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The German Caritas Association's key points for a common EU migration policy

EU migration policy is currently a subject of intense debate both within political circles and by the general public. Most of the attention centres on the issues of (forced) migration, people smuggling and preventing migrants illegally entering and settling in the EU, whilst the fact that the EU is also responsible for creating a regulatory framework for other forms of immigration and visa policy,¹ and has initiated various schemes in these areas,² has been largely ignored.

Over the coming years, the future of the EU will be driven by globalisation and increasing levels of migration throughout the world; and so will be the future of its Member States.³ Managing migration is one of the ten priorities the Commission has set for the next ten years.⁴ At the Commission's presentation of the State of the Union in September 2017, Dimitris Avramopoulos, Commissioner for Migration and Home Affairs, said: "Now is the moment to take the next steps to achieve a fair, robust and realistic EU migration policy." He added that more also needs to be invested in legal pathways for study or work.⁵

The German Caritas Association has long called for greater opportunities for legal migration to the EU for purposes other than seeking protection. The organisation therefore welcomes the introduction of a Skilled Migrants Act⁶, which has been announced by the CDU/CSU and SPD for this year, as an important instrument for creating legal immigration channels at national level. This, and any initiatives by the EU, must guarantee the dignity and safety of migrants and also consider possible consequences for their countries of origin.⁷ The key points presented here are intended to formulate essential requirements for a common EU migration policy.

Both the vast numbers of people who have sought protection in the EU in recent years and Brexit once again resulted in the EU having to come to a fundamental agreement on freedom of movement within the EU.⁸ From the EU's internal perspective however, free movement of EU citizens is not an immigration issue, but part of its internal policies. This is why the mobility of EU citizens is not discussed in these key points.

EU policy approaches

The EU wants to be an attractive destination for students, researchers and workers.⁹ Concrete measures currently being planned include reviewing the Blue Card system and other existing legal migration Directives¹⁰ as well as facilitating remittance transfers.¹¹

The EU's "Global Approach to Migration and Mobility" (GAMM) puts migration issues at the forefront of EU foreign policy. Partnerships with both countries of origin and transit countries are intended to not only make the most of the opportunities offered by managed migration and to fully harness the synergies between migration and development but also to combat illegal immigration. One GAMM instrument are so-called Mobility Partnerships which couple migration with development, border protection and migration control in the partner countries.¹² Currently, the main objectives are reducing the number of new arrivals in the EU and closing the Mediterranean migratory route.¹³ There does not seem to be any consideration of creating future opportunities for a larger number of migrants.

The German Caritas Association welcomes the fact that the EU makes a distinction between fleeing from violence and persecution and humanitarian admission on the one hand and other forms of migration on the other when developing relevant policies. Admitting people seeking protection is a requirement under both international and humanitarian law and must neither be made disposable and nor set off against admission of other migrants. The EU and its member states have scope above and beyond simply providing shelter on humanitarian grounds that should be used creatively. The EU member states have the right to govern entry and permanent residence, either on their own or within the framework of a common EU migration policy.¹⁴ Any regulations must be designed in such a way that human rights are respected, humanitarian standards achieved and opportunities opened up which enable migrants to live safely and with dignity.

Respecting the human right of emigration

"Everyone has the right to leave any country, including his own, and to return to his country."¹⁵ The common EU migration policy must respect this human right. Development policy and migration or trade agreements with countries of origin and transit must not be contingent on emigration controls in these countries. The individual right to emigration must not be restricted by rigid emigration rules that impose sanctions on anyone making use of their human right.

Opening borders to more than only skilled workers

Most people from less developed countries who want to settle in the EU are potential workers. Many of them resort to illegal routes because the legal channels are closed to them as a result of immigration regime philosophies placing high demands on immigrants' levels of qualification. Restricting legal labour migration to the EU only to skilled and highly qualified workers is unsatisfactory. Less qualified workers should also have the opportunity to settle in the EU, depending on the needs of particular fields of economic activity and industries.

Moving illegal migration into the legal sphere

It is impossible to stop illegal migration altogether. The most likely consequence of tighter immigration rules and border controls is that the journey becomes more expensive and dangerous for migrants. Opening up legal, possibly temporary, channels and removing bureaucratic barriers could shift illegal migration into the legal sphere.

