



European Economic and Social Committee

SOC/173
International Convention on
Migrants

Brussels, 30 June 2004

OPINION

of the European Economic and Social Committee

on the

International Convention on Migrants

(Own-initiative opinion)

On 29 January 2004 the European Economic and Social Committee decided, under Article 29(2) of its Rules of Procedure, to draw up an opinion on the

International Convention on Migrants
(Own-initiative opinion).

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 14 June 2004. The rapporteur was **Mr Pariza Castaños**.

At its 410th plenary session (meeting of 30 June 2004), the European Economic and Social Committee adopted the following opinion by 162 votes to three with 11 abstentions.

1. Introduction

1.1 The convention was adopted by the General Assembly of the United Nations in its resolution No. 45/158 of 18 December 1990. It entered into force on 1 July 2003 following ratification by the first 20 states. Thus far, 25 states have ratified the convention¹. As such, it is a fully enforceable international treaty that must be upheld by the states' parties.

1.2 The aim of the convention is to protect the human rights and dignity of people across the globe who emigrate for economic or employment-related reasons by means of appropriate legislation and good national practice. The common basis for such international legislation on migratory policies should be the promotion of democracy and human rights. The Convention also safeguards the balance between the different situations in both countries of origin and host countries.

1.3 This convention is one of seven international United Nations treaties governing human rights. It recognises that certain basic human rights, as defined in the Universal Declaration of Human Rights, must be guaranteed internationally for all migrant workers and their families. It codifies in a comprehensive and universal manner the rights of migrant workers and their families on the basis of the principle of equality of treatment. It sets out those rights that must be granted to immigrants who are in a regular and an irregular situation, setting down minimum standards of protection in terms of civil, economic, political, social and employment rights and recognising that migrant workers must have fundamental rights that are safeguarded in international rules.

1.4 This convention further develops previous conventions of the ILO² by extending the legal framework to all immigration worldwide, promoting just treatment for immigrants and striving to prevent exploitation of irregular immigrants. It looks at the migration process as a whole from

¹ Azerbaijan, Belize, Bolivia, Bosnia-Herzegovina, Burkina Faso, Cape Verde, Colombia, East Timor, Ecuador, Egypt, El Salvador, Ghana, Guatemala, Guinea, Krygyzstan, Mali, Mexico, Morocco, Philippines, Senegal, Seychelles, Sri Lanka, Tajikistan, Uganda, Uruguay.

² Convention No. 97 of 1949 and Convention No. 143 of 1975.

education, selection, departure, transit and residence in the country of employment to return to and re-establishment in the country of origin.

1.5 The individual states are responsible for managing migratory flows. The EESC supports the view of the Secretary-General of the United Nations and advocates better bilateral, regional and international cooperation between countries of origin and host countries. The convention neither promotes nor manages migratory flows, rather aims only to guarantee the universal recognition of basic human rights and reinforce the protection thereof worldwide.

1.6 The convention considers the possible administrative situations of migrants in different ways: it guarantees for all individuals the protection of their basic human rights, applying further-reaching rights to legal immigrants.

1.7 Through this convention, the international community and the United Nations have reasserted their desire to improve cooperation between states so as to prevent and indeed eradicate the trafficking and clandestine employment of immigrants who are in an irregular situation as well as to extend the protection of the basic human rights of immigrants to the entire world³.

2. Immigrants' rights

2.1 The convention aims to guarantee equal treatment and the same legal conditions for immigrant workers as for national workers. This implies:

- preventing inhuman living and working conditions, physical and sexual abuse and degrading treatment including slavery (Articles 10, 11, 25, 54);
- guaranteeing the rights of immigrants to freedom of thought, expression and religion (Articles 12, 13);
- recognising the rights of immigrants to privacy and personal security (Articles 14, 15, 16);
- establishing access to effective legal assistance through fair legal proceedings that guarantee the right to equality before the law and the right to non-discrimination and during which appropriate legal procedures are applied to the immigrant workers and interpreting services are provided (Articles 18, 19, 20);
- guaranteeing access for immigrants to information on their rights (Articles 33, 37);
- guaranteeing equal access to education and social services for all immigrants (Articles 27, 28, 30, 43 to 45, 54);

³ According to the International Organisation for Migration, 175 million people currently live in a country other than their country of birth or nationality.

