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NOTE

from : UNICE

Subject : UNICE position paper on the Commission communication on a Community
immigration policy

Delegations will find attached the above-mentioned document.

**COMMISSION COMMUNICATION
ON A COMMUNITY IMMIGRATION POLICY**

UNICE POSITION PAPER

Executive summary

Immigration is a fact. Skills shortages are a reality. The consequences of an ageing population need to be addressed. UNICE broadly shares the Commission's analysis that past "zero" immigration policies are no longer appropriate and believes that, with the abolition of controls at internal borders, a common European response is necessary.

UNICE strongly condemns the economic exploitation of illegal immigrants and is convinced that it is in the interest of European societies as a whole, to develop a more open immigration policy. However, it insists that such a policy must be based on a thorough analysis of the skills gap and the long-term need for labour in an enlarged European Union, with increased internal labour mobility and managed in a properly organised framework.

European employers agree that the envisaged EU framework should include a coherent legal framework at the EU level but emphasise the need to respect the principle of subsidiarity and to take account of the different conditions on national labour markets. The EU framework should in particular deal with subjects that cannot be regulated at national level, namely whether and under which conditions admission to the labour market and the residence in one country can give rise to admission in other Member States.

UNICE welcomes the emphasis on the need to consult social partners but does not understand the logic of launching a broad consultation on the overall objectives of a new EU immigration policy if the results of this debate are largely pre-empted by the publication of draft directives.

Employers would also like to have clarifications on a number of points. Is the Commission aiming at the establishment of a "one-stop shop" and a single procedure for admission, residence and work or at different separate procedures and permits? What does the Commission mean by indicative targets? How should they be defined? By who ? At what level?

Basing immigration policies on economic needs is sound. But the individual "economic needs test" is not the only valid instrument for establishing the need for economic migration and for regulating it. European companies insist that the procedures to be promoted should be simple, transparent as well as speedy and that restrictive common criteria are not the way forward in a context where EU Member States compete on a global scale to attract additional workforce, especially highly skilled personnel.

Finally, European employers would like to stress the importance of developing support for a successful integration of the third-country nationals residing in the EU Member States. They believe that the communication overlooks the importance of education both as a means of integration of immigrants and of combating racism and xenophobia.

**COMMISSION COMMUNICATION
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UNICE POSITION PAPER

Introduction

1. UNICE has noted the Commission communication on a Community immigration policy. Immigration and asylum are no longer a matter for inter-governmental cooperation but for Community action. The aim of the Commission is to launch a debate in view of defining a common EU immigration policy.
2. This document focuses on economic migration and suggests that this common immigration policy should:
 - prepare the ground for an open EU immigration policy,
 - establish an overall framework at EU level with common standards and procedures for admission and residence of third country nationals,
 - create a mechanism for setting objectives and indicative targets within which Member States would develop and implement national immigration policies,
 - propose flanking integration policy measures.
3. The Commission communication seems to aim at instituting a single procedure for admission, residence and work with different criteria depending on the type of permit sought (for example simple admission, resident-worker permit, resident-student permit, etc.).
4. In parallel, the Commission is already preparing various proposals relating to immigration policy.

General comments

5. UNICE welcomes the debate on a more open immigration policy.¹ It broadly shares the Commission's analysis that past "zero" immigration policies are no longer appropriate. EU Member States find themselves competing on a global scale to attract additional workers, especially highly skilled personnel. If the EU wants to be successful in this competition, especially vis-à-vis the USA, it must provide the necessary conditions to make Europe an attractive destination for a skilled workforce.

¹ Danish employers expressed their regret that the exemption from judicial co-operation under the Community pillar prevents Denmark from taking part in an EU immigration policy. They welcome the debate on a more open immigration policy.

6. UNICE would like to stress that immigration policy is a very sensitive issue that has to be examined in a balanced way taking into account the economic, social, demographic, human, ethical and national security perspectives.
7. A more open immigration policy should be based on a thorough analysis of the skills gap and the long-term need for labour in the EU and should take into consideration how far this can be met from existing labour resources. Moreover, economic migration can be a useful tool not only to address current labour market shortages, but also to improve the quality of human capital in a given country independently of short-term shortages on the labour market. In view of foreseeable demographic developments this option should also be kept open.
8. UNICE would like to point out that the debate on a more open immigration policy is taking place in a period when the EU:
 - is preparing for enlargement; by the time the new EU immigration policy is fully established, the EU will probably have new Member States. UNICE considers that preparation for enlargement can be smoothed by regarding the future EU countries as a key source of labour supply. UNICE is currently developing a position on free movement of workers in the context of enlargement.
 - needs to increase internal labour mobility.

