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EU Policy on Education:

The Impact on the Social Inclusion of Vulnerable Groups

CEPS Special Report/September 2009

Sergio Carrera & Florian Geyer

The Includ-ED project seeks to identify education strategies that help overcome inequalities and promote social cohesion, and thus contribute to meeting the EU's Lisbon goals. The research also distinguishes practices that engender social exclusion, particularly of vulnerable and marginalised groups. The project focuses on the impact of education systems up to the compulsory level (including vocational and special education programmes), with a view to highlighting inclusive approaches for education and social policy.

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1.   Introduction: The EU Policy on Education and Social Inclusion

This State of the Art report aims at analysing the main literature dealing with the influence that European Union (EU) policies related to education may exert – directly or indirectly - on the social inclusion of vulnerable groups at national arena level. The multifaceted implications that European Community (EC) policies are having within the context of education have experienced a gradual process of expansion along with the progressive "communitarisation" of other fields intrinsically linked with this policy dimension. In fact, while the actual effects of *prima-facie* EC developments on education based on articles 149, 150 EC Treaty might be difficult to measure at the domestic level because of the principle of subsidiarity, the increasing Community action in areas intertwined with the latter such as immigration, anti-discrimination and the integration of immigrants forms at present a substantial body of transnational legislation. All these may have a fundamental impact in terms of processes of inclusion and exclusion of marginalised groups in the educational systems of the member states.

The European Council conclusions of March 2000 in Lisbon, commonly known as "The Lisbon Strategy", emphasised the need for greater social cohesion and the need to promote the inclusion of specific categories of persons (such as minorities, children, the elderly and disabled people) in member states' employment, education and training, health and housing policies. Ever since a high level of competitiveness and economic efficiency, the social inclusion of vulnerable groups has equally been part of the political agenda. It is evident that this prioritisation has not always been translated into concrete and proactive policy measures. However, substantial developments in this direction have already been taken. In particular, the entry into force of the Amsterdam Treaty in 1999 represented a turning point as it was the first time that the European Community acquired a clear competence to legislate on issues related to immigration, integration of immigrants and anti-discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. In light of this, and for the first time in history, the Community was officially recognised as having the capacity to put forward European-wide policies addressing the status of vulnerable groups in the EU. Ever since, diversity and the inclusion of vulnerable categories of persons in the different societal dimensions in the member states, such as education, have been subject to a transnational set of legislation which has progressively eroded the exclusivity and discretion of the nation-state's sovereignty over these important issues.

This report looks at these changes by first addressing the level of policy convergence that the EU has achieved so far in the areas of education and social inclusion. Special attention is paid to the set of rules covering, or having a direct impact on, the social inclusion of marginalised groups in the educational domain, such as in the context of the nascent common European policies on immigration, integration and anti-discrimination. In this way, the State of the Art starts by offering a general overview of the primary sources related to the social inclusion of vulnerable groups in compulsory education structures. It presents the most relevant EU policy measures and provides a concise analysis of the objectives and scope of a majority of them.

The research question posed in these documents is whether they contain any specific statements naming certain characteristics of school systems and educational reforms that may generate or prevent social inclusion in the national arena. Further, we offer an overview of the various academic inputs covering the effects that the processes of Europeanisation are having on education and the inclusion of groups suffering exclusion, inequality and discrimination, and the impact that the EU may have on member states' educational systems and educational 'thinking'. The analysis of primary (EU official documents) and secondary sources (academic literature) will show that while EU official documents are chiefly refraining from singling out specific 'good' or 'bad' characteristics of member states' educational systems or reforms, the overall impact of EU policy, namely those policies dealing with antidiscrimination, immigration and integration of immigrants are gaining substantial ground at national level and need to be acknowledged in terms of impact assessment on social inclusion in education.

2. Education, Immigration, Antidiscrimination and the Inclusion of 'the Other'

The impact that the EU is having on school education at member state level and its effects on the social inclusion of marginalized groups in the specific area of education has been subject to diversified academic attention. In particular, we have found a set of interdisciplinary literature addressing the nature and implications of the policies and politics of education in the EU. Moreover, when moving to the core of our analysis, the literature on the inclusion of "the vulnerable Other" in school education has followed a sectoral approach, focusing on discussions over the characteristics and multidimensional effects of specific policy areas, such as those of immigration, anti-discrimination and integration of immigrants, on the inclusion, equity and equal treatment of societal groups in need of a higher level of protection while accessing, or enjoying the social right to education.

Concerning the field of school education and the role of the EU in general, the academic articles highlighted in Section 4.2.1 below assess the origins, implementation and actual results (in terms of efficiency and equity) of evolving European policy on education as provided by EC law and EU policy. In this regard, ever since the entry into force of the Maastricht Treaty on 1 November 1993, the European Community has acquired an explicit competence in the field of education. The Community is now supposed to contribute to the development of quality education by encouraging cooperation between member states and, if necessary, by supporting and supplementing their actions. However, any harmonisation of the laws and regulations of the member states is clearly forbidden. Article 149 EC Treaty emphasises that the content of teaching, the organisation of education systems and their cultural and linguistic diversity is the full responsibility of the member states. European supranational laws that would aim to streamline curricula and school structures throughout Europe would therefore have no proper legal base. On the other hand, European educational policies that aim to encourage and facilitate voluntary cooperation between Member States are possible and intended by the EC Treaty (Lenaerts, 1994). The most prominent example of this kind of voluntary coordination is the so-

called "Open Method of Coordination" (OMC) that is currently applied to reach the goals set by the Lisbon Strategy of 2000 (Dion, 2005).

The written, *explicit* EC competence on education, however, should not lead us to reach hasty conclusions. Even before the Maastricht Treaty entered into force, there have been various activities in the field of education, which have at times amounted to legally enforceable directives and directly applicable regulations based on an *implicit* competence (see for instance Regulation 1612/68/EEC and Directive 774/486/EEC). This implicit competence has been linked to the explicit EC competence in the field of freedom of movement for workers. Without rules providing for proper access to education for the children of European migrants, freedom of movement for workers would encounter considerable obstacles (Cullen 1996, Lenaerts 1994).

Taking all the acts into account one can say that EU/EC performance in the field of education spans a time period of some forty years. In spite of this lengthy period, it is interesting to note that EU/EC official documents only very rarely contain any statements naming certain characteristics of school systems and educational reforms that generate or prevent "social exclusion". The general aims of educational policy are often repeated: preventing school failure and social exclusion of pupils with special needs, promoting equal opportunities for girls and boys, fostering integration of migrants, making access to education easier for all, improving the quality of and attractiveness of education, raising the level of literacy and numeracy, greater investment. What is often left unclear, however, is which elements in the education systems could help reach these goals, and which could hamper them. The lack of clear EU recommendations has its roots in the limited competence prescribed by the EC Treaty, and the predominance of the principle of subsidiarity (Ibañez-Martín and Jover 2002). If the content and organisation of teaching fully lies within the responsibility of the member states, the EU/EC should not go too far in suggesting concrete school features.

Concrete suggestions aimed at improving social inclusion within compulsory education systems that could nevertheless be found in EU official texts are the following:

- Establish high-quality pre-primary education programmes that are followed by subsequent interventions like language learning and social adjustment support (Commission communication, 8.9.2006).

- Avoid 'tracking' of pupils at an early stage as this aggravates differences in educational attainment due to social background and leads to even more inequitable outcomes in school performance (Commission communication, 8.9.2006).

- Avoid decentralisation of educational institutions as this might hamper central accountability and might have inequitable local consequences (Commission communication, 8.9.2006).

- Make education systems more flexible and allow for 'bridging' (Commission communication, 21.11.2001).

- Develop mother-tongue learning modules for children of migrants (Council directive, 25.7.1977; Council resolution, 6.2.1990).

- Develop reception teaching for children of migrants (Commission report, 27.4.1984).

- Fully integrate children with disabilities into mainstream schooling as a first option (Council resolution, 3.7.1990).

- Train teachers for the challenges of diversified societies (Commission report, 27.4.1984).

As stated above, "the Open Method of Coordination" is a Community tool that aims to encourage cooperation between Member States in the field of education and other areas where

EU/EC competences are limited and member states retain responsibility (see for example Commission Communication COM(2001) 501 final). Judging from the primary sources provided in Section 4.1 below, it is possible to draw the conclusion that the impact of the Open Method of Coordination on education and educational reforms in the member states is so far limited, but certainly increasing. We nevertheless need to take into account that assessing the overall impact of EU policy development over the nexus between education and social inclusion solely from the perspective of "educational policy" would fall far behind the real impact that Europe is having on these policies.

Education in Europe is experiencing constant transformation which is a product of social and cultural changes resulting from globalisation, international mobility and the diversity of identities and cultures (Prats, Raventós at al., 2005). What solutions has the EU been able to implement to meet the challenges posed by immigration, inter-culturalism and diversity in need of a transnational approach?

The EU policy covering the position and inclusion of those persons not enjoying "equality of treatment" and benefiting from "social inclusion" because of, among other factors, their nationality/citizenship, race or ethnic origin, religion, culture, gender, etc, has taken on a more solid form since the late 1990s. With the entry into force of the Amsterdam Treaty in May 1999, two fundamental transformations took place in the landscape of European Community law: first, immigration was transferred to Community competence and the so-called EC First Pillar (Title IV of the EC Treaty "*Visas, Asylum, Immigration and other policies related to Free Movement of Persons*"); and second, anti-discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation found a legal base in Art. 13 of the EC Treaty. Ever since, inclusion and the fair and equal treatment of vulnerable groups have been at the centre stage of the EU political agenda. It has often been reiterated at official level as one of the priorities for Europe's future. The Europeanisation of immigration and antidiscrimination policies has been subject to rich academic comment (Apap and Carrera 2003, Balzacq and Carrera 2006, Geddes 2003, Guild 2001, Groenendijk 2006, etc). While some authors have highlighted the low level of policy convergence in these dimensions compared with the original goals (Balzacq and Carrera 2006), and it may be true that some of the existing Council directives present some critical elements in need of improvement, the European regulatory setting does currently offer a transnational level of protection to 'the Other' which is independent from the at-times restrictive, ever-changing and nationally-oriented interests of the member states.

In particular, and as regards Community equality law, we may highlight the Council Directive 2000/43 implementing the principle of equal treatment of all persons irrespective of racial or ethnic origin (so-called "Race Directive", June 2000), which offers a European legal framework of protection against all forms of discrimination based on these grounds, both in public and private sectors, including public bodies, and in relation to a very broad category of societal dimensions such as education. The analysis of the content, personal and material scope of the Directives on equal treatment has received considerable attention in the literature (see among others Brown 2002, Toggenburg 2002, Waddington and Bell 2001, Elósegui 2005). Parallel to this, the EU has adopted a series of Council Directives covering the statuses and general rules concerning immigration (mobility of third country nationals) for various purposes, such as conditions for admission for study, pupil exchange, unremunerated training or voluntary service, 2004/114/EC of December 2004 (Apap and Carrera 2003). The Europeanisation of immigration policy has provoked a multiplicity of effects on the management of ethnic and cultural diversity and is now spread across the European regulatory system (Toggenburg 2005). Finally, and also as a part of the wider common policy on immigration, the EU is constructing a common framework on the integration of immigrants. In this regard, a set of Common Basic Principles for Immigrant Integration Policy (CBPs) have been agreed in order to provide a non-legally

binding concept of 'integration of immigrants' at EU level (Groenendijk 2004, Cholewinski 2005, Urth 2005, Gross 2005). Among the series of elements included in the CBPs, the field of education is expressly presented as a key dimension for preparing immigrants, and particularly their descendants, to be more successful and active in society. Education is considered as one of the pivotal points for 'social integration' of the 'Other'. However, the conceptualisation of 'integration of immigrants' in contemporary Europe raises a series of critical questions about the way in which this policy is currently used by the state as a tool to put into practice a restrictive immigration policy (Carrera 2006, Joppke and Morawska 2003, Guild 2005).

Overall, the EU is increasingly having a direct impact in member states' policies on the social inclusion of social groups considered 'vulnerable' such as in the field of education. While this assertion may be valid on a general level, we should take into account that at present there is no accurate monitoring mechanism to check the real impact that these European laws are having on the ground while being implemented by the member states' authorities. A report published by the European Monitoring Centre for Racism and Xenophobia in Vienna has argued (Luciak 2004), analysing the situation of immigrants and ethnic minorities in the education sector reinforces this point; a close monitoring of the transposition and practical implementation is necessary to measure the actual degree of influence that EU policies on these fields are having on key societal sectors like education (see also Niessen 2006, Schibel 2005). It seems to be clear that the level of discretion and actual degree of sovereignty that the state used to hold exclusively over these policy areas is experiencing a process of erosion to the benefit of the European level. The EU is generating a compendium of legal mechanisms, including laws, but also non-legally binding juridical measures such as policy strategies, common principles and coordinated actions, which are influencing legislative reforms and policy priorities advocated at the national arena.

In addition, part of the literature focusing on "the inclusion" and "status" of vulnerable groups in western societies has focused on the effects that immigration and inter-culturalism are having on the traditional concepts and practices of 'membership and citizenship' in modern democratic societies (Castles and Davidson, 2000). These authors have emphasised that the institution of citizenship, which continues to be purely based on traditional conceptions of nation-state, does not provide answers on how to deal with new forms of identity and plural feelings of belonging. Furthermore, they highlight how citizenship does not guarantee equality and social inclusion. In fact, members of certain groups, such as ethnic minorities, may be citizens but yet be excluded from rights. On the other hand, other people, like permanent immigrants may not be formal citizens but have rights and obligations in a state (Castles 1994). These authors highlight a fundamental contradiction between being a formal 'citizen' but nevertheless being treated differently because of race, ethnic origin, religion, culture or socio-economic position.

