

***“Good Practices in implementing legal national and international frameworks for ensuring rights and measures that empower migrants in order to minimize the human and social costs and improve access to safe, legal and protected migration opportunities”***

***Mr. Evangelos Syrigos, Secretary General of Population and Social Cohesion, Greece***

***Geneva, 20 November 2013***

Human rights are inherent entitlements which belong to every person as a consequence of being human. International human rights law consists of the Universal Declaration of Human Rights and the seven UN human right treaties = International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights and Five other core Human Rights Instruments Protecting Specific Groups (Conventions : Elimination of All Forms of Racial Discrimination, Elimination of All Forms of Discrimination against Women, against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, on the Rights of the Child and on the Protection of the Rights of All Migrant Workers and Members of their Families). The latter has not been ratified by EU Member States, the United States, Canada and Australia, all major receiving countries.

Non discrimination, together with equality before the law and equal protection of the law without discrimination constitute a basic and general principle relating to the protection of human rights. The principle of non discrimination means that any difference in the treatment of migrants must not breach migrants internationally recognized human rights. The principle of non discrimination (considered as part *ius cogens*) does not preclude the making of distinctions between groups, including on the grounds of nationality, under condition that such distinctions are based in the law and do not impinge disproportionately on the rights concerned. Otherwise they amount to discrimination. For example, some rights granted in the covenant as Civil and Political Rights, such as voting rights and rights to be elected are applicable exclusively to nationals. Nonetheless almost all of the treaties on human rights have a clear reference to the principle of non discrimination, including International Covenant on Economic Social and Cultural Rights (ICERSCR) which is the most relevant for the discussions which we will held today, given the theme of the 3.1 Round Table of the GFMD.

The ICERSCR contains some of the most significant international legal provisions on the subject, including rights to work in just and favourable conditions, to social protection, to an adequate standard of living, to the highest attainable standards of physical and mental health, to education and to cultural freedom and scientific progress, Article 2 of ICERSCR states that all its articles are applicable to all “without discrimination of any kind as to race, colour, sex language, religion, political or other opinion, national or social origin, birth or other status”.

Before further present other international legal instruments on the specific issue of social, economic and cultural Rights I would like to make reference to the existing European Instruments on Human Rights such as the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe, the European Commission against Racism and Intolerance (ECRI), the European Commissioner for Human Rights and Council of Europe Convention on Action against Trafficking in Human Beings.

As far as the European Union is concerned, reference should be made to the European Convention on Human Rights to the Charter of Fundamental Rights of the EU, a collection of all already existing human rights, included in one document (civil, political, social and economic ones) integrated into the Lisbon Treaty. Other EU legal instruments are Councils Directive 2000/43/EC , implementing the Principle of Equal Treatment between Persons irrespective of Racial or Ethnic Origin, the Councils Directive 2004/81/EC on the residence permit issued to third country nationals who are victims of trafficking in human beings or who have been the subject on an action to facilitate illegal migration ,who cooperate with the competent authorities, Council Directive 2003/109/EC concerning the status of third – country nationals who are long-term residents and the Council Directive 2003/86/EC on the rights of Family Reunification. Councils Directives are binding after been transposed into national law of Member States. Article 6 of the Treaty on European Union guarantees of fundamental rights in the European legal system and in the European Court of justice competence to enforce compliance with them in the actions of the European Institutions and the Member States in areas subject to Community law EU Agency for Fundamental Rights (FRA) covers nine thematic areas among them racism and xenophobia, discrimination, asylum, immigration and integration. I will close this short overview of international and European legal instruments for the protection of rights by mentioning the European Social Charter of the Council of Europe and its protocol which guarantees social and economic human rights such as the right to housing,

health care, education, legal and social protection. In the appendix of the European Social Charter it is clarified that “persons covered by Articles 1 to 17 include foreigners only insofar as they are nationals of other contracting parties lawfully residing or working regularly within the territory of the contracting party concerned”. Last but not least, the International Labor Organization (ILO) which is a UN specialized agency formulates international labour standards in the form of conventions such as “Convention on Discrimination (Employment and Occupation) and the Convention on Migrant Workers.

At that point I should clarify that I restricted this overview on international legal framework for the Protection of Human Rights only to legally binding texts and not to Recommendations, Resolutions or Opinions of different International Organizations, Committees etc. It goes without saying that States are obliged to report to the Treaties or Charters monitoring bodies on their implementation into national Law and practice. Furthermore monitoring bodies publish general comments/recommendations on each Treaty or Charter and can also consider individual complains on the violation of their rights by a state Party.

Greece has ratified all European and International Conventions for the protection of Human Rights, with the exception of the international Convention on the Protection of the Rights of All Migrant Workers and Members of their families.

