

Striving Towards an Active Local Information and Communication Strategy within the Context of the European Migration Policy

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European migration law combines equal treatment within Europe and unequal treatment at the borders, while local migration policy aims at social inclusion, acceptance of diversity and equality. This paradox sets a challenge for the implementation of a local anti-discrimination policy.

Good governance and policy must be based on solid knowledge about the phenomena to which they relate. Action to implement migration policy at local level has to start from Fundamental Human Rights. This requires focus on the importance and the power of language.

1 Migration law and image building

It is widely accepted by migration experts that European unification and nation-building during the twentieth century have sharpened boundaries between EU-citizens¹ and migrants². The formation and strengthening of this interstate system gave increasing weight to the concepts of “border control” and “nationality”. In the same period processes of internal democratization and external exclusion occurred. Nowadays, equal treatment within Europe is paralleled by unequal treatment at the borders.

These facts necessitate a fundamental reflection on the links between the fight against racism and migration policy. These policy areas are usually discussed and treated separately. As a result an important challenge is neglected, namely the tension between local (migration) policy aimed at social inclusion, acceptance of diversity and equality, and a restrictive European and National migration policy based on the assumption that migrants are a problem, justifying exclusion and unequal treatment on the basis of nationality.

¹ EU-citizens are all people who hold nationality in any of the 28 EU member states. Its legal base is located in Articles 17 to 22 of the Treaty establishing the European Community (EC). According to Article 17 of the EC Treaty of Maastricht 1992 (the Treaty of Lisbon also makes provision for this definition to be included in Article 8 of the Treaty on European Union), every person holding the nationality of a Member State is a citizen of the Union. Nationality is defined according to the national laws of that State. Citizenship of the Union is complementary to national citizenship but does not replace it, and it comprises a number of rights and duties in addition to those stemming from citizenship of a Member State

² There is no official definition of migrant and migration in the European Union. The term migration describes the process of persons moving across borders to live and work and generally implies non-EU citizens moving into or within the EU. In EU context, “migrant” describes a person from a non-EU country that establishes his or her usual residence in the territory of an EU country for a period that is, or is expected to be, at least twelve months. As a synonym of migrant, also the term third country national is often used.

There is an intrinsic connection between the status of a migrant and the way in which s/he is seen and addressed. We therefore cannot ignore the way National and European migration policy has strongly emphasised deterrence and an increasing number of sanctions, control- and coercive measures. Some authors describe this phenomenon as ‘the criminalization of migration’³.

With all European countries evolving in the same direction, it appears as if they are competing not to be outdone. This results in creeping harmonization towards the strictest approach and the weakest protection of the individual. Judicial separation of migrants thus creates a climate of common distrust towards migrants. Policy and legislation strengthens existing prejudices which leads again to hardened legal rules.

As the Human Rights Commissioner of the Council of Europe has observed: “*Two aspects of the EU’s criminalization of foreigners are striking. First there is the pervasive way in which the measures (a) separate foreigners from citizens through an elision of administrative and criminal law language and (b) subject the foreigner to measures which cannot be applied to citizens, such as detention without charge, trial or conviction. Secondly, there is the criminalisation of persons, whether citizens or foreigners who engage with foreigners. The message which is sent is that contact with foreigners can be risky as it may result in criminal charges. This is particularly true for transport companies (which have difficulty avoiding carrying foreigners) and employers (who may be better able to avoid employing foreigners at all). Other people, going about their daily life, also become targets of this criminalisation such as landlords, doctors, friends etc. Contact with foreigners increasingly becomes associated with criminal law. The result may include rising levels of discrimination against persons suspected of being foreigners (often on the basis of race, ethnic origin or religion), xenophobia and/or hate crime*”⁴.

2 The role of the local government

Counteracting these developments at local level turns out to be difficult because so few local levers of influence are available. Nevertheless, the cited problems are so serious that possible solutions and opportunities for improvement must be found. Although migration policy takes shape on higher levels of government, it is implemented in practice mainly through local services and agencies.

When implementing migration policy at local level the conditions of good governance should be used as a guideline. This accessible, efficient and accurate service with respect for the principle of non-discrimination must be based on solid knowledge about the phenomena to which it relates. Therefore migration policy must be preceded by a thorough and realistic

³ E.g. the CEPS says that ‘A common message (...) is that the phenomenon of irregular immigration has been subject to a process of criminalisation at both the national and EU levels, which challenge the relationship between liberty and security in the EU, especially the protection of the fundamental human rights of individuals. An increasing number of EU member states are using criminal law in the scope of migration management. (...) The criminalisation of solidarity therefore fosters social exclusion and constitutes a direct challenge to an EU of rights’.

⁴ Nils Muižnieks: Council of Europe, Commissioner for Human Rights, *Criminalisation of Migration in Europe: Human Rights Implications*, 2009.

analysis of daily practices. An adequate and active information and communication strategy is also needed.

In particular, responding to specific context of irregular migrants⁵ requires profound knowledge and clear communication. Given the sustained (possibly growing) migration pressure and restrictive admission policy on the one hand, combined with limited effectiveness of immigration control measures on the other hand, the presence of irregular migrants in European cities is a structural fact.