- recognising the right of immigrants to join and participate in trade unions (Articles 26, 40).

2.2 The convention also stipulates that immigrants must have the right to maintain ties with their country of origin. This implies:

- ensuring that immigrants are able to return to their country of origin should they wish and permitting them to make occasional visits and maintain cultural links (Articles 8, 31, 38);
- guaranteeing the political participation of immigrants in their country of origin (Articles 41, 42);
- safeguarding the right of immigrants to transfer income to their country of origin (Articles 32, 46, 48).

2.3 The convention is based on the fundamental principle of ensuring a minimum level of protection for *all* immigrants. It considers the two possible situations in which immigrant workers can find themselves (regular and irregular), setting out a series of further-reaching rights for legal immigrants and recognising some basic rights for irregular immigrants.

2.4 The convention proposes that initiatives be undertaken to eradicate illegal immigration, principally by eliminating the misleading information used to entice people into irregular immigration and by imposing sanctions on traffickers and employers of non-documented immigrants.

2.5 It establishes a Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, consisting of ten experts to be appointed by the states parties and who will oversee the application of the convention.

3. **The countries of the west have still not ratified the convention**

3.1 International immigration is a consequence of the major economic and social inequality between the rich countries of the north and the developing countries. This inequality is deepening in the increasingly globalised economic system of today. And yet, the majority of those countries that have thus far ratified the convention are countries of origin of immigrants. The Member States of the European Union, the United States of America, Canada, Australia, Japan and the remaining countries of the western world, who play host to a great many immigrants⁴, have as yet neither ratified nor signed⁵ the convention.

4 55% of the world's immigrants live in North America and western Europe.

5 The signatory states are states that have indicated their desire to join the convention in the future, such as Chile, Bangladesh, Turkey, Comoros, Guinea-Bissau, Paraguay, São Tomé and Príncipe, Sierra Leone, and Togo.

3.2 The European Union, which is keen to establish international rules in a host of areas (in international trade within the WTO, in the environment through Kyoto, and so on), must also ensure that the basic rights of immigrants are guaranteed via such international norms.

4. **Immigration policy within the European Union**

4.1 The European Union is an area in which human rights are upheld and protected and most of the international legal instruments of the United Nations are applied. The European Union also has its own instruments in this area, such as the European Convention on Human Rights and the Charter of Fundamental Rights.

4.2 The European Union has also developed a series of legal instruments to counter discrimination⁶. Despite this, various experts, including the European Monitoring Centre on Racism and Xenophobia⁷, have reported discrimination suffered by migrants in terms of their working conditions.

4.3 Since the European Council of Tampere, the European Union has been in the process of drafting common legislation governing asylum and immigration. Tampere laid down a sound political basis enabling the Union to harmonise its immigration and asylum legislation and improve cooperation with third countries in order to better manage migratory flows. Furthermore, in Tampere consensus was reached as to the need to guarantee fair treatment for all individuals and develop policies to promote integration and prevent discrimination.

4.4 The Commission has drawn up numerous legislative proposals which have, however, met with considerable resistance within the Council⁸. Four years on, the results are meagre: the legislation that has been adopted is disappointing and has moved away considerably from the Tampere objectives, the proposals of the Commission, the opinion of the Parliament and the stance of the EESC. The current system used within the Council to adopt agreements allows proposals to be blocked. This, coupled with the attitudes of some governments, makes it very difficult to achieve consensus.

4.5 The European Economic and Social Committee has called upon the Council through a series of opinions to act with greater responsibility and adopt a more constructive approach based on enhanced cooperation. It is becoming increasingly necessary for the European Union to have adequate common legislation enabling it to manage immigration in a legal and transparent manner.

6 Directive 2000/43 and Directive 2000/78.

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8 As far back as 1994 the Commission, in its White Paper on European social policy (COM(1994) 333 final), recommended that the Member States ratify the convention.