In the same vein, the impact that institutions like European citizenship may have on the inclusion of the 'Other' have been also addressed (Balibar 2005). Balibar has argued that the construction of Europe is not possible without a substantial educational effort which would consist of democratising the institution of (linguistic, cultural, political, etc) frontiers in the realm of education. A system of education which takes into account the 'European idea' its valves and history would also be necessary to supplement the national practices by the member states consisting of domestic constructions and practices of their own citizenship studies. In his view:

> The construction of Europe represents a possibility of creating another level of secondary identity, thereby underscoring its constructed, institutional character and consequently avoiding its being reduced to essentialist representations of a communitarian "We"…[W]hat is needed is a conception of a community of European

peoples that is not accompanied by the representation of a 'European essence", just as there is nothing such as 'French' or 'British essence".

Education in Europe needs to move from a narrow and individualistic meaning to a more collective and substantial content in order to fulfil the role of creating a framework for "critical distancing" from one's adherence to primary identities (beyond the nation-state form). In this respect he points out a paradox: Education in Europe needs to be sufficiently strong to create a "true second nature" but not to take the wrong path of creating a "fiction of uniqueness and superiority of "Europeanism" leading to inventing or labelling 'Others' and hence justifying their social exclusion. In this respect, the promotion of cultural diversity in the European Community's policies as stated in Art. 151 of the EC Treaty[1] should not be underestimated. In fact, it is our view that it should be taken as the starting paradigm upon which to construct a sort of societal membership which ensures inclusion and equality in the European polity.

3. By way of Conclusion

The Europeanisation of policies having an impact on the social inclusion of vulnerable groups in the area of school education is experiencing a dynamic transformation which tries to keep pace with the evolving social, cultural and diverse realities which characterise the Europe of today. This State of the Art report has offered an overview of the main literature dealing with education and social inclusion. It has first provided an analysis of the main primary sources (EU official documents) covering the area of school education as well as those relating to immigration, anti-discrimination and the integration of immigrants. Special attention has been paid to the existence of statements naming certain characteristics of school systems and educational reforms that may generate or prevent social inclusion. Further, the report has outlined from an interdisciplinary perspective the main academic discussions being conducted on the impact of EU law and policy on member states' regulatory frameworks on education, and the extent to which they might contribute towards the social inclusion of 'the vulnerable Other'. The academic focus of these issues has followed a sectoral and rather narrow approach which has not provided a global understanding of the actual effects that EU policy may have on the nexus of educational policy and social inclusion. Addressing this issue from an interdisciplinary and multifaceted perspective is necessary in order to achieve a comprehensive understanding of the real implications that EC law is having for the research themes at stake. Further research and a close monitoring will be necessary to reach a global view of the extent to which EC Equality and Immigration Law is impacting on the inclusion and equality of groups in need of protection in a European Union of 27.

4. Sources

4.1 Primary sources

4.1.1 Key EU acts/documents addressing school education and school education systems in general focusing on the Includ-ed research objectives

Resolution of the Council and of the Ministers for Education meeting within the Council of 14 December 1989 on measures to combat failure at school, OJ C 27, 6.2.1990, pp. 1-2

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[1] Art. 151.1 EC Treaty provides that "The Community shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore".

The Council states that school failure is still affecting too many pupils, particularly children from socially and culturally under-privileged groups. It highlights that the development of a multicultural dimension in educations systems would allow failure at school to be combated more effectively. Strengthening pre-primary education is seen as one action which would lead to better school performance, especially for children with a disadvantaged background. Another measure is the development of teaching of the languages and cultures of children of Community and foreign background.

Decision No 819/95/EC of the European Parliament and of the Council of 14 March 1995 establishing the Community action programme 'Socrates', OJ L 87, 20.4.1995, pp. 10-24 (Socrates I) and Decision No 253/2000/EC of the European Parliament and of the Council of 24 January 2000 establishing the second phase of the Community action programme in the field of education 'Socrates', OJ L 28, 3.2.2000, pp. 1-15 (Socrates II)

The main European programme in the field of education, Socrates, has been paying – from the very beginning – special attention to equal opportunities for girls and boys, the needs of pupils with disabilities as well as children of immigrants, migrant workers, gypsies and occupational travellers; the programme also aims at combating social exclusion by providing access to the programme for less-privileged social groups.

European Council Conclusions of 23/24 March 2000 (Lisbon)

In light of the "quantum shift resulting from globalisation and the challenges of a new knowledge-driven economy", the European Union has set itself the strategic goal "to become the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion". Modernising education systems has been singled out as one of the actions needed to reach this strategic goal. Under the headline "An information society for all", the Council stresses the need to provide access to the new information society in order to avoid 'info-exclusion'. In this context special attention is given to disabled people. All schools are required to have Internet access and multimedia resources by the end of 2001 and teachers trained accordingly by the end of 2002. The three main components of the new approach to education and training are: the development of local learning centres, the promotion of new basic skills, in particular in the information technologies, and increased transparency of qualifications. The European Council invited the (Education) Council to "undertake a general reflection on the concrete future objectives of education systems, focusing on common concerns and priorities while respecting national diversity …" While the chapter on education and training does not explicitly deal with vulnerable groups, the chapter on social inclusion stresses the need to mainstream the promotion of inclusion in member states' employment, education and training, health and housing policies. Priority actions are to be developed addressing specific target groups, e.g. minorities, children, the elderly and the disabled.

Charter of Fundamental Rights of the European Union, OJ C 364, 18.12.2000, pp. 1-22

Article 14 of the charter provides a right for everyone to education and to have access to vocational and continuing training. This right, according to Article 14 (2), includes the possibility to receive free compulsory education. The principle of non-discrimination is enshrined in article 21, equality between men and women in Article 23, children's rights in article 24. Article 24 provides for the integration of persons with disabilities. It must be noted, however, that the Charter is not a legally binding document in the strict sense. It entails, however, a certain influence and is frequently cited in judgments of the European Court of Justice.

Resolution of the Council and of the representatives of the governments of the Member States, meeting within the Council, of 14 December 2000 on the social inclusion of young people, OJ C 374, 28.12.2000, pp. 5-7

The Council notes that young people, particularly the most vulnerable, are susceptible to social, political and cultural exclusion. To prevent their exclusion and improve social inclusion must be a common priority to all relevant EU policies. The Council calls – inter alia – to study common objectives directed at developing for all young people legally resident in a member state conditions which enable them to play a full part in economic and social life; education being a part of it. The Council also encourages Member States to promote access to quality education and support for young people in particular difficulty.

Council decision 2000/228/EC of 13 March 2000 on guidelines for Member States' employment policies for the year 2000, OJ L 72, 21.3.2000, pp. 15-19

As employment prospects for people without finished education are poor, member states are urged to improve the quality of their school systems in order to reduce the number of drop-outs. Particular attention shall thereby be given to young people with learning difficulties.

European report on the quality of school education – sixteen quality indicators, European Commission, May 2000

The quality report represents the Commission's first response to the Lisbon Council's conclusions. It aims at providing quantifiable targets, indicators and benchmarks as a means of comparing best practices and as instruments for monitoring and reviewing the progress achieved. The Commission identifies sixteen indicators in this respect, one of which is called 'civics' and deals with the challenge of social inclusion. The report states: "All European education systems aim to be inclusive (…). No system is entirely successful in achieving these aims and all countries recognize the increasing magnitude of the task." (p. 11) The report stresses that the civics indicator might show how foreigners are perceived and that attitudes towards them might not only be influenced by certain curricula but through the very structures and culture of schools themselves.

Report from the Commission – *The concrete future objectives of education systems*, COM(2001) 59 final, 31 January 2001

Within the framework of the Lisbon strategy the Commission prepared a communication on European education systems in which it formulated five concrete objectives that should serve as a basis for the Member States to work together until 2010 applying the 'open method of coordination', a mechanism established by the Lisbon Council. These objectives have been: a) Raising the standard of learning in Europe; b) Making access to learning easier and more widespread at all times of life; c) Updating the definition of basic skills for the knowledge society; d) Opening education and training to the local environment, to Europe and the world; e) Making the best use of resources. The Communication addresses the needs of vulnerable groups under the objectives a) and b). In order to achieve a higher standard of education the Commission considers it necessary to increase the level of literacy and numeracy. In this respect some groups, e.g. those whose mother tongue differs from the language of learning, might have specific difficulties. Within the objective b) the Communication raises the question – without answering it – of which way the flexibility or rigidity of educational systems in terms of access and 'bridging' possibilities may contribute to educational success or failure. The Commission furthermore puts forward the view that the content of education must be adapted to the needs of the various groups involved.

Recommendation of the European Parliament and of the Council of 12 February 2001 on European cooperation in quality evaluation in school education, OJ L 60, 1.3.2001, pp. 51-53

This recommendation stands within the context of the Lisbon strategy and aims at improving the framework for quality evaluations in school education. One of the aims mentioned is to secure quality education, whilst promoting social inclusion and equal opportunities for girls and boys. The recommendation further states that education not only serves for personal enrichment but also as a contribution towards social cohesion and social inclusion.

Report from the Education Council to the European Council – *The concrete future objectives of education and training systems,* Council document 5980/01, 14 February 2001

Following the Commission's report of 31 January 2001 the EU Education Council adopted this report for submission to the European Council. It sets three concrete strategic objectives for the years until 2010: a) Increasing the quality and effectiveness of education and training systems in the EU; b) Facilitating the access of all to the education and training systems; c) Opening up education and training systems to the wider world. The Council addresses the challenges of migration which confront education and training systems with the reality of a diversified and multilingual public to serve. The Council furthermore states that education and training systems should aim to contribute to the creation of an inclusive society by ensuring that structures and mechanisms are in place to remove discrimination at all levels. In this context the Council asserts that specific regard has to be paid to vulnerable groups such as people with special educational needs. The Council aims at increasing the level of literacy and numeracy and wants to establish inclusive and coherent education and training systems. It sees the need for a strategy which overcomes traditional barriers between various parts of formal education and training and non-formal and informal learning. As the Commission did, also the Council just states that the way in which education and training systems are organised can make access more difficult. It poses the question of flexibility without giving concrete recommendations in this regard.

Communication from the Commission – *Draft detailed work programme for the follow-up of the report on the concrete objectives of education and training systems*, COM(2001) 501 final, 7 September 2001

This Communication describes the draft concrete work programme based on the three objectives that have been identified by the Council (see above). It is an example of the way the open method of coordination is envisaged to work. Based on the objectives certain indicators are defined and benchmark goals agreed upon. A concrete timetable is drawn up and the possibility to exchange best practices and peer reviews are foreseen.

Communication from the Commission – *Making a European Area of lifelong learning a reality,* COM(2001) 678 final, 21 November 2001

This key communication on education and training systems starts with a programmatic proverb: "When planning for a year, plant corn. When planning for a decade, plant trees. When planning for life, train and educate people." Much of the communication has been adopted by the Council resolution on lifelong learning of June 2002 (see below). Inter alia the Commission considers crucial to facilitate access to learning opportunities. It suggest a dual approach in this respect: "making what is already on offer more visible, flexible, integrated and effective, while also developing new learning processes, products and environments." Strategies addressing equality of opportunity and targeting specific groups, especially those at particular risk of exclusion need to be conceived, in the Commission's view. Social, geographic, psychological and other barriers are to be removed, entry, progression and recognition requirements adapted and mainstream

provisions complemented with tailored measures, especially for basic skills, targeting specific individual needs. In this aspect the Commission recalls Article 14 of the Charter of Fundamental Rights (see above) and asks member states to consider extending the right to compulsory education so that it covers free access to basic skills for all citizens, regardless of age. Member states are furthermore requested to ensure that young people acquire basic digital literacy as part of compulsory education, and should also expand digital literacy initiatives to citizens at risk of exclusion.

Council – *Detailed work programme on the follow-up of the objectives of education and training systems in Europe,* OJ C 142, 14.6.2002, pp. 1-22

This Council act contains the final detailed work programme envisaged to implement the education programme adopted on 14 February 2002 by the Council. The three strategic objectives: quality improvement, access facilitation and opening-up to the wider world (see above) have been broken down into 13 associated objectives. The Education and Training Area is requested to be explicitly recognised as a key priority domain in the Lisbon strategy. The document furthermore contains five concrete goals that should be achieved in education and training by 2010: a) the highest quality will be achieved in education and training and Europe will be recognised as a world-wide reference for the quality and relevance of its education and training systems and institutions; b) education and training systems in Europe will be compatible enough to allow citizens to move between them and to take advantage of their diversity; c) holders of qualifications, knowledge and skills acquired anywhere in the EU will be able to get them effectively validated throughout the Union for the purpose of career and further learning; d) Europeans, at all ages, will have access to lifelong learning; e) Europe will be open to cooperation for mutual benefits with all other regions and should be the most-favoured destination of students, scholars and researchers from other world regions.

Among the strategic objectives dealing with the facilitation of access to education systems, the Council states that a requirement of transforming into a knowledge society is that access to education must be simplified and made more democratic; and that passage from one part of the education system to another must be made easier (Objective 2.1 – Open learning environment). Under Objective 2.3. – Supporting active citizenship, equal opportunities and social cohesion – the Council stresses that "all citizens should have equal access to education and training." It is not clear, however, if the term citizen is used in the legal sense, i.e. excluding all non EU-citizens. Member states are requested to take care of the needs of vulnerable groups, e.g. people with disabilities and learning difficulties, as well as those living in rural/remote areas or having problems in reconciling their work and family commitments. One of four key issues in this respect is: "Ensuring fair access to acquisition of skills for the less privileged or those currently less well served and motivating them to participate in learning." As indicator serves the proportion of the population aged 18 – 24 with only lower secondary education and not in education or training (structural indicator). One of the themes for exchanging experience, good practice and peer review are "models for integration of and giving access to disadvantaged groups to education and training; models for encouraging them to pursue formal qualifications."

