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COMMITTEE ON MIGRATION, REFUGEES AND POPULATION

Hearing on
Regularisation Programmes for Irregular Migrants

PROCEEDINGS

Paris, 11 December 2006

F – 67075 Strasbourg Cedex, tel: +33 3 88 41 20 00, fax: +33 3 88 41 27 76, http://assembly.coe.int, e-mail: assembly@coe.int

OPENING OF THE HEARING
Regularisation programmes for irregular migrants

CHAIR: **Mr Mevlüt ÇAVUŞOĞLU**, Chair of the Committee on Migration, Refugees and Population of the Parliamentary Assembly of the Council of Europe (Turkey, EDG)

OPENING ADDRESS:

- **Mr Mevlüt ÇAVUŞOĞLU,** Chair of the Committee on Migration, Refugees and Population

The session was opened at 9.10am with Mr Mevlüt CAVUŞOĞLU, Chair of the Committee on Migration, Refugees and Population, in the chair.

The CHAIR – I have pleasure in opening this hearing on regularisation programmes for irregular migrants and welcome the experts who have agreed to share their expertise with us this morning. I would also like to welcome the representative of the European Commission, who will give us the Commission's opinion on this issue.

We are dealing with a controversial subject today. The large-scale regularisation of between 500,000 and 600,000 irregular migrants in Spain last year met with a mixed reception in Europe. Some countries have criticised it as opening the door for secondary movements and acting as a pull factor for additional irregular migration to Spain and Europe as a whole. Indeed, the large number of arrivals in the Canary Islands over the summer has been linked by some critics to the regularisation that took place in 2005.

There are, however, a number of positive factors that cannot be denied when considering regularisation programmes. On a human rights and humanitarian front, it clearly has a major impact on the individual lives of people who would otherwise continue to live in an irregular situation. Regularisation allows them to stop living in fear of being found out and sent back. It reduces the risk of their being victims of exploitation and allows them to enjoy the full panoply of civil and political and social and economic rights.

There are also some sound economic reasons for regularisation programmes since they bring in tax revenues and social security contributions. For example, the Institute of Public Policy Research in the United Kingdom has calculated that the regularisation of the estimated 430,000 irregular migrants would increase fiscal revenues by at least £485 million per year.

While it is difficult to calculate the number of irregular migrants in Europe, some put the figure at between eight and ten million or more, which is equivalent to the total population of the eight smallest Council of Europe member states. It is clear that Europe cannot return all these people and that all the countries in Europe have been, are or will one day face the issue of regularisation in one form or another.

In our discussions today, we will be able to look at the experience of a number of countries in Europe, draw from it some good practices and learn some lessons. We will also be able to investigate some of the advantages and disadvantages of applying regularisation programmes and hopefully come up with some possible recommendations in terms of the way forward in using regularisation programmes in Europe.

Without further ado, I give the floor to Mr Greenway, the rapporteur of our committee, who will be chairing this hearing.

9h20 – 11h00	**SESSION I:** **Introduction to regularisation programmes for irregular migrants in Europe**

CHAIR: **Mr John GREENWAY,** Rapporteur (United Kingdom, EDG)

PRESENTATIONS:

Overview of issues *by the facilitator*

- **Ms Amanda LEVINSON**, Consultant, Director of Policy Programs, *Hope Street Group,* USA

Country experiences (Spain, Italy, France and Greece)

- **Mr Joaquín ARANGO,** Professor of Sociology, *Complutense University of Madrid*, Spain
- **Mr Martin BALDWIN-EDWARDS** Director of the Mediterranean Migration Observatory, Athens, Greece
- **Mr Emilio REYNERI,** Professor of Sociology of Work at the University of Milan Bicocca, Italy
- **Mr Patrick WEIL**, Director, Centre for the Study of Immigration, Integration and Citizenship Policies (CEPIC), Paris

Discussion

The CHAIR – The aim of this first session is to gain an overview of the issues arising from regularisation programmes and understand what has been happening in the various European countries. To this end, we are pleased to welcome several eminent experts who will be helping us in this task. I hope that the parliamentarians will be able to extract from their presentations an understanding what has been happening in Europe, the impact of regularisation programmes in the countries concerned and success stories and failures.

I trust that by the end of this session we will have a better understanding of the number of people affected by regularisation schemes and the impact on the rights of these individuals, the underground economy, tax collection and social security, and irregular migration. I hope we will also have an idea of some of the associated measures that have to be taken, especially with regard to integration measures, border controls, etc.

Ms Amanda LEVINSON – I believe the Council of Europe is to be commended for addressing the issue of regularisations, which is so controversial a topic that in many countries it is practically taboo to speak the word. However, I think the topic need not be so controversial and hope to convince you that, when undertaken as part of a holistic approach to migration management, regularisation programmes can be a very useful tool for answering the question, "What do we do with a population that is already living and working in our country?" As I will argue, regularisation programmes can help accomplish Europe's overall migration management objectives.

It may seem ironic that an American has been invited to speak on this topic since we are completely deadlocked on this issue in the US. Despite the fact that there are somewhere between 11 and 12 million undocumented immigrants – 3 percent of the total population – living and working in the United States, as recently as a year ago the issue of undocumented immigration hardly had any impact on the elections. It took the House of Representatives passing a bill that would have built a wall along the entire US-Mexico border and made it illegal for a person to be in the country without documentation to awaken what has become known as "the sleeping giant." For the past year, a climate of near-hysteria has prevailed as citizen militias patrol the border, President Bush has called in the National Guard to assist the Border Patrol, and millions of immigrants have marched in the street to demand immigration reform. As you can imagine, it has been a very exciting time to be working in the normally tranquil field of immigration policy. It seemed that the moment had come for a real opening in US politics to engage in a serious discussion about immigration reform.

Our lawmakers effectively bowed to public criticism that any immigration reform programme was an "amnesty" – the dirtiest word in the American political lexicon. Instead, they jettisoned the possibility of reforming immigration laws in favour of building a 700-mile long wall along the US-Mexico border. Fortunately, there is

renewed hope that Congress will revisit the issue again now that the political winds have shifted in favour of the Democrats, but to tell you the truth, nobody is eager to revive the debate.

But I did not come here to talk exclusively about the US. Rather, it is my sincere hope today that we will be able to engage in a dialogue about regularisation programmes and their effectiveness in managing undocumented migration. Current estimates put the number of irregular migrants in Europe at 4.5 million, and growing by hundreds of thousands each year, so it is extremely important not to dismiss regularisations as a tool for migration management.

Why regularise, how should this be done and who should the programmes apply to? It is often assumed that regularisation programmes are exceptional policies undertaken only when it appears that external and internal migration controls have failed. Indeed, given public hostility towards them, they are usually only implemented as a last resort, and then somewhat apologetically, and with a taint of shame. However, over the past 25 years, countries as diverse as France, Belgium, Greece, Italy, Luxembourg, Portugal and Spain have regularised nearly 4 million undocumented immigrants through over 20 legalisation programmes.

