extremely low age limits for children and discrimination against women, who not only are downgraded at the family level, but are excluded from a new labour market;

30. Calls for family reunion policy to be incorporated into immigration policy;

31. Calls for Community rules to be drawn up to regulate the right to family reunion for nationals of third countries who are legally resident in the Community. These rules should respect the principle of equal treatment for Community citizens and nationals of third countries. They should thus be based on the following Community texts:

- Council Regulation No. 1612/68 of 15 October 1968,
- Council Directive 68/360/EEC of 15 October 1968,
- Council Directive 64/221/EEC of 25 February 1964.

The constraints placed by these rules on freedom of movement and residence (justified on the grounds of law and order, public safety and public health) should be the only permissible reservations applied to nationals of third countries which would restrict their right to family reunion;

32. Calls for observance of the international agreements ratified by most of the Member States: European Convention on Human Rights, Convention on the Rights of the Child (United Nations), European Convention on the legal status of migrant workers (Council of Europe);

33. Believes that the following concerns nationals of third countries who are legally resident on the territory of a Member State and whose right of residence does not derive from other conventions, such as the 1951 Geneva Convention or the Treaty on the European Economic Area;

34. Believes that the following may take up residence in the Union with a resident from a third country:

- the resident's spouse and relatives in the descending line who are not yet of age or who are maintained by the resident,

- the resident's and the spouse's relatives in the ascending line who are maintained by the resident;

35. Is convinced that family members who have immigrated into the Union by way of family reunion should receive an independent residence permit so as to prevent social hardship in the event of death or separation and allow all the members of the family to plan their lives autonomously;

36. Takes the view that applications for family reunion should as a rule be made before the applicants arrive on the territory of the Member States and that derogations should be made only in duly justified individual cases;

37. Believes that it would be extremely detrimental to legislate on the principle of family reunification without providing the resources, in the appropriate form, to facilitate harmonious integration;

38. Calls on the Member States therefore to formulate policies for the reception of immigrants which will facilitate the cultural transition, adjustment to new ways of life and early involvement in a new citizenship;

39. Calls on the Member States and European institutions to formulate specific policies on newly arriving immigrant children, particularly with regard to literacy, as they were asked to do in its resolution of 21 April 1993 (OJ C 150, 31.5.1993, p. 99);

40. Insists that those who are denied this right under the above circumstances should be entitled to lodge an appeal;

41. Stresses that the right to family reunification applies to dependent children and not only to minor children;

42. Asks that account be taken of the vulnerability of immigrant women who have no independent status of their own and whose right of residence always depends on a father, brother or husband;

43. Reiterates that the Court of Justice must ensure that the rules governing family reunion are interpreted in a uniform manner;

44. Calls on Member States to release all necessary means for a policy to help families adapt to host-country structures, with particular emphasis on literacy and instruction in the host-country language, which are vital factors of social integration;

45. Instructs its President to forward this resolution to the Commission, the Council and the Member States.

B

EXPLANATORY STATEMENT

ON IMMIGRATION FROM CENTRAL AND EASTERN EUROPE

1. Scale and basic structure

Since 1990 there have been repeated predictions of a mass exodus from Eastern Europe, and especially from the countries of the former Soviet Union, the figures quoted ranging as high as tens of millions. In fact, this exodus has not yet occurred. However, migratory movements to the West must be expected to increase in the future. Various studies refer to the willingness of significant numbers of people to emigrate, especially from the countries of the former Soviet Union. The political upheaval in Eastern Europe has given rise to new ethnic and nationality conflicts, and the restructuring of the economy has caused an economic crisis, privation, impoverishment and unemployment. This situation and the newly created opportunities for citizens to leave Eastern European countries have already resulted in an increase in immigration from Eastern Europe. Most of those concerned are refugees from civil wars, members of ethnic minorities (the Roma gypsies, for example) and people who have no future in their own countries.