Council Resolution of 27 June 2002 *on lifelong learning*, OJ C 163, 9.7.2002, pp. 1-3

This is one of the central Council statements on education and training systems. It builds on the respective Commission Communication of November 2001. "Lifelong learning" as understood by the Council covers learning from the pre-school age to that of post-retirement, including the entire spectrum of formal, non-formal and informal learning. The Council furthermore states that lifelong learning must be defined as "all learning activity undertaken throughout life, with the aim of improving knowledge, skills and competences within a personal, civic, social and/or employment-related perspective." As principles the Council formulates: "the individual as the

subject of learning, highlighting the importance of an authentic equality of opportunities, and quality in learning". As the first priority that the Council acknowledges: "providing access to lifelong learning opportunities for all, regardless of age, including specific actions aimed at the most disadvantaged persons, those not participating in education and training, as well as migrants, as a means of facilitating their social integration". The Council invites the Member states, inter alia, "to develop and implement comprehensive and coherent strategies reflecting the principles and building blocks identified in the Commission's Communication and involving all relevant players, in particular the social partners, civil society, local and regional authorities" and "to develop strategies for identifying and increasing the participation of groups excluded from the knowledge society as a result of low basic skill levels".

Communication from the Commission – *Investing efficiently in education and training: an imperative for Europe,* COM(2002) 779 final, 10 January 2003

In this communication the Commission sets out its view on the new investment paradigm in education and training. With regard to social inclusion and active citizenship the Commission cites new research and the PISA results and concludes that "improving quality does not imply restricting opportunities, but rather the opposite".

Council resolution of 25 November 2003 on making school an open learning environment to prevent and combat early school leaving and disaffection among young people and to encourage their social inclusion, OJ C 295, 5.12.2003, pp. 3-4

In this resolution the Council recalls the aim that by 2010 an average rate of no more than 10 % early school leavers should be achieved. Among other points the Council underlines that diversification and flexibility of education and training paths are important tools to satisfy individual needs and enhance individual aptitudes.

Council conclusions of 25 November 2003 on the development of human capital for social cohesion and competitiveness in the knowledge society, OJ C 295, 5.12.2003, pp. 9-10

These Council conclusions clearly formulate the shared responsibilities between Member States and the European Community in the field of education. It states that "it is the Community's duty to contribute to the development of quality education and implement a vocational training policy whilst fully respecting the responsibilities of the Member States as well as to work together with the Member States with the aim of building a competitive knowledge based society."

Communication from the Commission - *Joint Report on Social Inclusion summarizing the results of the examination of the national action plans for social inclusion* COM(2003), 773 final, 12 December 2003

This Communication stands in the context of the EU's social inclusion policy as coined within the Lisbon strategy. The Lisbon strategy instructs member states and the Commission to take steps to make a decisive impact on the eradication of poverty by 2010. Applying the 'open method of coordination' Member States were asked to coordinate their policies for combating poverty and social exclusion. The Commission has singled out six key priorities for the years 2003 – 2005. Two of these priorities are connected to education and education systems: a) Increasing the access of the most vulnerable and those most at risk of social exclusion to decent housing, quality health and lifelong learning opportunities; b) Implementing a concerted effort to prevent early school leaving and to promote smooth transition from school to work. Drawing from national reports and experiences of the Socrates programme the Commission hence identifies a framework for ensuring that lifelong education and learning opportunities contribute

fully to building a socially inclusive knowledge society in Europe. The communication names the following elements as being important for a comprehensive approach:

- to make all stages of education and training available to all without discrimination of age, sex, disability or cultural, religious or regional and national background;

- to encourage the participation of the learner and his or her rights during all stages of the learning process;

- to mainstream social inclusion within all lifelong learning;

- to ensure that everyone has access to literacy and new basic skills for the knowledge society;

- to extend the network of specialised guidance and counselling services, including counselling and guidance which will assist people to move from one level of education to another; and

- to create an open learning environment in society and at work.

Joint interim report of the Council and the Commission on the implementation of the detailed work programme on the follow-up of the objectives of education and training systems in Europe – *'Education & Training 2010' The success of the Lisbon Strategy hinges on urgent reforms*, 6905/04, 3 March 2004

The label for EU and member state action in the field of education and training has gradually been coined as 'Education & Training 2010'. The activities in this field build upon the 2002 detailed work programme. The aim is now formulated as making education and training systems "a world reference for quality by 2010". This interim report takes stock of the progress already made, highlights challenges and contains certain proposals. Key messages addressed to the European Council are the following: a) there is an urgent need to invest more, and more efficiently and effectively in human resources; b) there is a need for coherent and comprehensive national lifelong learning strategies; c) there is a need to develop a European framework, based on national frameworks, to stand as a common reference for the recognition of qualifications and competences. Inter alia the report requests targeting of efforts at the disadvantaged groups. Statistics provided in the report suggest that not too much had been achieved in this context.

Resolution of the Council and of the representatives of the governments of the Member States, meeting within the Council, of 18 May 2004 on social integration with regard to young people, 9601/04, 18.5.2004

This resolution is formulated in the context of the EU youth strategy. With regard to school education it invites the Member States to consider taking further steps to increase the participation rate of young people especially from disadvantaged and marginalised communities in the formal school system; also to enhance support for young people, particularly from disadvantaged backgrounds, in making the transition from school to work.

Communication from the Commission - *Joint Report on Social Protection and Social Inclusion*, COM(2005), 14 final, 27 January 2005

This Communication stands in the context of the EU's social inclusion policy as coined within the Lisbon strategy. "Tackling disadvantages in education and training" is formulated as one of the new seven key policy priorities. It reads: "Emphasis is being laid on preventing early departure from formal education and training; facilitating the transition from school to work, in particular of school leavers with low qualifications; increasing access to education and training

for disadvantaged groups and integrating them into mainstream provision; promoting lifelong learning, including e-learning, for all. Many recognise the need to invest more, and more efficiently, in human capital at all ages."

Council Conclusions of 21 February 2005 on education and training in the framework of the mid-term review of the Lisbon Strategy, 6604/05, 21 February 2005

The Council in this document stresses - *inter alia* - that better quality of education not only serves individual interests but contributes to sustainable economic growth, social cohesion and more and better jobs. People with special needs, however, are solely mentioned very briefly in one subchapter. The Council furthermore concedes that – although modernisation of national education and training systems is underway – much remains to be done to implement the necessary reforms.

Commission staff working paper – *Progress towards the Lisbon objectives in education and training 2005 report,* SEC(2005) 419, 22 March 2005

This is the second annual progress report examining performance and progress of education and training systems in the EU. Inter alia this report stresses that the high number of early school leavers – an indicator for inclusion/exclusion in education systems – in most of the member states has not decreased significantly and that more needs to be done to achieve the 2010 rate of 10%.

European Council Conclusions of 22/23 March 2005 (Brussels)

As part of the European Council Conclusions – "Relaunching the Lisbon strategy: a partnership for growth and employment" the European Council emphasises that member states need to step up their efforts to raise the general standard of education and reduce the number of early school-leavers. It furthermore stresses that lifelong learning is a *sine qua non* if the Lisbon objectives are to be achieved. A social inclusion policy should be pursued by the Union and by the member states, with its multifaceted approach, focusing on target groups such as children in poverty. The European Council also adopted the European Youth Pact aiming at improving the education, training, mobility, vocational integration and social inclusion of young Europeans, while facilitating the reconciliation of working life and family life.

Council decision 2005/600/EC of 12 July 2005 on guidelines for the employment policies of the Member States, OJ L 205, 6.8.2005, pp. 21-27 and Council decision 2006/544/EC of 18 July 2006 on guidelines for the employment policies of the Member States, OJ L 215, 5.8.2006, pp. 26-27

In 2005 and 2006 the guidelines for member states' employment policies stayed the same. Concerning education guideline No. 24 is of particular importance. It says:

Adapt education and training systems in response to new competence requirements by:

- raising and ensuring the attractiveness, openness and quality standards of education and training, broadening the supply of education and training opportunities and ensuring flexible learning pathways and enlarging possibilities for mobility for students and trainees;

- easing and diversifying access for all to education and training and to knowledge by means of working time organisation, family support services, vocational guidance and, if appropriate, new forms of cost-sharing;

- responding to new occupational needs, key competences and future skill requirements by improving the definition and transparency of qualifications, their effective recognition and the validation of non-formal and informal learning

European Council Conclusions of 23/24 March 2006 (Brussels)

Under the headline: "The relaunched Lisbon strategy for jobs and growth", the European Council emphasises that education and training are critical factors to develop the EU's long-term potential for competitiveness as well as for social cohesion. It calls for reforms in the field of education that ensure high quality and serve the requirements of efficiency and equity.

Joint interim report of the Council and of the Commission on progress under the 'Education & Training 2010' work programme - *Modernising education and training: a vital contribution to prosperity and social cohesion in Europe*, **OJ C 79, 1.4.2006, pp. 1-19**

Based on an analysis of national reports this progress report concludes that national reforms are moving forward and that the Lisbon strategy has become a factor in national education and training policy development. However, concerning the indicators for inclusion/exclusion there still has been no tangible progress. The report therefore warns that "unless significantly more efforts are made in the areas of early school leaving, completion of upper-secondary education, and key competences, a larger proportion of the next generation will face social exclusion, at great cost to themselves, the economy and society."

Following the conclusions of the European Council of March 2006, the report parallels the aspect of equity with that of efficiency. Putting the emphasis of national reforms on efficiency in public spending is said to be positive but not enough. The report clearly states that outcomes and benefits of education should be independent of socio-economic background and other factors that might lead to educational disadvantage. The report calls to open access to all and provide differentiated treatment according to specific learning needs. This request is based on research which, according to the authors, shows that there is no trade-off between efficiency and equity, because they are inter-dependent and mutually reinforcing.

Communication from the Commission – *Efficiency and equity in the European education and training systems,* **COM(2006) 481 final, 8 September 2006 and Commission Staff Working Document – accompanying document to the Communication from the Commission –** *Efficiency and equity in the European education and training systems*, **SEC(2006) 1096, 8 September 2006**

This communication takes up the findings of the 2006 interim report on the inter-dependence of equity and efficiency. It aims to inform policy-makers about trends in other Member States and about ongoing research to help their decision making in the processes of reforming the education systems.

The communication contains a concretisation of the term equity. Equity is seen as the extent to which individuals can take advantage of education and training, in terms of opportunities, access, treatment and outcomes. In this regard the communication states that inequality in relation to gender, ethnic minority status, disability and regional disparities, etc is not the prime focus but is considered relevant as far as it contributes to overall socio-economic disadvantage. The focus, instead, is on the socio-economic background. Equitable systems, according to the communication, ensure that the outcomes of education are independent of such background and other factors that lead to educational disadvantage. Equitable systems are also required to take account of individuals' specific learning needs and provide special treatment.

The communication is remarkable as it formulates a number of concrete findings and suggestions as to which characteristics of educational systems contribute to the aims of efficiency and equity and which serve to the contrary.

The communication considers high-quality pre-primary education as essential for long-lasting benefits in terms of personal achievement and socialisation, especially for children with disadvantaged backgrounds. It advocates, however, that pre-primary programmes must be followed by subsequent interventions like language learning and social adjustment support in order not to lose the achieved benefits.

The communication furthermore addresses the issues of 'tracking' and decentralisation of educational institutions. Tracking is understood as segregation of children into separate schools based on ability before the age of 13, in contrast to 'streaming' which involves tailored curricula for different groups of children based on ability, but within the same school. The communication quite unambiguously states that 'tracking' at an early stage aggravates differences in educational attainment due to social background and leads to even more inequitable outcomes in school performance. It is said that 'tracking' has especially negative effects on the achievement levels of disadvantaged children as it channels them towards less prestigious forms of education and training. The communication favours postponing tracking until upper secondary level, combined with the possibility to transfer between school types. This should reduce segregation and promote equity without diminishing efficiency. Concerning decentralisation, the communication raises the concern that decentralisation might hamper central accountability and might potentially have inequitable local consequences.

The communication further states that the most important factors for efficiency and equity are the quality, experience and motivation of teachers and the types of pedagogy they use. Teachers are said to be able to play a key role in securing participation of the most disadvantaged when working in collaboration with parents and pupil welfare systems.

Draft Conclusions of the Council and the representatives of the governments of the Member States, meeting within the Council, on efficiency and equity in education and training, OJ C 298, 8.12.2006, pp. 3- 6

These conclusions take up previous major initiatives and reports, in particular the Commission's most recent communication on efficiency and equity in European education and training systems. It agrees with the Commission that pre-primary education and early invention programmes are of considerable importance. Concerning the Commission's findings on 'tracking', however, the Council formulates much more moderately: "Whilst respecting the responsibility of the Member States for organising their education and training systems, there is also some research evidence to suggest that, in certain cases, differentiating pupils at too early an age into separate schools of different types on the basis of ability may have negative effects on the achievement of disadvantaged pupils".

Recommendation of the European Parliament and of the Council of 18 December 2006 on key competences for lifelong learning, OJ L 394, 30.12.2006, pp. 10-18

This recommendation provides a common European Reference Framework on key competences for lifelong learning. It aims at policy makers, education and training providers, social partners and learners and shall help to facilitate national reforms and exchange of information between the member states and the Commission within the 'Education & Training 2010' work programme. Member states are recommended to develop the provision of key competences for all as part of their lifelong learning strategies. By doing so they will use the newly established European Reference Framework with a view to ensuring that, inter alia, initial education and training offers all young people the means to develop the key competences and that appropriate

provision is made for those young people who, due to educational disadvantage caused by personal, social, cultural or economic circumstances, need particular support to fulfil their educational potential.