There are many different reasons why countries decide to regularise their undocumented population:

– to reduce the size of the underground economies, which attract large numbers of immigrants (in Greece, Italy and Spain) and to increase tax collection;

– to facilitate the social and economic integration of immigrants and their families into their host countries (in France and the US);

– for humanitarian reasons, including legalising asylum seekers (France, Belgium and Luxembourg);

– to gain more awareness and control over the undocumented population (Italy, Greece, Spain, Portugal, France and the United States);

– to correct the shortcomings of previous programmes (Italy, Spain, Greece, Portugal).

So what are the different types of regularisation programmes?

– exceptional humanitarian programmes provide permits to refugees or asylum-seekers;

– permanent or continuous regularisations, which offer residency to migrants who have been residing in a country for a specified amount of time.

Since all of these programmes are fairly rare, however, and only legalise a relatively small number of immigrants, today I will focus on the most common and, in some ways, most problematic of the regularisation programmes – “one-off” or one-shot programmes.

Most one-off programmes provide temporary living and working permits that expire after a short period of time, usually a year or two. They normally have a short application window and a strict set of criteria tied to employment, so that applicants have to prove they have been living and working in the host country for a certain amount of time. They are sold as one-time programmes but most countries that have implemented them have needed to use them on a recurring basis.

Perhaps it is because they are sold as one-time programmes that they have so many problems associated with them. As opposed to continuous or humanitarian legalisation programmes, which are normally quite discreet, one-off programmes, which seek to legalise large numbers of undocumented immigrants, are invariably carried out under the close scrutiny of the public, the media and lawmakers.

Past large-scale regularisation programmes have faced numerous challenges in their implementation. Notwithstanding widespread public and, in many cases, political opposition to such programmes, many of the everyday problems were connected one way or another to the lack of government preparedness to carry out such a campaign. For example, the absence of organised, proper publicity in migrant communities has meant a weak turnout in many programmes, undermining their goals. In other cases this lack of preparation has resulted in governments being overwhelmed by the number of applications.

Other challenges are related to programme requirements themselves, which may encourage fraudulent applications. It is therefore necessary to be particularly vigilant concerning proof of employment or presence in the host country since a certain date, as well as official documents: in the United States, between 40 and 73% of applications in the 1986 amnesty were based on fraudulent documents.

Another challenge of one-off programmes is that most of the work permits provided are temporary ones that expect the migrant to return home when the permit expires. Since a high number of workers revert to undocumented status in one-off programmes but do not, in fact, leave the country, many countries have needed to resort to recurring legalisation programmes just to keep up with those who fall out of status. Indeed, in Spain in 1996, it is estimated that nearly 60 percent of immigrants who applied for regularisation had

already been former permit holders. Without a plan to return the migrants who remain in the country without authorisation, the effectiveness of any regularisation programme is bound to be limited.

A bigger problem with the design of many of these programmes has to do with a mental block against regularisations. It appears that many policymakers have simply not taken into account the reality of the migration situation in the country, nor have they learned from their own past mistakes. Although various countries have repeatedly undertaken regularisation programmes, there has been little proper evaluation of them.

What are the benefits of regularising immigrants? To answer that question, we need to look at the impact on immigrants, employers, and governments. Regularisation programmes allow workers to obtain higher-paying jobs, join a trade union and better combat their exploitation. They also have an impact on their children's educational attainment. These programmes also provide employers with an alternative to hiring irregular workers, which is critical to combating the underground economy and can also provide a future workforce to those economies where the working population is declining, as is the case in many European countries.

For the government, regularisation programmes can bring an entire population out of the shadows, providing them with taxes, increased contributions to social security, and critical information on the size, demographics and labour market participation of the irregular immigrant population. This is particularly important today, when concerns about national security are of the utmost importance to Europe. The information collected through regularisation programmes can be an invaluable contribution to intelligence and security measures.

Considering whether regularisation programmes are good or bad will only paralyse the debate. Instead, I would argue for a fundamental shift in the way we think about them, and that it is one tool that all countries should consider using to manage migration. It is unfair to judge them by whether they reduce the overall size of the undocumented population or the informal economy, since no single migration management policy could ever achieve that burden of proof on its own.

At the same time, regularisation programmes must be integral to a larger strategy of combating irregular migration, because efforts that rely exclusively on immigration control do not achieve their objective. Immigration is an incredibly complex phenomenon and as such requires complex solutions. Given the growing need of Europe to develop new strategies to manage migration, I would like to suggest different ways in which regularisations contribute to a successful migration management strategy. These are not comprehensive suggestions, but merely a sampling of ideas. First, it is essential that the programmes meet the needs both of employers and also migrants themselves, taking into account the reality of both the labour market and the migratory situation. It is also necessary to take account of the workers' needs to live with their families, which is a key problem since much migration is driven by efforts of migrants to reunite with their families. Second, governments must undertake comprehensive evaluations of previous regularisations in order to assess their impact on the labour market and the social situation of migrants. Third, regularisation programmes must be implemented in conjunction with other migration management measures if they are to fulfil their potential.

Finally, an idea that is gaining increased currency in the world of migration policy is that of earned regularisation programmes. Such a programme would provide most undocumented immigrants with a temporary 3 to 5 year work permit, as long as they have registered with the government and submitted background checks. Migrants would then earn points towards permanent residency through knowing the language of their host country, paying taxes, having stable employment, etc. One benefit of such a programme is that these migrants are given an incentive to integrate and those who are truly motivated to integrate would stand out against those who fail to earn the required number of points and would be forced to return home. Moreover, the information collected from such a programme would be an invaluable contribution to national security efforts.

Quite clearly, regularisation is but a single policy, not a panacea for irregular migration and all the challenges associated with it. I do not believe the question should be "to regularise or not to regularise", but "how can we use these programmes as a tool to meet our needs?" Attitudes towards regularisation programmes are guided by each country's unique political, social, cultural and economic characteristics, so it is necessary to seek the principles that will use regularisation programmes to their full potential.

In the final analysis, regularisation is a bureaucratic term, one that sometimes makes it easy to forget the fact that we are talking about individuals and families. We must take the obligation to find solutions to the problem of irregular migration seriously, all the more so because behind these statistics are millions of human lives.

Mr Joaquín ARANGO – Regularisation programmes are a recurring mechanism of migration policies in Spain, where they are implemented more or less every five years. Thus, 44,000 regularisations took place in 1986, 109,000 in 1991 (for workers only), 43,000 in 1996 (for persons whose documents had expired and their family members), 468,000 in 2000, by virtue of the application of a new law, and 576,000 in 2005, in response to 700,000 applications made by holders of employment contracts under the new legal provisions. In all, about 1,240,000 individuals have been regularised in twenty years. Each year from 1994 to 1999, between

20,000 and 30,000 workers already present on Spanish soil were also regularised on a *de facto* basis under work permit quotas. However, the issue of migration continues to arise and it can even be said that it has become a structural problem since Spain is a state where the migrants arrive.

A whole series of factors are involved in what may be termed the "irregularity equation":

– a strong demand from immigrant workers, most of them unskilled,

– a sizeable underground economy,

– a restrictive entry policy,

– serious difficulties in controlling flows,

– an inadequate labour inspectorate,

– a permissive and lax civic culture,

– deportations difficult to carry out.

It clearly seems worthwhile establishing to what extent these programmes have been successful and to analyse their failures. The results obtained are insufficiently known. Exceptional regularisations have been the main access to residence and work permits and also a means of improving protection and granting rights to individuals who were, and would otherwise have remained, in an irregular situation. They have contributed to the stabilisation and integration of a considerable proportion of the immigrant population since it is estimated that a total of over three million legal migrants living in Spain today have been affected by these programmes.

