

EASY SCAPEGOATS: SANS PAPIERS IMMIGRANTS IN EUROPE

State Strategies and
Intervention Strategies
for the Civil Society

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Kölner Netzwerk "Kein Mensch ist illegal"
Opferperspektive

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ISBN 3-00-007369-8

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December 2000

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A project of:

Almería Acoge, Almeria.

Centre d'Estudis Demogràfics, Barcelona.

Centre d'Etudes de l'Ethnicité et des Migrations de l'Université de Liège.

Fondation Roi Baudouin, Brussels.

Fondazione Cariplo per le Iniziative e lo Studio sulla Multiethnicità, Milano.

Fondazione di Ricerca Istituto Carlo Cattaneo, Bologna.

Forschungsgesellschaft Flucht und Migration, Berlin.

Freudenberg Stiftung, Weinheim.

Fundació Jaume Bofill, Barcelona.

Fundación Alicante Acoge, Alicante.

Kölner Netzwerk "Kein Mensch ist illegal", Köln.

Opferperspektive, Beratung für Opfer rechtsextremer Gewalt in Brandenburg, Berlin.

Conclusions of a project organised within the DG "Employment and Social Affairs" programme
"Preparatory Actions to Combat and Prevent Social Exclusion, VP/1999/01"

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1. Easy Scapegoats: *Sans Papiers* in Europe

The presence of undocumented immigrants is a well-established fact in most European countries. *Sans papiers* come or are “called” into Europe to perform badly paid, physically and psychologically stressful jobs in highly qualified service economies and welfare states. The closure of frontiers to new immigration has not prevented the increase of *sans papiers* in Europe. On the contrary, the welfare gap between Europe and its neighbouring countries makes such jobs more attractive for enterprising women and men in the poorer and poorest regions of the world.

We, four European foundations, fourteen researchers and 52 NGOs from Belgium, France, Germany, Italy and Spain, are interested in knowing more about the socio-economic and legal situation and the daily needs of *sans papiers*. We are concerned that the social cohesion of European societies is threatened by a new underclass mainly consisting of *sans papiers*, and formed by the fears of social exclusion of native-born Europeans who are afraid of unfair competition, and by a further diffusion and stabilisation of ethnocentric orientations. These concerns led to a comparative one-year project aimed at studying four dimensions of this social question in four European countries:

1. the different national strategies toward “illegal” immigration (legalisation versus exclusionary strategies);
2. the socio-economic exclusion of sans-papiers immigrants;
3. the support of sans-papiers within the Civil society;
4. and some cases of racist violence against immigrants.

This memorandum is intended to contribute to a thoughtful debate on these questions and to offer ideas and recommendations for forming opinions and making decisions.

Papers, permits and passports ... refusals, raids and racism. Is there a link? To be without European papers in the European Union can be a good deal for migrants who want to earn and save money, and go back home - or stay and begin a new life in Europe. It might be a safer place for refugees who left their home country due to persecution. Yet it also can be a dangerous situation, because immigrants may be constrained to an irregular job, may fear police controls and may be considered as belonging to an inferior category of people who can be exploited, mistreated and even killed. Who are the undocumented and the *sans papiers*? A Bosnian family who have lived in Germany for over five years, whose children go to a German school, and who are asked to leave the country because they have lost their legal status as “gedultete” (tolerated) refugees, and who decide to go into hiding: they become “illegalisierte

Flüchtlinge" ("illegalised" refugees). A Moroccan who works in the agricultural sector on the Mediterranean coast in Spain: he is a "sin papeles." An African or Peruvian woman who paid a large amount of money to cross the Atlantic in order to enter Italy illegally and work in a family taking care of the grandfather, or to work in the streets of Milan as a prostitute: she is considered a "straniera irregolare." A Nigerian asylum seeker in Belgium or France whose application was refused and who decides to stay irregularly: he is a "sans-papier."

It is possible to distinguish between seven types of undocumented migrants:

1. People who have entered the country in an irregular way.
2. People who have entered the country with regular documents, but who stay longer than the documents permit.
3. Immigrants who have lost their residence and/or work permit, either because they cannot renew it or because they have lost it for some reason (for example, in some cases in Germany, by asking for social welfare).
4. Refugees with short-term residence permits who lost their permits, but still stay in the country.
5. Migrants who have been released from deportation centres because they could not be deported.
6. Asylum seekers who have exhausted the asylum procedures and have eluded arrest or deportation.
7. Stateless persons who have had great difficulties in obtaining official documents.

Thus, undocumented migrants fall into a variety of categories and hail from countries all over the world. What they have in common is the search for a better future through emigration. Their shared problem: the European Union today has no immigration policy. And in spite of the beginning debate on new legal migration, it still closes its borders to those people considered useless to the economies of European countries - and even to those considered necessary.

The policy of closed borders does not stop migration, but seems to set up a new underclass of so-called “Illegals” who are – against all declarations of human rights – inhumanely suppressed and highly exploited. The danger of thus creating an ethnic underclass is accompanied by the danger of increasing racism on the part of native Europeans against sans-papiers. Sans-papiers are an easy target for scapegoat mechanisms because of their institutional non-acceptance.

The “fortress Europe” policy constructs a European identity more and more based on keeping out non-Europeans. This negative identity undermines the oft-declared positive European identity on human and civil rights.

With this memorandum we wish to draw the attention of politicians, administrators and the public opinion toward this **European social question**. We want to show that intervention against the social exclusion of undocumented immigrants is an urgent task for governments and for the civil society. The day-by-day work of the interviewed NGOs demonstrates that such intervention is possible. This memorandum is based on the project’s four country reports, which the interested reader can access via the internet (www.freudenbergstiftung.de) or through a request to the Freudenberg Foundation (cf. addresses below).

2. States Close Borders but Do Not Solve the Social Question

The project members analysed four state strategies and found two types of strategies. In Belgium, Italy and Spain the states mix restrictive immigration policies with recurrent legalisations of undocumented immigrants. In Germany, the state has chosen to restrict “immigration” via the mechanism of political asylum; it ignores the increasing number of undocumented immigrants.

In Spain, public policies towards immigrants are of a more recent nature, since the first Law on Foreigners was enacted in 1985. Until the last, highly controversial law of January 2000, entitled “Law on Rights and Liberties of Foreigners in Spain and their Social Integration,” state policies always focused on immigration from the perspective of border and police control. But this new law will be revised before the end of the year 2000, and as a result, the human rights of undocumented immigrants might be restricted once again.¹

The Spanish state has a two-pronged approach to immigrants. On the one hand, it wishes to integrate legalised immigrants while on the other hand, it has a tendency to demonise and marginalise undocumented immigrants, who are supposed to be dangerous and to commit all sort of crimes. Yet these immigrants are recruited for jobs in many economic areas which cannot attract nationals anymore, such as agriculture, construction and domestic services. Instead of guaranteeing human rights to undocumented immigrants, the state constructs many legal barriers to acquiring the right to stay and to work.