Council Meeting, Education, Youth and Culture, 2783rd Meeting, 6095/07 (Presse 20), Brussels, 16 February 2007

In this meeting the Council held an exchange of views on the future of the "Education and Training 2010 work programme" in order to start a reflection process concerning a future strategic framework for the EU's action in the field of education and training. The Presidency emphasised the need "*to ensure access to education and training for everybody and equal opportunities for all*", and called for a more visible youth dimension inside the Lisbon Strategy in order to enhance the social and professional integration of young people, and to make better use of the potential they represent.

4.1.2 Key EU acts/documents giving special attention to anti-discrimination measures in school education systems in general

Resolution of the Council and of the Ministers for Education, meeting within the Council, of 3 June 1985 containing an action programme on equal opportunities for girls and boys in education, OJ C 166, 5.7.1985, pp. 1-4

With this resolution the Council gave the green light to an action programme that aimed at a) ensuring equal opportunities for girls and boys to access all forms of education; b) enabling girls and boys to make educational and career choices affording them the same possibilities as regards employment and economic independence; c) motivating girls and boys to make non-traditional choices in order to have access to a more diversified range of jobs; and d) encouraging girls to participate as much as boys in new and expanding sectors, e.g. information technology. Of particular interest for the INCLUD-ED research objectives is the fact that the Resolution explicitly states that educational and vocational guidance must be given as early as possible, "since premature specialisation leads to a preference for traditional course options and maintains segregation". Apart from that, the action programme contained special measures to help the underprivileged, particularly girls and the children of migrant workers (prevention of illiteracy and language training).

Resolution of the Council and of the Ministers for Education meeting within the Council of 22 May 1989 on school provision for gypsy and traveller children, OJ C 153, 21.6.1989, pp. 3-4

This resolution aims to overcome major obstacles to the access by gypsy and traveller children to schooling. That only 30 to 40% of gypsy and traveller children attend school with any regularity was seen as disturbing by the Council. Member states are urged to promote structures, teaching methods and materials, recruitment and training of teachers, information and research, consultation and coordination. This entails recruiting teachers with gypsy origins and consideration for their history, culture and language.

Resolution of the Council and of the Ministers for Education, meeting within the Council, of 22 May 1989 on school provision for children of occupational travellers, OJ C 153, 21.6.1989, pp. 1-2

The Council's aim is to address the schooling needs for children of occupational travellers, defined as rivercraft, circus and fairground people. Among the proposals are so-called 'mobile education units' that could accompany or follow circuses or fairs in travels. Schools in member

states shall also receive such children in the winter break and develop teaching methods that combine mobile education units and winter break teaching.

Resolution of the Council and of the Ministers for Education meeting within the Council of 31 May 1990 concerning integration of children and young people with disabilities into ordinary systems of education, OJ C 162, 3.7.1990, pp. 2-3

This resolution contains a clear and unambiguous statement in favour of integrating pupils and students with disabilities as far as possible into the ordinary systems of education. Full integration into the mainstream systems of education should be considered as a first option in all appropriate cases. Special schools and centres should only serve as complementary to the work of the ordinary education systems.

Resolution of the Council and the representatives of Member States' Governments meeting within the Council of 23 October 1995 on the response of educational systems to the problems of racism and xenophobia, OJ C 312, 23.11.1995, pp. 1-3

In the context of this resolution, which addresses the role educational system may play in responding to racism and xenophobia, the Council states that "one measure of the quality of educational systems in a pluralist society is their ability to facilitate the social integration of their pupils and students". Therefore to encourage equality of opportunity is considered as an important aim of a quality educational system. One measure the Council suggests is develop specific integration initiatives aimed at pupils who, given their social situation, may be susceptible to racist and/or xenophobic influences. In areas where the incidence of social exclusion is most pronounced, specific programmes should be implemented in particular.

Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, OJ L 180, 19.7.2000, pp. 22-26

This directive's aim is to lay down a framework for combating discrimination on the grounds of racial or ethnic origin, with a view to putting into effect in the member states the principle of equal treatment. Non-discrimination in education on the grounds of racial or ethnic origin is an area explicitly mentioned in Article 3(g); it must be noted, however, that Article 3(2) provides that difference of treatment based on nationality is not covered by the directive.

Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, OJ L 303, 2.12.2000, pp. 16-22

This directive's aim is to lay down a framework for combating discrimination on the grounds of religion or belief, disability, age or sexual orientation as regards employment and occupation, with a view to putting into effect in the member states the principle of equal treatment. Non-discrimination in vocational training on the grounds of religion or belief, disability, age or sexual orientation is an area explicitly mentioned in Article 3(b); it must be noted, however, that Article 3(2) provides that difference of treatment based on nationality is not covered by the directive.

Communication from the Commission – *Commission's action plan for skills and mobility*, COM(2002) 72 final, 13 February 2002

In this cross-cutting communication, the Commission stresses that education and training systems should become more responsive to the labour market reflecting an increasingly knowledge-based economy and society. It considers it necessary that member states strive for a genuine right of free access for all citizens to the acquisition of key skills, regardless of age. The

Commission furthermore asks member states to intensify support for integrating into the education and training systems young people at disadvantage, particularly disabled youngsters, those with learning difficulties and those from immigrant communities or from ethnic minorities.

Council Resolution of 5 May 2003 on equal opportunities for pupils and students with disabilities in education and training, OJ C 134, 7.6.2003, pp. 6-7

2003 has been the European Year of People with Disabilities. During this year the Council adopted various resolutions dealing with specific needs of people with disabilities. This resolution is dedicated to education and training. It calls for a better and more intensive use of e-learning activities for people with disabilities. Concerning integration of children into schooling systems, the resolution has a less clear formulation than the resolution of 1990. It says: "… encourage and support full integration of children and young people with special needs in society through their appropriate education and training, and their insertion in a school system which is adapted to their needs".

Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services, OJ L 373, 21.12.2004, pp. 37-43

This directive applies to all persons who provide goods and services that are available to the public irrespective of the person concerned as regards both the public and private sectors, including public bodies. The goods and services, however, must be offered outside the area of private and family life and the transactions carried out in this context. Although not explicitly mentioned, education services will most probably fall under this directive.

Communication from the Commission – *equal opportunities for people with disabilities: A European action plan,* **COM(2003) 650 final, 30 October 2003**

The aim of this Communication, issued in 2003, the European Year of People with Disabilities, is to outline forward-looking EU initiatives aimed at the further inclusion of people with disabilities. With regard to education the document highlights that there is increasing evidence that those disabled people who are integrated into mainstream education throughout their youth are most likely to develop the general and vocational key competencies necessary to succeed later in the labour market. The document suggests that the use of modern information and communication technologies for eLearning can be one way to overcome barriers to education.

Communication from the Commission – *non-discrimination and equal opportunities for all – A framework strategy,* **COM(2005) 224 final, 1 June 2005**

In this communication that deals with future steps in the field of anti-discrimination policy, the Commission highlights the special efforts that are required to tackle discrimination and social exclusion faced by disadvantaged ethnic minorities. It states that especially the Roma continue to experience particularly severe forms of exclusion and discrimination in education, employment, housing, healthcare and other areas. The communication further stresses that the EU also needs to develop appropriate responses to the different needs of new migrants, established minorities of immigrant origin and other minority groups.

European Parliament Resolution *on educational discrimination against young women and girls,* **1 February 2007, 2006/2135 (INI)**

Inter alia the Parliaments raised the following requests:

"Calls on the Member States to facilitate access to education for women and men who are looking after children and for parents who have interrupted the process of obtaining a qualification in order to have children; (…) Recommends that the Commission and the Member States implement a policy for national, ethnic and cultural minorities, and not forgetting the Roma minority, which allows access to quality education and equal conditions in education for boys and girls, including preschool and zero grade programmes, paying particular attention to a multicultural approach that facilitates the integration of young women and girls from minorities and immigrant groups into the regular education system, with a view to combating double discrimination; (…) Calls on the Member States to re-evaluate the testing methods used when placing children, especially Roma children, into remedial schools."

4.1.3 Key EU acts/documents giving special attention to integration of migrants and their access to school education

Regulation 1612/68/EEC of the Council of 15 October 1968 on freedom of movement for workers within the Community, OJ L 257, 19.10.1968, pp. 2-12

This regulation aims at putting into practice the Treaty provisions on freedom of workers within the Community. Article 12 of this regulation stipulates access to education of children of migrant workers. It requires that children of migrant workers shall be admitted to the host member state's general educational, apprenticeship and vocational training courses under the same conditions as the nationals of that state. Member states shall encourage all efforts to enable such children to attend these courses under the best possible conditions. The regulation, however, applies only to nationals of member states, not to third-country nationals.

Resolution of the Council and of the Ministers of Education, meeting within the Council, of 9 February 1976 comprising an action programme in the field of education OJ C 38, 19.2.1976, pp. 1-5

This early action programme dealt with measures in the field of education for migrants' children. *Inter alia* it contains the following:

"Better facilities for the education and training of nationals and the children of nationals of other Member States of the Communities and of non-member countries 1. The Council and the Ministers of Education, meeting within the Council, having noted the guidelines submitted to the Council by the Commission on 19 December 1974 within the framework of the social action programme, stress the educational dimension of such a programme.

The Ministers hereby express the willingness of Member States to pursue and develop, on behalf of nationals and the children of nationals of other Member States of the Communities and of non-member countries, suitable measures to improve reception facilities for these children and to enable them to adapt to the host country's school system and way of life. To this end, they agree to support the following measures:

- organising and developing a reception system which would include intensive study of the language or languages of the host country,

- providing more opportunities as appropriate for teaching these children their mother tongue and culture , if possible in school and in collaboration with the country of origin,

- providing more information for families on the training and educational opportunities available to them."

Commission – *The children of migrant workers,* Collection Studies: Education Series No. 1, European Community Information Service, Washington, April 1977

This early publication of the Commission examines major linguistic, cultural, and social problems posed by the education of the children of migrant workers in the EC. The different national laws are outlined. *Inter alia*, the Commission suggests that teaching in the mother tongue would facilitate greater understanding of host country's language and thereby serve better educational achievements.

Council Directive 77/486/EEC of 25 July 1977 on the education of the children of migrant workers, OJ L 199, 6.8.1977, pp. 32-33

This directive aims at improving the conditions of free movement for workers within the European Community relating in particular to reception and compulsory education of their children. The directive obliges member states to foresee that children of migrant workers receive free teaching in the official language(s) of the host Member State. It furthermore requires member states to promote teaching of the mother tongue and culture of the child's/parents' country of origin. The underlying motive of the latter has not been integration into the host member state but preparing the child for possible "reintegration into the Member State of origin" (see preamble of Directive 77/486/EEC). In a legal sense, the directive only applies to nationals of member states. At the time of adopting the directive, however, a Council declaration was issued, confirming that it is the political will of the Council and the member states to implement the directive's objectives also in the case of children of migrant workers originating from non-EC countries (see Commission, *Report on the implementation in the Member States of Directive 77/486/EEC on the education of the children of migrant workers*, COM(88), 787 final, 3 January 1989).

Commission, *Report on pilot schemes relating to education of migrant workers' children,* COM(84), 244 final, 27 April 1984

Part of the 1976 Council action programme has been to ask the Commission to conduct a study of pilot schemes concerning the organisation of suitable types of teaching. The Commission presented its findings in the report of April 1984. It states that in recent years two trends regarding the teaching of migrant workers in Community schools have emerged: "The first trend is to adapt migrant workers' children to the patterns and teaching methods of the educational system of the host country, with due regard for their basic needs. The second approach aims essentially at changing the educational system to enable it to take on the new educational tasks as imposed by the, at times overwhelming presence of immigrants. By coordinating both trends, which are complementary rather than contradictory, schools will be able to offer all their pupils an education which meets the needs of immigrants and nationals alike." Based upon the findings gained within the pilot schemes, the Commission puts forward the following conclusions and guidelines:

"1. Pre-school education needs to be enriched. The education of children under 6 benefits by taking into account the linguistic and cultural characteristics of the home back-ground, while ensuring that they integrate in the society of the host country through both play and work.

2. An immigrant child, regardless of whether he is a first arrival or a second or third generation immigrant, has a right to reception teaching adapted to his particular situation. This is part of the fundamental right to school education and vocational training. There are as many methods of reception as there are situations. A number of general principles can, however, be identified:

- the effectiveness of the teaching of the host's country's language is proportionate to its intensiveness;

- to learn the language of the host country, and to adapt to its society, support activities are required, both for pupils who have gone through a phase of reception tuition and for certain second or third generation immigrants, who are placed in normal classes from the beginning and who experience difficulties in integrating in the school environment;

- the school authorities should be well aware, not only of the current needs of foreign pupils, but also of the way those needs change according to the nature of immigration.

3. Teaching of the language and culture of origin at <u>primary school level</u> can be a significant contribution to the development of the child's personality and the acquisition of knowledge and skills. Circumstances and educational concerned determine whether the teaching of the languages and cultures of origin forms part of the normal timetable or not. Whoever is in charge of such teaching (schools, consulates, immigrant communities) it must be coordinated with ordinary education, both in terms of method and content, if it is not to lose a considerable degree of educational effectiveness. This implies that those who teach the languages and cultures of origin should be considered as full members of the teaching team.

<u>In secondary education</u> it is strongly recommended that the languages of the immigrant communities should be given the same status as other basic subjects, The maintenance and development of immigrant cultures in the host country merits the particular attention of the educational authorities, both in view of the intrinsic value of, and the increased access to those cultures which would be the result.