These programmes have also had a positive impact on the collection of taxes and social security contributions. For example, the last regularisation programme led to 576,000 new social security registrations and has brought in about €1.8 billion more a year. It cannot be denied that immigrants who have become legalised have helped to improve the country's position. Immigration has also made it possible to postpone the point at which the system of retirement pensions will run into deficit from 2012 to 2020 or 2025.

However, regularisation programmes have also had some unintended effects. For example, it appears impossible to make a fresh start since no one believes that the current regularisation programme will actually be the last.

Regularisation programmes are also a pull factor and can thus contribute to an increase in illegal immigration. Their effects are sometimes short-lived, so that a number of people revert to undocumented status after a brief period, although this effect is not very significant and is declining more and more. Finally, the impact on the underground economy has not been clearly established since employers are seeking out new undocumented individuals.

The approach adopted in 2005 is new and promising. The fact that it is more practical makes it less susceptible to unexpected effects. For example, it is based on the submission of a valid employment contract, proof of residence in Spain for at least six months and an unblemished police record. It involves employers and calls on their services. It is an aspect of the overall effort to reduce illegal immigration and the underground economy and is based on three pillars: an unprecedented campaign against the underground economy combined with the strengthening of the labour inspectorate; broader legal access to the labour market, which has permitted the legal access of 150,000 persons this year; and a considerable reduction in paperwork and red tape.

The public generally approve of the regularisation programme, of which they mainly consider the positive aspects. The principal criticism comes from the opposition party, while the rest of the political community, the social partners and civil society support the policy.

The previous experience gained had made it possible to improve the operation of a system cut off from reality but not to make any fundamental changes to it. The process initiated in 2005 will be judged according to the success or failure of the reform effort of which it forms a part. The success will depend on the ability to reduce the size of the underground economy, make entry to the country less restrictive and introduce control mechanisms, including by means of a visa policy. A large number of migrants from countries whose nationals do not require a visa, such as Bolivia in Latin America and Romania in Europe, are arriving in Spain. Finally, regularisation procedures on a case-by-case basis should make large-scale regularisation schemes superfluous.

Mr Martin BALDWIN-EDWARDS – I will endeavour to point out a number of aspects common to the different experiences.

In Greece, over 67% of migrants are said to be of Albanian origin, and 150,000 are still arriving every year, which is an enormous number.

The first regularisation programme was mainly aimed at establishing the precise number of immigrants in Greece. It was conducted without any major problem and 98% of the 370,000 applicants were issued with a residence permit. When the second regularisation programme was carried out, migrants had to prove that they actually had a job in order to be issued with a twelve-month work permit. There were so many administrative documents to be submitted and it was so difficult to obtain them that the process had to be extended by several months. It was not until afterwards that it was established that about 150,000 individuals had obtained what they wanted.

In order to take account of the problems encountered, when the next programme was carried out all that was required for a six-month permit to be issued was proof of residence, but the state once again had difficulty in processing cases and the programme was again extended several times. The six-month permit had to be changed to a full twelve-month residence permit, but the requirements imposed were even more stringent since people had to prove that they had a job and were making social security contributions. The difficulties were so great that no statistics were published.

The next programme spread even more confusion. The figure of 139,000 regularisations provided by the ministry is much lower than the number of applications made. Migrants had to meet several extremely complicated criteria that were difficult to understand.

The chart distributed to you (see Addendum (English only) Part A.) shows a real surge in regularisation applications in 1998 but that does not necessarily correspond to the number of permits actually granted. From 2000-2001 onwards, regularisation took the form of about 100,000 naturalisations, most of them concerning Albanians of Greek origin, since this attribute entitles people to settle in the country and apply for Greek nationality. This particular form is not necessarily found in other countries.

Owing to the delays and time taken in issuing work permits, many individuals remained undocumented without it being possible to deport them. Although this cannot be precisely measured, this definitely has an impact on the underground economy. In 2001, a large number of regularised persons created their own small business, which had an impact not only on the social security finances but also certain sectors of the economy, such as construction and public works.

Regularisations have also had an impact on medical insurance. In particular, there is unequal treatment in breach of the constitution and international law since workers whose employers have refused to pay their social security contributions have had to pay the employer's contributions in order to retain their residence permit.

Immigration from Albania has played a big role, but individuals of Greek origin who were living in several other countries, especially in Central Asia, have also returned to Greece. The grant of citizenship will have been a not insignificant aspect of the country's regularisation policies, even if there are very few data on migrants from India, Pakistan and Bangladesh. Since there is no administrative authority responsible for this task, there has never been an overall assessment of the phenomenon. Recently, the press has reported on difficulties in issuing work permits owing to administrative problems.

There is also a North-South divide: some frontier regions with Albania, Bulgaria, "the former Yugoslav Republic of Macedonia" or Turkey are opposed to any regularisation programme whereas there is greater tolerance elsewhere. Between 60% and 65% of migrants are registered in and around Athens. The Ministry of Foreign Affairs, like, incidentally, the Ministry of Agriculture, is very cautious as regards regularisation measures.

The Greek government also has to deal with the issue of family reunifications. More than 70,000 people, in particular Albanians, were affected by a recent programme. The rights of individuals who are living in the country, and have been in some cases for a very long time, and are beginning to face the problem of retirement are not always recognised.

Finally, the hostile reactions among Greek politicians and the general public, especially with regard to the family reunification policy, cannot be overlooked.

Mr Emilio REYNERI – The first table (see Addendum (English only) Part B) in the document you have been given indicates the main characteristics of the five regularisation programmes that have been carried out in Italy. In 1986, 1995, 1998 and 2002, programmes corresponded to the needs of the labour market, while the one conducted in 1990 affected people already living in the country. Periodically, the quotas decided by previous governments have had to be revised upwards, and it now appears necessary to carry out 350,000 more regularisations. Job offers only affect people already living illegally in Italy.

The second chart, which is based on an estimate made by a major foundation dealing with the subject of immigration, shows the number of migrants who have arrived in the country without a valid residence permit. It also states the names of the ministers associated with the different regularisation programmes. While it can be seen that the first operations affected migrants already present in the country, there is a new wave linked to

later entries. It will also be noticed that a number of individuals subsequently return illegally – 5% apply for regularisation more than once. In fact, some of those who have not been regularised go back home and then move to and fro.

The third table shows the strong increase in the number of individuals present in Italy, two-thirds of whom do not have the required residence permit. According to the Ministry of the Interior, most did not enter Italy illegally but outstayed their visa (in most cases a tourist visa).

Applications for asylum are not really part of the Italian tradition. At the same time, it is difficult to link the laxity of border controls and the increase in the number of entries since the "boat people" phenomenon does not have a very big impact.

On the other hand, Italy has a long tradition of an underground economy: it is estimated that 15% of Italians were working illegally when the migratory movements began. Today, some of them have been replaced by migrants. When the latter enter the country, they know they will be able to earn money even if they have no documents.