There are three lines of Spanish government actions that contradict the general restrictive approach towards *sans-papiers*:

1. The government has conducted four legalisation campaigns (1985, 1991, 1996 and 2000) and since 1993 has established annual quotas by which a limited number of immigrants may obtain residence and work permits (30,000 in 1999). Under the legalisation guidelines of the Law for Foreigners of 2000, all undocumented foreigners who could demonstrate that they had entered Spain and were living continuously in Spain before July 1st, 1999, were granted permission to ask for a work and/or residence permit. If their application is accepted, they will receive a residence permit for one year or more, depending on their previous legal situation.

¹ The new law has been approved on December 14th, 2000.

As of December 2000 and according to official estimates, 246,089 applications for legalisation have been filed. Decisions had been made in 226,570 cases; 137,454 were accepted, 6,271 were not taken into consideration and 82,845 were refused.²

2. State administrations support NGOs so that these can offer help and social services to undocumented immigrants.
3. Living in Spain without a residence permit is not a criminal offence, but only a breach of administrative rules.

State intervention in Belgium is similar to Spain. It views immigration mainly as a law and order problem, but also makes some exceptions:

1. The state on several occasions recognised the need for legalisation of the *sans papiers* living in Belgium (1974, 1998, and 2000³). A mass legalisation according to individualised and precisely defined criteria began in January 2000. Nearly 50,000 persons have requested legalisation. The legalisation commission will decide on the applications. The commission consists of eight chambers (each has a magistrate, a lawyer and a representative of an NGO) and a secretariat. Both the secretariat and the chambers can send a dossier with a positive or negative recommendation to the Minister of the Interior. The Minister of the Interior will make the final decisions, and the chambers will be called upon only for the most difficult and problematic cases.
2. In 1998, the Flemish parliament adopted a decree on policy toward ethno-cultural minorities. The decree foresees minority representation in all newly created organs and authorities, and extends the target groups to migrants, asylum seekers who are still involved in the procedures, and people living in Belgium illegally who ask for aid or accommodation because of their precarious situation. As a consequence, undocumented people may profit from this Flemish integration policy, and from an accommodation policy for family reunification. In addition, NGOs working for the defence of the rights of cultural minorities can apply for public support.

² El País, December 22th, 2000.

³ The latter was the clarification of the non-written criteria for regularisation, by means of a letter explaining the art. 9.3 of the Immigration Law of 1980.

3. The French and Flemish communities, the Walloon region, and the federal government support NGOs working with undocumented immigrant by granting non-recurrent subsidies. In addition, in 1999, Article 77 of the Law on Foreigners of 1980, which punishes anyone who knowingly helps or assists a foreigner staying in Belgium illegally, was changed in order to exclude from punishment those who help foreigners mainly for humanitarian reasons.

In Italy, immigration policy is similar to that of Spain and Belgium, but it is the most generous with respect to the number of legalisation campaigns. Italian policymakers try to counteract the arrival of new immigrants through greater control at the borders and increased efficiency in deportations, but at the same time try to “reabsorb” the already present undocumented immigrants through recurrent amnesty programmes. Italian immigration policy displays the following “non-restrictive” characteristics:

1. Since 1982, there have been five amnesties (in 1982, 1986-88, 1990, 1995-96, and 1998). The first involved 12,000 immigrants; in the following amnesties, 118,349, 234,841, 227,272 and finally 250,792 demands were filed, respectively, of which 36% are still in process of decision (in July 2000). The current legal immigrants are mostly the beneficiaries of legalisation campaigns, which means that they lived as *sans papiers* for some time. This differentiates Italy and Spain from Germany and Belgium, where immigration was allowed and officially promoted in the 1960s.
2. Since 1998, foreigners who are victims of criminal organisations, in situations of exploitation and serious violence, and who are willing to co-operate with the authorities, may obtain a residence permit for the purpose of protection.
3. In 1986 a quota system for immigration was created, which has started to work effectively in the last years. Since 1998 the government decides annually upon the number of immigrants who may be granted a work permit.
4. As in Spain, living in Italy without a residence permit is not a criminal offence, but only a breach of administrative rules.

In Germany, the policy towards immigration differs from the three other countries of this project. The policy is much more prohibitionist for two reasons. First, there are few exceptions to the repressive approach towards undocumented immigrants. Second, the Law of Foreigners is applied more rigorously.

1. In Germany, no legalisation campaign or amnesty for undocumented people has taken place. There were only two “regulations of old cases” (*Altfallregelungen*) with respect to asylum seekers. If they had been waiting between five and eight years for a decision in their cases, were employed (even though, since 1997, asylum seekers are not entitled to work permits) and were living in a private dwelling (not in a hall of residence), they were granted a two-year residence permit. In 1996 and in November 2000, 7,800 and more than 15,000 asylum seekers received a residence permit, respectively. The proceedings for the year 2000 will officially end on 31st December.
2. The German Law for Foreigners includes two very problematic paragraphs. First, § 76 obligates public institutions to denounce undocumented people to the Office of Foreigner’s Affairs. This has led to cases where civil servants of the Social Welfare Administration were instructed to denounce *sans papiers* who sought their help. Some hospitals have informed the police while treating undocumented immigrants. Undocumented people who wish to invoke their human rights are confronted with the “right” of the state to deport them. Second, § 92 of the same law punishes anyone who helps a foreigner to an illegal sojourn and who does this repeatedly, for more than five foreigners. Priests and members of refugee organisations have been prosecuted under this statute.
3. Being caught without official German documents, i.e., to be discovered as an “illegal” immigrant, is regarded as criminal offence under German law.

It seems that the most restrictive laws against undocumented migrants and their supporters might be implemented as a way of harmonising the asylum procedures and Laws of Foreigners in all European countries.⁴

⁴ Cf. Initiative of the French Republic with a view to the adoption of a Council Directive defining the facilitation of unauthorised entry, movement and residence, 2000/C 253/01, Official Journal of the European Commission, C253, vol. 43, sept. 2000. Initiative of the French Republic with a view to the adoption of a Council Framework Decision on the strengthening of the penal framework to prevent the facilitation of authorised entry and residence, 2000/C 253/03, Official Journal of the European Commission, C253, vol. 43, sept. 2000. “French Presidency’s attack on “illegal” entry and residence, carriers sanctions and expulsion”, cf. <http://www.statewatch.org/news/jul00/04frpres.htm>.

3. Socio-economic Situation of Undocumented Immigrants

In all the countries of this project, undocumented immigrants are confined to certain economic sectors: agriculture, construction, hotels, cafes, restaurants, domestic jobs, cleaning and prostitution. In Spain and Italy, many are employed in the informal sector. Undocumented immigrants have difficulties finding a legal job, and then face excessive working hours and salaries under the legal minimum - and sometimes they are not paid at all. In addition, undocumented immigrants encounter enormous barriers in housing, are generally not entitled to public services (particularly medical services and education), and have very restricted legal means to defend their human rights. Since the beginning of the 1990s, all countries have set up deportation centres, which should serve as a step toward expulsion of undocumented immigrants. These centres are very contested within the respective civil societies.