What reliable figures there are on the actual scale of present East-West migration are restricted to certain movements. One reason for this is that, as all Eastern and Central Europeans except the citizens of Poland and the Czech Republic require a visa to enter the EU countries, they have little chance of immigrating legally. A significant proportion of immigration is therefore illegal. The scale of this illegal immigration is difficult to quantify. There are various indications, however, that it is growing and has already reached sizeable proportions. The Home Affairs Ministry of the Federal Republic of Germany estimates, for example, that in 1991 42 000 foreigners crossed the Polish and Czechoslovakian borders into the Federal Republic illegally without being detected. In 1992 more than 30 000 people were caught trying to cross the Polish border into Germany illegally, 158% more than in 1991. In the first four months of 1993 alone the Czech Republic arrested 12 000 people attempting to enter the Federal Republic of Germany illegally. Many of these illegal immigrants come from Romania.

Its geographical proximity and its willingness to accept ethnic Germans have so far made the Federal Republic of Germany the main target country for East-West migration. In 1990 alone 397 000 ethnic Germans entered Germany from the Eastern European countries.

However, some Eastern European countries, especially Poland, Hungary, the Czech Republic and Slovakia, are also experiencing growing immigration. Some of the people concerned really want to go on to a Western European country, but as this is becoming increasingly difficult, more and more of them are stranded in the transit country or are deported to it under various agreements that have been reached (in 1992 alone the Federal Republic deported 13 700 refugees to Poland). On 1 December 1992 the EC Council consequently decided that refugees entering via a safe third country may be sent back without having their asylum applications examined. All Central European countries adjoining the EU are classified as safe third countries. Then there are the refugees whom these countries now accept following the ratification of the Geneva convention on

refugees. Hungary, for example, has already taken in 40 000 people from the former Yugoslavia. Their relative economic prosperity also makes these countries attractive to economic refugees from the poorer countries of Eastern Europe and the former Soviet Union, many of them again being illegal immigrants.

2. Causes of East-West migration

(a) Reasons for the persecution of individuals

Since the change of political system in Eastern Europe there has been far less political persecution, particularly of individuals. Nonetheless, individuals and whole groups continue to be persecuted in various Eastern European countries, primarily because of their membership of ethnic minorities and the conflicts to which this gives rise.

(b) Ethnic conflicts, civil wars, antisemitism

Among the main causes of migration are the growing number of ethnic conflicts and the discrimination against minorities in the countries of Central and Eastern Europe and the former Soviet Union.

In the countries of the former Soviet Union the Stalinist policy of settlement and resettlement resulted in many people living outside their areas of ethnic origin. More than 25 million Russians alone currently live in another country of the former Soviet Union. This situation is a breeding ground for conflict, which has already led to internal migratory movements, although they may become international in the future. Still living in the former Soviet Union are minorities whose ethnic homeland is elsewhere and who increasingly see no future for themselves in their region (1.2 million Poles, 2 million Germans, 170 000 Hungarians). To these people must be added the Jews, who are emigrating to avoid the growing antisemitism. In Hungary, Romania, the Czech Republic and Slovakia the current hostility of the public towards the Roma gypsies has frequently led to persecution and violence. The Roma are now trying to escape the overt discrimination against them by fleeing to other countries.

In and between various countries of the former Soviet Union ethnic conflicts have already led to the outbreak of war or civil war. These wars have not yet triggered any major movements of refugees to Western Europe, unlike the situation in the former Yugoslavia, where the ethnic civil war has already spawned millions of refugees. Only a few of them have so far been accepted by the Member States of the European Union, the Federal Republic of Germany being the principal host country. However, many have been taken in by relatives in Germany, without being granted secure residence status.

(c) Ecological reasons

Another growing cause of migration is the destruction of the resources from which people have made their living in the past due to persistent environmental degradation or ecological disasters. The best known example is undoubtedly the Chernobyl disaster, which has made whole regions uninhabitable and done very serious damage to the health of people living within a wide radius.

However, insidious environmental degradation, such as the draining of Lake Aral, is also destroying the resources from which people have traditionally made a living and so putting pressure on them to migrate.

Pollution in traditional industrial areas caused by a heavy industrial sector that has operated for decades without regard for the environment and the threat it poses to the population is similarly having serious effects on the health of the local people.