However, the demand for labour is strong in the mainstream economy too. Moreover, the ratio of registered to unregistered immigrants remains stable. Most regularised migrants even succeed, under the Bossi-Fini Law of 2001, in renewing their temporary permit by keeping the job they have.

In Italy, the migrant employment rate is very low and is only a few per cent higher than the rate for Italians. Demand for labour also comes from the underground economy. Originally, immigration responded to the need to meet the demand of the Italian economy. Since this demand often comes from small family businesses, it is usually met by means of personal contacts, which makes it difficult to apply a quota system under which the labour needed is sought abroad. Under the Italian "model", which is characterised by fragmentation and instability of the demand for labour, migrants therefore first arrive in a country, then find work and are finally regularised. In the past, at attempt was made to solve this problem by issuing a permit to look for a job. This arrangement was abandoned two years ago, but it does not seem unattractive as it enables illegal entries to be avoided by granting short-term visas.

It appears necessary today to carry out fewer border controls and more checks on the employment market. The idea would accordingly be to combine migration policies that are more liberal with combating the underground economy and, above all, to match the strong demand on the labour market with the large number of job-seekers, thus putting an end to the never-ending debates on regularisation policies.

Mr Patrick WEIL – In the last 30 years, France has carried out four large-scale regularisation programmes. The first was in 1973 and affected 50,000 immigrants; the second, and largest, took place in 1981 after the election of François Mitterrand, with 132,000 regularisations in response to 145,000 applications, the sole criterion being the applicant's arrival in France before 1 January 1981. A small-scale regularisation of 20,000 asylum-seekers took place in 1991. Finally, when the left returned to power, between 87,000 and 100,000 people were regularised out of 135,000 applicants, the main criterion being family ties.

The political impact of these campaigns led the French to look for other ways of regularising undocumented foreign nationals. In particular, the regularisation programme of 1980, which resulted in the rise of the National Front, brought about a radical change: immigration policy was then applied on a very restrictive basis, especially in comparison to what has since been done in Spain and Italy.

From the policymakers' point of view, it is evident that regularisation programmes cannot in themselves serve as migration policy, but they do reflect its failures by illustrating the obligation to abandon every two or three years the laws which they have themselves enacted. In addition, these things are never popular with public opinion.

The previous speakers have pointed out that the United States, Italy and Spain have a system of access to legal residence by means of quotas. This seems inflexible to me as quotas of skilled people are never reached while those of unskilled labour are always exceeded.

A more flexible system exists in France, where mechanisms for ongoing regularisation were introduced on the basis of the statute of limitations principle which we have in our democracies for all offences, but which has not been applied in American law for a long time. A regularisation mechanism affecting five categories of individuals was accordingly introduced into the law of 1998: parents of French children, minors living in France since the age of 10, foreigners residing in France for more than 10 years, persons able to claim family ties in accordance with Article 8 of the European Convention on Human Rights, and sick foreign nationals who would not be given the necessary care if they returned to their own country.

The last figures available, which date from 2004, show that 35,000 people have been regularised in this way. If this approach were implemented for a period of ten years, the total number of regularisations would be higher than all the regularisations to date but would result in much less political controversy since these are individual measures taken every day on the basis of applications submitted to the prefectures.

When he entered the government in 2002, Nicolas Sarkozy faced pressure on the regularisation issue. He realised that this arrangement was very practical and therefore regularised a few thousand people in his first two years in office. However, with an eye to the next presidential election he said this system was too liberal and the number of regularisations should perhaps be reduced. He therefore announced that that was what he was going to do and that he would be sending more irregular immigrants back home. To this end, he tabled a bill in 2005, which Parliament debated in June and July 2006. The prospect of an end to the regularisation mechanism led parents of French schoolchildren to rally in support of children of foreign nationals and their families. Mr Sarkozy was thus obliged last summer to organise a small-scale regularisation programme covering a few thousand individuals, probably 10,000 in all. Above all, following the discussions – to which I was, incidentally, able to contribute – he re-established by means of an amendment to the text finally adopted the mechanism for regularising people after 10 years' residence – a mechanism he had said he wanted to abolish. He even introduced a provision that exists in the recently modified German law permitting the Minister of the Interior exceptionally to allow someone to stay for humanitarian reasons. This gives the minister a full, discretionary and very flexible power since he can say yes or no on an ad hoc basis.

There is therefore a consensus in France today between the left and the right not to carry out large-scale regularisation programmes but to adjust this ongoing individual regularisation mechanism. In our democracies, the choice is no longer between regularisation and no regularisation but between exceptional and large-scale programmes and such a permanent system of individual regularisations, in conjunction with legislation that provides for access to legal immigration in a manner adapted to each country's economic situation.

The CHAIR: I thank all our experts for their very interesting presentations and now open the discussion.

Mr Morten MESSERSCHMIDT, *committee member* (Denmark) – In view of the data available for Greece between 1998 and 2004 and for Italy between 1986 and 2006, can it be said that the number of immigrants has risen and that regularisation policies are in fact functioning as a kind of incentive to immigrate into these countries?

Also, do you see a difference between people who come from Europe and those from other continents? In Denmark, at any rate, the former find it easier to become integrated.

Mr Paschal MOONEY, *committee member* (Ireland) – I will speak less about the processes than their impact. Account must be taken of the political aspect and the social consequences of an influx of immigrants into countries like the United Kingdom, which is why we must look beyond regularisation programmes and consider the question of integration, which seems to be failing in France. Why have the experts not spoken more about the social consequences of migration and of regularisation policies?

Ms Levinson, you mentioned the working group in Washington that is also dealing with the issue of citizenship. We are aware that the Republican far-right is opposed to President Bush's policy. Could you tell us more about regularisation in the United States and the changes that might be made now that the Democrats control the two houses of Congress? Even if the messages reaching us are a little contradictory, we have the feeling that these changes could happen in the next few months, ie from now until the presidential election.

Mr Florian G FORSTER, *Chief of Mission, Paris Office of the International Organisation for Migration* – Speakers have only spoken about emigration up to now, that is to say a movement in one direction, namely to the countries of western Europe and the United States. Mr Arango, for instance, emphasised the restrictions on access to Spain, for example through a restrictive visa policy. Should we not change the paradigm a little, establish that migration is a phenomenon that involves movement in two directions and speak about mobility?

Mr Morten ØSTERGAARD, *committee member* (Denmark) – It has been said that 60% of individuals who have already made an application later make a second one. Could we have a few details concerning this figure and its connection with the job market?

Ms Corien W A JONKER, *committee member* (Netherlands) – The experts have spoken about the large-scale regularisation operations carried out, but that does not tell us who has had their situation improved as a result and who the process has really helped. I would like to know if regularisation actually means that immigrants are placed in a different situation, because if it enables them to get a legal job, they risk subsequently losing it, going back underground and ultimately finding themselves more marginalised than before.

Ms Amanda LEVINSON – If we speak of citizenship, many different criteria have to be taken into account. The group that worked on this subject for several years finally recommended a points-based system of earned regularisation. This proposal is being studied again and has good chances of being passed by Congress, which is now controlled by the Democrats, but no one really wants to speak about it. This is because the elections have had a paralysing effect since many candidates drew a parallel in their manifestos between the economic situation and immigration. It is too early to say in which direction the new Congress will

go. Are the Democrats going to bring the issue up again? Are they going to use it as a means of pressure? It will be remembered that the Latinos voted for George Bush at the last presidential election, but the situation has changed since then. I would need a crystal ball to answer your question.