In Spain, until the enforcement of the new law of January 2000, undocumented immigrants faced the same general multiple exclusion mentioned above. Public authorities have no substantial housing programmes and *sans papiers* had no access the public health system. Until recently, it was impossible for children of undocumented immigrants to obtain an official school certificate. However, the extent of exclusion depends in large part on the town where the immigrant lives and on the civil servant asked for support and services. In Catalonia, there are municipalities like, for instance, Alcarràs (Lérida), Vic (Barcelona), Banyoles (Girona) and Mataró (Barcelona), where various measures towards social inclusion of immigrants have been taken regardless of their documentation. In addition, the law of January 2000 entitles all immigrants to means-tested public health services if they register as residents in their municipality. It must be remarked that in Spain it is possible to register officially as resident without having a residence permit.⁵ This allows undocumented immigrants access to several public services.

In Belgium, the socio-economic situation of *sans papiers* is no better than in the other countries. According to the Constitution of 1994, every foreigner who lives in Belgium has the same rights as Belgians, but in practice undocumented immigrants only have the right to urgent medical care and the right to education. Since April 2000, those undocumented immigrants who have asked for their legalisation can obtain a temporary work authorisation.

⁵ The local register ("padrón municipal") is an administrative register at municipality level, which, in principle and according to the law, cannot be used for other aims.

If they are injured at work, illegal workers in theory have a right to compensation, but in practice it is very difficult to obtain. *Sans papiers* are granted access to health services only in cases of emergency or for preventive actions such as examinations, essential medication, etc. Many undocumented immigrants fear being arrested if they seek medical assistance.

In Italy, the situation of undocumented immigrants varies from region to region and between towns and the countryside. In some places, the formal exclusion is paralleled by de facto inclusion (frequent among immigrants working in the informal economy), but in other places the formal inclusion is accompanied by a substantial negation of rights (for instance, immigrants with temporary residence permits for humanitarian reasons). Since the informal labour and housing markets are very large, possession of a residence permit is less relevant than in other countries. However, this does not prevent cases of exploitation and discrimination. Recently, the events in Legnano (the death of immigrants in a fire in a derelict factory where various families lived) once again revealed the tragic reality of accommodation problems for immigrants in Italy. The same applies to Roma Gypsies, who are continually pursued in violent police operations or attacked by gangs of racists in various cities. In addition, *sans papiers* cannot access public services, with three exceptions. First, they have the right to emergency treatment and preventive treatment to avoid the risk of spreading disease. Second, children of undocumented immigrants who cannot be deported or who have been granted a respite of deportation can enrol in schools. Third, pregnant women have the right to medical assistance.

In Germany, the socio-economic situation is similar to that of the other countries, but in addition, *sans papiers* must fear more administrative and police controls. The police regularly controls non-white people without concrete suspicion. In general, asylum seekers live under different conditions than undocumented immigrants. Asylum seekers are entitled to social welfare benefits. However, due to the fact that most asylum applications are refused, the dividing line between both situations is small. In addition, there is an east-west division in the living conditions of refugees. In eastern Germany, they live mainly in camps or residence halls of 100 to 300 people, far from towns or even villages (e.g. in former military camps). They represent the majority of foreigners in these areas, and it is more difficult for them to find lawyers who know asylum regulations. In western Germany, refugees more frequently live in private housing, form a smaller percentage of the total local foreign population, and can find legal support more easily because of the environment (their own community and supporters).

Since 1997, asylum seekers have not been granted work permits and only recently has this prohibition been discussed within the government. Frequently, employers do not pay the salaries owed to irregularly employed people, and they can push exploitation to its limits by denouncing *sans papiers* to the police. The German trade unions refuse to represent or support irregular workers. Since 1997, the right to health services for asylum seekers has been restricted to emergency cases, maternity and abortion. This does not apply to undocumented people, who do not even have access to health service in emergency cases (unlike in Spain, Belgium and Italy). An exception is made for undocumented women who work as prostitutes, since they can go anonymously to the public health office in order to be checked for venereal diseases. In many schools and municipalities, the right to education until age 16 (in accordance with UN chartas) is not granted. In some towns the education administration instructs school directors not to accept children whose parents are undocumented, or even to denounce them. Asylum seekers are excluded from official German language courses and their children cannot enrol in vocational training or at a university. In contrast to all other European Union countries, asylum seekers cannot leave their assigned province of residence without an official authorisation (*Residenzpflicht*). Unaccompanied children ages 16 and up can be imprisoned in deportation centres and be deported, if their asylum request is refused.

4. Social Exclusion is Fertile Ground for Racism

The life of *sans papiers* is characterised not only by difficult living conditions and fear of deportation, but also by increasing racist violence, which poses a danger to the health and lives of undocumented people. In all four countries, episodes of racist attacks are well-known. The following summaries of this project's three case studies show a common feature: the victims of these persecutions and homicides are all immigrants who are excluded from basic human rights by the respective states, and who are socially and economically segregated within the host societies. There is a reinforcing relationship between day-to-day racist discrimination, restrictive laws for foreigners and racist violence.

The Spanish NGO **Almeria Acoge** has analysed the racist attacks against immigrants in El Ejido, in the province of Almeria. We want very briefly to point out the main factors which, in the NGO's opinion, led to the massive persecutions of immigrants in El Ejido in February 2000. El Ejido is a town of 55,000 inhabitants (of whom around 12,000 are foreigners). Since the 1960s, it has experienced a very rapid growth of its population and economy. The latter is due to its booming intensive agriculture, mainly for exportation. 97% of the town's current native population comes from other Spanish provinces, most of them are from working class origins and have a generally low educational level. The new type of agriculture requires a large labour force and attracts immigrants from many different countries. These immigrants mainly work under very difficult conditions in the greenhouses. In 1999, there were 17,738 officially registered immigrants in the province of Almeria, of whom 74% were from Morocco. 88% of the Moroccan immigrants are men aged 21 to 40 with a low educational level. Many of these Moroccan men are socially segregated because they have to live "like animals" in the farms outside the town. Among these men, there is a minority who commits offences such as human traffic, thefts, etc., which exacerbate the non-acceptance of all immigrants by the native population. The leading politicians and administrators of El Ejido have identified delinquency and criminality with immigration. Local social policy towards immigrants consists of permanent segregation. The author of the case study concludes: "How different would local policy be if the immigrants had the right to vote in the municipal elections?"