4. In school education aimed at a population with different cultural backgrounds, the intercultural aspect is a factor of mutual enrichment and individual and social development, benefiting both local and immigrant children.

5. The design and development of teaching methods and materials corresponding to the needs of children of immigrants and a multicultural society should be given the highest priority at all levels of education.

6. Teacher training is the highest priority of all. Future teachers and teachers now working should be given the opportunity to acquire in-depth knowledge of the problems of immigration, the principles of reception tuition, and intercultural counselling and education."

European Parliament Resolution *on the education of the children of migrant workers,* **OJ C 260, 18 September 1981; European Parliament resolution** *on the implementation of directive 77/486/EEC on the education of the children of migrant workers***, OJ C 122, 16 April 1985; European Parliament resolution** *on the application of directive 77/486/EEC on the education of the children of migrant workers***, OJ C 125, 11 May 1987**

The EP devoted many efforts to call for member states' compliance with directive 77/486/EEC on the education of the children of migrant workers and changed the tone with regard to the underlying motives for teaching migrant children: from economic integration towards a more human rights' justification.

Commission, *Report on the implementation in the Member States of Directive 77/486/EEC on the education of the children of migrant workers***, COM(88), 787 final, 3 January 1989**

Member states' compliance with the obligations arising from directive 77/486/EEC is the topic of this report. The Commission does not seem to be too enthusiastic about the measures taken by the member states and highlights that it might use its powers to force compliance with the provisions. The report states that it is the "Community's moral and political obligation to

contribute, through the act of education, towards developing mutual understanding and respect among peoples and cultural and language groups". It deplores the fact that success rates of migrants' children are still too low and failure rates too high, making it difficult for these children to go on to further education and training.

Communication from the Commission – *on a Community immigration policy* COM(2000) 757 final, 22 November 2000

In this communication addressing a common immigration policy, the Commission deals with the issue of integration of third-country nationals and argues for the development of a civic citizenship concept, comprising a common set of core rights and obligations, different from acquiring the nationality of the host member state. The communication states that integration policies need to start as soon as possible after admission and rely heavily on partnership between the migrants and the host society. It continues to stress that political leaders need to create the environment necessary for the acceptance of diversity within which integration policies must be anchored. Accessing services, including education services, with special attention to the needs of migrant women and children, is seen as one crucial element.

Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, OJ L 212, 7.8.2001, pp. 12-23

The purpose of this directive is to establish minimum standards for giving temporary protection in the event of a mass influx of displaced persons from third countries who are unable to return to their country of origin and to promote a balance of effort between Member States in receiving and bearing the consequences of receiving such persons. Article 14 deals with access to education. It provides:

"1. The Member States shall grant to persons under 18 years of age enjoying temporary protection access to the education system under the same conditions as nationals of the host Member State The Member States may stipulate that such access must be confined to the state education system.

2. The Member States may allow adults enjoying temporary protection access to the general education system."

Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers, OJ L 31, 6.2.2003, pp. 18-25

The purpose of this directive is to lay down minimum standards for the reception of asylum-seekers in member states. Article 10 deals with access to education. It provides:

"1. Member States shall grant to minor children of asylum seekers and to asylum seekers who are minors access to the education system under similar conditions as nationals of the host Member State for so long as an expulsion measure against them or their parents is not actually enforced. Such education may be provided in accommodation centres. The Member State concerned may stipulate that such access must be confined to the State education system. Minors shall be younger than the age of legal majority in the Member State in which the application for asylum was lodged or is being examined. Member States shall not withdraw secondary education for the sole reason that the minor has reached the age of majority.

2. Access to the education system shall not be postponed for more than three months from the date the application for asylum was lodged by the minor or the minor's parents. This period may

be extended to one year where specific education is provided in order to facilitate access to the education system.

3. Where access to the education system as set out in paragraph 1 is not possible due to the specific situation of the minor, the Member State may offer other education arrangements."

Communication from the Commission – *on immigration, integration and employment,* **COM(2003) 336 final, 3 June 2003**

This communication is one of the major documents of the Commission in response to the European Council Tampere conclusions of 1999. In relation to education, the Commission takes the position that education and training are key factors in successful integration. It states that diversity should be reflected in the curricula and close cooperation between parents, immigrant communities and schools pursued. Special problems should be addressed. As an example of such special problems, the Commission names large numbers of immigrant children in the same school. Concerning migrant women, the communication puts forward that they might suffer double discrimination and special attention is needed to ensure equal access to the labour market and adequate education. In the chapter on irregular immigration, the communication recalls that also 'illegal' immigrants are protected by universal human rights standards and that – inter alia – their children should receive primary school education. Concerning concrete orientations in the field of education, the document cites the benchmarks and aims contained in the "Education & Training 2010" strategy.

Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, OJ L 16, 23.1.2004, pp. 44-53

This directive aims to promote economic and social cohesion and allow for better integration of third-country nationals who are long-term residents in one of the member states. The status of long-term resident is usually acquired after five years of legal residence. Article 11 (1) (b) deals with equal treatment of nationals and long-term residents in education and vocational training, including study grants.

Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, OJ L 304, 30.9.2004, pp. 12-23

The purpose of this directive is to lay down minimum standards for the qualification of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted. Article 27 deals with access to education. It provides:

"1. Member States shall grant full access to the education system to all minors granted refugee or subsidiary protection status, under the same conditions as nationals.

2. Member States shall allow adults granted refugee or subsidiary protection status access to the general education system, further training or retraining, under the same conditions as third country nationals legally resident.

3. Member States shall ensure equal treatment between beneficiaries of refugee or subsidiary protection status and nationals in the context of the existing recognition procedures for foreign diplomas, certificates and other evidence of formal qualifications."

Council Conclusions of 19 November 2004 on an immigrant integration policy in the EU, 14615/04, 19.11.2004, pp. 15-24

Based on previous European Council conclusions, calling for greater coordination of national integration policies and a European framework based on common principles, the Council adopted so-called 'Common Basic Principles' (CBP) on integration. While the development and implementation of integration policies is said to be the primary responsibility of individual member states, the Council acknowledges a common EU-wide interest in common basic standards of integration. These principles are designed to assist member states "in formulating integration policies by offering them a simple non-binding but thoughtful guide of basic principles against which they can judge and assess their own efforts". One of these principles is dedicated to the role of education and states:

"Efforts in education are critical to preparing immigrants, and particularly their descendants, to be more successful and more active participants in society."

Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service, OJ L 375, 23.12.2004, pp. 12-18

This directive aims to promote mobility of third-country nationals to the EU for the purpose of studies. This stands in the context of the Community's activities in the field of education and the ambition to promote Europe as a world centre of excellence for studies and vocational training. Exchange in this area is seen as a means for mutual enrichment of the individual concerned, its country of origin and the European host member state. Specific conditions for school pupils are laid down in Article 9. Independent travelling is hereafter not foreseen. Instead participation in a recognised pupil exchange scheme programme organised by a recognised organisation is a prerequisite. The directive only contains the conditions for admission and the rules concerning the procedures for admitting. Treatment and legal status of the pupil within the schooling system of the member states is not governed by this directive.

Communication from the Commission – *A common agenda for integration – Framework for the integration of third-country nationals in the European Union,* **COM(2005) 389 final, 1 September 2005**

In this communication the Commission responds to the European Council's call for a coherent European framework for integration and aims mainly to put the Common Basic Principles as formulated by the Council into practice. In relation to the principle addressing the role of education (*"Efforts in education are critical to preparing immigrants, and particularly their descendants, to be more successful and more active participants in society"*), the Commission suggests the following actions at national level:

a) Reflecting diversity in the school curriculum;

b) Taking into account the specific problems of young immigrants in measures to prevent underachievement and early-school leaving;

c) Improving the participation of young migrants in higher education; and

d) Effectively addressing migrant youth delinquency.

At EU level the Commission asks to incorporate integration objectives into the various educational programmes and to promote education of third-country nationals through the Education & Training 2010 work programme. Another measure suggested is the facilitation of recognitions of qualifications.

European Parliament resolution *on integrating immigrants in Europe through schools and multilingual education,* **13 October 2005, 2004/2267 (INI)**

The European Parliament in this resolution formulates, *inter alia,* certain rights of children in the school systems and the respective duties of member states. The EP,

"1. Believes that the school-age children of immigrants have a right to State education, irrespective of the legal status of their families, and that this right extends to learning the language of their host country, without prejudice to their right to learn their mother tongue;

2. Believes that even when the children and/or descendants of immigrants (second and third generations) are proficient in the language of their host country, they should be given the opportunity to familiarise themselves with their mother tongue and the culture of their country of origin, without public funding being ruled out for that purpose;

3. Stresses that primary and secondary schools must provide educational support for immigrant children, especially when they are not proficient in the language of their host country, so as to enable them to adapt more easily and prevent them from finding themselves at a disadvantage compared with other children;

4. Maintains that the integration of immigrants at school must not adversely affect the development of the language of the education system, especially if that language is itself a minority language;

5. Urges the Member States to encourage educational establishments at the various levels to take measures ensuring linguistic diversity without the choice of alternatives to the official language being restricted to the most widely spoken European languages;

6. Urges the Member States to remove the teaching, administrative and legal obstacles which, as a result of language barriers, make it difficult to achieve the above objectives;

7. Considers that such measures must be taken in such a way as to ensure that immigrant children will not have a disproportionately heavy timetable compared with other pupils, and hence will be less likely to tend to refuse to attend extra study periods."

Commission staff working document – *Second annual report on migration and integration,* SEC(2006) 892, 30 June 2006

This document states that in order to successfully integrate and participate in all aspects of life, migrants must be provided with basic rights in terms of access to education, housing, healthcare and social services.

4.2   Secondary sources

4.2.1 Books and articles dealing with the impact of EU policy on school education in general

Bénéï, V., Manufacturing Citizenship: Education and Nationalism in Europe, South Asia and China, Routledge Research in Education, Routledge Taylor & Francis Group

The volume focuses on the ordinary daily life processes involving cultural, historical and political memories that feed into the educational dimension of the 'manufacturing' of citizenship. It seeks to contribute to an understanding of the part played by educational institutions at various levels. It pays special attention to the role of the Other and the importance of ethnicity and language in creating a homogeneous, 'dominant citizen', as well as the tensions that may arise between taught ideals of citizenship and various political, religious or ethnic affiliations, and the ways in which the states and social actors negotiate them. The book

compares these dimensions between Europe, South Asia and China. Interestingly enough, it shows how differences between these three 'realms' may come to appear less dominant at certain levels of analysis and some similarities may emerge.

It is equally interesting that the title "manufacturing" refers to "producing by mere mechanical labour rather than by intellect or imagination" and does not do justice to ordinary social actors' capacity for action. As Bénéï says "'to manufacture' is also to bring into a form suitable for use. Here the material thus manufactured, which may be fictitious in parts, is that of memories, imagination, emotions and practices of citizenship in their various dimensions – political, judicial, cultural, social, historical. In this way, the book unravels some of the ways in which national identities and mode of citizenship have been elaborated, negotiated and transmitted in different cultural and historical contexts.

All nation states have developed and practiced policies and programmes of 'universalisation of elementary education' which aim at fostering a shared and homogeneous culture of nationalism. These policies have raised the question of the impact of uniform educational practices on diverse national populations. Bénéï argues that "the perception of citizenship and education (schooling in particular) as state-centred strategies of social control and state-led projects serving the hierarchical structures of social reproduction and of capitalist inequality does not do justice to the crucial role played by ordinary citizens. Indeed, if citizenship comprises the modern nation-state's range of attempts to define and produce "ideal, loyal and dutiful citizens" no less does it also comprehend social actors' negotiated responses to these". She continues, "*these processes are constitutive of citizenship, contributing to its continuous redefinition and reshaping, and thus denote congruence with yet another meaning of 'manufacture' to produce by natural agency...rather than a nation-state project aimed at producing a culturally and nationally homogeneous labour force, education may also be seen as a means for promoting active democracy premised on the building of autonomous, critical citizens*".

Dion, D.P. (2005), *The Lisbon Process: A European Odyssey*, *European Journal of Education*, **Vol. 40, No. 3, pp. 295-313**

This article examines, *inter alia,* the education part of the Lisbon Strategy, its implementation and results. After describing the circumstances that lead to the adoption of the Lisbon Strategy in 2000 and its contribution to education and training, paying special attention to the Education & Training 2010 work programme, Dion agrees with the mainstream findings that not too much had been achieved in the first five years of the Lisbon Strategy. To reach better results, he suggests formulating 'country-specific policies' that should accompany the 'Common Basic Principles" already foreseen in EU education policy under Lisbon. In Dion's opinion 'Common Basic Principles' might be too broad and tailored recommendations based on the PISA and TIMMS studies, might prove more efficient. He proposes to establish four categories that shall comprise a grouping of member states with similar features: Group 1 (low attainment, efficiency and equity); Group 2 (low attainment, high efficiency and equity); Group 3 (high attainment, low efficiency and equity); and Group 4 (high attainment, efficiency and equity).

Ibáñez-Martín, J.A. and G. Jover (2002), *Education in Europe: Policies and Politics*, **2002, Kluwer Academic Publishers, The Netherlands**

The collective volume analyses the basic elements underlying the politics of European education, considering both the norms that the states must take into account as well as the spirit on which they should be based and the challenges that need to be met. It is divided into three main parts: 1) evolution and normative framework of the European Union educational policy, 2) education for European citizenship and pluralism and 3) new trends and challenges for European education systems and institutions.

