

EU-LAC STRUCTURED DIALOGUE ON MIGRATION

IV HIGH LEVEL EU-LAC MEETING ON MIGRATION

“ADDRESSING IRREGULAR MIGRATION”

17 DECEMBER 2010

BRUSSELS

REPORT OF THE CO-PRESIDENCIES

On 17 December 2010, the fourth High Level EU-LAC Meeting on Migration was held in Brussels in the Framework of the bi-regional Structured Dialogue on Migration launched on 30 June 2009 in Brussels with the objective of addressing issues of mutual concern and interest to both regions in a constructive and pragmatic manner and in an atmosphere of mutual understanding and respect. The two regions addressed topics related to “irregular migration”, with emphasis on legislative and administrative measures applied on irregular migrants, initiatives on return on a dignified basis and readmission policies, with special attention paid to the non-accompanied minors.

This fourth Meeting was inaugurated on 17 December 2010 by Mr. Frank Felix, President of the High Level Working Group on Migration and Asylum of the Council of the European Union, Director for Migration and Asylum, Ministry of Foreign Affairs, External Trade and Development Cooperation of the Kingdom of Belgium, Mr. Raúl Sanhueza, Director of the Direction for Chileans abroad, Ministry of Foreign Affairs of Chile and Mr. Luigi Soreca, Head of Unit International Affairs of DG Home Affairs, European Commission.

The meeting proceeded under the Belgian Co-Presidency of the European Union represented by Mr. Frank Felix, and the Chilean Co-Presidency on behalf of the group of Latin American and Caribbean countries, and represented by Mr. Raúl Sanhueza.

The program is attached to this Report.

In general terms, the Meeting was held in the spirit of the document “Basis for Structuring the EU-LAC Dialogue on Migration” adopted on 30 June 2009 that stipulates that the Parties shall identify common challenges and areas for mutual cooperation.

The IV High Level Meeting firstly offered the possibility to briefly come back on the outcome of the **Global Forum on Migration and Development** held in Mexico, from 8-11 November 2010. The Ambassador of Mexico to Belgium and the European Union, HE. Sandra Fuentes Berain expressed her satisfaction about the Forum and the diverse participation. This time a stronger implication of the civil society was made possible. The Forum also partly addressed ways to face irregular migration. In this context the Mexican Ambassador underlined the needed focus on prevention, rights and protection of migrants.

The morning session was dedicated to the issue of **legal and administrative measures which are being applied on migrants who irregularly reside in a country**. Presentations were given by HE. Fernando Yepes, Ambassador of Ecuador to the European Union and Mr. Ralph Genetzke, Program Manager at the International Center for Migration Policy and Development.

The Latin American and Caribbean countries emphasized that migrants are persons who find themselves in a vulnerable position, the irregularity reinforces this vulnerability. Migrants should not be "criminalized". Priority must be given to a civilian approach focusing on rights (access to fundamental rights as health, education, free movement, etc.), protection and security of migrations.

Mercosur Member States stressed on their very positive experiences with regularization programs, which offered ways of personal development, stability and security for migrants and ways of economical development for host countries.

The EU member states stressed the importance of a comprehensive migration policy considered in the legal framework of the European Pact on Migration and Asylum and where legal migration and security is at its core. Priority must be given to increase and reinforce legal migration ways. Regularization should be viewed as a consequence of a failed migration policy and as a last resort.

Both parties agree that ways of regular migration have to be privileged and solutions have to be found to face irregular migration. Irregular migration is not desirable as it puts migrants in a vulnerable situation, as a vulnerable target for exploitation. Migrants should have access to basic human rights and be treated on a dignified bases. Regularization as administrative mechanism could be a case by case solution to be put in place through bilateral agreements depending on the economic and humanitarian situation. They agree on moving forward in the transparency of the labour markets which demand for migrants (workers), through joint initiatives between the ALC and the EU.

During the afternoon session, the participants closely examined the issue of **voluntary and forced return**. Fabian Lutz from the European Commission presented **the return directive**, which was in the past severely criticized by third countries, who regarded it as a repressive measure criminalizing migrants by imposing a forced return.

The European Commission stressed that this directive provides a more human dimension and a more protective system than those who currently exist in most EU member states. It ensures access to health care and education and respects the principle of non-refoulement. Detention, in open centers and not in prisons, is limited in time and can only be used as a last resort. For EU Member States, the Directive adopted in 2008 and being transposed at present harmonizes return between the 27 Member States through a common legal base guaranteeing fundamental human rights and dignity.