The Italian country report includes a recent case of exploitation and violence against a Romanian immigrant. On March 14th, 2000, Ion Cazacu was killed in Gallarate, in the province of Varese and the heart of one of the richest areas in Italy. This 41-year-old Romanian technician worked together with other nationals in a building firm. He worked 12 hours a day and was paid by the job, at 10,000 lire for every metre of wall or floor laid. On average, the Romanians earned 110,000 lire a day (about 50 EURO), but under exhausting working conditions, to say the least. They also paid a part of their earnings to firm's owner, Cosimo Iannece, for the rental of a residence where the Romanians live on top of each other: 200,000 lire per person per month for six of them in a one-room apartment. On the evening of March 14th, the entrepreneur went to the dwelling of his Romanian workers and set Ion Cazacu on fire. Cazacu died one month later due to third degree burns on 90% of his body. It seems that the entrepreneur was angry because the Romanian employees had complained about their working conditions and because he feared that the legalisation of Ion Cazacu would make the latter "free" and that he would look for work elsewhere.

What is the context for this homicide? According to trade unionists and NGO representatives, many immigrants work in jobs that Italians refuse to do. The enlargement of the Malpensa airport (Milan), for instance, created new jobs in the building sector. Some enterprises have specialised in recruiting cheap illegal labour for building sites run by others. Frequently, they are linked to organised crime. For instance, Ian Cazacu's ten co-workers have fled because they were afraid of retaliation. Usually, the firms employ men who work ten hours a day for around 40,000 lire, often foreigners (including university graduates) without residence permits, who can be blackmailed and are frightened, ready to share a two-room apartment with five others; they can be deported from one day to the next. In 1999, 77,409 employees were controlled in the province of Varese and 6,231 did not have regular contracts. At the national level the number of inspections has decreased: in 1991 there were 100,000 inspections identifying a rate of irregularity of 50%, while in 1998 only 50,000 inspections were made, identifying irregular situations in 75% of cases.

The homicide led to demonstrations and public denunciation of the informal economy by politicians, but also to discourses about the exceptional character of the event and discourses in "defence" of the people of Gallarate.

It has to be noted that representatives of the Lega Nord (the right-wing party), which governs the province, frequently make xenophobic statements. Prosecutor Giuseppe Battarino reacted rapidly and positively, deciding that about ten Romanian workers should be granted a residence permits for reasons of social protection under section 18 of the new Law for Foreigners.

The German country study contains a very detailed case study of the homicide of Farid Guendoul in Guben, a town near to the Polish-German border in the province of Brandenburg. On Friday night, the 13th February 1999, a group of about 11 young people age 17 to 20 persecuted Farid Guendoul and his two friends. Attempting to escape from the youths, Farid kicked in a glass door in order to find protection inside a house, but the subsequent wounds caused his death. His friends were able to escape.

Guben has 26,500 inhabitants and an unemployment rate of 23.5%; a significant part of its inhabitants work in subsidised jobs or are enrolled in training programmes, and more than 30% of the social welfare recipients are under age 18. After German reunification many enterprises closed or reduced their staff. Around 2.3% of the population is non-German - many are Polish - and 160 inhabitants are asylum seekers. They live in a one-floor house that was the former kindergarten of a chemical plant and which is surrounded by electrically controlled doors and a wire-mesh fence. Farid Guendoul, an Algerian, lived in a 20m² room together with six men from Sri Lanka, Togo and Algeria. At the beginning of the 1990s, around 200 skinheads formed the "Patriotic Front of Guben"; later, the National Party of Germany (the successor of the National Socialist Party) organised many young people in the town. Since then, the municipality has held a regular Forum on Foreigners, a Round Table on Right-Wing Extremism and has employed 36 social assistants in six youth centres in order to combat the increasing right-wing extremist attitudes among the youth. Yet some of the offenders involved in the February 1999 assault regularly attended one of these centres, a fact which provoked many to criticise the centres' pedagogic approach. The social workers had tried to re-integrate right-wing extremists into the society, which is a problematic approach because xenophobic attitudes are part of mainstream culture in Guben.

The trial against the 11 offenders began in June 1999 and the court had not decided about the case as late as November 2000. Only one of the 11 offenders has been convicted for three years of prison for negligent homicide. From January to August 2000, the Federal Ministry of Interior registered 5,789 right-extremist criminal offences, an increase of 19% compared to the same period in 1999 (the real number is even higher).

The authors of the German case study conclude due to their general experience that following are common responses to acts of racist aggression:

1. The aggression is interpreted as an exceptional accident caused by misled youth. Racism is seen as a construct of the scandal-seeking media (**Ignoring problem**).
2. The attacks are seen as the individual acts of marginal people; sometimes it is affirmed that the foreigner provoked the aggression (**Playing down and changing problem**).
3. Authorities take the political responsibility seriously, but their intervention is restricted to moral exhortations (**Consternation and symbolic gestures**).

The following reactions would be more appropriate:

1. Solidarity with the victims and no sympathy for the offenders, which should be demonstrated through official visits to the victims, public responsibility for financial consequences, and financial and moral support of democratic youth and refugee associations (**Official solidarity with victims and their supporters**). Since summer 2000, German authorities are taking the situation more seriously. New programmes have been started to combat right-wing extremism and money has been made available (in the region of Northrhine-Westphalia 21 million DM is now available for such projects).
2. Change of image of immigrants in media ("criminals", "problem", "financial charge", etc.) (**Change of public opinion**).
3. Abolition of discrimination against immigrants through special laws (**Same rights for all**).

5. Interventions of Civil Society

The civil society and politicians in the different countries have been sensitised toward *sans papiers* by two major types of events: first, by protests and self-organisation of *sans papiers* (as in France after the occupation of the church of Saint Bernard in Paris in 1996); second, by the death of immigrants following the use of police force or racist attacks by the civilian population. In Belgium in 1998, the death of Semira Adamu, a Nigerian seeking refugee status, during the police's sixth attempt to forcibly expel her, was a turning point for the creation of solidarity movements with undocumented immigrants. The "National Movement for the Legalisation of Undocumented Immigrants and Refugees" was created. The MNLSPR pushed strongly for an across-the-board legalisation and was in large part successful. Similar events happened in Germany, Italy and Spain, and called forth movements such as "Asamblea Papeles para todos y todas" in Spain, "Kein Mensch ist illegal" in Germany and a movement against the deportation centres and for the prompt conferral of residence permits in Italy.

The following section presents the work of NGOs in Belgium, Italy, Germany and Spain. The NGOs were selected according to the capacity of the researchers to reach them (Brussels, Berlin, Cologne, Barcelona, Almeria, Alicante and Milan). In addition, we tried to find NGOs working in different areas (work, housing, health, education, lobbying, sensitising, combating racism, self-organisation, legal counselling, social assistance and women & children). A total of 48 NGOs which work with immigrants irrespective of their legal status were interviewed and are presented in the following.

It is interesting to note that some of the NGOs we interviewed have received support from the European Union, while others have great financial problems. Most NGOs have serious financial problems, because public and private subsidies are small and often not renewed. Some NGOs are able to finance the salaries of permanent workers through subsidised employment contracts, but this frequently prevents them from employing the most qualified candidate and causes a great deal of instability within the staff. The majority of the interviewed NGOs exist within a difficult "subsistence economy," especially self-organisations.

