



## Seminar on Freedom of Movement

11-12 Dec. 2014 – Brussels

«From securitarian approach to security of existence»

Working document to be discussed on Friday the 12th in the afternoon

### **People migrate in search of security of existence and are faced with an inappropriate response by the migration and protection policy**

*Migrating is a fully human and normal action to which persons have had recourse to answer to a universal need: guarantee one's living security of existence*

Everyone needs security of existence. This includes the protection against physical violence and threat but also the access to a dignified life and hence to material, psychological, social and cultural well-being. This access, which has been recognised as a fundamental right and assorted with a juridical and institutional arsenal, is too often violated.

In all history, mobility has been one of the ways by which people have tried to find security of existence. Going back to remote eras, let's think of nomads following the migrations of herds or of populations fleeing natural disasters, environmental degradation or violence. Nearer to our own time, let's recall these numerous Europeans fleeing the Old continent, namely to North and South Americas to try and build a new life. Today, the crisis affecting in the first place countries such as Portugal, Spain, Greece and Ireland triggers emigration: Portuguese going to Angola or Brazil, Greeks going to Australia, Spaniards going to Morocco or Argentina, Irish going to the USA. What seems clear is that emigration is a consubstantiate part of human history and also concerns Europeans. Migration is a fully legitimate choice that everyone facing a lack of security of existence could make.

Let us note that is not only a way to ensure one's security of existence and should therefore not be considered legitimate only for people fleeing distress or migrating in the framework of a work contract.

*Current migration policies do not give an answer to the need for security of existence of the ones and the others*

Current protection and migration policies contain profound contradictions, among which those between:

- restrictive criteria for protection and numerous causes and shapes of the lack of security of existence,

- asylum right and border control which often hinders the former,
- EU and Member states policies as factors of insecurity and precariousness in Third countries and the incapacity to recognise the responsibility and cope with the consequences, including in migratory terms (contradiction which includes the idea according to which helping – forcing? – Third countries to control migratory flows would count as development aid),
- a perception of migrations as being orientated towards industrial countries and a more complex reality where only a minority come to Europe,
- an academic literature concluding that migration have a marginal economic impact and a dominant vision assimilating migrants with a burden and with world's misery,
- a vision of the migrant as a threat and a vision of the migrant as an element of the management of the labour market and the economy.

Current protection and migration policies globally have a negative impact on the security of migrants: asylum right is widely emptied of its substance; border control provokes scores of violations of the most basic human right and causes the death of thousands of persons; the repression of irregularly staying migrant workers bars these persons from exerting rights to which they are entitled by law; due to the precariousness of their residence status many cannot defend themselves against violence; family life becomes for many a real struggle. The list of violations of rights does not stop there.

*The migratory restriction is presented as being necessary to the preservation of the security of existence of formerly installed populations*

The restrictive feature of migration policies is sometimes presented as being necessary to the preservation of the national (or European) identity and culture. But, precisely because of their restrictiveness, these policies neither allow to serenely raise the questions linked to the multicultural and intercultural aspect of our European societies nor to handle difficulties, fears, aspirations and opportunities caused by this. Nevertheless, these questions deserve to be deeply debated. The issue is not about choosing between interculturality and an illusory monoculturality but about organising the former which already is a fact.

Migratory restrictiveness is also presented as necessary to the preservation of the security of existence of the formerly installed populations, migrants being considered as a risk, for example, for the social security or for the labour market or as a burden for the public services.

*But the menace to the security of existence of everyone, and particularly to that of the formerly installed population, does not come from the migrants but from choices made in matters of economic and social policies*

Threats to social security, to labour market and public services – which are real – are not due to migrants. They are the consequence of political choices marked by the neoliberal ideology and the disproportionate influence of major industrial and financial groups. Ironically, those who most fervently defend harshness towards migrants are often also those who promote policies leading to dismantling social security and public service and to deregulating the labour market.

**Neoliberal policies have a negative impact on security of existence and on the rights of everyone and must therefore be changed**

*These political choices provoke crises, insecurity, poverty and injustice*

In financial matters, this policy leads to the absence of regulation of banks and financial markets (absence of regulation which has strongly contributed to current crisis, banks having taken inconsiderate risks and being now refunded through massive public transfers without being better regulated than before).

This policy is at the origin of multiple crises in the North and in the South, triggering migration in search of solutions and leading to a rise of discrimination towards migrants who, in times of crisis, are the first ones to be made redundant.