(d) Economic reasons

The economic reform measures in the countries of Central and Eastern Europe have led to a sharp decline in many people's living standards and even to absolute poverty. Unemployment figures have already risen appreciably, and the low productivity of the industrial sector and overmanning in agriculture indicate the likelihood of a further rise. Where they exist at all, social security systems are very rudimentary.

Despite their geographical proximity, the prosperity gap between Eastern and Western European countries is consequently widening. This is causing both permanent migration and, increasingly, the temporary migration of people in search of work.

3. Migration for work

As even at low rates of pay more can be earned in a few months in a western country than in a year at home, the economic gap between East and West has now created a new informal sector in the western countries. Poles in particular have been travelling to the Schengen countries for limited periods since the visa requirement was waived. Many of them work illegally and for far less money than the indigenous population, finding jobs particularly in agriculture, the construction industry or the catering trade or as cleaners.

The Federal Republic of Germany has agreed with a number of Eastern European countries that it will take certain quotas of contract workers, which are linked to the trend in the German labour market. It is thus accommodating the interests of German industry, for which such workers represent a cheap supply of labour since it does not have to pay any social contributions for them. Furthermore, the contractual rules are sometimes circumvented through the involvement of Eastern European subcontractors, thus enabling workers to be employed in this sector at very low wages.

4. EU policy on East-West migration

None of the EU Member States currently sees itself as an immigration country. With some exceptions (ethnic Germans in Germany, seasonal work), the measures they take are therefore essentially designed to restrict immigration as far as possible.

The issue has been considered at various EC summits and ministerial meetings, and a number of resolutions on such subjects as deportation, safe third countries and the handling of obviously unjustified applications for asylum have been adopted with a view to harmonizing policies. Since 1991 the ministers of a growing number of European and some non-European countries have also endeavoured to coordinate their actions at various conferences and follow-up conferences (Vienna in January 1991, Berlin in October 1991 and Budapest in February 1993). The steps decided at these conferences are essentially designed to combat illegal immigration and the smuggling of human beings, to make

frontiers secure and to ensure that illegal immigrants can be returned to the country from which they have come. Agreements on the return of illegal immigrants have also been reached between various Western and Eastern European countries and also between the Schengen countries and Poland.

5. Implications of the EU policy for the Eastern European countries

The barriers increasingly being erected around the EU countries are raising the pressure of immigration on their Eastern European neighbours. This is particularly true of the Czech Republic, Hungary and Poland. Refugees from Eastern Europe frequently attempt to enter the European Union through these countries. With their resolution of December 1992 on safe third countries, which include the Czech Republic, Hungary and Poland, the EC ministers have now paved the way for these refugees to be sent back.

These countries had not previously experienced any appreciable immigration in recent decades and do not yet have the legal, administrative or financial resources to cope with the greater pressure of immigration. They too are therefore beginning to pursue a more restrictive immigration policy, tightening up their frontier controls and making it more difficult to obtain visas. They would similarly like to conclude agreements with their Eastern neighbours on the return of immigrants, which would shift the problem ever further eastwards.

6. Conclusions

Raising barriers around the European Union is unrealistic, and it does not comply with the Western European countries' humanitarian principles, which are based on freedom of movement. It must be assumed that both refugees and people in search of better living conditions will continue their efforts to settle in the European Union in the future, possibly in greater numbers.

Faced with this situation, the European Union must not become a fortress. People fleeing ethnic discrimination and civil wars must be able to find refuge in the European Union. The reuniting of families should not be made more difficult, as the ministers responsible for immigration have recently decided and as has already become law in France.

The EU should, moreover, pursue a policy that tackles the causes of migration. In other words, the countries of Central and Eastern Europe and the former Soviet Union should be helped with their economic development, resources should be made available for the development of their social security systems, construction programmes and infrastructure measures should be developed with the specific aim of improving the living conditions of ethnic minorities and the brain drain should be counteracted through the establishment of appropriate working and research conditions for highly qualified workers in their home countries.

The EU's Central European neighbours, who are already suffering from the effects of the EU's policy on refugees and immigration and must also develop their own policies on refugees, need financial and administrative support to ensure effective protection against persecution.