In Italy and in Belgium, the researchers interviewed NGOs that exclude undocumented immigrants from their target groups. In Italy in recent years, the majority of NGOs exclude *sans papiers* for reasons that they attribute to pressure from public authorities. This might be related to the dominant public discourse, which designates Gypsies and immigrants as responsible for everything bad, to the point of considering those who offer assistance and aid to *sans papiers* as almost responsible for criminality and lack of public safety. Indeed, at times some NGOs have accepted the role of selecting "deserving" immigrants from "problematic" immigrants, albeit involuntarily. However, the Italian and Belgium researchers have also interviewed NGOs that do not exclude *sans papiers* from their target groups.

The research team in Spain conducted interviews with NGOs of various different types that engage in a variety of activities, and it has described some other well-known NGOs. Some NGOs work as multifunctional service providers and others concentrate in one area.

The Belgian team interviewed NGOs that have carried out concrete actions in favour of *sans papiers* since the legalisation campaign. Most actions consist of legal counselling and collaboration in the design of the legalisation law, but also involve support in the areas of housing, health and training.

In Italy, many of the NGOs that support undocumented immigrants are religious in nature, but the work they do is not very different from the work done by non-religious NGOs. It is interesting to note that, since the 1970s, Italian Catholic organisations working in the countries of emigration help people wishing to emigrate find work and housing in Italy. Most Italian NGOs act as aid, humanitarian and charity organisations, and few direct their work towards the emancipation and self-organisation of immigrants.

In Germany, the fear of being prosecuted under the Law for Foreigners influences most NGOs only at the beginning of their work. After the NGOs become known, for instance through an aggressive publicity campaign, it is unlikely that they will suffer prosecution. Most of the NGOs that support *sans papiers* originated in associations for asylum seekers and civil war refugees. Only a few NGOs have been created explicitly for the defence of the rights of undocumented immigrants (cf. below Büro für medizinische Flüchtlingshilfe and Kmii). A third group consists of ad-hoc groups which have been created in order to support specific actions to protect *sans papiers* (cf. below WKA).

5.1 Innovative Activities in the Area of Work

The largest trade union of agricultural workers and employers in Catalonia in Spain (**Unió de Pagesos**) conducts sensitisation campaigns among their affiliated employers in order to encourage them to regularise or legalise their foreign employees. In addition, they have started specific campaigns for the recruitment of immigrants and support immigrants in their demands for legalisation. The **Centre for Information for Foreign Workers (C.I.T.E)** is a labour office for immigrants created by the Spanish trade-union CCOO. **C.I.T.E.** supports undocumented foreign workers in 130 offices all over Spain in order to help them to obtain residence and work permits.

In Italy, no NGO officially deals with the problem of looking for jobs for immigrants, but in fact, all the NGOs try to take advantage of the networks of relationships and acquaintances to help immigrants who are looking for a "decent" job. The NGOs most active in this sector are generally the Catholic ones, because they take on a role in the selection process and act as a guarantor for the employers. As far as the protection of the foreign worker is concerned, with respect to discrimination, devaluation and exploitation, the action of NGOs and in particular of the trade unions remains fairly poor (as it is for Italian workers). One exception is the **Centre for Foreign Workers (CELSTRA)**, which informs and assist immigrants in the area of employment and trade unions through continuous activity of study and training in vocational and related aspects. CELSTRA's counselling activity primarily deals with bureaucratic and administrative formalities and legal counselling, labour disputes with internal co-ordination of immigrants belonging to the CGIL trade union, more general work-related issues, and lastly, representation on behalf of CGIL on issues of immigration.

In Belgium, the multifunctional NGOs SMZP and Point d'Appui are active in this field (cf. below).

Unlike Spain and Italy, German trade unions have not started any initiatives to support undocumented immigrants, with the exception of some small trade union locals, which even permitted their affiliation. In Berlin, the **Central Service for Migrants from Eastern Europe (ZAPO)** supports migrants in work-related questions. Every week 20 to 30 people request their counselling services. The most pressing problem is the refusal of employers to pay salaries. In these cases ZAPO asks the migrant if he/she wants only to receive the salary or if he/she also wants the employer to be controlled by the authorities and/or to bring the event into public light.

Then the counsellors determine the sum of the official salary and send a written request to the employer to pay the salary. If the employer does not respond, then they propose to go to court. In this case, ZAPO helps with finding a lawyer. According to German law, undocumented immigrants have a right to their salary. The problem is that very few *sans papiers* have the energy to go to court and to wait until the final decision is made.

5.2 Insufficient Innovative Initiatives in Housing

In Spain, the associations **Alicante Acoge** in Alicante, **PROVIVIENDA** in Madrid, **COLUMBARES** in Murcia, **ANAFE** and **Santa Lucia** in Navarra try to solve the most acute housing problems through different means:

1. Subsidised housing for very urgent cases and for a limited period of time;
2. Co-operation with real estate agents in order to obtain rented housing for immigrants;
3. Creation of exchange centres for offers and demands for rented housing;
4. Subsidies for rents to immigrants and offer of securities to landlords;
5. Information centres on housing;
6. Renovation of housing with volunteers.

Other multifunctional NGOs, such as **CARITAS** and **SSIM**, also support immigrants in their search for housing or offer housing directly.

In Belgium, some associations (**Steunpunt Mensen Zonder Papier** (**SMZP**), **CIRE**, **Point d'Appui**, and **ADP**, cf. below) fight to find housing and accommodation for undocumented immigrants. Sometimes they will take the necessary steps upon themselves. **CIRE**, for instance, has an accommodation centre with three hundred beds for asylum seekers, and it has some funds for rent deposits. **SMZP** has set up a housing project in Brussels in order to (financially and legally) support "welcome houses" to receive undocumented immigrants.

In Italy, the NGO response to the housing demand has always been almost completely insufficient. Apart from the Catholic NGOs (Caritas Ambrosiana and Secretariat for Foreign Affairs of the Diocese of Milan), which have a limited number of beds in special hostels, there is temporary housing offered by the **Association of Senegalese of Milan and Province**.

There are also associations or co-operatives that act as intermediaries between landlords and foreigners, providing guarantees. In some cases these organisations buy and renovate houses to rent permanently to foreigners. These include the co-operative **Dar Casa** and the **Associazione Una Casa per l'Amico**, both of which own houses for rent and act as intermediaries. However, these initiatives are very limited in number.

In Germany there are some housing projects for *sans papiers* - for instance in Berlin, Cologne or Freiburg - but they are clandestine.