This policy also manifests itself through a fiscal policy contributing to weak public finance and favouring social inequalities (as the richest individuals and the biggest enterprises pay proportionately less taxes than the others).

This favours massive fiscal evasion hitting numerous states and in particular Southern ones. This contributes to the incapacity of these states to develop qualitative public services and hence to provide the effective access to the most basic rights such as health and education. This incapacity causes forced migrations. But, while the scale of fiscal fraud and evasion is thirty times higher than that of social fraud, the public authority focuses mainly on the latter, of which migrants are regularly accused.

This neoliberal policy also features an orthodox budgetary policy advocating the reduction of public expenses (austerity) in order to reduce the deficits and to pay back the public debt, whereas this austerity mostly hits the “soft” expenses (education, social policy, culture, ...) and less the “hard” expenses (security, military, police, ...). This negatively impacts the most vulnerable populations, among which the migrants and impedes social cohesion and economic and social equality.

Liberalisation policies pay a disproportionate attention to the defense of the interests of the big investors. This happens for example through the neighbourhood policy and through free trade agreements and investment protection agreements. Here, three concerns are at stake: controlling the borders, opening foreign markets and protecting the foreign investments of European enterprises. This includes the imposition of clauses allowing enterprises to sue States when they consider that the latter apply policies – for example in social or environmental matters – which could affect their expected return on investment. This policy therefore favours violation of rights, land grab, looting of natural resources and other factors of insecurity which, on their turn, may cause forced migrations.

This policy, based on the search for the domination and wealth of a privileged class is by essence contrary to the realisation of a sustainable economy (that is, socially just and respectful of the environment). It is the main cause of dangerous ecological evolutions – among which the global warming – causing floods, droughts, storms and others disasters, pushing many peoples to flee, in particular in developing countries.

*Guaranteeing the security of existence for everyone therefore implies to profoundly review these policy choices*

Guaranteeing the security of existence for everyone including that of the formerly installed populations, and thus protecting the social security, labour right and the regulation of labour market and public service implies reviewing the above described policy as well as the domination of the elites accompanying this policy.

Effectively answering the need for security of existence implies not to oppose that of the migrants to that of the other persons but, on the contrary, to consider the one and the other as going together. Such an approach is a necessary condition for social justice.

For this, we need another economic, social and environmental policy, based on an inversion of the hierarchy of values. Currently, people serve the economy. They are only considered through their economic utility as consumers, producers or investors. The economy, on its turn, serves the finance, whereas enterprises are more or less complacently reduced admit the domination of voracious investments funds, demanding high rates of return. The reverse must be happen: the finance must serve the economy, channeling financial resources towards economic activity and helping manage financial risks that are inherent to the economy and the economy must serve the society, serving social well-being while respecting the planetary limits. Free market, competitiveness and free competition must lose their current status and be reduced to the rank of tools, of institutions one uses, on the basis of a democratic choice, only if and in the measure that they contribute to reaching the objectives of sustainability (social justice, democracy and respect for the environment. This at the very least implies to drastically restrain the field of action of market and to regulate it.

Such a policy includes:

- regulating the finance so that banks only take moderate risks and focus on collecting savings and financing real economic activity,
- reforming fiscal policy and effectively fight against fiscal fraud and evasion by eradicating tax heavens so as to:
  - o fairly share the tax burden,
  - o generate resources necessary for the needed policies and the guarantee of social and cultural rights of everyone and
  - o in combination with budgetary policy, to reduce social inequalities,
- reform trade policies so that they serve the human rights, which implies conditioning each trade agreement to the fulfillment of social and environmental rules, not linking such agreements to readmission agreements and putting an end to agreements that reduce the capacity of states to adopt policies and rules serving the rights and well-being of their populations,
- start the ecological and social transition, hence urgently take measures necessary to diminish our impact on the planet, which is first felt in the Southern countries, but also accompany this transition with measures allowing to fight against inequalities in the North, in the South and between South and North.

For this, a stricter regulation of the relationship between policymakers and economic elites – and in particular the big industrial and financial groups and their representatives – is indispensable.

Such a reform is necessary in order to replace inequality and domination by equality, arbitrariness by rights and exclusion by participation. It concerns us all but concerns, in particular the migrants, which are particularly hit by the lack of equality, rights and participation.