Taking account of differences in labour markets and social systems

There are great differences in the regulation of labour migration within the EU. This is partly due to the differences of the various EU labour markets and social systems. A common EU migration policy needs to take this into account, even if this would mean that agreement could only be reached on minimum standards for labour migration rather than on full harmonisation.

Securing individual rights and facilitating flexibility

Fair treatment of third-country nationals within the EU is one of the objectives of EU migration policy.¹⁶ Equal consideration of the needs of people legally residing in the EU is essential for the development of a fair migration policy.

It is in the interest of both migrants and migration destinations to manage the different forms of immigration in such a way that it allows for flexible solutions when migrants' life circumstances change, e.g. adjusting the resident status. A common EU migration policy should therefore avoid giving the Member States too narrow guidelines on how to structure their aliens legislation. At the same time, care needs to be taken not to lose sight of the objective to treat third country nationals equally and give them a large number of individual rights.

Higher levels of immigration must not lead to an erosion of workers' rights and social standards. Politics is responsible for creating regulatory frameworks that will guarantee these. Basic standards, such as the right to equal pay for equal work, access to social benefits, education and training, and medical care, need to be safeguarded and expanded further.

Family reunification needs to be a basic rule

Family reunification is highly conducive to successful integration in the destination country. The right to family reunification should not be based on "reception capacities"¹⁷ in the migration destination, but making provision for family reunification needs to be "the basic rule". The 2003 Family Reunification Directive¹⁸ should be revised so that all holders of residence permits with prospects of permanent residence have a right to family reunification without waiting periods. Language skills requirements must be designed to promote integration without obstructing family reunification.

Facilitating permanent residence

Free movement within the EU has provided an unprecedented expansion of freedom for both European citizens and nationals of third countries. It is also a major factor for growth

and prosperity in EU countries.¹⁹ Currently only third country nationals who are entitled to long-term residence can obtain the right to reside in another Member State.²⁰ The prerequisite for the acquisition of this right of permanent residence is five years of legal and continuous residence within that country's territory. Applicants must also provide evidence of appropriate accommodation and sufficient stable and regular resources to maintain themselves and their dependants, which includes proof of continuous contributions to a pension or similar retirement scheme. These requirements must not become barriers and need to be treated differentially. There should be no excessive demands on what constitutes appropriate accommodation. With regard to pension provision, allowance should be made for migration-related breaks in the employment biography, and contributions to a retirement pension scheme should not be required for the full period of continuous residence. Contributions for 48 months within that five-year period should be considered sufficient. The right to permanent residence improves employment opportunities. This factor is more important in preventing old-age poverty than the often unrealistic requirement of uninterrupted payment of pension contributions during the first five years of residence. It should be sufficient for refugees, victims of human trafficking and persons in similar situations to provide evidence of being able to largely support themselves from their own resources. Moreover, the required period of continuous residence should also be shortened for these people.

Benefiting from the opportunities temporary migration provides

The legal framework for temporary migration needs to be well structured. Workers must be treated and paid fairly and should be able to move between their countries of origin and destination repeatedly. A number of temporary migration models are already in place, such as those for seasonal workers and circular migration of live-in care workers. The regulation of these is gradually progressing in line with the relevant ILO conventions. Making controlled use of such models can offer opportunities for reducing the pressures that lead to illegal migration and can also open up channels of safe and legal labour migration for less well-qualified migrants.

Agreements with their countries of origin could streamline and simplify the authorisation process particularly for temporary workers. However, such agreements must not lead to the general exclusion of certain groups, religions or regions of origin. It should be possible for such agreements to be negotiated by the EU as a whole (possibly within the framework of more far-reaching agreements such as Mobility Partnerships) and also by individual states in the form of bi-national agreements.

Increasing positive effects on countries of origin

Admitting more people from poorer countries could increase the positive impact of migration on their countries of origin, for example through remittance or transfer of knowledge.²¹ Appropriate EU-wide binding measures should be put in place to make remittance easier and cheaper in order to strengthen this effect. Furthermore, suitable EU schemes should be created to help migrants, or groups of migrants, to engage politically with development issues.

As with EU development policy as a whole, care must be taken to avoid indirect involvement in internal conflicts or interference in evolved structures. The countries of origin should be supported so that their economic and social development continues to progress despite, or rather because of, emigration, improving future prospects for their entire populations.