4.6 The EESC has drafted several opinions⁹ in which it urges the European Union to adopt a policy that will ensure that economic immigration is processed through the right legal channels, irregular immigration is prevented and illegal trafficking of people is stopped.

4.7 In the light of the above, the approval of the Directive on the conditions for entry, residence, and access to employment of immigrants, which is based on the Commission proposal¹⁰ and takes account of the opinion of the EESC¹¹, is now a matter of urgency.

4.8 The Thessaloniki European Council welcomed the Commission's Communication on immigration, integration and employment¹², in which it projects that labour migration into the European Union will increase considerably over the coming years and that appropriate legislation will therefore be required enabling immigration to be managed within a legal framework. The Commission also states that integration policies focusing on the migrant population and endeavouring to eliminate all forms of exploitation and discrimination will be needed.

4.9 Some national legislation on immigration does not fully tally with the applicable international conventions on human rights, and some European Directives (on family reunification for example) are even considered by various NGOs and by the European Parliament to run contrary to basic human rights. The EESC believes that the existing international conventions on human rights as well as the EU Charter of Fundamental Rights should be the basis for the entire European legislative structure in terms of immigration.

5. The global values of the European Union

5.1 Of late, the United States has been developing a unilateral approach to governance of international affairs. The entire system of the United Nations faces serious problems as a result of this situation. As a result the only system that currently exists within which to seek out multilateral solutions to international conflicts based on cooperation is in danger.

5.2 The European Union is, albeit with great difficulty, drawing up its own common foreign policy within which the United Nations will play an essential role. The future Constitutional Treaty will consolidate this external policy mandate as one of the Community's tasks.

⁹ See the EESC opinions on family reunification, OJ C 204 of 18.7.2000 and OJ C 241 of 7.10.2002; on the Communication from the Commission on a Community immigration policy, OJ C 260 of 17.9.2001; on the status of long-term residents, OJ C 36 of 8.2.2002; on the conditions for entry and residence for the purpose of paid employment, OJ C 80 of 3.4.2002; on a common policy on illegal immigration, OJ C 149 of 21.6.2002; on the conditions of entry and residence for purposes of studies, vocational training or voluntary service, OJ C 133 of 6.6.2003; and on access to European Union citizenship, OJ C 208 of 3.9.2003.

¹⁰ Cf. OJ C 332 of 27.11.2001.

¹¹ Opinion of the EESC in OJ C 80 of 3.4.2002 (rapporteur **Mr Pariza Castaños**).

¹² Communication from the Commission COM(2003) 336 final and opinion of the EESC in OJ C 80 of 30.03.2004 (rapporteur **Mr Pariza Castaños**).

5.3 The European Union's external relations are based on multilateralism and active compromise within the United Nations. In a recent document¹³ the European Commission asserted that: *"The challenge currently facing the UN is clear: 'global governance' will remain weak if multilateral institutions are unable to ensure effective implementation of their decisions and norms – whether in the 'high politics' sphere of international peace and security, or in the practical implementation of commitments made at recent UN conferences in the social, economic and environmental fields. The EU has a particular responsibility in this regard. On the one hand, it has made multilateralism a constant principle of its external relations. On the other, it could and should serve as a model to others in implementing – and even going beyond – its international commitments"*.

5.4 Globalisation is generating new opportunities and new problems for global governance¹⁴. At present, migration entails major problems both for the migrants themselves and for the countries of origin and host countries. The challenge we face is to transform these problems into opportunities for everyone, for migrants, for countries of origin and for host countries. Multilateralism and international cooperation are the route to good global governance, to a system of rules and institutions established by the international community and universally recognised.

5.5 As **Kofi Annan**, Secretary-General of the United Nations, said at the European Parliament on 29 January 2004, international cooperation is the best approach to managing the rising international migration of the coming years. "Only through cooperation – bilateral, region, and global – can we build the partnerships between receiver and sender countries that are in the interests of both; explore innovations to make migration a driver of development; fight smugglers and traffickers effectively; and agree on common standards for the treatment of immigrants and the management of migration"

5.6 Europe is an area of freedom, democracy and respect for the human rights of all people. In order to strengthen these values in the future, all the Member States of the EU must ratify the international conventions that protect these basic human rights and their legal precepts must be incorporated into both Community and national legislation.