5.3 Providing Health Care

In Spain, **Caritas** and **Alicante Acoge** help *sans papiers* to find solutions to their health problems through co-operation with public and private institutions. **Solidarity and Missionary Services of Caputxins in Catalonia (SSIM)** organises 18 doctors who volunteer on a rotation basis in order to offer daily health services from 5 to 10 p.m. Recently, they have added a psychologist who works with children. In addition, they offer medication.

In Belgium, **Doctors Without Borders (MSF)** holds consultations and tries to see to it that undocumented immigrants and asylum seekers have access to health care. They have reached a consensus with hospitals to treat children without asking too many questions about their situation. The **Medisch Steunpunt Mensen Zonder Papieren**, a medical support centre for undocumented immigrants, has played an important part in the implementation of basic rights such as the approval of the Royal Decree on urgent medical care.

In Milan, in Italy, there has been a particularly important surge of volunteerism among hundreds of doctors and welfare workers in this sector more than in others. They have offered special surgeries to a number of patients, certainly more than those offered by public agencies in past years. We can therefore say that this is the "demand" for immigrants services which is best satisfied by NGOs, even if they obviously succeed in satisfying only a part of the potential demand. It must also be said that, thanks to the fact that large parts of the medical and nursing staff in public structures have now become aware of this situation, minimal public services tend to be guaranteed today. **NAGA**, a voluntary non-religious association, and the **Opera San Francesco**, which has a religious orientation, offer health services, and they have on many occasions contributed to the fight for immigrants' rights.

For example, **NAGA** has actively collaborated in drawing up the law on immigration. NAGA's main activity is to offer **welfare and health care**. They primarily offer basic care alongside special care (gynaecology, orthopaedics, urology, dermatology, cardiology, surgery, ophthalmology, otolaryngology, psychology-psychiatry and infectious diseases). Minor surgical operations and specialised tests are carried out in their own clinic. Between January 1st and March 31st, 1999, the clinic had 5,055 visits. They also have a network of volunteer specialists for difficult cases or for those who have special needs that cannot be met by the clinic. Health care also covers free distribution of medicine and undertakes to provide physiotherapy and prostheses.

In Germany some doctors' associations have called for their members to treat undocumented immigrants. In addition, **Offices for Medical Support to Refugees** (Büro für medizinische Flüchtlingshilfe) have been created in Berlin and eight other towns. In Berlin they are open twice a week and assist about 30 people during this time. There is always a doctor and a Spanish-speaking person present, and sometimes a translator. Due to financial problems, they cannot meet all their visitors' needs, despite the 80-100 volunteers from the medical profession and about 30 translators. The volunteers criticise the governmental Office for Foreigners because they send asylum seekers who are entitled to emergency health services to them, since they are less bureaucratic than the governmental agencies.

5.4 Promotion of Children in Schools and Courses for Adults

In Spain, **Alicante Acoge** supports schools in their efforts to integrate immigrant children. In Alicante, together with some schools, they have developed programmes which:

1. offer complementary courses for children with learning disabilities and other problems,
2. encourage parents to take part in school activities,
3. co-ordinate different schools and administrations,
4. try to prevent absenteeism from school,
5. have created school clubs for children and for parents, and
6. offer workshops for Arab for children from Northern Africa.

Also, **SOS Racisme** works with schools wanting to sensitise their pupils to issues of immigration, minorities and racism. The **Group of Research on Cultural Minorities (GRAMC)** in the municipality of Santa Coloma de Farners (Girona) created the first school for adult immigrants from Africa in Spain. This school, "**Samba Kubally**," offers language courses, among other things. **CARITAS** also offers language courses for immigrants in all dioceses. In Italy, **FILEF** helps foreigners to look for work, helping them to write their curriculum vitae, informing them of opportunities for training and referring them to organisations which aid in seeking employment. In addition, if necessary, the group helps immigrants contact these organisations or private individuals by phone. Free Italian courses taught by qualified teachers are also organised at FILEF.

In Germany, the **Socio-cultural Centre for International Co-operation and Language Learning** attempts to aid in the self-organisation of migrants. They offer German language courses and organise the exchange of information and advice.

5.5 Lobbying, Sensitising, Combating Racism and Supporting Self-organisation

Most of the Spanish NGOs working with immigrants try to sensitise public opinion on the question of immigrants, to condemn their social exclusion and the racist acts committed against them. Two of the interviewed NGOs are especially active in this area. One of these is **SOS Racisme**, which has an office for information and for supporting victims of racism. They also undertake pedagogic activities, publish an annual report on the state of racism in Spain and organise a "diversity party" in Barcelona each year. Also, F.C.I.C., Alicante Acoge, Almeria Acoge and other NGOs carry out sensitisation work. The **Federation of Collectives of Immigrants in Catalonia (F.C.I.C.)** comprises about 25 immigrant collectives. Priority is given to activities in defence of the rights of immigrants and to participation in different political forums on immigration. In addition, they conduct sensitisation, information and training campaigns, such as courses in the police school of Catalonia. In 1996, the **Platform "Papers for all"** was created in Barcelona in response to the deportation of 108 immigrants under very inhumane conditions. This umbrella association comprises forty associations (e.g. F.C.I.C., Federación de Asociaciones de Vecinos de Barcelona, Asociación de Ecuatorianas "Portes Obertes") and its main activities are to condemn the situation of undocumented immigrants. In particular, they condemn the harassment suffered at the hands of the police, demand the closure of the deportation centres, and oppose the stigmatisation of immigrants as criminals.

Many of the interviewed Belgian NGOs work in this area as well. For instance, the above-mentioned **CIRE** is trying to open a debate on a new immigration policy. It also organised a very successful interactive exhibition on refugees, which was shown in several countries. Similar work is done by its Flemish equivalent, "**Centre for Reflection on the Integration of Refugees**" (**OCIV**). The **League for Human Rights (LDH)** is a vast organisation which meets with cabinet members, ministers, and members of parliament to draw their attention to the compatibility of projects with human rights. It has also participated in many consultations on the law for legalisation, but then refused to participate in the Legalisation Commission because it decided that the legalisation criteria were not clear enough and because the commission depends on the minister. The **Centre for the Equality of Chance and Struggle against Racism (CECLR)** is a public institution under the auspices of the Prime Minister, which mainly supports victims of racial discrimination and works with the mass media. In Belgium, the "**National Movement for the Legalisation of Undocumented Immigrants and Refugees**" (MNRSPR) was the origin of the political mobilisation. The **Co-ordination and Initiatives for Foreign Refugees (CIRE)** was one of the pioneers in the creation of MNRSPR; it accompanied the church sit-ins, demonstrations and petitions and currently is keeping an eye on the follow-up to the legalisation campaign. One of CIRE's objectives is to structure the groups created by the undocumented immigrants themselves, so that in two or three years, the groups can have their place inside the umbrella organisation. The **Movement Against Racism, Anti-Semitism and Xenophobia (MRAX)** counsels foreigners on questions of residence, naturalisation, legalisation, etc. It has also a complaint office for victims of racist treatment and a documentation centre, and works in schools in order to sensitise pupils about racism, immigration and foreigners. MRAX has two members in the Legalisation Commission. The **Christian Worker's Movement (MOC)** is a pressure group which works in all domains of social, economic and political life. They organise social aid workers who help undocumented immigrants with health problems, and lawyers who help to complete files for legalisation applications.