If Eastern Europeans are to be prevented from immigrating into the EU illegally, they must be offered, to a limited extent at least, legal immigration and

employment opportunities. Ways of regularizing the status of illegal immigrants already living in the EU must be sought. Illegal employment at marginal wages and under poor working conditions must be counteracted: workers from non-EU countries should be employed on the same terms as EU citizens.

ON THE HARMONIZATION OF FAMILY REUNION POLICY

I. Introduction

Family reunion can be defined as the reuniting of a person resident in a country of which he is not a national with the closest members of his family, who were formerly resident in another country, under more favourable conditions of entry and residence than those offered to other foreigners.

As the Commission working document on family reunion says, no State contests the fundamental right of every person to found a family and to live together with that family[1]. This general principle is of course subject to some variation resulting from differences in national law and administrative practices.

Here we need only consider the case of non-Community nationals, since freedom of movement and establishment, which were reaffirmed in the Single Act, already regulate in principle the case of Community nationals, extensively dealt with by Council Regulation No. 1612/68 of 15 October 1968[2].

There are two types of problem to be considered: that of the legal basis of a possible act of the European Union shifting the question of family reunion from the area of intergovernmental cooperation to that of specific Union policy and, secondly, that of the practical aspects and arrangements relating to the right of family reunion.

II. International law

A number of international texts deal with the issue of family reunion, including the Convention for the Protection of Human Rights and Fundamental Freedoms, the European Social Charter of the Council of Europe of 10 October 1961, the European Convention on the Legal Status of Migrant Workers of 24 November 1977, ILO conventions and recommendations, the Final Act of the Helsinki Conference and the Paris Charter.

III. Legal and institutional aspects of Union competence

The Ministers of the Member States of the European Community meeting in Copenhagen on 1 June 1993 adopted a working document and a resolution which is moderate and takes account of all positions[3], but is less than satisfactory in that it is purely intergovernmental. One wonders how this intergovernmental view is to be incorporated fully into the policy of the Union.

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[1] V/384/92, 13 May 1992

[2] OJ No. L 257, 19.10.1968

[3] SN 2828/1/93 WGI 1497 rev.1

There are two possible ways in which the intergovernmental position could become a Community position. The first would be to use Article K.9 of Title VI of the Treaty on European Union. The second would be to call on the Commission to draw up a draft convention on family reunion in the framework of Article K.3 in order to ensure that the Court of Justice was empowered to settle any disputes which might arise. The European Parliament could participate in the context of the cooperation procedure.

IV. Practical aspects of family reunion

The policy of family reunion must be part of a common policy on immigration. Family reunion was and remains one of the main means of immigration into the European Union. Family reunion, which has often been criticized for the almost automatic nature of its procedures, requires a minimum of harmonization in view of the abolition of internal borders, on the one hand, and freedom of movement on the other, which presuppose the elimination of the most obvious differences between Member States, which would have made some of them an easier means of access into the Community than others and damaged the trust between Member States which is an essential prerequisite for freedom of movement.

Family reunion does not generally cause any major problems in the case of:

- the spouse of the resident, i.e. a person with whom he has contracted a form of marriage recognized by the host Member State,
- the children, other than adopted children, of the resident and his spouse,
- children adopted jointly by the resident and his spouse, while they were living together in a third country, in accordance with a legal or administrative decision of the authorities of that country recognized and accepted by the Member State of residence, where the adopted children have the same rights and obligations as the couple's own children and links with their family of origin have been definitively severed.

The conditions relating to the length of residence of the original immigrant, on the basis of whose residence reunion will take place, are a subject of discussion and controversy: where is the line to be drawn between a temporary worker and a family which will integrate permanently in the host State? Even defining the concept of a family is no simple matter, for example when it comes to ascendants and collaterals; ideas on what constitutes a family vary enormously between the host Member States and certain countries of origin. It therefore seems unrealistic to allow the definition of the family to include collaterals, at least in the context of family reunion policy.