For example: in applying legal residential controls in the context of the fight against illegal employment, local authorities must act strongly against exploitation of irregular migrants, but simultaneously must be aware of their increased vulnerability. Bearing this in mind, local authorities must ensure that their measures do not victimize irregular migrant - often virtually excluded from all personal rights (by penalising them for residing irregularly at local level and for not having a work permit).

We focus below on the importance of an active information and communication strategy.

3 An active information and communication strategy

It is a core task of the local authority to properly inform its citizens about migration policy and about the impact of steps to realise its implementation.

This follows directly from the Fundamental Human Right ‘on freedom of expression’ –that carries both duties and responsibilities (including “freedom to receive and impart information and ideas”)⁶, but the local council also benefits from informing its citizens actively and adequately. A local authority which only communicates reactively in response to questions and/ or problems, will ultimately pay a higher price in efforts and resources. An example from recent history:

Driven by the booming economy after the Second World War, many European countries set up campaigns to recruit foreign workers, mostly to work in heavy industry and manufacturing. In exchange housing was provided during the period of the employment.

⁵ An irregular migrant is someone who entered or is in a country of EU-28 without having legal residence documents. Until now the 28 EU Member States have 28 different immigration systems. Irregular Migrants are thus always categorized as such by the states into which they migrate.

⁶ Article 10 of the European Convention on Human Rights provides the right to freedom of expression, subject to certain restrictions that are "in accordance with law" and "necessary in a democratic society". This right includes the freedom to hold opinions, and to receive and impart information and ideas.

Article 10 – Freedom of expression:

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Neither local government, nor the receiving society set goals for the inclusion and integration of this group of newcomers. With the fall of the Iron Curtain immigration became much less controllable. Besides foreign workers, other forms of immigration occurred and cities were also faced with asylum seekers and refugees. From the early nineties all these people, immigrating on different grounds and for various reasons, were summarized under the one new term “migrants” (Central and South Europe) or “asylum seekers” (UK and North Europe). In public perception “migrants” or “asylum seekers” became one homogenous group of non-citizens. At the same time, some 40 years after the first immigration, it became clear that many of the foreign workers did not return to their country of birth. Some of them united in ‘communities’, often on the sidelines of society, as if they were not full members of society. At that point, the receiving society began to adopt goals regarding the migrants. In a lot of cities local Migrant Services arose and ethno-cultural experts (translators, bridge figures and experts, often from the target group itself) were deployed to help the migrants integrate. But a perception that many migrants were failing to meet integration goals led to the introduction of integration courses after 2000. In this context, Angela Merkel said in 2010 that the so-called “multikulti” concept where people live side-by-side did not work, and that migrants need to do more to integrate, including learning German. In many European countries these integrating courses are compulsory for Third Country Nationals⁷. In most cases these measures only address the migrants. However, communication with the citizens, public services, NGO’s and so on is also necessary to achieve the reciprocal process of integration.

3.1 Simple, accessible and unambiguous language

To inform both migrants and citizens correctly, so that they will fully understand the information, a local authority must always use simple, accessible and unambiguous language. It therefore needs to screen its current vocabulary and replace terms that are specialist or obscure. City staff must become aware of the specific terminology and sometimes even archaic words they are using. For example, many terms and documents in connection with obtaining legal residence status within the EU are not used in some countries outside Europe (e.g. certificate of celibacy to prove that one is not yet married). Information provided by local authorities can also be illustrated by universal symbols or meaningful images. It is also recommended that they translate key information into several languages, in order to conform to the Fundamental Human Right on receiving information (as described literally in the Health Care Rights⁸ “you have the right to services in your language”). Several cities, e.g. Berlin (Foreigners’ Office “Ausländerbehörde”) and Helsinki (“Virka information”) already support multilingualism and can be seen as good examples.

Ensuring that information is not ambiguous is equally important. When information can be interpreted in different ways, it leads to confusion and the user has to ‘shop around’ among different information sources to find the right or most desirable answer. This should be avoided. Unfortunately, there are many examples of lawyers, city staff and volunteers that cannot or do not communicate unambiguously e.g. regarding a client in an asylum procedure, where it is difficult to explain the complex rules and conditions and one must be an expert,

⁷ E.g. The Netherlands 1998, Denmark 2004, Germany 2004, UK 2007 (First introduced as a “citizenship test” in 2005), Flanders 2004 (in Wallonia integration courses are not compulsory, similar to France where in 1998 “introduction platforms” (*plates-formes d’accueil*) were introduced).

⁸ The Health Care Law is guaranteed under international and European Human Rights Law.

both in terms of legislation and communication. If we really want to give people the opportunity to become self-reliant, then The Fundamental Human Right on receiving information should always be preferred to the desire to give support services or money (e.g. Foreigners Information Point (“VIP”), Eindhoven and Infopoint on Migration, Ghent).