Shaping social security

The employment biographies of increasing numbers of people include phases of employment in a third country. This applies to both people moving from the EU to a third country for the purpose of gainful employment and to people who migrate to the EU to work here. If no social security agreements are in place, such mobile employment biographies may end up with gaps in social security provision and pension provision in particular.²² Migration can be a cause of poverty in old age. The Pillar of Social Rights commitment that “everyone in old age has the right to resources that ensure living in dignity”²³ must also apply to people who have not spent their entire working life in a EU country.

End notes

¹ Art. 79 TFEU

² Summaries of EU legislation on Asylum, Migration and Integration: https://eur-lex.europa.eu/summary/chapter/justice_freedom_security/2301.html?root=2301&locale=en

³ European Commission, White paper on the future of Europe, Reflections and scenarios for the EU27 by 2025, COM(2017) 2025, 01 Mar 2017, p. 11

⁴ https://ec.europa.eu/commission/priorities/migration_en

⁵ http://europa.eu/rapid/press-release_IP-17-3406_en.htm

⁶ Ergebnisse des Koalitionsausschuss vom 5.6.2018 [Outcomes of the coalition committee meeting of 05 Jun 2018]

https://www.cdu.de/system/tdf/media/dokumente/koalitionsausschuss180705_0.pdf?file=1&type=field_collection_item&id=15483

⁷ Deutscher Caritasverband, Grundlagen einer humanen Asyl- und Migrationspolitik der EU [German Caritas Association, Foundations of a humane EU asylum and migration policy], Freiburg 15 May 2006; Deutscher Caritasverband, Legale Zuwanderung ermöglichen – Eckpunkte zur Arbeitskräftemigration [German Caritas Association, Enabling legal immigration – Key points on labour migration], Freiburg July 2012

⁸ cf.: European Commission, White paper on the future of Europe (EN 3), p.11

⁹ Communication from the Commission – A European Agenda on Migration 13 May 2015 COM(2015) 240 final

¹⁰ https://ec.europa.eu/home-affairs/what-we-do/policies/legal-migration/fitness-check_en

¹¹ https://ec.europa.eu/commission/priorities/migration_en#latest

¹² GAMM information: https://ec.europa.eu/home-affairs/what-we-do/policies/international-affairs/global-approach-to-migration_en

¹³ State of the Union 2017: Commission presents next steps to put in place the missing elements of a stronger, fairer and more effective EU migration and asylum policy, 27 Sep 2017, http://europa.eu/rapid/pressrelease_IP-17-3406_en.htm; http://europa.eu/rapid/press-release_MEX-17-5164_en.htm; Communication from the Commission, Commission contribution to the EU Leaders' thematic debate on a way forward on the external and the internal dimension of migration policy, 07 Dec 2017 COM(2017) 820 final

¹⁴ Art. 1(2) International Covenant on Economic, Social and Cultural Rights of 19 Dec 1966

¹⁵ Art. 13(2) Universal Declaration of Human Rights of 10 Dec 1948

¹⁶ The Hague Programme, Official Journal of the EU of 03 Mar 2005 C53/1

¹⁷ cf. European Pact on Immigration and Asylum of 24 Sep 2008 (not published in the Official Journal), p.6, <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2013440%202008%20INIT>

¹⁸ Directive 2003/86/EC of 22 Sep 2003 on the right to family reunification

¹⁹ European Pact on Immigration and Asylum (EN 17), p.2

²⁰ Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents

²¹ <https://www.caritas.de/fuerprofis/fachthemen/migration/wir-brauchen-legale-wege-nach-europa>

²² cf.: Antworten des Deutschen Caritasverbandes auf die Fragen der Vorsitzenden der Kommission „Verlässlicher Generationenvertrag“ zur Vorbereitung des Fachgesprächs mit den

Wohlfahrtsverbänden am 4. Juli 2018, S. 3 f., [Responses of the German Caritas Association to questions of the Chair of the “Reliable Intergenerational Contract” commission in preparation of the expert discussion with welfare organisation on 04 Juli 2018, p.3 f.],

<https://www.caritas.de/fuerprofis/presse/stellungnahmen/07-02-2018-heute-fuer-morgen.von-bismarcks-klassenversicherung-ueber->

²³ European Pillar of Social Rights, Chapter III(15b), proclaimed on 17 Nov 2017,

https://ec.europa.eu/commission/sites/beta-political/files/social-summit-european-pillar-social-rights-booklet_en.pdf