Mr Joaquín ARANGO – When the system was very strict, a large number of people did indeed revert to undocumented status, quite simply because they lost their residence permits as soon as they lost their job. On the other hand, 95% of the foreign nationals regularised in 2005 still have a job and have renewed their permits.

The reason why people are given a twelve-month residence permit is not that they are expected to return home at the end of that period. The system provides for several successive permits before entitlement to a residence permit of longer duration. Most of the people who have gone through this process are now living and working permanently in Spain.

Another question was what problems regularisation solves. Firstly, it gives rights to individuals who have hitherto been deprived of them and enables them to take their place in a legal system and find stability. It quite clearly does not enable a machine that does not work well to be repaired, but at least some malfunctions are remedied. It goes without saying that regularisation must be supplemented by integration policies implemented by the municipalities, regions and central government. The precondition for these policies to function is the legal status of the individuals concerned. That is why regularisation gives them the best chances to benefit from it.

Do regularisations have a pull effect? In the case of Spain, they mainly affect people already in the country. This policy was adopted because employers became aware of the problems and took a stance.

In addition, regularisations are generally carried out at short intervals and people have to prove that they have been in the country for a certain period in order to benefit.

Perhaps this is giving Spain the image of a country where it is quite easy for a person to work when they have no documents, but supply and demand on the labour market exist independently of regularisation policies and are matched to each other by means of the underground economy.

It can also be said that that regularisation policies encourage people less to come than to stay, since people know that if they leave they will not be able to return.

Mr Martin BALDWIN-EDWARDS – Does regularisation encourage new waves of immigration? I believe that the underground economy is the core of the problem. Also, it goes without saying that cultural problems are not as acute for the Albanian population of Greek origin as they are for nationals from other countries, especially in Africa. It is also necessary to consider the links between Greek civil society and the migrant community. Very strict controls on the borders with Albania will no doubt have undesirable effects since worker mobility must not be unduly impeded.

A study shows that it is virtually impossible to say, given the number of residence permits issued, whether regularised people revert to undocumented status at some time and apply for regularisation again. However, it can be concluded that regularisation encourages mobility, even if this is not always a success.

There were more than 500,000 irregular workers in Greece and the European Union asked the government to act. It was therefore necessary to do something and Greece had no alternative but regularisation. The issue was thus more the form that regularisation would take. At least the decision taken enables immigrants to obtain official status, albeit of a temporary nature. Regularisation is thus quite simply one of a number of migration policy tools.

Mr Emilio REYNERI – As Mr Arango has stressed, most regularised migrants get jobs on the legal labour market and obtain a renewable residence permit. However, it is true that a number of them only take a short-term view of things, are only in the country for a few years and use the regularisation process to organise this brief stay. It is they who go back to the underground economy after being regularised, but it is quite rare for them to try to use this procedure again since they intend to leave. The appropriate technical means must, of course, be used to combat this phenomenon, which poses a number of problems, especially with regard to social security contributions. There are also what might be termed professional migrants, who spend three months here and three months there, return home, come back again and so on. They enter the country on tourist visas and work when they clearly have no right to do so. That also supports the underground economy.

Mr Patrick WEIL – I share my colleagues' opinion that the reason why regularisation policies have failed is that they draw in undocumented individuals from neighbouring countries. We have established that people came to France during the operations in 1980 and 1997 and went from France to Italy and Spain when those countries were themselves carrying out regularisation programmes. The French criticism of Spain is, incidentally, very hypocritical because the government was rather pleased to see undocumented immigrants leave for that country.

As Martin Baldwin-Edwards has emphasised, the question is not whether regularisations have a positive impact. In fact, it is absolutely indefensible not to regularise people when the number of irregular situations has risen for years. Leaving thousands, indeed millions of people to live in an illegal situation, as in the United States, creates social unrest. It is normal to combat irregular immigration, but at a certain point it is more dangerous not to regularise than to regularise, and that it why it must be done, especially by considering how to apply the statute of limitations, which prevails in many other areas, to migration policy. With regard to tax matters, for example, inland revenue inspectors are entitled to check your declarations for a number of years, after which the statutory limitation takes effect.

Mr Forster asked the right question: how can statutory mechanisms be put in place that reduce the number of situations of irregularity? I think the future lies in legislation that fosters mobility. Spain, Italy and France must develop systems such as seasonal permits valid for several years, permanent visas for skilled workers and senior citizen's cards for people who have worked in the country for several years. All this avoids people feeling forced to stay against their will and thus going underground.

Mr Aydin MIRZAZADA, *committee member* (Azerbaijan) – Most migrants come from a fairly limited number of countries, so it would be interesting to know how the governments of the host countries co-operate with those of the countries of origin to try to manage the flows.

Since the problem is also due to the fact that illegal migrants are prepared to work for very low wages, would it not be preferable to devote part of the funds employed for dealing with illegal migrants to establishing favourable conditions for legal migrants?.

How can we ensure that illegal immigrants who have no employment contract actually enjoy all their rights but also receive the necessary care when they have health problems and that their children go to school?

Ms Corien W.A JONKER, *committee member* (Netherlands) – Mr Arango told us that people come out of the shadows into the light, which I fully understand, but is the light not in fact a very short-term perspective?

Mr Emilio REYNERI – For the majority of regularised migrants the perspective is medium or long term: they can enter the legal economy and stabilise their situation. There are many more of them than those who only have a short-term perspective. However. migrants are not a homogenous group.

Ms Corien W.A JONKER, *committee member* (Netherlands) – Mention has been made of 1.2 million persons regularised in Spain. What is the percentage of those who still have a job after three years and those who are dependent on social benefits?

Mr Joaquín ARANGO – The employment rate of migrant workers in Spain is very high and the unemployment rate is therefore very low as it is just one per cent higher than that of the general population (9%). Within this group, the employment rate is 80%, ie much higher than the 60% of the rest of the population. This is due to the socio-demographic profile of the migrant population, which contains more young people of working age. Most of them have a job. This is, incidentally, logical since the reason for the large migration flows is the strong demand for labour, which is largely met by migrants.

With regard to what happens after the regularisation process, I, too, think that most people stay, continue working and are integrated into the host country. However, it is true that some return to their country of origin. It is difficult to establish the figures. There are also people who come and go, staying here for two months, then returning to Romania or Bulgaria for two months and coming back for a while, after which they go to spend a short period in Italy, etc.

As regards health and education, Spain has a system of universal coverage entitling everyone to medical care. Even if you are an immigrant, the moment you register with your local authority you are issued with a medical card. Primary education is compulsory for everyone and all parents are required to register their children at the schools in the community where they live.

Could governments devote part of their budgets earmarked for dealing with irregular immigrants to improving the lives of immigrants? There are two different budgets: control policies are essential but so are integration policies, and the two can coexist. They do not compete with one another.

It is, of course, desirable for the host countries' governments to co-operate with those of the countries of origin. This can take the form of bilateral agreements that, for example, enable the issue of temporary workers to be resolved. There are also readmission programmes and agreements as well as co-operation and development aid schemes in some cases.