3.2 Avoiding dehumanizing and stigmatizing language

The local government must be aware of the effects of the language it uses. The power and impact of words should not be underestimated. Social relations are influenced by the way we talk about those relations, interpret and give meaning to them. Everybody is concerned with how the outside world sees him, every business wants to give shape and monitor it’s identity and image. But nobody can construct more than a fragmentary picture of an increasingly intrusive world. Continuously and inevitably, consciously and unconsciously, we affect the image that others have of us and continuously and inevitably, consciously and unconsciously we have an image of others. Every one has formed opinions about thousands of cases, people and facts and any (new) image needs to find its place within that accumulated framework. Diversity, migrants and especially muslims have to deal with a bad image. Certainly since 9/11 a lot of media report rather negative and contribute in that way to discrimination, racism and xenophobia. Within a one-dimensional image of the ‘clash of civilizations’ in which Europe is a kind of ‘dar al harb’(‘house of war’), Islam in particular pays the price.

The Centre for European Policy Studies warns of “*a language of illegality (i.e. illegal migration) and verbs like ‘combating’, ‘fighting’ and ‘better controlling’ irregular human movements. Terminology (and the way things are put) has deep implications for how public policy responses are justified, developed and implemented. (...) EU policy is fostering an artificial link between what is principally a social issue and penal/repressive administrative law and practices. This link creates a critical overlap between the category of the undocumented migrant and a potential criminal. (...) the present discourse favours increased (in)security practices by public authorities, describing undocumented persons as ‘non-right holders’ and even as ‘non-persons’*”⁹.

Till the eighties of the last century, refugees (these were people that wanted to escape from Communist Regimes) could not get beyond the Iron Curtain on their own. Candidate refugees were collected in refugee camps in neutral zones in the country that they wanted to escape. The non-communist West pointed these candidates to countries that wanted to include them in their society. Though the refugees were recognised under the guise of ‘saved from Communist Regime’ they mainly were accepted because their contribution to the economy. In exchange governments met their demands to apply the Fundamental Human Rights. With the disappearance of the Iron Curtain, not only did the physical barrier to entering the non-communist West disappear, but also refugees could enter Western countries on their own initiative to ask for asylum. In the same period, European unification and nation-building was accompanied by rising border and immigration controls. The consequences for refugees were that access got harder while, at European borders, they faced discrimination on the basis of nationality, backed up by criminal sanctions for acting against society at large¹⁰. Suddenly,

⁹ Centre for European Policy Studies (CEPS), *Undocumented Immigrants and Rights in the EU. Addressing the Gap between Social Science Research and Policy-making in the Stockholm Programme?*, 2009.

¹⁰ There are two streams of criminal law: (a) the criminalisation of acts against individuals, who as a result of the act, become victims and (b) crimes which do not have a concrete victim but are rather against society at large,

refugees asking for asylum were seen as intruders and criminals: they were not asked or allowed to come to settle and work, they had entered the country illegally, thus were illegal people. The word “migrant” became associated, through the use of language, with illegal acts under the criminal law. Migrants became tainted by suspicion. In this context it also became a common perception that ‘these criminal and/ or illegal people’ should not be allowed to benefit (only) rights (e.g. the Fundamental Human Rights). Since European cities and states cannot ignore their Fundamental Human Rights obligations because it is part of constitutional settlements for migrants or ‘Acts of Parliament’, many nations implemented concepts of ‘rights and obligations or responsibilities’. This opened the door for e.g. compulsory integration courses and for linking nationality with approval of distinct language knowledge in national laws. Speaking about ‘illegal migrants’ is erroneous (not every irregular migrant violated European or national law) and therefore many governments use other terms e.g. ‘undocumented migrants’. Neither this term is legally correct, because most people do have documents, but not (yet) the requested once.

The use of words in this context is a political choice: whether to focus on the relationship of the person with the state which can document or regularize her/his status, or to conjure up images of police and individual criminal law. In 2006, the Council of Europe’s Parliamentary Assembly highlighted the importance of the language used and decided to prefer the term ‘irregular migrant’¹¹. This term is not dehumanizing and does not carry stigmatisations as in ‘illegal’.

Striving towards social cohesion at local level is only effective when mutual intercultural dialogue and activities are accompanied by words that bound and bridge people. Connecting vocabulary is not the same as masking language, but it is correct and nuanced language that indicates that every individual is unique and different. The British-Jamaican professor Stuart Hall advocates the creation of complex and ambivalent images in which differences within migrant, ethnic and religious groups play a central role. The challenge for cities thus is to deepen and vary the existing and proposed identities and group relations at local level. Cities also can make an agreement with the (local) press regarding Hall’s principles on cultural representation (e.g. the city of Nuremberg).

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crimes against the general good as defined by the state. Where migrants cross external borders into European states otherwise than in accordance with the national law on border crossing, in many states an administrative sanction applies (e.g. so-called ‘illegal entry’ in UK). However, irregular entry is also a criminal offence punishable by a fine and/or imprisonment and expulsion (e.g. Germany, Greece, Italy).

¹¹ (Resolution 1509) and in For instance Recommendation 1755 (2006) on the human rights of irregular migrants of the Parliamentary Assembly.

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