The draft resolution by the ad hoc group of Ministers for Immigration uses the word 'spouse' in the singular. In some countries of origin polygamy is legal, but it is not, of course, legalized in the Member States. It would seem wise to follow the example of the Ministers in using the singular if we wish the policy of family reunion to be acceptable to public opinion in the Member States and not to meet with undesirable opposition. Should the policy of family reunion also cover cohabitation and non-marital union? The opposition to 'marriages of convenience', which are contracted legally, but are obviously not true marriages in any other sense, suggests that it should not. Likewise, the suggestion made in some quarters that family reunion should also cover same-sex couples will strike most people as unnecessarily provocative. It would be prudent to dismiss the idea if we are to avoid compromising the whole policy of family reunion.

It would also be advisable to allow the Member States a certain amount of leeway to exercise their judgment in specific cases, since appeals against decisions can be lodged with the courts as well as with the administrative authorities. The same spirit of prudence dictates the principle that family reunion must not be used *a posteriori* as a legal instrument to justify clandestine immigration. This principle underlies the requirement that an application must be made prior to entry into the territory of a Member State by members of the family of the person already resident there.

V. Conclusion

It would thus be desirable to introduce legislation governing family reunion at Union level. This legislation, which would form an integral part of immigration policy, must be generous but balanced. While satisfying the international commitments entered into by the Member States, it must at the same time avoid offering the means of circumventing or infringing normal immigration procedures. It should also provide every opportunity for members of families who benefit from the policy of family reunion to become integrated into the society of the host country. It is also essential to provide safeguards against possible abuse of the system in this area so that no weapon is provided for those wishing to cast doubt on the right of family reunion.

Letter from the Chairwoman of the Committee on Women's Rights to
Mr TURNER, chairman of the Committee on Civil Liberties and Internal Affairs

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Brussels, 31 January 1994

Subject: Policy on immigration from Central Europe and reunification of immigrant families

Dear Mr Turner,

At its meeting of 25 and 26 January 1994, the Committee on Women's Rights considered the above subject and adopted the following conclusions:

The European Union has 8.2 million immigrants from third countries (mostly from Turkey, Eastern Europe and North Africa) i.e. 2.5 % of its population, 80% of them living in three Member States (Germany, France, UK)*.

The question of integration and minorities is a very important issue at a moment when the European Union - which now offers citizenship to 325 million inhabitants - is engaged in the difficult process of harmonizing and integrating the different cultures and peoples of the twelve Member States.

The case of persons of third world origin is often worsening when even nationals from Member States are still perceived as foreigners and therefore marginalized.

However, attempting to construct Europe on such a discriminatory basis is a denial of history and the multicultural nature of European populations.

At the beginning of the International Year of the Family, the Committee on Women's Rights wishes to insist on the fact that no immigration policy can be implemented without respecting the fundamental right to family reunification.

In view of the foregoing the Committee on Women's Rights calls on the Committee on Civil Liberties and Internal Affairs to include the following paragraphs in the motion for a resolution:

1. Notes that the denial of family reunification only exacerbates problems both in the host country and in the country of origin;

2. Considers that failure to recognize this right constitutes an attack on the family with extremely low age limits for children and discrimination against women, who not only are downgraded at the family level, but are excluded from a new labour market;

3. Asks that as part of the immigration policy of Member States, family reunification be recognized as a fundamental right for all those who hold a valid residence permit, have adequate means of support and pose no threat to public or moral order in the state where they wish to reside;

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* Eurostat

4. Believes in conformity with general and common principles of the law of Member States, that only one legal or common-law marriage is admissible;

5. Insists that those who are denied this right under the above circumstances should be entitled to lodge an appeal;

6. Asks that account be taken of the vulnerability of immigrant women who have no independent status of their own and whose right of residence always depends on a father, brother or husband;

7. Calls on Member States to release all necessary means for a policy to help families adapt to host-country structures, with particular emphasis on literacy and instruction in the host-country language, which are vital factors of social integration;

8. Calls for observance of the international agreements ratified by most of the Member States: European Convention on Human Rights, Convention on the Rights of the Child (United Nations), European Convention on the legal status of migrant workers (Council of Europe);

9. Calls on the Member States to be on their guard against any attempted trafficking in women and children from Central and Eastern Europe.