The first part of the book on "Evolution and Normative Framework of the European Union Educational Policy" includes two chapters. Chapter 1 (Gonzalo Jover, *Rethinking Subsidiarity as a Principle of Educational Policy in the European Union*) addresses some of the main difficulties and conceptual ambiguities that can be perceived in the legal formulation of 'subsidiarity' as the guiding political principle of EU policy in the field of education. It also focuses from a theoretical point of view on the way in which the principle of subsidiarity has been instrumentalised in the process of European integration and how it may be better applied in practice. The introduction by the Treaty on European Union of Art. 149 in the EC Treaty brought policies on education into the EU's umbrella. According to Chapter 3 (Education, Vocational Training and Youth), Art. 149.1 says that "*The Community shall contribute to the development of quality education by encouraging cooperation between Member States and, if necessary, by supporting and supplementing their action, while fully respecting the responsibility of the Member States for the content of teaching and the organization of education systems and their cultural and linguistic diversity*". This is what G. Jover refers to as "the principles of subsidiarity and respect for cultural diversity". In his view, the principle of subsidiarity (as included in Art. 5 of the EC Treaty) functions more as a political principle than as a criterion for automatic legal applicability.

Chapter 2 (Gustav E. Karlsen, *Educational Policy and Educational Programmes in the European Union: A Tool for Economic Integration and Economic Competition?*) offers some reflections about the EU policy on education by looking at the main initiatives in this area, their functions and consequences. He explains how at the end of the 80s the internal market became the new policy strategy for the Community to ensure its status as a leading world industrial and trading power. Along with a better infrastructure, education and training were considered as key areas for a better-qualified workforce. Hence, Karlsen points out how "*the link between education, training and economy became a necessary condition for a growing economy*". Then as the ambition for political integration increased the field of education received a high political priority. In the endeavor to encourage a European dimension, education was recognized as the key sector. The European Education Area is more a political metaphor than a real change in policy and action. A metaphor which corresponds with the Internal Market in the way that education and knowledge are looked upon and treated more like economic commodities inside a certain area. The idea of education as a tool primarily for economic growth and competitiveness in a global market continues.

The second part of the book studies the educational possibilities of citizenship in relation to concepts of identity and pluralism. In particular, Chapter 4 (R. Pring, *Education, Pluralism and the Teaching of Values*) addresses the problem of teaching values in pluralistic societies. "From a pedagogical point of view, in order to respond to the tension that arises in those societies, special attention must be paid to the values which enable young people to find their own genuine voices amidst a myriad demands". The third part of the book is entitled "*New Trends and Challenges for European Education Systems and Institutions*". Chapter 5 (M. Elósegui, *Equal Opportunities between Women and Men in Community Law*) focuses on the function of educational system to eliminate any unfair inequality between women and man by analysing the different Council directives that have been adopted against gender discrimination in the EU.

Lenaerts, K. (1994), Education in EC law after Maastricht, *Common Market Law Review*, Vol. 7, No. 31, pp. 9-41

Koen Lenaerts's contribution deals with the legislative changes brought about by the Maastricht Treaty of 1992 in the field of educational policy. It is only with this treaty that 'Education' for the first time appears in European primary law, he states. Nevertheless, even before the Maastricht Treaty there have been several European acts that address education and educational policies. These acts, however, were often of a non-binding form and therefore unenforceable

soft law formulated in 'resolutions' or 'conclusions'. As far as legally binding acts in the field of education adopted in the pre-Maastricht era, e.g. Article 12 Regulation 1612/68 or Directive 77/486/EC, they have based on the 'implied powers' doctrine of the European Court of Justice: access of migrant children to education as inseparably intertwined with the freedom of movement within the EC. Areas explicitly covered have been the recognition of diplomas and vocational training. With the Maastricht Treaty, Articles 126 and 127 TEC have been inserted dealing with education and vocational training. Lenaerts analyzes the content and range of these new provisions. He suggests that both provisions "*embody an expression of the principle of subsidiarity*" as they stipulate that the content of the teaching and the organisation of educational systems lie within the responsibility of the member states, establishing hereby an "*irrebuttable presumption that they are better placed to deal with these policy matters.*" Only where educational and vocational training policies bear manifestly cross-border aspects are Community (coercive) actions foreseen and allowed, according to Lenaerts. Community action in the field of education and vocational training, however, is primarily designed to facilitate and encourage voluntary cooperation between member states – not impose it, Lenarts says.

Prats J. and F. Raventós et al. (2005), *Los Sistemas Educativos Europeos ¿Crisis o Transformación?,* Obra Social, Fundación La Caixa, Colección Estudios Sociales, No. 18

The European Union has shown in the last decades an increasing interest in improving the results of the educational systems in the member states. This has been the case in the meeting of the Council of the EU at Lisbon which elaborated a document providing the objectives and priorities to be attained by the member states in the year 2010. This book offers a study of the problems and solutions that emerge from the field of education in Europe. In fact, education in Europe is experiencing constant transformation which aims at facing the 'mismatches' at the internal and external realms and which are produced by social, cultural and technological changes. The book tries to assess the way in which these fundamental changes are taking place in the educational systems, which are the main problems that characterise them as well as the ways in which a solution can be found to deal with them. It identifies as one these challenges the incorporation in the educational system of a new form of culture and sociability, and the problems that emerge from the enhanced participation of the immigrant community in the schools.

Chapter 1. *La Crisis de los Sistemas Educativos Europeos*, F. Raventós Santamaría, pp. 12-28

The European Union is living a period of substantial changes which deeply affect the societal structures of the member states, including the area of education. Education in Europe is experiencing a period of tensions and uncertainty. In order to face these challenges, Europe needs to provide new 'educational answers'. He then points out how until recently the main lines characterising the European policy on education were mainly focused on fostering the principle of equality, integration and social cohesion. However, it appears that at present there is a process of prioritisation towards political goals mainly based on competitiveness and economic efficiency.

Raventós highlights how Europe is diverse, it is diversity. It does not have an ethnic unity, or social, political, linguistic, educational or cultural cohesion. In his view, Europe is too 'Eurocentric'. An excess of such feelings may provoke hostile and xenophobic attitudes. He also points out the demographic deficit that Europe seems to be facing, and the warnings about increased migratory movements at the global level. For the achievement of the objectives agreed in the Lisbon Strategy, and in order to reach the goals envisaged for 2010, the member states and the European institutions need to adopt a serious commitment to invest in human capital and, therefore, in education and quality in training. While the dilemmas and challenges related to favouring equal opportunities and taking into account the circumstances of vulnerable groups

are not new, they now constitute 'common challenges' for Europe. Therefore it is necessary to coordinate educational policies and reinforce the educational system at European level. In his view, the policy convergence of the educational systems in the EU is an urgent instrument to be achieved for the solid construction of Europe.

Chapter 8. *A Modo de Conclusión*

8.3. Equity and Cohesion

While increased decentralisation and autonomous educational centres may facilitate finding the capacity to face the conflicts, these cannot however guarantee a better efficiency and quality of education. Further, immigration, interculturalism and policies dealing with diversity in education are issues often linked with inequalities in the result and quality of the latter. The factors explaining the lack of equity in the access, continuation and results are diverse and complex. They include for instance the social and economic status as well as the cultural and family context, the characteristics of the curriculum, the public/private nature of the school as well as the policies destined to compensate the social, economic, cultural and technological modernisation. However, the study concludes that the European educational systems tend to increasingly follow a doctrine of competitiveness and economic efficiency, instead of one of equality and social cohesion following some recommendations delivered by the EU.

Wößmann, L. and Schütz, G., *Efficiency and equity in European education and training systems* **– analytical report for the European Commission prepared by the European Expert Network on Economics of Education (EENEE) to accompany the Communication and Staff Working Paper by the European Commission under the same title, 26.4.2006**

This report offers a socio-economic study of efficiency and equity in European education and training systems. By reviewing the relevant scientific literature on the contribution of economic and social sciences of education, it provides an analysis of efficiency and equity focusing on the complementarities and trade-offs between both dimensions over the life cycle. The report concludes that there seem to be strong complementarities between efficiency and equality of opportunity in policies that act at early stages of the education process. However, these seem to turn into trade-offs between efficiency and equity at late stages of the education life cycle. If member states focus their public investments early on, improving the fate of disadvantaged students in early childhood and at the school level, then they do not necessarily have to choose between efficiency and equity. Only if they wait until students reach the age to begin higher education or even continuing training and adult learning, might their attempts to foster equity sometimes end up being both inefficient and unfair. The authors continue by saying that to be able to implement better-informed policies to foster equity and efficiency in education and training, member states will have to design policy interventions in ways that are amenable to rigorous empirical evaluation, collect the necessary data on inputs and outcomes and implement independent evaluation studies that create knowledge on what works and what does not.

4.2.2 Books and articles dealing with the impact of EU policy on anti-discrimination measures in school education systems

Brown, C. (2002), "The Race Directive: Towards equality for all the peoples of Europe?", *Yearbook of European Law* **Vol. 21 pp. 195-227**

Brown starts from the claim that millions of people, both EU citizens and third-country nationals, suffer habitual discrimination based on colour or ethnic background. The failure of the state to face that problem in an efficient manner has led to the shift in focus to the EU,

which is seen now as a vehicle to foster the individual's right to non-discrimination. The article addresses the race directive implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, having as its legal basis Art. 13 EC Treaty. The directive covers both public and private sectors, including public bodies, in relation to a broad category of situations such as education and access to vocational training. In his view, the race directive represents a concrete step forward for those who do not conform to "the white Caucasian model of Europe".

Elósegui, M. (2002), "Equal Opportunities between Women and Men in Community Law – A perspective from the educational policies" in Ibáñez-Martín, J. A. and G. Jover (2002), *Education in Europe: Policies and Politics***, 2002, Kluwer Academic Publishers, The Netherlands**

The volume in which this article is contained has already been introduced in the previous section. The author focuses on the function of educational systems to eliminate any inequality between women and men by analysing the different Council directives that have been adopted against gender discrimination in the EU.

European Monitoring Centre for Racism and Xenophobia, The Annual Report on the Situation Regarding Racism and Xenophobia in the Member States of the EU, EUMC 2006

The Annual Report starts by pointing out how 'education' should be considered as one of the pivotal points for 'social integration'. It refers to vulnerable groups and topical issues related to discrimination, and highlights good practices promoting equal opportunities and combating racism and xenophobia. The report takes "direct and indirect measurements of discrimination" based on individual acts and institutional practices of a racist and xenophobic character, such as for example: racist violence, unequal treatment, verbalised prejudice or harassment based on ethnicity, culture or nationality. It also includes forms of segregation, exclusion and limited access to educational institutions. A main indicator that is taken into account by the study is "*the educational under-achievement of ethnic or national groups*".

As regards the social groups considered as '*most vulnerable*' to racism and discrimination, the report highlights especially: children with a migrant background from non-EU countries as well as ethnic and language minorities; religious minorities (particularly Muslims and Jews); and the Roma, Sinti and Travellers.

Among the issues and debates concerning racism and discrimination in 2005, the report highlights the following: segregation, religious symbols and minority languages. As regards segregation, it first says that "*the shifting off of children with migrant and minority background to special schools is no longer perceived as an acceptable practice*". However, it is stated that school segregation still prevails in a large part of the European Union.

Finally, the report puts forward a package of preventive initiatives and good practices against discrimination and exclusion. First, it is said that recent research studies in the field of education have concluded that selective support measures have in many cases had little impact on improving the position of migrants and minorities. Then, it goes on to present a series of programmes covering the following areas: awareness-raising, individual support of pupils, support of teachers and parents, financial aid for pupils, financial incentive, anti-segregation measures, improving data collection on discrimination, etc.

Riley, A. (2004), Headscarves, skull caps and crosses: Is the proposed French ban safe from European legal challenge?, CEPS Policy Brief, No. 49

On February 2004, the French National Assembly voted to ban state school pupils wearing obvious religious symbols. The ban was approved by the Senate on March, and entered into force on September 2004. This article addresses the compatibility of the *loi relative à l'application du principe de laïcité dans les écoles* with the EC directive on grounds of race, ethnic origins, religion and belief, and concludes that there is a high probability that the law banning religious symbols will end up facing a legal challenge before the French tribunals, and potentially being referred to the European Court of Justice for assessing the compliance with EC law. In Riley's view, the French ban will provoke an overwhelming focus on the legal debate provided by the EC law on equal treatment.

Toggenburg, G. (2002), "The Race Directive: a new dimension in the fight against ethnic discrimination in Europe", *European Yearbook of Minority Issues* **Vol. 1, pp. 231-244**

This article studies Council Directive 2000/43 implementing the principle of equal treatment of all persons irrespective of racial or ethnic origin. In Toggenburg's view, the directive, whose deadline for transposition in the member states was 19 July 2003, would have a considerable impact upon future antidiscrimination policies of both the current member states and the candidate countries. It highlights how the pressure to adopt a transnational legal framework against all possible forms of racial discrimination came mainly from the so-called 'Starting Line Group' in the 1990s. Finally, the article concludes by stressing "*the need for a further minority-related pillar of values in EC law which would serve to enhance the concepts of linguistic and cultural diversity. The promotion of cultural diversity within Art. 151 EC Treaty and its related clause in the Charter of Fundamental Rights may at first sigh appear vague, yet nevertheless should not be underestimated*".

Waddington, L. and M. Bell (2001), "More Equal that Others: Distinguishing European Union Equality Directives", *Common Market Law Review***, 38, pp. 587-611**

This article examines the varying approaches taken by Community equality law with regard to the various grounds covered, and to reflect on whether the different approaches are based on relevant differences between the grounds of religion or belief, disability, age and sexual orientation or whether they simply reflect a confused approach. They refer to a hierarchy of non-discrimination grounds being established by Community law on 'equality of treatment', with discrimination on some grounds being addressed more thoroughly and aggressively than other forms of discrimination. In their view, a clear hierarchy of 'equalities' continues to exist. Sex equality, from a position of historical dominance in Community anti-discrimination law, has been displaced by racial equality.