The CHAIR and RAPPORTEUR: I wish to thank everyone who has participated in this first session, especially the experts, whose knowledgeable contributions have stimulated our debate in the same way that they will stimulate our thoughts.

SESSION II:
Arguments for and against regularisation programmes

CHAIR : **Mr John GREENWAY,** Rapporteur

DISCUSSION PANEL, with the participation of

- **Ms Corien JONKER,** MP, Netherlands (EPP/CD)
- **Ms Ana Catarina MENDONÇA,** MP, Portugal (SOC)
- **Mr Helmut BRANDT,** MP, Germany (CDU/CUS)
- **Ms Maria Josefa PORTEIRO GARCIA**, MP, Spain (SOC)

The CHAIR and RAPPORTEUR: We are running a little late, so in this second session concerning the arguments for and against regularisation programmes I give the floor without further ado to our first speaker.

Ms Maria Josefa PORTEIRO GARCIA, *committee member* (Spain) – I would like to describe the situation and recent events in Spain.

Over the last 25 years, Spain has moved from being a labour exporting country to a country of destination: from this point of view, we are the 10th most popular destination in the world today. In the past, 6 million Spaniards have emigrated and there are still 1.5 million living outside the country. In the last few years, with the improvement in the economic situation, we have in turn taken in a large number of migrants. Thus, out of 44 million inhabitants our country has 3.8 million foreign nationals, or 7.14% of the total population. This total includes both EU and non-EU nationals. More than 2.3 million of them have employment contracts. As has just been said, all foreign nationals are entitled to medical care, education and legal aid.

Over 1.2 million immigrants have been registered since 1997. When it came to power, the Socialist Party took the steps that led to the regularisation of 500,000 people, who are entitled to social security but under a different system from the one applying to Spanish citizens.

Our immigration policy is also based on co-ordination with the countries of origin and on combating illegal immigration. Many people have said that the regularisation policy encourages immigrants to go to Spain, and the majority of the population think that it is the irregularity and illegality that have created difficulties. However, we are combating them. Otherwise, the population is not virulently opposed to the regularisation policy.

As Mr Reyneri has stressed, what poses a problem is illegal employment and the underground economy. The government is therefore also combating the mafia organisations and employers of illegal labour. The very fact that the 500,000 individuals who have been regularised and are thus no longer living in the country illegally can now access all rights is one way of combating illicit labour.

Possessing an employment contract in the formal economy is one of the regularisation criteria. In the coming nine months, 150,000 new foreign nationals should be arriving with an employment contract. This is the result of our regularisation policy and the political reforms that have been introduced. We are trying to get company bosses to let us know their particular needs so that a list of vacant jobs can be sent to the countries of origin.

The Spanish government also grants development aid to many countries of origin in order to stem the tide of emigration at source.

We are also organising the repatriation of illegal immigrants who cannot be regularised. A budget of €3 million in 2005 and of €3.6 million in 2006 was earmarked for repatriation assistance.

Migrants make a very significant contribution to the Spanish economy. They contribute to the development not only of our own country but also of their country of origin.

The CHAIR and RAPPORTEUR: Thank you for this information. I will be going to Madrid in the near future to hold discussions on the successes achieved by your country.

Mr Helmut BRANDT, Member of Parliament (Germany) – Until the beginning of the 21st century, Germany did not regard itself as a country of destination, even though we had many immigrants owing to the size of our labour market. In the past, 8 million people have arrived as migrants. In our country, integration is a serious problem.

The regularisation programmes subsequently affected a number of illegal immigrants, especially people whose applications for asylum or refugee status had been turned down. They were granted a residence permit or other permits that enabled them to stay, but these permits do not really protect them. New legislation has

been in force for a few weeks now following an agreement between the federal and *Land* interior ministers that enables a residence permit to be granted as soon as a person has a job. This system will be extended next September because the federal parliament has been asked to pass more permanent legislation following the conference of *Land* interior ministers.

However, the problem is that the prospect of legalisation is a real incentive to migrant groups to come to Germany as they know they will end up obtaining regular status.

Moreover, in view of the liberal attitude, which has been confirmed here once again, of countries like Spain and Italy, we are afraid that the regularisations that have taken place in those countries may lead to the mass arrival of immigrants on the German labour market, even though we have a large number of unemployed people in our country. We therefore think it is necessary to conduct more checks on movements between the various EU countries.

On 1 January 2007, Germany will once again be assuming the presidency of the European Union, and the Federal Government has set itself the task of improving controls on illegal immigration and ways of dealing with associated phenomena, such as crime and undeclared work, the significance of which has again been stressed this morning. It is also necessary to enter into negotiations with the migrants' countries of origin in order to conclude agreements that will not only enable illegal immigration to be contained but also improve the opportunities for people to return home.

It may be that mass immigration does not pose any problem at all in some countries, but when a country has eight million individuals of immigrant origin, it is necessary to understand that its social cohesion may be threatened and that coexistence may be a tricky problem. In addition, care must be taken to ensure that the difficulties are not aggravated by the arrival of large numbers of individuals.

We must not content ourselves with the criterion of a contract of employment. Even members of the second and third generation who have been integrated into the country's school and social life – here, I am thinking in particular of people of Turkish origin – are seriously affected by unemployment despite their skills.

Finally, we must bring about better co-ordination of the integration and regularisation policies of the various EU members. We have to be aware that the situation in Spain is not the same as in Germany, especially in terms of the demand for labour.

Ms Corien WA JONKER, *committee member* (Netherlands) – There have been large-scale regularisation operations in southern Europe and we are pleased that this has not been the case in our country. It is important that we have principles with regard to regularisation as it is only in this way that we will enable undocumented individuals to enjoy a stable life in compliance with the law. They must be able to contribute to the life of the society in which they are living and, within this legal framework, receive the benefits available.

We are fully aware of the reasons why migrants come to our country: the living conditions in their countries of origin are hard and wages there are low. But what prospects do they have? In the Netherlands, the unemployment rate is 6%, but among migrants it sometimes reaches 25%, so we are a long way from the gap of 1% seen in Spain!

The question also arises as to whether by regularising undocumented individuals we are not encouraging other illegal migrants to take the jobs they previously held. This is a vicious circle and does not provide a solution to the problem of the labour market.

There are a number of countries that it is easy to enter, settle down in and work illegally. Our system has its imperfections. Mention has been made of the need to increase the number of inspections and deal with the employers of illicit labour, but in order to do so it is necessary to provide for proper sanctions and ensure that the doors to illegality are more and more firmly shut.

Ms Ana Catarina MENDONÇA, *committee member* (Portugal) – Although Portugal has serious immigration problems, they are not as great as those faced by Spain. Regularisation is a very important matter, especially from the point of view of access to social rights and respect for fundamental rights. These are indeed the aspects that need to be considered: access to jobs, health care, education and social protection. Consequently, the reason for regularising immigrants – people who have left their country simply because they are seeking to improve their lives – is to integrate them.

There have been mass regularisations from time to time in Portugal, but, as Mr Weil said, there must be a proper regularisation mechanism in the long term so that all those who arrive can be provided with the necessary documents and be integrated.