Yours sincerely,

(sgd) Christine CRAWLEY

The following took part in the vote: Crawley (chairwoman), Domingo Segarra (2nd vice-chairman), Gröner (3rd vice-chairman), Coppo Gavazzi (for Ferrer), Mebrak-Zaïdi (for Randzio-Plath), Lenz and van Hemeldonck (for Vayssade).

OPINION

(Rule 147 of the Rules of Procedure)

of the Committee on Culture, Youth, Education and the Media
for the Committee on Civil Liberties and Internal Affairs
Draftsman: Mrs Nora MEBRAK-ZAIDI

At its meeting of 25 November 1993 the Committee on Culture, Youth, Education and the Media appointed Mrs Nora Mebrak-Zaidi draftsman.

At its meeting of 27 January 1994 it considered the draft opinion.

At the latter meeting it adopted the conclusions as a whole unopposed, with one abstention.

The following took part in the vote: La Pergola, chairman; Mebrak-Zaïdi, draftsman; Barrera i Costa, Barzanti, Hervé (for Denys pursuant to Rule 138), Goedmakers (for Galle pursuant to Rule 138), Larive, Maibaum and Rossetti (for Cingari pursuant to Rule 138).

1. REUNIFICATION OF IMMIGRANT FAMILIES

1.1 Introduction

Since the mid-1970s, family reunification has been the main avenue of immigration, and it is an essential element in the demographic dynamics of the Union.

It is important to recall that family reunification is a fundamental right recognized in international conventions, treaties and the legislation of Member States. Specialists on the matter unanimously agree that respect for the right to family life is an essential means of integrating immigrants.

In most Member States, those eligible for family reunification are the spouse and minor children of a worker legally resident in the country concerned.

In most Member States, six conditions must be met:
- the applicant must be in possession of a valid residence document and must have been resident in the country concerned for a long enough period;
- the applicant must have sufficient and reliable means to support the reunited family;
- the applicant must have accommodation of an adequate standard and size for the family;
- none of the family members entering the country for purposes of reunification may constitute a threat to public order;
- each of the family members to be reunited must undergo a medical test in the country of origin;
- the family members to be reunited must not already be in the country of immigration at the time of the application for family reunification.

Provided that these conditions are met, there should be no discrimination: in particular, neither occupation nor the estimated length of stay in the country of immigration should be taken into account. The right of residence for students' families, for example, must be respected everywhere.

Generally, the first few months after family reunification are decisive in determining the success of the integration process.

From this point of view, the reception provided, the introduction to new ways of life, and assistance during immigrants' first quests for information are essential if the new arrivals are to become acquainted with their role as citizens as quickly as possible.

Representatives of all areas of life in the community should be involved in these efforts, especially associations (immigrants' associations, reception associations, family associations etc), educational organizations (school support bodies, literacy organizations etc) and the social services.

Both the Member States and the Community institutions should therefore facilitate this.

1.2 Proposals

In view of the above, the following amendments should be made to the report of the committee responsible.

Amendment No 1: Paragraph 1 (insertion)
'Considers that the right to family reunion must be fully recognized and that it is an essential element in integration;'

Amendment No 2: Paragraph 2 (modification)
'Believes that the following are entitled to be reunited with their families:
(a) those who have a valid residence permit,
(b) those who have stable and sufficient means,
(c) those who have suitable housing which complies with standards,
(d) those who do not represent a threat to law and order (three words deleted),
(e) those who have undergone a medical examination in their country of origin'.

The concept of employment should be replaced with that of means, as otherwise family reunification would be restricted to workers, which would constitute unjustifiable discrimination (as students, pensioners and others would be denied the right to family reunification). The provisions on housing and health conditions are indispensable, as successful integration depends on them. Point (d) in the report of the committee responsible is too general and could be interpreted very restrictively.