In Italy, the **Italian Federation of Emigrated Workers and Their Families (FILEF)** offers counselling in cases of aggression and/or threats linked to any form of racism. **FILEF** carries out activities of solidarity by taking public stands (through the media, press releases, appeals, demonstrations, distribution of leaflets etc.), and working with political parties, in debates, collaborating with initiatives for raising awareness and promoting actions in schools and colleges.

The **Association of Senegalese of Milan and Province** aims to encourage solidarity among Senegalese immigrants, maintaining their bonds, co-ordinating all cultural and educational activities and finally identifying the most appropriate solutions for the creation of real cultural integration. The Association organises parties, various events, and meetings with other associations. In addition, it offers counselling, provides a cafeteria, and other services.

In Cologne, the **Cafe for Refugees (Flüchtlingscafé)** is a meeting place with some counselling activities and German language courses. It opens once a week, and the most frequently discussed topics are the possibilities of obtaining legal status or migrating to another European country where it is easier to obtain residency permits. The association would like to open other Cafes, but they are afraid of police raids. The **Association of Roma Gypsies (Rom e.V.)** in Cologne struggled for the right of residency for Roma at the beginning of the 1990s; currently, it co-operates with Kmii (see below). In general, Rom e.V. represents the Roma as an ethnic minority and does not focus on questions of legal status. The network **"No human is illegal" (Kmii)** is a nationwide movement that struggles for the rights of *sans papiers* and supports their self-organisation. Members are people who have worked with and for refugees for many years. They try to influence public discourse, and in Cologne they initiated the **"Rotating Church Asylum" (Wanderkirchenasyl, WKA)**. Currently they are leading a campaign to convince the airline company *Lufthansa* to refuse the deportation of *sans papiers*. Since 1998, the WKA has protected about 450 illegalised Kurdish refugees from deportation. Over 100 parishes have offered protection in rotation. The aim was to stop deportations to Turkey; after negotiations, the demand was limited to residency permits for the participants of the WKA. Finally, the refugees accepted a case-by-case decision by the administration. Up to this point, 80 refugees have received a residence permit, 150 are waiting for the decision and have a temporary stay permit in the meantime, and 220 refugees continue to be as undocumented as they were before. According to estimates of the "Ecumenical Network for Church Asylum in Germany" (ökumenische Bundesarbeitsgemeinschaft Asyl in der Kirche), some 2,500 persons have found protection in church congregations against immediate deportation since 1983. In about 70% of these cases, they reached legal or humanitarian solutions in favour of the threatened refugees. These range from recognition as political refugees to voluntary returns or onward travel in co-operation with the authorities. In Berlin/Potsdam, **Victim Perspective (Opferperspektive)** assesses and supports victims of racial attacks in Brandenburg, in eastern Germany. They help victims find medical and psychological help, obtain lawyers for the legal process, accompany them physically during court sessions and organise support in the community where the attack happened.

An additional area of work is to publicise such events in order to counteract a frequently ethno-centric climate supportive of such attacks. The province of Brandenburg welcomes the charity and social assistance work of the NGO, but it rejects its critical view on the situation of refugees.

5.6 Multidimensional Activities: Social Assistance and Counselling

Most of the interviewed Spanish NGOs work in more than one area. Mostly, this means assistance in the fields of legal counselling, work, housing, education and health. This is particularly true for **CARITAS**, **SSIM**, **Alicante Acoge**, and **Almeria Acoge**. However, some of these have particular strengths. For instance, **SSIM** is an NGO which works exclusively for undocumented immigrants and is active in the countries of origin (Columbia and Costa Rica) and in Spain at the same time. It works with doctors who volunteer to provide health services to undocumented immigrants.

In Belgium, there are also many multifunctional NGOs, such as **CIRE**, which among other activities (cf. above) has a training centre (French, computer and cultural awareness courses) and manages an assistance program for job hunting. **The Association for Assistance to Displaced Persons (APD)** focuses its work mainly on supporting asylum seekers and accompanying them through the complicated legal and psychological process of applying for asylum. They also visit the deportation centres regularly. The NGO **Steunpunt Mensen Zonder Papier (SMZP)** wants to promote human rights for all undocumented immigrants, and accompanies them in the process of legalisation. In addition, they have published a guide to the rights of undocumented immigrants, set up a housing project and sensitised the medical world not to refuse help. **Point d'Appui** is their French equivalent; they offer a telephone hotline and give advice in all areas of interest to undocumented immigrants and asylum seekers. **Caritas Secours International (CSI)** offers social services, housing services and structural support services. They have supported people requesting legalisation, and they have two members in the Legalisation Commission. The **Association for Foreigners' Rights (ADDE)** was founded by lawyers; its objective is to make foreigners' rights known. ADDE offers seminars for field workers, lawyers, social workers, communal agents and ministers. It also publishes a legal review and gives legal advice through aid centres for foreigners.

In Italy, the **Secretariat for Foreign Affairs of the Diocese of Milan** offers legal advice, educational guidance, vocational guidance and health care. It also has six hostels for immigrants. Recently, the Secretariat has begun to work on two new issues: foreign minors (in particular of the second generation) in relation to their insertion in schools, and the traffic in women and foreign minors for prostitution. **Caritas Ambrosiana** is active in providing social protection alongside a legal counselling service on some projects (getting out of prostitution); they also provide overnight accommodation (at various levels) and educational guidance. **FILEF** supports undocumented immigrants in the complex procedures of applying for residence permits and family reunification. In addition, they have a Women's Department run by welfare and health workers, which offers advice and counselling on the problems experienced by foreign women at work and in the family. They also provide vocational guidance and training.

The main aim of the **Centre of International Labour Solidarity (CESIL)** is to help foreign immigrants become independent in their contacts with Italian bureaucracy. In particular, CESIL operates in the area of counselling and guidance for relations with the police, the local health authorities, the Provincial Employment Office and public offices in general. Through its International Women's Group, it runs two apartments with four sleeping possibilities each, offering temporary accommodation to women with special problems (illness, pregnancy, getting out of prostitution). Their most important activity, however, is counselling.

In Berlin, **Caritas Berlin** and Sister Bührle (Commissioner for Migration Questions of the Catholic Church) aid all immigrants who need support services. In addition, Sister Bührle tries to sensitise the public administration and offers foreigners the possibility of making their experiences public (cf. recent publication "Illegal in Berlin", Caritas 1999).