Regularisation should not be a subject that returns periodically at election time. Regularisation programmes are instruments of a genuine immigration policy. From this point of view, the Portuguese nationality and immigration laws have given our policy a new dimension. People who arrive in our country can now obtain an

employment contract. In fact, this is quite simply the key to entering Portugal, being legalised and becoming integrated into society.

Instruments of a genuine European immigration policy have to be developed. This will be difficult as we are confronted with the problems of many other countries and with the effects of both the EU enlargement that has already taken place and the enlargement due to happen soon. However, the determining factor for the future and for social cohesion in our society is Europe's ability to speak with one voice.

Mr Bill ETHERINGTON, *committee member* (United Kingdom) – It has been said that in order to combat the underground economy it is necessary to deal with the employers of illegal labour, but let us not forget that we are speaking about supply and demand and that tackling demand necessarily has an impact on supply, so I suggest we take a close look at this problem.

Those who employ people they know are illegal immigrants are quite simply criminals. It is they who should be severely punished in order to deter them from resorting to this labour, since it will not be much use sending the immigrants back home if no action is taken on the demand for them!

I also believe there would be much less resentment and antipathy regarding people in an irregular situation if the responsibilities of the people who resort to their labour and exploit them were made clear.

Ms Ruth Gaby VERMOT-MANGOLD, *committee member* (Switzerland) – We hear that when people are regularised this creates a pull factor for other migrant groups. However, they will come in any case! These are poor, young and alert individuals who are already in the illegal immigration circuit, so it cannot be said that regularisation opens the door to mass immigration.

I work at an advisory centre for illegal migrants and have to say I am very worried by the situation of families with children. Many children are not even registered and have no certificate. In fact, they officially do not exist and cannot, of course, go to school or access medical care.

This is therefore not only an economic but also a social issue and mainly concerns children's rights and human rights, which are very much at the core of the subject we are discussing. We are not only speaking about the job market, whether or not it be illegal. Rather, we must keep in mind the social element of migration. For many people, emigration is quite simply a chance to survive, and that should definitely not be forgotten in the report.

Mr Ali Riza GÜLÇIÇEK, *committee member* (Turkey) – Germany has eight million immigrants, but also four million unemployed and four million jobs in the black economy. Mr Brandt, you said that a large number of Turks encountered problems with education and training, and the Pisa study shows than many students have come from very vulnerable backgrounds. What measures have you taken to deal with this problem?

In addition, out of the 2.7 million Turks in Germany, 700,000 have German nationality. What are you doing for the rest of this population?

Mr Geert LAMBERT, *committee member* (Belgium) – Ms Jonker, since a small majority of the Netherlands parliament are in favour of regularisation, could you tell us what will happen if the government does not implement the parliament's decision? What would be the arguments for this?

Mr Paschal MOONEY, *committee member* (Ireland) – We see that more and more companies are relocating in Europe. Jobs are being moved elsewhere for economic and financial reasons, ie simply in the name of profitability.

In the United States, while the new Democrat majority allows us to hope that the situation will change, we see that everything is not rosy.

A few years ago, Portugal did not open its borders to immigration, but things have changed and it now admits people who meet a number of qualification criteria.

In my own country, people do not want the Bulgarians and Romanians to have the same rights as nationals of other EU countries, and they should prove that they benefit our economy.

Given all these facts, do you really feel we will reach a consensus?

Mr GUERY, *representative of the Holy See* – I am a little surprised that no one has yet spoken about the international instruments that each state has to comply with. I am thinking in particular of the UN Refugee Convention, the various ILO conventions, especially no. 169, and the European Convention on Human Rights, in connection with which Mr Weil pointed out earlier on that it is suddenly being realised that Article 8 applies to some illegal immigrants, and that it is the state that is breaking the law …

We must also be aware that the underground economy and the so-called legal economy are not watertight compartments. For example, the Sentier district in Paris is entirely part of the grey economy. Yet the French

government has only put in two labour inspectors there. We cannot produce growth without creating a flexible and low-cost labour force at the same time. This is in fact a kind of on-the-spot relocation.

Mr Pasquale NESSA, *committee member* (Italy) – While some people consider that the policies applied are too rigorous, I personally think that the law that has been passed ensures a certain amount of continuity and establishes the principle of reception and, above all, integration. From this point of view, I would like to know if Ms Porteiro Garcia has a preference for Mr Zapatero's first or second position, because he has recently changed his stance on this.

Mr Jose GARCIA MARTINEZ, *representing the European Commission* – I would like to thank you for taking the initiative to invite the European Commission to participate in this interesting hearing and wish to give you some information on its activities concerning regularisations. There is no common EU policy on this matter. Our reply is non-committal when questioned on this: we say that such a policy has advantages and disadvantages, which have been described in a large number of publications, especially one in July 2004 on the links between illegal and legal immigration, and one in July 2006 on legal immigration.

The situations vary considerably according to the state concerned: we have just seen this in the case of Germany and the Netherlands on the one hand and Italy and Spain on the other. It is therefore quite difficult to find common ground. When the Spanish regularisation programme was carried out in 2005, it was criticised by many in the EU. Member states wishing to carry out large-scale regularisation schemes were invited to consult other countries and incorporate the European dimension, but without this giving anyone a right of veto, of course.

Next autumn, the Commission will propose a directive on sanctions against illegal employers, as they are definitely one of the elements helping to sustain the demand. We hope to achieve common legislation in the next two years.

We possess some good information: our experts know the various types of regularisation scheme and their extent. Nevertheless, schemes are not evaluated and, in particular, it is not known what becomes of the people regularised, so the Commission intends to carry out a study on this issue in order to have an overview of the situation in member states and of the projects under way. It also want to see if it is possible, in the context of a European approach, to find common ground, not necessarily between different laws but, rather, with regard to a number of recommendations, such as a one-stop service or periodic regularisation, as in France.

The Commission is doing a lot of work in this area, but the disparities between the member states prevent it from going as far as it would like. It does, however, want to be able to make some headway on this.

The CHAIR and RAPPORTEUR: The report to be drawn up by our committee will be examined in plenary session by the Parliamentary Assembly in 2007, and we will, of course, be emphasising the international instruments.

Mr Helmut BRANDT, *committee member* (Germany) – I only have a few moments available to me to discuss a problem that has lasted for a century.

We are making it compulsory to learn German from kindergarten onwards, and we will in future be checking to see that children have a sufficient knowledge of our language to ensure that their integration into the education system does not pose a problem.

Incidentally, we have established that Turkish nationals have a slight tendency to develop their own society parallel to German society. In fact, some women live and work in Germany without speaking a single word of German. But then how could they learn the language since they only live in this parallel society?

There is a considerable demographic problem in our society and we will not manage to solve it on our own. However, since there is immigration to our country, we want the people concerned to be skilled individuals who enter the job market and not individuals who land directly in the system of social benefits.

Ms Corien WA JONKER, *committee member* (Netherlands) – In the Netherlands, 26,000 people who arrived before the year 2000 to apply for asylum or refugee status had their applications turned down by the Netherlands government following individual reviews. However, they made use of all the remedies available and were able to stay in the country. The law has been amended since 2000 and it is now no longer possible to keep on filing appeals. While the left-wing parties wish to see the regularisation of these 26,000 individuals, the centre-right is hostile to the idea because it believes that if we want our asylum procedure to be taken seriously we cannot regularise people who have remained in the country despite their appeal having been dismissed. Now that the political majority has changed, this subject has returned to the agenda. A debate is taking place tomorrow in the Netherlands parliament and we will see what happens.