These two key questions must be taken into account when an EU immigration policy is defined.

9. UNICE welcomes the Commission's communication. However, employers consider that this document is difficult to understand, the terminology used is ambiguous and therefore risks leading to a confused debate. Moreover, UNICE does not understand the logic of launching a broad consultation on the overall objectives of a new EU immigration policy if the results of this debate are largely pre-empted by the following recent or planned proposals for directives:
 - Directive concerning the status of third country nationals who are long-term residents in a Member State
 - Three Directives on conditions of entry and residence for the purpose of:
 - Paid employment and self-employed economic activity
 - Unpaid activities
 - Study and vocational training
 - Directive on the right to family reunification

Concerning the analysis

10. UNICE shares the Commission analysis that, given the economic and demographic context in the European Union, the “zero” immigration policies of the past 30 years are no longer appropriate for the following reasons.
 - Demographic trends: increased availability of labour from third countries could contribute to population growth and help alleviating the adverse effects of the ageing population in Europe.
 - Immigration is a fact: the Union has been confronted in recent years with an increased number of immigrants from third countries and this trend is likely to continue.
 - Skills shortages are also a fact: with growing shortages of labour at both skilled and unskilled levels, a number of Member States have already begun to actively recruit third country nationals from outside the Union
11. At the same time, employers are aware that immigration can also generate fears and social tensions in recipient countries. It is therefore very important for all actors concerned and more specifically for Member States to develop policies in order to promote the understanding of society and generate a more positive attitude.
12. UNICE strongly condemns the economic exploitation of illegal immigrants for obvious moral reasons as well as on economic grounds. Economic exploitation of illegal immigration can generate expenses for public finances and social security systems, constitute a loss in tax revenue and social security contributions, and creates unfair competition vis-à-vis law-abiding companies and citizens.
13. European employers believe that it is in the interest of European societies as a whole, including immigrants established in the EU, that immigration is managed in a properly organised framework.

Concerning the establishment of an EU framework

14. Given the abolition of controls at internal borders, a common European response is necessary. UNICE therefore endorses the proposal to develop a common approach to a more open immigration policy, which takes account of the principle of subsidiarity and of demographic developments and the differences between national labour markets within the European Community.

15. A country's capacity for reception and integration of third-country nationals depends on local labour market circumstances, situation in specific sectors or activities, social considerations, etc. Furthermore, this capacity can vary over time. Moreover, important differences exist between different types of immigration: asylum-seekers, family reunion, low skilled, high skilled, economic migrants from neighbouring countries, etc.
16. UNICE therefore believes that the envisaged common framework should
- be broad enough to take account of differences and developments in labour markets, business requirements and skills gaps across Europe,
 - make provision for flexible tools enabling Member States to respond quickly and to manage different categories of immigration,
 - build legal certainty and facilitate rapid and transparent procedures at national level,
 - address the needs of industry and especially small companies.

Concerning the method proposed

17. UNICE supports the proposal that such an EU immigration policy should be developed under a new framework for cooperation at Community level and be based on co-operation, exchange of information and reporting.
18. European employers agree that the envisaged EU framework should consist in a coherent legal framework at the EU level, respecting the principle of subsidiarity and the different conditions on national labour markets. The EU framework should in particular deal with subjects that cannot be regulated at national level, namely whether and under which conditions admission to the labour market and the residence in one country can give rise to admission in other Member States.

Concerning the admission of economic migrants

19. The Commission envisages several legislative proposals concerning migrants dealing not only with the conditions for the admission and residence of third-country nationals for employment and other reasons, but also with standards and procedures for the issue of long-term visas and residence permits. However, it is unclear which proposal would cover what and how they would relate to each other.