5.7 Article 7 of the draft Constitution for Europe advocates the accession of the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms. The EESC supports this. The EESC also backs the inclusion into the Constitution of the Charter of Fundamental Rights of the Union, which will create a common basis for the rights of all people inside the Union.

13 COM(526) 2003, "The European Union and the United Nations: The choice of multilateralism".

14 See information report CES 326/2001 on Coping with globalisation – the only option for the most vulnerable, rapporteur **Mr Baeza**.

5.8 These values must also become an integral part of the Union's international relations. Europe must promote the creation of a common judicial body for the worldwide protection of the basic rights of all people, irrespective of national origin and place of residence, on the basis of the international conventions drawn up by the United Nations.

6. EESC proposal

6.1 In line with the opinions it has drawn up on European immigration policy and in support of the opinion of the European Parliament¹⁵, the European Economic and Social Committee would encourage the Member States of the European Union to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, which was approved by the General Assembly of the United Nations in resolution No. 45/158 of 18 December 1990, and which entered into force on 1 July 2003.

6.2 The EESC calls upon the President of the Commission and the current Presidency of the Council to undertake the necessary political initiatives to ensure that the Member States ratify this convention within the coming 24 months and that the EU also ratify the convention when the Constitutional Treaty authorises it to sign international agreements. To facilitate ratification, the Commission should carry out a study analysing national and Community legislation relating to the convention. Furthermore, the social partners and other civil society organisations will join with the EESC and the Commission in promoting ratification.

Brussels, 30 June 2004.

The President
of the
European Economic and Social Committee

The Secretary-General
of the
European Economic and Social Committee

Roger Briesch

Patrick Venturini

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N.B.: Appendix overleaf.

¹⁵ Resolution A5-0445.2003, rapporteur **Mr Moraes**.

APPENDIX

Hearing "International Convention on the protection of migrants rights"

4 May 2004 –

SUMMARY OF STATEMENTS

In her opening remarks, the chairperson, **Ms Gräfin zu Eulenburg**, *EESC Member*, thanked participants for their support to the European Economic and Social Committee in its preparation of an own initiative opinion with respect to the UN international convention of 1990 on the protection of the rights of all migrant workers and members of their families. She recalled that the European Parliament had asked Member States to ratify the convention, which can inter alia be an effective tool for achieving the objectives which the European Union has set itself at the Tampere European Council of October 1999. She emphasised the importance of the convention for the promotion of the economic, social and cultural rights of migrants, whether documented or undocumented.

The *rappporteur of the own initiative opinion*, **Mr L.M. Pariza Castanos**, pointed out that so far European and other industrial countries had not adhered to the convention, which limited severely its effectiveness. Member States appear reluctant to adopt the provisions of the convention, although they are in line with the principles embodied in the Charter of fundamental rights which is due to become part of the constitutional treaty of the Union. He recalled that a similar gap between orientations and concrete decisions was experienced as regards the Tampere agenda, despite the efforts of the European Commission, the European Parliament and the Committee. Further progress is, however, urgent in view of the demographic and economic prospects analysed in the 2003 Commission Communication on immigration, integration and employment. The cooperation between countries of origin of migrants and host countries needs especially to be enhanced. This is the gist of the message which the Secretary general of the UN conveyed last January to the European Parliament. The rapporteur thanked in advance the participants for helping him and the Committee to contribute to the international cooperation required for the fostering of migrants' fundamental rights.