Amendment No 3: Paragraph 8a (new)
'Believes that it would be extremely detrimental to legislate on the principle of family reunification without providing the resources, in the appropriate form, to facilitate harmonious integration;'

Amendment No 4: Paragraph 8b (new)
'Calls on the Member States therefore to formulate policies for the reception of immigrants which will facilitate the cultural transition, adjustment to new ways of life and early involvement in a new citizenship;'

Amendment No 5: Paragraph 8c (new)
'Calls lastly on the Member States and European institutions to formulate specific policies on newly arriving immigrant children, particularly with regard to literacy, as they were asked to do in its resolution of 21 April 1993 (OJ C 150, 31.5.1993, p. 99);'

Amendment No 6: Paragraph 9a (new)
'Stresses that the right to family reunification applies to dependent children and not only to minor children;'

2. IMMIGRATION FROM CENTRAL AND EASTERN EUROPE

2.1 Introduction

While immigration between peoples has a beneficial effect on the future of each of the communities involved, it cannot be forced. It is appalling to witness the irreversible uprooting of people who are compelled to emigrate in a quest for a minimum standard of living.

Before tackling the integration measures necessary to enable communities to live together in harmony in a multicultural society, it is important to initiate a debate on development aid, more of which should be provided to the countries of origin of migratory flows.

Education and culture (in the broad sense of the term) are two fields which affect people's perceptions of reality and their spiritual and symbolic dimensions, and they therefore have to be taken into account in any consideration of immigration from Central and Eastern Europe.

The measures envisaged, whether designed to assist the development of the peoples of Central and Eastern Europe in their own countries or whether intended to help people from those countries to integrate in Western Europe, should help to achieve these objectives and preserve the cultures of origin of the people concerned.

As regards international solidarity, although the measures ultimately decided upon are likely to take account of specific local factors, they will first and foremost accord with the framework already developed by the Community for other third countries. This international cooperation should take the form of a policy of good-neighbourliness, which must be consistent, credible and based on the principle of partnership, with due regard for the historical, economic and human links between Eastern and Western Europe.

As regards supporting measures for any immigration policy, there is no alternative to integration. The fields with which our committee is concerned should also be used to help immigrant communities to become part of our societies and to enable all immigrants to participate.

Between these two approaches there are also decisions to be taken on combating illegal immigration, in order to control migration. Our committee should seek to ensure that the complicity of certain employers and the laxity of certain authorities are condemned, and it should firmly oppose any trafficking in children from Central or Eastern Europe.

2.2 Proposals

The Committee on Culture, Youth, Education and the Media calls upon the Committee on Civil Liberties and Internal Affairs to incorporate the following amendments on its behalf.

Amendment No 7: Paragraph 7a (new)
'Affirms the need to promote the development of civil society through the Union's support programmes, and the vital importance of establishing decentralized partnerships with non-governmental organizations and associations;'

Amendment No 8: Paragraph 7b (new)
'Welcomes the success of the Tempus programme and the fact that the Commission, in close cooperation with the countries eligible, is carrying out a careful study of the best way of using this programme, according to whether it is concerned with the needs of economic restructuring or with reforming higher education;'

Amendment No 9: Paragraph 9 (insertion)
9. Calls on the Member States to revise regulations which put workers from third countries at a disadvantage, in favour of a non-discriminatory policy and expects governments to provide genuine equality of access to education and vocational training;

Amendment No 10: Paragraph 9a (new)
'Calls on the Member States, while respecting the fundamental principles of their education systems, to develop the teaching of the language, culture and history of the countries of emigration, these being essential elements in identity, self-confidence and integration through knowledge and mutual understanding;'

Amendment No 11: Paragraph 9b (new)
'Calls on the Member States to make available all the resources required for teaching the language of the host country, which is an essential instrument of integration, particularly by means of literacy programmes for women and children;'

Amendment No 12: Paragraph 10a (new)
'Calls on the Member States to combat illegal immigration and to be particularly vigilant about any attempts to traffic in children from Central and Eastern Europe;'

Amendment No 13: Paragraph 10b (new)
'Calls on the Member States to facilitate the establishment of arrangements for exchanging information and multicultural creation as means of collective enrichment;'