LAC countries see the directive as a positive attempt for harmonization, but emitted concerns regarding respect of rights and human dignity of migrants. They underlined that return has to be seen as social assistance and that more

attention needs to be given to vulnerable groups such as non-accompanied minors.

Participants agree that priority should be given to voluntary return. Cases of forced return should happen on a human dignified base. Return programs (institutional, legal and political aspects) should be drafted and implemented and appropriated information should be provided by countries of origin and destination, to pay attention to the return of skilled migrants, as well as develop the actualization processes of information on migratory flows.

On the subject of **voluntary return**, Peter Neelen of the Belgian Federal Agency for the Reception of Asylum seekers presented the Belgian approach on assisted voluntary return by underlining that this is a social assistance project provided by the ministry of Social Integration. The initiative aims at helping and supporting migrants during their return (payment of travel expenses and financial support to the amount of 250 € per adult and 125 € per child). The reintegration program also allows migrants to receive financial, legal and social support with the purpose of setting up, for instance, their own business and to reintegrate themselves more easily into day-to-day life. The integrated voluntary return programs aim to work in the interest of the migrant, the host country and the country of origin and reinforce the dialogue on migration motives and opportunities after return between country of origin and destination.

On the subject of **readmission**, a presentation was given by Eva Akerman Börje of the Swedish Ministry of Justice and Mr. Pedro Hernandez of the Ministry of Foreign Affairs of Chile. Member States underlined the importance of an efficient return policy which represents an integrated part of the migration policy. They also stressed the importance to convert the return directive into national legislation forcing the member states to issue a residence permit or a return decision. Currently, twelve EU-readmission agreements exist with neighbourhood countries, countries of origin or candidate EU-members. Member States also underlined the large amount of non-accompanied minors arriving on EU soil with the risk of exploitation and vulnerability. It is vital to protect and to identify their families for a decent return.

For the LAC-countries return policy should take place in the framework of International Conventions based on human dignity: e.g. migrants should not be readmitted after a certain time in the host country and families should not be separated.

Outcome

This fourth High-Level migration dialogue allowed an **open and honest discussion, to identify concerns and common challenges on delicate subjects** such as regularization and the European return directive. The discussions around the EU return directive could reassure the LAC-countries and restored their confidence.

In this sense this dialogue paved the way for future reinforced cooperation in addressing irregular migration.

The two parties agree that addressing irregular migration and return policies are an integrated part of a comprehensive and coherent migration policy. Both parties reiterated their conviction that the **migrant as human being, the human rights and human dignity of the migrant should be at stake in any migration policy.**

EU-member states and LAC-countries agreed that **regularization must be exceptional and in a case-by-case mechanism.** A framework for legal migration has to be further developed. For the LAC-countries, regularization has an important humanitarian dimension. Migrants are persons with rights and access to several services and to the labour market. The migrant can then function as a development agent for the host country.

The Belgian Presidency suggested **to exchange information, in the future, on existing EU-directives (e.g. Blue Card, single permit, etc.) and legislation in the LAC-countries on migration** in the framework of the EU-LAC Structured Dialogue on Migration meetings, to be more aware of each other migration policies and exchange best practices.

The Chilean Co-Presidency stressed the role of local actors in migration, the necessity to make the labour markets more transparent, and the importance to generate data on migration for which it proposed to elaborate regularly a **"Statistic Yearbook on EU-LAC Migrations"**, and to present the first report in the next EU-LAC Summit in 2012. This proposal was welcomed by the European side.

The fourth High Level EU-LAC Meeting on Migration offered the possibility to deepen the bi-regional dialogue and better identify the common challenges and scopes of mutual cooperation, as well as elaborate a stronger basis of documentation in the field of migration, particularly as regards to the question on irregular migration, on the basis of the shared responsibility principle, the protection of vulnerable migrants, the reinforcement of joint engagement and the willingness of both parties to debate on questions related to the migration.

In 2011, a first evaluation of the Return Directive will be done by the European Commission.

Pursuant to the Basis Document of 30 June 2009, it was reiterated that, with the aim of ensuring that the High Level Meetings within the Structured Bi-Regional Dialogue be fruitful, it is necessary and important to continue the EU-LAC structured Dialogue on Migration.