At the request of the organisers, **Mr J. Lönnroth**, *Director General of the translation service of the European Commission*, spoke in his personal capacity. He informed participants on the preparation of the convention by a UN working group of which he had been vice-chair from its establishment in 1980 till completion of the work in 1990, and on the contribution of the so-called MESCA group of Mediterranean and Scandinavian countries of which he had been the chairperson at the same time. He pointed out that the draft had originally reflected the political priorities of the Group of 77, but that later on, thanks to the work of the MESCA group, the focus had been on individual human rights rather than on countries' claims. The promotion of these rights holds for every migrant, irrespective of his or her socio-economic situation. Contrary to other international instruments, this convention

covers all types of migrant workers¹⁶ and all areas. The interests of countries of origin and those of host countries are taken into account in a balanced way, bearing in mind that immigration and emigration occur in every country.

The convention codifies rights applicable universally and contains a framework for their effective enjoyment including the prohibition of any renunciation of these rights. It contains definitions, for example of migrant worker, which had never been agreed before. Its approach is based on equal treatment rather than minimal standards. It establishes an international framework for the cooperation between countries of origin and host countries, while encouraging complementary regional agreements. It provides for an effective implementation of the convention through the creation of a committee competent for regular monitoring, in cooperation with ILO, and for dealing with State and individual complaints, in accordance with specific provisions. **Mr Lönnroth** recalled that the convention contains no encouragement to migration and that it does not deal with the conditions of entry which are left to State Parties. It guarantees the access upon entry to a set of rights which varies in accordance with the situation of migrants. Its ratification by Member States would be in line with the commitment of Member States to promote human rights in the world.

Ms E. Ramos Carbone (*International Confederation of Free Trade Unions*) saw migration as the consequence of unjust economic policies and called for a reorientation towards sustainable development, so that decisions to emigrate could become truly free. This requires a better understanding of globalisation and the full acceptance of the human rights of migrant workers. The Unions promote these rights and facilitate contacts between immigrants and host societies. In this context, migrants will continue to contribute to the development of the labour movement as they have done in numerous instances. The ICFTU has developed an action plan to fight racism and discrimination, and it is campaigning for the ratification of the UN convention on migrant workers, as well as of the ILO conventions n° 97, on migration for employment, and n° 143, on the migrant workers. The UN convention should play a major part in the defence of the fundamental rights of all migrant workers and in dealing with all aspects of the migration process. It should help broaden the approach of migration and combat the criminalisation of undocumented migrants, stigmatisation and scapegoating, in conformity with the balanced policy called for by Greek Foreign Minister, **Mr Papandreou**, during the Greek Presidency of the European Union. Ratification by Member States would foster human rights, non discrimination, the social dialogue and respect for diversity. She thanked the Committee for the organisation of this important hearing.

Mr P. Taran (*International Labour Office*) emphasised the role which migration should increasingly play for the economic and social future of Europe. Among many other factors, immigration indeed enhances the capacity to adjust to fast occurring changes on the labour market, and it helps to cope with ageing.¹⁷ However, migration needs improved regulations in a number of countries. If adhered to

¹⁶ In answering a question, **Mr Lönnroth** specified that only certain seafarers benefit from that coverage (see Article 3f). He recalled also that the UN convention on migrant workers does not deal with asylum.

¹⁷ According to an ILO simulation, GNP per capita in Western Europe will be 22% lower than at present in 2050 as regards growth, productivity and demographic trends, including migration trends.

and correctly implemented, existing international law can ensure that migrants benefit from equality of treatment in the realm of employment, core universal human rights and adequate working conditions. Next to ILO conventions n° 97 and n° 143, the UN convention on migrant workers is pivotal in this respect. It provides values-based definitions and a comprehensive agenda reinforcing the principles of equality of treatment. It aims to eliminate the exploitation of migrants and to solve irregular situations while granting minimum protection to unauthorised migrant workers. Its normative language can be incorporated directly into national legislation. The ILO supports the call for ratification by Member States of this convention, and it points out that recent studies have shown that in some Member States legislation is already largely in conformity with the standards contained therein. Mr Taran found that EESC initiative deserves strong support.