The CHAIR and RAPPORTEUR: It is fascinating to see the extent to which approaches differ from one country and one individual to another, and this shows us how hard it will be to find a solution acceptable to all. However, you can rest assured that we will do our utmost in this regard.

11h45 – 12h20 **SESSION III:**
Recommendations on regularisation programmes to be carried forward in Europe

CHAIR: **Mr John GREENWAY** Rapporteur

DISCUSSION PANEL, with the participation of

- **Mr Morten ØSTERGAARD,** MP (Denmark, ALDE)
- **Mr Doug HENDERSON,** MP (United Kingdom, SOC)

Mr Doug HENDERSON, *committee member* (United Kingdom) – It is true that traditions vary enormously, and our committee, like the entire Council of Europe, should bear this in mind.

I think we must make an effort to identify the common threads and consider what Ms Vermot-Mangold has rightly drawn to our attention, namely the fact that we are living in societies characterised by globalisation and the considerable ease with which people are able to move around. Consequently, whatever the attempts by different governments to dissuade them, the brightest young people are bound to go and look somewhere else to see if life is better there. It is against this background that regularisation must be put into perspective.

We must also be aware that situations vary considerably between Council of Europe member states: while large-scale regularisation programmes have been accepted in Spain and Italy, in Germany public opinion, which is somewhat hypersensitive, opposes such an eventuality. Similarly, the situation is not the same in the United Kingdom, Ireland or the United States, where President Bush has to bring in emigrants from Mexico to reduce inflation. We also see that countries like Australia have changed their attitude in the last few years. Moreover, in our history all of us have been for immigration at one moment and against it the next.

While the arrival of migrants brings with it some economic advantages, it can also be difficult for the economy of the host countries and also creates a number of social problems.

In this situation, there is, of course, no single way to move forward on this issue, so the Council of Europe must take account of the different approaches while trying to identify common principles as far as possible.

Mr Aydin MIRZAZADA, *committee member* (Azerbaijan) – Both morally and politically, it is good for the rich countries to give to the poorest. We sometimes find it hard to imagine that this is also an element in the attempt to combat migration flows as this policy will only have a real impact in the very long term.

It is clear that a large number of challenges have to be taken up at the same time, and from this point of view the Council of Europe's policy on immigration is a key factor.

Mr Morten ØSTERGAARD, *committee member* (Denmark) – Regularisation is clearly a matter of migration management. For this reason, even if we do doing nothing, we are doing something, so we do not need one-off and isolated programmes but, rather, an overall approach to establish how something is going to be done.

We have also seen that the different policies need to be assessed and that we need to have several tools in our box.

I find the idea of a points-based regularisation system interesting because it ensures that migrants take control of their own destiny.

Mention has also been made of the issue of mobility. This must work in both directions, and for this we need international agreements or, at the very least, co-operation.

With regard to migration management and regularisation, it also seems important to target our efforts on a number of objectives: the demographic challenge, the needs of the population, transparency, the fight against the underground economy, human rights, and an increase in tax revenue. In fact we more or less need a mixture of all these things.

Since this is to a large extent a problem concerning the economy and the job market, the role of the employers must not be underestimated, because it is necessary both to enable people in the process of being regularised to access jobs and to crack down effectively on dishonest employers. It is also necessary to ensure that access to the labour market is made easier so that people enter the system legally.

The blame is often put on the system and the fact that our countries exert a power of attraction. And while it is necessary to speak about failures in the report, it will above all be necessary to focus on co-operation policies because it is their inadequacy that is resulting in emigration. Conversely, cases of successful co-operation should be emphasised.

Mr Joaquín ARANGO – I quite agree with the view that there are many different economic and social situations in Europe and that attempts should therefore be made to understand them all.

I admit that I find it hard to understand why regularisation in one country should affect the situation in another. Why should a migrant who has been regularised in Spain be interested in leaving for Germany in order to be in an illegal situation once again? Similarly, I do not think that the reason why large numbers of migrants arrive in the Canaries is that they have heard that there is a regularisation programme in Spain but simply that this is geographically the "easiest" point of entry.

Spain has introduced a fine of up to €16,000 for employers who recruit irregular migrants, but not all employers must be considered criminals: some are experiencing serious difficulties in finding skilled workers who are living in the country legally.

Much has been said about regularisation criteria but I think regularisation must not be regarded as a policy but as one tool among others in support of a migration management policy.

As we conclude this hearing, I am a little pessimistic because I think it is very difficult to find common ground on combating the underground economy, on the provision of permanent access to legalisation or on the criteria for regularisation.

Mr Martin BALDWIN-EDWARDS – It is, of course, necessary to deal with employers who recruit illegal labour. All that needs to be done is enforce the law.

As regards the situation in Europe, I would say that migration clearly varies according to time and place, and this no doubt makes it hard to find common features and common ground.

Mr Emilio REYNERI – While it is quite clearly necessary to tackle the underground economy, it is definitely not enough to deal with the employers.

We must also be aware that many European countries are destined to become countries of both emigration and immigration. This applies in particular to eastern Europe, where we are witnessing quite a spectacular movement of people: while very many of the citizens of Poland and Romania are currently living abroad, a large number of migrants are now coming to settle in these countries.

12h20 – 12h30 **CLOSING OF THE HEARING**

CLOSING ADDRESSES:

- **Ms Amanda LEVINSON,** Facilitator
- **Mr John GREENWAY,** Rapporteur

Ms Amanda LEVINSON – I wish to thank everyone who has participated in this debate, thus demonstrating how keen we were to share our experience.

It is very logical that different opinions have been expressed on what has to be done to bring about regularisation, and participants have spoken not only about tax revenue and social security contributions but also the grey economy, as well as the need to grant rights to individuals and establish contacts between the host countries and the countries of origin.

We have also mentioned the impact of these programmes on the mainstream economy and the underground economy and on the integration of immigrants. We considered whether regularisation might lead to more illegal entries.

We thought it was necessary to move towards an overall, organised approach, to deal with the employers of illegal labour, to increase the mobility of migrants, to take account of the social and family aspects of migration, to develop a strategy for integrating immigrants, and to harmonise the various regularisation policies.

The CHAIR and RAPPORTEUR: As we conclude this hearing, I wish to warmly thank both the experts, who have helped to inform our discussions, and everyone who has participated. We have considered many different subjects, not all of which will perhaps be dealt with by the Parliamentary Assembly since it will clearly be necessary to identify those aspects that fall within the Assembly's sphere of competence and have to do with human rights, the rule of law and democracy.

I think that our work must mainly focus on providing guidance, that is to say a framework that member states will be able to use and will serve as a basis for all regularisation programmes. This will also help states to discharge their obligations arising from the international conventions they have signed.

Mr Mevlüt ÇAVUŞOĞLU, *Chair of the committee* – I would in turn like to thank the experts as well as the rapporteur and the secretariat, which has done a lot of work to ensure the success of this hearing. My thanks also go to all our colleagues who, through their participation, have made this hearing particularly lively, interesting and constructive. The debate on these key issues is clearly set to continue.

The session rose at 12.45pm.