### **Another protection and migration policy is necessary**

*Guaranteeing the security of existence of everyone implies profoundly reviewing policies regarding migrants*

The attachment to the security of existence of everyone also implies a profound review of the – currently too repressive and restrictive – policy regarding migrants. First, because, as we have seen it, the menace on the security of existence is not caused by migrants but by an oligarchic policy and vision which is being imposed upon us, whereas by focusing our resources against an imaginary threat, we lose the capacity to confront real dangers. Second, because such a repressive and restrictive attitude is, on itself, factor of insecurity for the migrants and for the others. Putting whole social groups in the hands of traffickers, intermediaries, employers and others, that are abusive and dishonest, taking away any possibility to participate to the Belgian and European society and to contribute as free persons and not as slaves cannot but harm the security of existence of everyone;

In matters of migration and mobility, defending the security of existence of everyone and social justice implies:

- stopping the securitarian approach and reallocate resources from migration control to the fight against that what really harms the collective well-being,
- evaluating existing inequalities of rights between migrants and nationals and abrogate those which do not really appear to be useful to the defense of the security of existence of the formerly installed populations, such evaluation implying a democratic and public debate including the consultation of civil society and the contradictory recourse to scientific expertise (Such an evaluation concerns the social and economic rights but also the rights related to residence, movement and establishment. Whether the distinction between regular and irregular migration is founded, fair and useful must be submitted to an attentive examination. Ways to conciliate equality and mobility must be explored and debated)
- adapting our institutions to international mobility and in particular:
  - o adapting the rules regarding the access to public services (including social security), the funding of these services and the coordination between them so as to guarantee the right to mobility and the equality of access to these services while preventing social dumping,
  - o evaluating – and if needed reforming – the conventions preventing double taxation so as to transform them in tools facilitating international mobility (avoiding persons living between two countries or more being taxed several times) but not in tools for fiscal fraud or evasion (avoiding such persons being taxed nowhere, except because they are too poor to pay taxes),
  - o putting in place international mechanisms for financing social protection base so as to reduce international inequalities,
  - o easing migrants remittances by reducing transaction costs,
- guaranteeing the respect for universal rights of migrants, which includes:

- regardless of possible and clearly limited exceptions, instituting equality of treatment by civil servants (non criminalisation of irregular migration, suppression of obstacles to the access to fundamental rights),
- questioning, for each part of social security, whether exclusion of migrants, including undocumented ones, is founded and necessary and instituting equality of treatment where possible,
- guaranteeing for everyone (including for undocumented migrants):
  - the right to work legally (free access to the labour market) and to have access to public services (including to the social security) and
  - the duty to pay taxes and social contribution,
- where migration control and application of labour law and social legislation are conflicting, giving absolute priority to the latter,
- reducing as far as possible budgets allocated to migration control so as to reallocate them to the application of labour law and social legislation and to the social and economic integration of migrants,
- putting in place mechanisms and structures useful for the identification and handling of difficulties and opportunities linked to a society characterised by mobility and interculturality.

### **As a conclusion: is freedom of movement and establishment an alternative?**

Any migration policy that would not go beyond the distinction between regular and irregular migration would be based on arbitrariness, exclusion and inequality and would endanger fundamental rights, asylum right, would make migrants more precarious and would deteriorate social links. This distinction should therefore be abandoned and equality should be put at the core of migration policy, whereas the latter should be based on the former and be conceived so as to reinforce it.

Freedom of movement and establishment linked to effective equality of rights and treatment, including regarding social, economic and cultural right would be an alternative to the current migration policies.

Freedom of movement could be the way to guarantee asylum right, non-refoulement and human rights and to prevent death and casualties at the borders, human smuggling and trafficking and the development of deadly and liberticides devices. Freedom of movement, accompanied by appropriate measures, could help better manage migration and integration of migrants, as it would not be based on the illusion of control and on exclusion.

But freedom of movement on itself, without freedom of establishment, would not really cancel the distinction between regular and irregular migration. It would bring some important improvements, for example regarding safety and rights of migrants, but would keep inequality at the core of migration policy and would not fully protect migrants against irregularity.

Therefore, freedom of movement cannot be conceived without its link with freedom of establishment.

This text leaves a lot of questions unanswered or unmentioned. It aims at proposing some way of thinking and is only a step in a broader intellectual and political process. Freedom of movement is viewed as a tool for social change towards a juster and fairer world.

**Questions to the Friday working groups**

- Strengths and weaknesses of this analysis?
- Freedom of movement and establishment linked to equality of rights as an alternative to current migration management model? (If not, why? If well, why and how? Which advocacy and sensitising actions or approaches?)