As far as the UN Universal Declaration of Human Rights is concerned, which constitutes an extension of the provisions of the UN Charter of Human Rights , the Greek Constitution in Article 28 par. 1 recognize that General principles of International Law , the General customary international Law and General Principles of Law recognized by civilized states constitute an integral part of the Greek national law and prevails over any other law contradicting to them; although the international legal text comprising them has not been ratified by Greece.

In relation to the Greek legislation and practice concerning migration and the protection of migrants rights I would like to inform you that the Ministry of Interior, which is responsible for legal migration and integration has elaborated a new Code on these issues as well as a National Integration Strategy, providing the main axes and guidelines for action in the field.

Allow me, before coming to a more detailed presentation of Immigration Code and Integration policies to draw a general picture of the situation of migrants in Greece and to refer to the main challenges that my country has to deal with.

Greece has become a transit and destination country the last two decades for thousands of undocumented migrants which enter illegally in the Greek territory mainly through our maritime borders. The main bulk of regular migrants (over 65%) originate from our neighbor country, Albania. A great number of the other national groups originate from the ex- Soviet Union Republics such as Ukraine, Georgia and Russia. Inflows originating from the Sub Continent (Pakistan, Bangladesh and India), the Maghreb countries and the Sub-Saharan region as well as from countries facing civil war like Afghanistan, Iraq and Syria are still underrepresented in the countries migratory population but they tend to increase rapidly the last few years. The 30 years of prosperity and economic growth that Greece experienced before the recent economic crisis constituted a powerful pull factor for migration flows. Migrant's employment rates since lately were higher in comparison to native ones even through often in jobs which did not correspond to their qualifications (overqualified). At this point I should stress the fact that Greece has never formally and actively recruited migrants from any country and that inflows were regulated by the free labor market and existing job vacancies in specific sectors such as construction, agriculture, catering, care giving etc. Economic recession had an immediate impact on migrants' employment and affected their life projects concerning permanent establishment in the country. The last three years we are witnessing a rather massive exode (voluntary returns) from the country of the most skilled migrants, together with the emigration of Greek highly skilled young natives, looking for better opportunities in western European Countries, the States, Canada and Australia.

At the same time there is an influx of undocumented migrants and asylum seekers coming from Africa, Asia, and the Middle East destinating to other european or american countries, trapped in Greece in the middle of their migratory trajectories.

The presence of those illegally residing in the country migrants,(the majority of them highly concentrated in the urban areas of the capital and Salonika) in conjunction with the economic crisis have contributed to the raise of xenophobia within the Greek population, backed by the position of write winged extremist party, the Golden Dawn, provoking the events you all are aware of.

The Greek government with the financial support of the EU is trying to tackle the two major challenges stemming from this situation = to orderly manage migration, to safeguard legal migrants rights and the fundamental rights of undocumented migrants, to return illegal migrants in their source countries and to implement effective integration policies for long term residencies. The challenge that Greece is

faced two fold = the prevention of irregular inflows and the return of undocumented migrants unlawfully residing in the country while respecting their fundamental Human Rights as well as the integration of regular migrants while safeguarding their social , economic and cultural rights.

According to Art. 22 of the new Immigration Code, third country nationals legally residing in the country are entitled to free movement and establishment all over the country. They enjoy the same rights as nationals concerning social security and social protection (Legal Decree 57/1973). Right to social security (Universal Declaration of Human Rights Art 22 , international Convention on the Elimination of All Forms of Racial Discrimination Art 5, International Covenant on Economic Social and Cultural Rights Art 9). Migrant minors are subject to obligatory school attendance as nationals and they enjoy, free access to all activities within the educational communities at all levels of education. Migrant children which have graduated from secondary education in Greece they have access to Universities and Technical Ecoles under the same conditions and prerequisites as nationals. Right to Education (Universal Declaration of Human Rights Art 26 (1), International Convention in the Elimination of All Forms of Racial Discrimination Art 13 (1,2), 14, Convention of the rights of the Child art.28 (1), 29 (1), UNESCO Convention Art.3)

According to Art 76 of the new Code family members of third country nationals have equal rights as migrants concerning access to education, to paid work or service provision as well as to vocational training and professional orientation. (International Covenant on Economic, Social and Cultural Rights Art 10 (1,2) International Covenant on Civic and Political Rights Art 23 (1), Convention of the Rights of Child Art 9 §(1), 10 (1), 20 (1).