4.2.3 Books and articles dealing with the impact of EU policy on access to school education for migrants, integration and citizenship

J. Apap and S. Carrera (2003), *Towards a Proactive Immigration Policy for the EU?***, CEPS Working Document No. 198, Brussels**

This paper offers an assessment of the legislative progress achieved towards a proactive immigration policy regarding those described as 'third-country nationals' (TCNs) entering into and residing legally in the European Union. The main points of analysis include the evolution of immigration policy at the European level, the study of the key legal instruments dealing with TCNs, and their potential effects and consequences. Do they guarantee a closer position to the EU citizens' status? What level of rights and protection do they confer on foreigners? Do they truly contribute to the current political desire for the integration of immigrants within the host country, and a comparison with EU citizens' status, particularly looking at the similarities and

differences between them? The positive implications of international exchange students and academics from third countries, as well as the 'reciprocal enrichment' that the process involves were welcomed and considered as positive even during the period of restricted immigration in the EU. As Apap and Carrera point out, this was already recognised in the Resolution of 30 November 1994 on the admission of third-country nationals to the territory of the member states for study purposes,[2] in which the Council agreed on the desirability of that policy.

A European harmonised system consisting of the approximation of national legislation on these issues was deemed to be also necessary since the Tampere European Council's Conclusions.[3] Thus, in 2002, a proposal for a directive was presented by the Commission on the conditions of entry and residence for studies, vocational training or voluntary service, thus completing the legal framework governing admission on the basis of the purpose of the stay. Indeed, the authors argue that this has been one of the last legal instruments on TCNs presented by the European Commission, whose goal is to make it easier to host students from third countries under the future Erasmus world programme and to allow them to participate in the Youth and Euromed Youth programmes. In particular, the paper goes deeper into the assessment of the juridical category of student as included in the EC Directive, and points out how through the analysis of the proposal one can appreciate the gaps of the system.

Balzacq, T. and Carrera, S. (2006), "The Hague Programme: The Long Road to Freedom, Security and Justice", in T. Balzacq and S. Carrera (eds.), *Security versus Freedom: A Challenge for Europe's Future***, Ashgate Publishing: Hampshire**

This chapter puts the developments in the AFSJ in context. First, it examines the main achievements in Freedom, Security and Justice. Second, it discusses the level of policy convergence reached in these three dimensions as well as some of the most relevant policies being proposed or expected to appear on the agenda during the Hague Programme mandate. The development of a common immigration and asylum policy has been constantly referred to at official level as a decisive priority for the Union's future. However, these are areas where political statements and goals do not necessarily match the policy reality at hand. The lack of a truly common immigration and asylum policy continues to dog the EU. While it is true that member states continue to exercise the main competences in immigration and asylum fields, and that the Europeanisation process in these fields is in its infancy, some substantial legislative steps have nonetheless been taken at EU level.

The low level of policy convergence in the field of regular immigration has often been criticised. In addition to the restricted number of policy measures adopted, the quality of some of these acts has been seriously challenged. An in-depth examination of some of their provisions reveals surprisingly low minimum standards (which might put international and European human rights commitments at risk), wide discretion for member states' application and substantial exceptions even to core elements (rights and freedoms), which allow for wide practical differences between member states. Among the few EU legal measures adopted by the

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[2] Point 2 of the Council Resolution of 30 November 1994 on the admission of third-country nationals to the territory of the Member States for study purposes, Official Journal C 274, 19/09/1996, p. 0010-0012.

[3] Paragraph 21 of the Conclusions, "*A person, who has resided legally in a Member States for a period of time to be determined and who holds a long-term residence permit, should be granted in that Member State a set of uniform rights which are as near as possible to those enjoyed by EU citizens; e.g. the right to reside, receive education, and work as an employee or self-employed person, as well as the principle of non-discrimination vis-à-vis the citizens of the State of residence*".

Council of Ministers, the article underlines the following as the more relevant: Council Recommendation 2005/762/EC of 12 October 2005 to facilitate the admission of third-country nationals to carry out scientific research in the European Community, Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service, Council Directive 2004/38/EC of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the member states, Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, and Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification.

The book concludes that fair and equal treatment between EU citizens and third-country nationals should be the real goal pursued in any immigration and asylum-related measure. The authors plead for a higher level of policy convergence that recognises and facilitates equal treatment. The Tampere European Council Conclusions (1999) insist that it is necessary to establish a common EU framework by which legally resident, third-country nationals would have a status as near as possible to that of the nationals of EU member states. Indeed, facilitating equality of treatment and full access to economic, social, cultural, religious and political rights and freedoms should be the focus of efforts.

Bauböck, R. (ed.) (1994), *From Aliens to Citizens: Redefining the Status of Immigrants in Europe*, **European Centre Vienna: Avebury**

The book argues that there is a need to improve the legal position of resident foreigners and to change the rules for admission to citizenship. "*The mounting tide of violence against immigrants and of popular xenophobia which is being stirred up by right-wing politicians makes it all the more important to facilitate the transition from aliens to citizens.*" The core idea underlying the different contributions appears to be the call for a transformation as regards the conditions of membership in the nation state. The principles and values upon which liberal democracies are constructed are fundamentally opposed to the existence of any 'legal discrimination and exclusion' from membership understood as 'citizenship'.

Chapter 1. S. Castles, Democracy and Multicultural Citizenship: Australian Debates and their Relevance for Western Europe, pp. 3-28

This paper examines the model of citizenship of immigrants in Australia and compares it to the situation in Western Europe. The main argument is that the European debate about 'citizenship for immigrants' has been one-sided by mainly focusing on the issues of what he calls '*formal citizenship*' (i.e. set of rules on the access to citizenship for immigrants and their children), and by marginalising the attention to '*substantial citizenship*' (i.e. the rights and obligations linked with being a member of the state). Both kinds of citizenship at times do not match in practice. In this way Castles argues that "*members of certain groups, such as ethnic minorities, may be formal citizens and yet be excluded from rights. Other people – especially permanent immigrants – may not be formal citizens and yet have rights and obligations in a state*". These categories of people have been qualified as 'quasi-citizens' or 'denizens' (T. Hammar). In the opinion of Castles, there is a fundamental contradiction between being formally a 'citizen' and nevertheless being treated 'differently' from the rest of 'citizens' because of race, religion, ethnic origin, culture or socio-economic position, etc. "*When such separation gives raise to inequality, discrimination and racism, citizenship must be seen as incompatible*".

Further, Castles offers some reflections on and demand for what he calls 'multicultural citizenship'. This kind of citizenship would recognise 'difference in society' and its social meanings by departing from the false idea that all citizens are equal individuals, and instead seeing them simultaneously as having "*equal rights as individuals and different needs and*

wants as members of groups with specific characteristics and social situations". The central objective of 'multicultural citizenship' would be to achieve 'equity' for all the members composing society. In this way, he offers a definition of the concept of 'equity': "*Equity means resolving the tension between formal equality and real difference by means of mechanisms to ensure participation of disadvantaged groups in decision-making and by means of special policies to break down barriers and meet varying needs and wants*" (p. 16). Castles then differentiates between the following principles that would compose 'multicultural citizenship': 1) taking equality of citizenship rights as the starting point; 2) recognising that formal equality of rights does not necessarily lead to equality of respect, resources, opportunities and welfare; 3) establishing mechanisms for group representation and participation; and 4) differential treatment for people with different characteristics, needs and wants. Concerning this last point, he emphasises that the state needs to implement a series of rules, programmes and service provisions (fundamental policy decisions and institutional change) "*to combat barriers based on social markets concerned with gender, sexual preference, age, disability, location, ethnicity, religion, culture, etc.*" Castles finally distinguishes between three forms of 'citizenship for immigrants' (see also Castles and Miller): 1) the exclusionary model; 2) the assimilationist inclusionary model; and 3) the pluralist inclusionary model (pp. 21-23).

Bekemans, L. and Y. Ortiz de Urbina (1997), *The Teaching of Immigrants in the European Union***, Working Document, DG for Research, European Parliament**

The basic premise upon which this research paper was based is the increasing importance of education and migration in the general debate on the EU. In view of the authors, there has been more cooperation between the member states in the sphere education than in the area of immigration. This of course needs to be put in context, as it was not until 1999 that immigration was transferred to Community competence and since then the level of policy convergence in this policy area has been also substantial.

The report introduces the notion of 'intercultural education', which they say had become the basis for all the EU action in the area of education. The notion of intercultural education is defined as follows: "education must be seen as a means of developing not only individual creativity but also greater participation in social, economic, cultural and political life and as a more effective contribution to human development". In the view of the authors, the resulting cultural diversity helps to develop the innovative, dynamic nature of societies.

Carrera, S. (2006), "Integration of Immigrants Versus Social Inclusion: A Typology of Integration Programmes in the EU", in T. Balzacq and S. Carrera (eds), *Security versus Freedom: A Challenge for Europe's Future,* **Ashgate Publishing: Aldershot, pp. 87-114**

This paper examines the philosophies hiding behind the notion of 'integration of immigrants'. What does integration of immigrants mean in liberal democracies? The vulnerabilities and uncertainties inherent to the nature of this concept is critically addressed. It then provides an overview of integration programmes for immigrants in a selected group of EU member states: Austria, Belgium, Denmark, France, Germany, Poland, Spain, the Netherlands and the United Kingdom. The main tendencies and common elements are widely assessed and broadly compared. The article argues that in the national arena there appears to be a distinct trend towards a 'restrictive integration policy for immigrants'. Mandatory participation in integration programmes is now a regular part of immigration and citizenship legislation, and a precondition for having access to a 'secure juridical status'. A nexus between immigration, integration and citizenship is becoming the norm in a majority of the national legal systems. The artificial link between 'the social inclusion of immigrants' and 'the juridical framework on immigration, integration and citizenship' may at times raise human rights considerations, and endanger the inter-culturalism and diversity that are inherent to the nature of the EU.

Castles, S. and Davidson, A. (eds) (2000), *Citizenship and Migration: Globalization and the Politics of Belonging*, **Routledge: New York**

"The membership of individuals in modern democratic societies is marked by the status of citizenship". Those falling within the juridical category of 'citizens' enjoy a package of civil, political and social rights which are balanced with a series of obligations to the Community and the state. Most nation states have had groups not considered as 'capable' of belonging to the citizenry, and are in this way excluded from the privileges and rights attached to this status and "*forced to go through a process of cultural assimilation in order to belong*". Discrimination has on the other hand represented another barrier preventing the achievement of a full citizenship because of factors related to race, ethnicity, gender, class, religion or other criteria. Growing international mobility calls into question the institution of citizenship and the basis for belonging upon which the latter has been constructed.

Because of a series of modern challenges linked to globalisation, the nation state feels that its power over national culture is being eroded. "*Porous boundaries and multiple identities undermine ideas of cultural belonging as a necessary accompaniment to political membership. There are increasing numbers of citizens who do not belong.*" The book argues that basing the institution of citizenship on singular and individual membership in a nation state is no longer adequate, since the nation state itself is being severely eroded. It calls for new approaches to citizenship which take duly into consideration new forms of identities and plural feelings of belonging. This is necessary in order to ensure democracy. Belonging cannot be only based on "being part of the national community". Then, the book identifies as a fundamental challenge towards that goal being able to find the necessary conditions for "*cross-cultural communication and the development of a new sense of community*". "*One aim must be to dissolve the nation part of the nation-state and to replace it with a democratic state based on open and flexible belonging*". There is a need to develop new approaches to citizenship that may achieve both individual equality and the recognition of collective difference. These new approaches underline the need to rethink the rights attached to this status.

Chapter 5 looks at what it means to be a citizen, using T.H. Marshall's theory about civil, political and social rights. The situation of various groups varies considerably and is strongly linked to processes of racialisation. "Globalisation leads to increasing inequality and to new forms of social exclusion that affect to a great extent mainly minorities." This chapter argues that it is necessary to add two additional categories of rights in order to achieve full citizenship for members of minorities. It addresses the way in which 'marginalised groups' (immigrant and ethnic minorities) hold rights in formal terms as well as in practice.

Castles and Davidson start by emphasising how until recently the concept of citizenship was mainly linked in international law with political membership in the nation state (Habermas). The main lines of debate changed after 1945 with the theory carried out by T.H. Marshall who raised the contradiction between 'formal political equality' and the 'persistence of inequality in the economic and sociological societal dimensions' (social class). Marshall differentiated between three types of citizenship rights: civil rights, political rights and social rights. As regards the social element of citizenship Marshall meant "*the whole range from the right to a modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life of a civilised being according to the standards prevailing in the society. The institutions most closely connected with it are the educational system and the social services*" (p. 8 of "Citizenship and Social Class"). He continues by saying that "*the education of children has a direct bearing on citizenship, and, when the state guarantees that all children shall be educated, it has the requirements and the nature of citizenship definitely in mind. It is trying to stimulate the growth of citizens in the making. The right to education...should be regarded as...the right of the adult citizen to have been educated*" (p. 16).

While Marshall's model has been subject to critical academic assessments, it has been very influential in social theory and is still used in European debates. As Castles and Davidson argue, one of the key ideas of Marshall's theory has been the interdependence of the different classes of rights that he differentiated (i.e. that it is impossible to have full civil and political rights without a certain standard of social rights). Chapter 5 then goes on to analyse these three sorts of rights. As regards 'social rights', it is said that they may include for instance, equality of opportunity (in education, labour market and so on), and entitlement to a certain standard of education, etc. In their view "*the core notion of social rights is that of decoupling achievement form entitlement: everyone should be entitled to the minimum standard seen as appropriate for a given society, whether or not they are able to make an economic contribution*".