Mr P. Cullen, Counsellor for employment and social policy at the Permanent Representation of Ireland to the EU, representing the Presidency of the Council of EU, mentioned that the EPSCO Council had not taken any stance on the UN convention on migrant workers. The decision to ratify it or not belongs indeed to Member States. On the other hand, EPSCO has adopted, last December, conclusions on the Commission communication on immigration, integration and employment which call for a holistic approach of immigration, notably in the framework of the European employment strategy and the social inclusion objectives. This approach should include effective integration into the labour market and monitoring the labour market implications of migration flows as well as the labour market implications of admission policies, preventing discrimination, addressing the link between undeclared work and illegal immigration, and the exchange of experiences and good practices. The Joint Employment Report and the Joint Social Inclusion Report will be essential tools for assessing progress and holding Member States to accountability.

These issues were further discussed at the Irish Presidency conference of Bundoran, on 1-2 April. It came out that clear and comprehensive strategies are needed to promote the employment and social inclusion of migrants. To combat racism and xenophobia, the public should be fully informed of the benefits and realities of immigration. All this requires partnerships between the Ministries concerned and the active involvement of other stakeholders. The cooperation with the countries of origin should be developed, first of all between Member States, and too much reliance on private actors should be avoided. The necessary strategies ought to be in place by 2006. Turning to the ratification of the UN convention on migrant workers, Ireland keeps the matter under review but has at present no plan to sign and ratify it, in view of the numerous legislative changes which would then be required and considering the constitutional and treaty-based protections of the human rights of migrants which are already in place.

Mr A. Bruni (United Nations – Office of the High Commissioner for Human Rights) informed on developments since 1 July 2003, when the UN convention on migrant workers entered into force.¹⁸ Following the election by consensus of its 10 members, the committee in charge of reviewing the application of the convention (see Part VII) convened last March. It met with the representatives of

¹⁸ One should note that Article 77 on individual submissions is not in force due to the absence so far of any of the 10 State Parties' declarations required to that effect

the State Parties and of several organisations, and it adopted its rules of procedure. By June 2005, it is expected to adopt guidelines for the drafting of the reports to be submitted in accordance with Article 73. However, the first set of these reports are already due by this July, ahead of an informal meeting of the committee foreseen in October/ November.

Ms J. Redpath (*International Organisation for Migration*) recalled that all activities of the IOM aim to promote the dignity and self-respect of migrants in both regular and irregular situation. The IOM is currently convening the International Steering Committee of the Global Campaign for the Ratification of the UN convention on migrant workers. As part of the campaign, it emphasises that third-country nationals have both rights and obligations, that a State has the right, subject to international obligations, to determine whether or not to allow entry of non-nationals to its territory, and that interstate cooperation is of crucial importance to effective migration management. It also strengthens its involvement in International Migration Law which is to become part of comprehensive migration management frameworks. The UN convention on migrant workers will be an important reference point in many of these activities.

Ms D. Rostagno (*Church Commission for Migrants in Europe and Conference of European Churches*) recalled the action of churches for the fostering of human rights, especially those of the most vulnerable people. Accordingly, churches have supported the ratification of the UN convention on migrant workers, notably through their resolution of July 2003 and their public appeal of December 2003. The convention could indeed become an essential tool for a comprehensive approach of immigration, in the spirit of Tampere which has so far insufficiently influenced EU legislation. It would benefit 170 million migrants at our time of globalisation by giving an impulse to their full recognition as subjects of rights. The convention could also help to ease free movement on which the present return agreements impose restrictions, and to limit the use of force and pressures. Churches attach special importance to Article 11 on slavery and forced labour, which could i.a. serve to strengthen the rights of victims of trafficking. Articles 14, on privacy, and 15, on property rights, offer also basic guarantees, as well as the provisions referring to non-discrimination in remunerations, remittances and respect for family life. The coverage of all types of migrant workers is highly valued, particularly when migrants are undocumented. The ratification of the convention will enhance the competitiveness of the EU which needs immigrants and it will strengthen international rights. Ms Rostagno expressed the highest appreciation of the organisations she represents for the Committee initiative.