Art 98 of the Code provides for long term residents equal rights as to nationals concerning access to paid work or to independent professional activity, with the exception of access to public administration, access to education and vocational training, including scholarships. Long term residents enjoy the right of recognition of their professional and educational diplomas, certificates or other titles. They enjoy as well fair Labor Conditions and Right to join trade Unions and other Associations. (Economic Social and Cultural Rights Art 6,7, 143 Convention Concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers Art 9 §1,2,, Universal Declaration of Human Rights Art 20.23.

They are entitled to social security benefits and to social assistance and protection as well as to taxation facilities. They have access to public goods and services and to housing. They enjoy freedom of association and participation in employees or workers or occupational organizations and they are entitled to benefits emanating from their membership under conditions related to issues of public order and security. Long term residents are entitled to free movement and establishment all over the country.

Last but not least migrants can have access to citizenship in case they have acquired the long residency status, under condition that they are family members of Greek or EU citizens or parents of Greek minors. Recognized refugees or persons enjoying subsidiary protection or protection on human grounds, persons recognized as deprived of any citizenship as well as migrants which they enjoy a permanent resident status have as well access to citizenship. As far as second generation migrants are concerned they have access to Greek citizenship under condition that one of their parents is born and resides permanently in the country, in case that they can not have access to foreign citizenship by birth or by their parents declaration and in case that they are born by a Greek mother before 8/5/1984 or have a Greek father and they are born before Law 1250/1982 has been put in force.

Migrants' integration is closely linked with the protection of economic, social and cultural rights. Social integration is mainly an individual effort that migrants make with a view to insert in the host society.

Receiving countries on the other hand are planning and implementing policies aiming at the facilitation of the integration perceived as two – way process of mutual adaptation of migrants and the host societies. Adaptation does not mean assimilation as far as migrants are concerned and does not mean that host societies accept unconditionally the social and cultural capital that migrants bring with them.

Migrants' integration is ruled at national level since it is closely linked with state's sovereignty. At European level efforts have been made for harmonizing integration policies along the lines of general principles and guidelines and a Common European Agenda. Priority has given to the protection of economic, social and cultural rights of migrants and a European Integration Fund for third country nationals (EIF) has been established in order to financially assist Member States to undertake integration activities complementing their national integration operational plans.

Greece as I have already mentioned has elaborated a National Integration Strategy which comprise policies for both structural (insertion to the labour market) and cultural (language learning, civic courses and intercultural mediation) integration of migrants legally residing in its territory.

An action plan is under implementation financed by national and European resources. I have chosen to present you a number of projects implemented in the framework of this action plan viewing to safeguard migrants social rights in two sectors: education and health, bearing in mind that these are the main areas to be addressed by my co -convener Ms Ada Abrego, representing El Salvador.

I will try to show case the conformity of these projects to the international and European legal framework for the protection of the migrants rights by referring to the different articles of conventions, charters, etc to which they correspond.

Greece has implemented two pre- departure educational programs in Moldova and Georgia (European Social Charter Art 19 par. 2). Learning courses of the Greek language and history , targeted to immigrant mothers, to immigrant parents and to illiterate immigrants have been implemented followed by the elaboration of an electronic dictionary in five languages and e-courses of Greek language with a view to facilitate migrants smooth integration into the Greek society.

(Universal Declaration of Human Rights Art 26, European Social Charter Art 19par 11, European Convention of Human Rights Art. 2 of the Protocol.)

For youngsters introductory and supportive courses / classes of Greek language are provided in order to facilitate migrants' children smooth adaptation to the Greek educational system.

In the field of access to the Greek health system and services, two information campaigns have been conducted on issues of health, housing and education (Universal Declaration of Human Rights Art. 26, 23 par 1,2,3 European Social Charter Art 1 and 11, European Convention of Human Rights Art 2 of the Protocol.)

A training program for mediation programs in selected public hospitals all over the country have been implemented complemented by a printed multilingual Guide on Preventive medicine to inform and sensitize immigrants (European Social Charter Art11, European Convention of Human Rights Art 14).

I would like as well to make a short reference to projects aiming at combating xenophobia and racism and trafficking in human beings. Two information and

awareness raising campaigns has been launched with a view to avoiding anachronistic stereotypes, phenomena of racism and xenophobia and promoting the value of interculturalism and tolerance for diversity. A tailored made workshop to sensitize journalists for better address phenomena of racism and xenophobia has additionally been conducted (European Convention of Human Rights Art.14) I have to stress here that a new Antiracist Law is going to be voted by the Greek Parliament soon in order to tackle more efficiently hatred speech, racism and xenophobic recent incidents in the country.

Human trafficking was the subject of a sensitization campaign launched by the Ministry of Interior. Last year Greece has ratified the Palermo Protocols to the UN Convention on Transnational Organized Crime (the Smuggling and Trafficking Protocols).