20. Concerning the admission of economic migrants, the Commission is preparing a directive, which would:
- establish a flexible scheme based on a limited number of statuses, starting with a temporary work permit (with a possibility to distinguish seasonal workers, transfrontier workers, or intra-corporate transferees), renewable, that could lead to a permanent work permit, after a number of years and to a long-term residence status,
 - include a job seeker visa for labour migrants.
21. The Commission seems to be aiming at a simplification of the procedures by proposing the unique notion of “condition of admission”. The reintroduction of the notion of work permit as distinct from residence permit or visa is contradictory to this objective.
22. Moreover, it is not clear what will be the relationship between the various procedures and the national authorities involved in the issuing of the following documents:
- residence permits (e.g. for employed, self-employed, etc),
 - work permits,
 - visas.
23. It should be therefore desirable to clarify whether the aim is the establishment of a “one-stop shop” and a single procedure for admission, residence and work.
24. If this would be the case, UNICE would probably support this idea subject to further clarification. However, employers would oppose proposals which would result in the addition of or multiplication of administrative procedures making economic legal migration more difficult than today.
25. Given the great differences of conditions which exist at present on national labour markets and the different administrative structures in the different Member States the EU should be careful when deciding to establish EU-wide basic conditions. In any case, such EU-wide basic conditions for admission of labour-market-related immigration should leave enough room for Member States to develop tailor-made solutions which take into account their specific demographic and regional situation.

Concerning criteria and conditions for admission

26. The Communication stresses that quotas are not a solution but proposes to create indicative targets based on criteria set at EU levels, within which Member States would develop and implement national immigration policies. This would be combined with an “economic needs test” as a “practical tool at the disposal of the employers for demonstrating that there is a concrete shortage on the EU labour market”.
27. UNICE agrees that an EU immigration policy imposing national quotas would be inflexible and is not suitable to face changing economic needs. Indicative targets would be preferable. However, it would be useful to clarify what would be the practical implementation of these indicative targets. Moreover, a rejection of a quota approach at EU level should not mean that Member States would not be allowed to apply a safeguard mechanism if the number of migrants reaches a level threatening public order. Such a safeguard mechanism could be linked to the indicative targets proposed in the Commission Communication.
28. Concerning the criteria to be used for granting admission, Member States should have the possibility to define the content of these criteria and the procedures to be applied for admission.
29. UNICE believes that the individual “economic needs test” is not the only valid instrument for establishing the need for economic migration and for regulating it. Where this instrument is applied, the procedure should be simple, transparent, and speedy.
30. UNICE would also like to stress that restrictive common criteria cannot be an appropriate solution in a context where EU Member States find themselves competing on a global scale to attract additional workforce, especially highly skilled personnel.

Concerning the role of social partners in setting up of a new EU immigration policy

31. The communication proposes that the social partners should be consulted:
 - by the Member States in the preparation of the reports assessing the impact of their immigration policy over the previous period and setting out the future immigration policy,
 - by the Commission before adoption of the proposals for Directives dealing with the conditions of entry and residence of economic migrants.

32. European employers believe that companies, employers' organisations, private and public employment agencies, workers' organisations and regional authorities are best placed to signal the needs of local labour markets. However, the national public authorities should keep the responsibility for the definition of immigration policy and of conditions of admission of economic migrants on the basis of the needs identified with the help of the above-mentioned players.

Concerning accompanying policies

33. The Commission has already proposed a wide range of initiatives aimed at setting up a legislative framework for the integration of the migrants. These initiatives concern issues such as: the extension of Community co-ordination of social security schemes to third-country nationals, the right of third-country workers and independent operators already legally established in a Member State to provide services in other Member States, the right to family reunification, etc.

34. European employers would like to stress the importance of developing support for integration for the third-country nationals resident in the EU Member States. In this respect, the communication overlooks the importance of education including of legitimate asylum seekers, as a means of integration of immigrants. Moreover, education can play an important role in combating racism and xenophobia.

Conclusion

35. To summarise, employers would broadly welcome a more open EU immigration policy. However, they regret that the communication is very unclear on what would be the content of such a policy.

36. UNICE believes that the envisaged common framework should

- be broad enough to take account of differences and developments in labour markets, business requirements and skills gaps across Europe,
- make provision for flexible tools enabling Member States to respond quickly and to manage different categories of immigration,
- build legal certainty and facilitate rapid and transparent procedures at national level,
- address the needs of industry and especially small companies.

37. This implies that

- indicative targets should be used rather than inflexible quotas,
- Member States should have the possibility to choose between an individual or a collective assessment of economic needs,

- national public authorities keep the main responsibility for the definition of immigration policy and involve companies and employers' organisations in the identification of skills needs .