Mr P. de Guchteneire (*United Nations Educational, Scientific and Cultural Organisation*) informed participants about a set of UNESCO reports on the obstacles to the ratification of the UN convention on migrant workers, in the Asia Pacific region, Africa and Central and Eastern Europe. The perceived need for migrants has decreased since the Seventies, when the convention started to be prepared. This is related to unemployment increases and changes in the structure of the economy. The attitude towards immigration is also influenced by the changes in migratory movements due to the end of the Cold War and by recent security concerns. The comprehensiveness and the complexity of the convention create administrative problems compounded by the fact that several States lack experience in handling migration. Information costs may be deemed too high and the granting of rights to

undocumented workers is sometimes perceived as reducing the attractiveness of this manpower. Collusive practices, priority given to employers' interests and concerns about public expenditures also impede the ratification of the convention. The importance of social and cultural rights is often not perceived, and the granting of rights to undocumented migrants is not viewed with sympathy. There are doubts about the usefulness of UN instruments, a fear of taking the lead in the ratification process and a lack of cooperative spirit between countries. If EU Member States ratified the convention, this could help overcome obstacles to ratification in other countries and it would contribute to the promotion of human rights outside, as within the European Union.

Ms D. Bouteillet-Paquet (*Amnesty International*) underlined the role of the convention for the defence of the basic rights of third-country nationals and, therefore, strongly supported the hearing organised by the Committee. She pointed out that the ratification of the UN convention on migrant workers by Member States would take time and that, meanwhile, the European Parliament could play a useful role in assessing the implementation of the relevant legal instruments binding Member States in order to highlight legal and social gaps as the case may be. She called also for an examination of the possibilities for the European Union to ratify the convention, once it obtains the right to accede to international treaties following approval of the draft constitutional treaty.

Ms V. Egenberger (*European Network against Racism*) stressed the importance of the political rights of migrants, and called for a return to the approach of Tampere, with rights for third country nationals as close as possible to the rights of EU citizens. She looked forward to the signature and ratification of the UN convention on migrant workers by Member States and, when legally possible, by the European Union. She welcomed the efforts made by the Committee to draw greater attention to the convention and asked to involve the European Parliament and the European Council in the debate on this subject.

Ms S. Boelaert (*European Commission, DG EMPL*) asked whether there was not a compatibility problem between the UN convention on migrant workers and EU legislation and called for this to be studied. She referred also to Article 3f which restricts the application of the convention in the case of seafarers and workers on an offshore installation.

Ms M. De Feyter (*December 18*) focused on the campaign going on in Belgium for the ratification of the UN convention on migrant workers. The point has been taken up by an inter-ministerial committee and **Ms M. Smet**, Belgian member of the European Parliament, has tabled a question to the Commission on the subject. The universities of Antwerp and Leuven carried out a study which showed that the legal implications of a ratification of the convention by Belgium would be small. Therefore the problem seems to be a political one.

Mr N. Nathwani (*European Monitoring Center on Racism and Xenophobia*) referred to the main findings of last EUMC Annual Report on the labour market situation of migrant workers. They are over-represented in low paid and low skilled jobs. Their labour force participation is below average and their unemployment rate higher than the one of nationals. Their disadvantages in terms of wage and activity rates cannot be totally accounted for by objective factors. This shows the importance of

EU legislation against discrimination, with its attention to indirect discrimination, the shift in the burden of proof which it provides for and the assistance to be granted in legal proceedings. This legislation and the UN convention on migrant workers could be mutually supportive.

In his final remarks, the **rapporteur** expressed confidence in the adoption of the opinion of the European Economic and Social Committee in June with the support of the three groups of the Committee and looked forward to cooperation with the European Parliament in particular. This opinion will greatly benefit from the contributions of participants to the hearing. He acknowledged the obstacles to ratification but he also underlined the positive developments which could follow the agreement on the constitutional treaty. He recalled the advances made by the Union on antidiscrimination and the mobility of migrant workers, but also the shortcomings of the directive on family reunification and the lack of progress as regards the conditions of entry and residence of migrant workers. He emphasised the need for international cooperation so that migration could bring benefits to sending and receiving countries alike, and underlined the potential of the UN convention on migrant workers in this respect. He hoped that the opinion of the Committee could contribute to the ratification of this instrument.