They continue by pointing out how since the 1970s, the processes of globalisation and economic restructuring have had significant effects on the social dimension of citizenship. "*There is clearly a close relationship between segmentation and social exclusion. The factors that lead to an unequal distribution of minorities in occupational, residential, educational and social strata make them particularly vulnerable to processes leading to exclusion from mainstream economic and social relationships*".

The two authors conclude the following as regards social citizenship of minorities: 1. While it may be true that a large majority of immigrants and their descendants do not live in ghettos, nor do they find employment completely separated, their position is nevertheless often precarious. A partial incorporation in the mainstream societal dimensions leads to social exclusion and social segmentation. These people have an insecure position, and their social citizenship is not guaranteed. 2. Specific minority groups are particularly subject to marginalisation and racial stigmatisation who also suffer from social exclusion and do not enjoy social citizenship.

Finally, they raise an interesting point as regards how social policies for minorities may in fact sharpen even more the tension between inclusion and marginalisation by separating even further those vulnerable groups. It is therefore fundamental to take duly into account the political and ideological context in which social policies will be developed. On the other hand, they do acknowledge that the very existence of social policies is crucial in the context of de facto pluralist models of society where collective identities and cultures are respected. "*Since such groups often suffer particular forms of disadvantage and have distinct needs, special forms of protection and services are crucial.*"

R. Cholewinski (2005), "Migrants as Minorities: Integration and Inclusion in the Enlarged European Union", *Journal of Common Market Studies*, **Vol. 43, No. 4, November, pp. 695-716**

This article argues that while immigration law and policy at EU level has rapidly developed since the transfer to Community competence, the principles of minority protection are still absent and have received little attention in EU law. The increasing EU attention to the 'integration of immigrants' might provide a venue where migration policy and minority protection may engage together and intersect more directly. In fact, Cholewinski emphases how even though the member states retain the main competence over issues related to 'integration of immigrants', the latter has become a fundamental ingredient in the construction of a common immigration policy. The article assesses the main points of convergence and divergence between both dimensions and calls for a higher level of policy convergence in that direction. In his view this convergence is important to introduce coherency into EU norms concerning the integration of third-country nationals.

Cullen, H. (1996), "From Migrants to Citizens? European Community Policy on Intercultural Education", *International and Comparative Law Quarterly***, January, Vol. 45, pp. 109-129**

This article examines how EC policy on intercultural education developed and what impact this policy has had on national education systems. It focuses mainly on two legislative acts: Regulation 1612/68/EEC and Directive 77/486/EEC (see above). Particular attention is also given to the respective case law of the European Court of Justice. Cullen observes that education policy for migrants' children has been developed in three stages. While in the first stage guarantees of access to education have been secured, the second dealt with promoting teaching in the migrant's mother tongue. The task in the third stage is "*to provide an education which promotes both equality of opportunity and pluralism, and does not force migrants' children to choose between identifying with their families or with the host society.*" Cullen proposes that formal access to education is no longer a problem in EU member states. In her view, however, member states have shown only little commitment to go beyond this first stage. She considers that the implementation of the second stage as set out in Directive 77/486/EEC is, at least, uneven and that political obstacles have prevented the Commission from enforcing Directive 77/486/EEC to its full extent. Instead of enforcement, the dissemination of best practices seems to her to be most realistic approach for the future.

Geddes, A. (2003), *The Politics of Migration and Immigration in Europe***, Sage Politics Texts: London**

The chapters composing this book take as their central themes immigration policies, immigrant policies and the development of EU cooperation and integration. The analysis of the immigration policies is developed at a two levels: a horizontal dimension comparing the responses advocated by a selection of European countries and a vertical dimension which assesses the impact of European integration in the area of immigration. As regards this last aspect, Geddes studies the institutionalisation of Europe (the development of common institutions and policies) and the Europeanisation of institutions (the impact on member states of EU integration). He then connects both dimensions to raise the question as to the extent to which one can talk about 'politics of migration and immigration in Europe' with linkages at both the horizontal and vertical level. Chapter 6, on Politics of Migration in an Integrating Europe, presents key points about the thinking behind policy development, the new institutional responsibilities that have been created and what this means for European countries. It also outlines competing explanations for the development of European cooperation.

Groenendijk, K. (2006), "Citizens and Third Country Nationals: Differential Treatment or Discrimination?", in J.Y. Carlier and E. Guild (eds), *The Future of Free Movement of Persons in the EU***, Collection du Centre des Droits de L'Homme de la'Université Catholique de Louvain, Bruylant: Brussels, pp. 79-101.**

This article looks at the legislative activities by the EU institutions during the last five years which have produced a series of directives that, in the view of the author, will offer food for thought for practitioners, academics, national judges and the European Court of Justice in the years to come. In particular, Groenendijk emphases that "*the application of the new EC migration law at the national level...will diminish the 'exceptional' nature of immigration law...and will make national authorities and others aware that many special administrative techniques and barriers applied only in immigration law, such as extremely high fees, exclusion of judicial control, or excessively one-sided interpretations of general rules of administrative law...are no longer possible*".

Groenendijk, K. (2004), "Legal Concepts of Integration in the EU Migration Law", *European Journal of Migration and Law,* 6, pp. 111-126

This article intends to demonstrate that there are three different perspectives on the relationship between law and integration which compete in the political debate at member state and EU level. They are the following: 1) a secure legal status will enhance the immigrant's integration in society; 2) naturalisation or permanent resident status should be the remuneration for a completed integration; and 3) the lack of integration is a ground for refusal of admission in the country. In Groenendijk's view, it is clear that the first one dominates in the new EC migration law. The second perspective appears to be fully absent from Community law. He identifies the third perspective as a recent one which has been promoted by three member states in particular, Austria, Germany and the Netherlands, and which meets with considerable legal, political and administrative constraints. Finally, in his view, the member states will need to make a choice between the first and the third perspective as both are fundamentally opposed.

Gross, T. (2005), "Integration of Immigrants: The Perspective of European Community Law", *European Journal of Migration and Law*, 7, pp. 145-161

This article follows a 'positivist approach' by offering an analysis of the relevant provisions in the various directives as far as they are concerned with the rights and duties of immigrants in relation to the host society. Looking at the historical development of a common immigration policy, we can see how the approach followed by European Community law appears to be a sectoral one taking into account the fact that the few directives that have been adopted so far specifically address the norms covering specific categories of third-country nationals according to the purpose of their stay. While the package of Council Directives offer provisions dealing with the social, economic and legal 'integration of immigrants', they are in fact rather rare. In Gross' view, they "*are not based on a comprehensive strategy for integration but mainly uphold the existing differences in the treatment of the several groups of third-country nationals. Mechanisms of inclusion and exclusion are mixed in a variable geometry*".

Joppke C. and E. Morawska (2003), "Integrating Immigrants in Liberal Nation-States: Policies and Practices", in C. Joppke and E. Morawska (eds), *Toward Assimilation and Citizenship: Immigrants in the Liberal Nation-States*, pp. 1-36, Palgrave Macmillan, UK

This book assesses the new trend in immigration studies which the authors characterise as a turn away from multicultural and postnational perspectives toward a renewed emphasis on assimilation and citizenship. It argues that the scope of official multiculturalism policies and programmes "*has either been exaggerated in public and academic perception, or, where such policies have actually been in place there has recently been a covert or overt move away from them*". In their view there has been a widespread de facto multiculturalism in liberal states that has been based on their commitment to the principles of public neutrality, non-discrimination and protection of individual rights. That notwithstanding, both authors identify that these sort of policies have recently come under pressure and there has now been a move away from them. They also offer a critical understanding of the notion of 'integration of immigrants' according to which "the notion of integration is an imposition by the political system which differentiates the world according to spatial segments (states), not non-spatial functions, and includes individuals as whole persons in a mutually exclusive way". Joppke and Morwaska argue that "*whoever uses the word integration wishes to say what is allegedly not meant by it, assimilation*". Further, the notion and use of the so-called 'models of immigrant integration' has in their opinion obscured the similarities of integration approaches and assimilation concerns across liberal states.

M. Luciak (2004), European Monitoring Centre on Racism and Xenophobia, *Migrants, Minorities and Education: Documenting Discrimination and Integration in 15 Member*

States of the European Union, **Office for Official Publications of the European Communities: Luxemburg**

The main objective of this study was to analyse the situation of migrants and ethnic minorities in the education sector in order to provide information on the way in which equality and diversity could be enhanced and in order to reduce racism, discrimination and other forms of exclusion. It looks at 'forms of discrimination' experienced by these two categories of people and the country's effort to improve their educational status. The results of the study can be summarised in three core dimensions: 1) Even though many states have made a considerable effort to improve the educational attainment of migrants and minorities, the educational achievements of the latter still fall behind of the majority of the population. The reasons that are identified include, for instance, inadequate pedagogical approaches, ethnic discrimination in educational institutions, inequalities in society. 2) All educational systems have included new programmes and policies to face the needs of a more diverse body of pupils, such as for instance the introduction of a second language and native language programmes, intercultural education and multicultural curricula. 3) While the impact of EC anti-discrimination law in the national arena strengthening the principle of equality of treatment, effective monitoring mechanisms on discrimination in education are still lacking. The report highlights the existence of for example exclusion and segregation of schools, residential segregation, discrepancies between public and private school admittance, etc. In some cases, there has been situations where many migrants and minorities have been exposed to harassment, discrimination and prejudice.

The report starts by pointing out that 'institutional education' has two main effects: 1) It offers the possibility for the individual to get ahead in society; but 2) it can also reproduce inequalities if discriminatory practices, such as exclusion and segregation, lead to lower educational attainment by disadvantaged minority groups. The study uses a series of indicators that may prove the existence of 'discrimination', such as an over-representation of migrants and minorities in schools with lower academic demands or in special education programmes, high (early) dropout rates, absence of positive result in education performance, etc. It is considered that equal treatment and non-discrimination policies are the keys for fostering 'integration' or 'inclusion'. This would be the case for example with the practice of language 'support programmes' and intercultural curricula, ethnic diversity in the teaching staff, etc.

Among the set of conclusions provided by the study, we highlight the one that emphases that in spite of the existence of 'support programmes' and a variety of integration and anti-discrimination measures on the national and EU level, inequalities continue to take place to a great extent. Further, Luciak argues that "*further research will be necessary to understand which factors determine the differences in educational achievement between different ethnic groups. Aside from primary language and cultural differences as well as differences caused by the varying socio-economic conditions for different groups, discriminatory practices and unequal power relationships between the majority populations and minority groups negatively influence the education attainment of minorities.*" He concludes by saying that "*minority members not only have to believe that their efforts to attain higher levels of education will actually pay off, but they also must experience that the pledge for equal treatment becomes a reality in all areas of society*" (p. 126).

Toggenburg, G.N. (2005), "Who is Managing Ethnic and Cultural Diversity in the European Condominium? The Moments of Entry, Integration and Preservation", Vol. 43, No. 4, November, pp. 717-38

This article provides a study of the legal background against which ethnic and cultural diversity is "managed inside the EU". It explores how the responsibilities for "the management of diversity" are spread across the European regulatory system. Toggenburg distinguishes among

three sort of layers of interaction between the member states and the European Union as regards policies related to minority and migration: the moment of entry, the moment of integration and the moment of preservation. In her view, whereas the moment of preservation continues being entirely dominated by member states' sovereignty, the moment of integration is increasingly experiencing a closer transnational cooperation between the member states and the EU. Further, the article identifies the moment of entry as the one where more competence has been transferred to the EU level. However, she concludes, "*there is no overall European consensus on the meaning of 'diversity', and consequently there cannot be a clear-cut European multicultural model.*"

Tholen, B. (2005), "The Europeanization of Migration Policy – The Normative Issues", *European Journal of Migration and Law*, **6, pp. 323-351**

This article discusses the normative issues liked with the Europeanisation of migration policy. The development of European institutions and the legitimacy of European governance are broadly discussed. Using the literature of political science and jurisprudence, it points out some common trends as regards the development of institutions and rules and regulations. It also focuses on the questions that are prominent in existing state-oriented normative studies on migration policy. Tholen's findings may be summarised as follows: 1) the EU has become one and at the same time plural in certain aspects; 2) the EU is a new actor with the new powers in this field; and 3) there is a growing entanglement of migration restriction and security instruments.

Schibel, Y. (2005), "Transposing EU Law on Legal Migration", *European Journal of Migration and Law*, **6, pp. 395-404**

This paper first addresses the transposition at the national level of the few directives dealing with the field of 'legal migration' in general terms and looks at the provisions granting the member states a major degree of flexibility. The two directives addressed are the directive on the right to family reunification and the one on the status of third-country nationals who are long-term residents.

Urth, H. (2005), "Building a Momentum for the Integration of Third-Country Nationals in the European Union", *European Journal of Migration and Law*, **7, pp. 163-180**

This article provides an overview of the main policy initiatives that have been taken by the European Commission since the European Council Conclusions at Tampere in 1999. It describes the political developments related to the integration of third-country nationals, and offers an insight to more practical initiatives such as cooperation between the member states in the field of integration of third-country nationals. It finally studies the policy approach advocated by the European Commission DG for Justice, Freedom and Security in this area and the challenges that lie ahead in completing the mandate given by the Hague Programme in 2004. Urth argues for the need to further develop a common European framework for the integration of immigrants within which the member states could develop their own policies. She concludes by saying that "*what the Commission needs to do is to finally put together all the bits and pieces (that already exist) within one framework, to identify each component's individual role and to suggest a clear vision for what should be the overall objective with respect to integration of third country nationals in the EU*".

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