5.7 Intercultural Education and Mediation

In 1999 a group of recently trained intercultural mediators created the **Association of Intercultural Mediators of Catalonia (Alcantara)**. Currently, they are working on pedagogic actions for non-accompanied North-African minors in order to change the minors' minds and commit them to assume responsibilities. These young people must learn that they have rights but also some duties. They are asked to participate in training and educational measures in the same way that native children are obliged to do.

In Italy, the **Co-operative Proficua** was created within the League of Human Rights and deals with cultural mediation between Italians and people from different cultures. For this purpose, the co-operative offers a counselling service, which is open to all those (institutions, services and individuals) who have or intend to come into contact with different cultures, providing a wide range of services, from the organisation of multicultural events to the organisation of "education on world cultures." The co-operative also offers foreign citizens support and help in becoming integrated into Italian society.

5.8 Women and Children

In Spain, **Musu Kafo** (Barcelona) is an association of women from Gambia, Senegal, Nigeria and Ghana. They denounce the legally enforced dependence of women who came to Spain through the mechanism of family reunification and condemn the prohibition to work for these women. In order to overcome the latter, they try to organise co-operatives of African women.

In 1997, the **Italian League for Struggle against AIDS (LILA)** created a project targeted toward prostitutes. The "Priscilla Project – Mobile unit on prostitution" aims to prevent HIV through prevention on the road. It also operates an AIDS switchboard, legal counselling, and training courses. The project offers a free telephone service and the mobile unit goes out three nights a week. The women seeking support are mainly from Albania, Nigeria, Eastern Europe, and South America.

International Catholic Association of Services for Female Youth (ACISJF-In Via) works with non-accompanied children aged 3 to 17 and offers a centre for immediate short-term housing. Since last April, it has also offered some stable places for minors.

In Berlin the **Clearing Office for Unaccompanied Minor Refugees (umF)** supports children and youth aged 6 to 18 if they are potential asylum seekers or if they have an official toleration decree. The umF offers them housing in a residence hall and supports their application for legalisation or return. Undocumented children are only supported in exceptional cases.

In Germany the **Working Group Against International Sexual and Racist Exploitation (AGISRA)** works for the protection of three groups of women: First, refugee women whose gender-specific reasons for political asylum are denied (rape, sexual violence, etc.). Second, women who are victims of human traffic, forced prostitution and exploitation in gender-specific jobs. Third, women who are to be deported despite the fact that they are victims of violence and forced prostitution. The street-work project and the women's residence in Cologne were forced to close due to a lack of financial means. In Berlin, the **Intercultural Women's Centre** (Interkulturelles Frauenzentrum) offers counselling services and cultural and educational activities. They also support immigrant women in a Berlin prison. The aim of the Centre is to offer "help toward self-help," for instance by providing rooms for meetings of women's groups. Thanks to a political campaign supported by **AGISRA** and **Interkulturelles Frauenzentrum**, immigrant women can now receive an individual residence permit after two years of marriage (instead of four as before). **ZAPO-Working Group on Women (ZAPOLA)** is the women's group of ZAPO. They support women from Eastern Europe in a similar way as AGISRA.

What role do states assign to NGOs, and how do NGOs see their role? European states proceed in two different ways with respect to NGOs. On the one hand, in certain countries, some NGOs are criminalised as subversive organisations in the same way that some immigrants are criminalised as illegal. On the other hand, some NGOs are tolerated or even supported because they fulfil genuine public tasks, such as offering health services to immigrants. The NGOs have various visions of their tasks. Some fulfil tasks of the state (e.g. provide health services), while others follow a paternalistic and charity-based approach in typical third sector areas (e.g. counselling). A minority of NGOs supports the self-help of individual immigrants or the self-organisation of immigrants as collectives. Most of them agree on the need to demand the full implementation of human rights for undocumented immigrants.

6. NGOs: What European Societies Should Do⁶

The NGO representatives who were interviewed for this project and those who were present in the project's workshop think that it is necessary to open a debate on the humanitarian deficits of current immigration policies. In particular, policies of integration must be redesigned in order to tackle the new European social question of undocumented migrants.

Modern migration flows are, on the one hand, the effect of the "new" economic world order, which attracts workers from poor into rich countries, and, on the other hand, the expression of the desire of thousands of people not to accept this order passively. They are also the consequence of erroneous IMF and World Bank policies, which have consciously accepted the impoverishment of large parts of the world population and justified it with the need for economic consolidation policies. The radical demand for "open borders" aims at legalising this so-called "voting with their feet," while legalisation campaigns represent programmes that exclude the next "generation" of immigrants and refugees. There are states that preach a very selective immigration policy and a concomitant deportation of undocumented immigrants as the only possible solution to this underside of globalisation. The worldwide economic and social exclusion of workers in poor countries and undocumented immigrants provokes a new European social question, namely, the creation of an exploited and discriminated underclass of undocumented immigrants.

The NGOs that participated in the project see the first step of policymaking as ensuring that existing human rights conventions and chartas are applied. In addition, migration policy aimed at regulating migration flows has to be separated from policies applied to those migrants who already live in Europe.

6.1 Immigration Policy

An **active and common policy of immigration** is needed in Europe, since immigration has never stopped and will continue. Inconsistency and the lack of a future vision have marked the immigration and asylum policies of most European countries for the last fifteen years. The

⁶ The King Baudouin Foundation and the Platform of NGOs for International Cooperation on Undocumented Migrants (PICUM) have chosen not to sign the recommendations.

European Union is now beginning to recognise that it is de facto an area of immigration.⁷ Thus, possibilities of legal migration into the European Union based on more realistic possibilities must be established. The Amsterdam Treaty (Title IV) foresees that the Council of Ministers will adopt measures concerning external border controls, short and long-term visas and asylum rights, including illegal residence and family reunion. Yet immigration is described mainly as a danger for the Union, one which must be combated with protectionism and policy measures. In fact, the European Union is also obliged to implement human rights according to the general principles of Community law. In addition, there are important economic and demographic factors within the European Union which make an active immigration policy desirable.

6.2 Integration Policies

Residence

Basic human rights, such as the rights defined in the UN Convention for the Protection of the Rights of Migrants Workers and their Families (1991), should be applied to migrants and refugees. This Convention should be ratified by European Union member states.

Because a legal entrance to the European Union is nearly impossible for refugees and potential migrants, most people who enter the EU seeking shelter or a better life must do so illegally. The policies of closed borders, safe third countries and readmission agreements are responsible for this situation. This problem will most likely continue even if some sort of quota system for legal migrants is implemented in the EU member states. We must remind the public of the Geneva Convention, which states that crossing a border illegally in hope of being sheltered cannot be a crime – which is in fact the case in Italy and Spain. Such a measure can aid in protecting the human rights of all immigrants irrespective of their residence situation. As long as this is not reality, it is important to separate human rights from residence permits in order to safeguard basic rights without the need to show a valid identity card.

⁷ “Despite protestations to the contrary from some countries, Europe has now become a major zone of immigration. The stock of foreign population has continued to rise, despite substantial naturalisations – easier in some states than others. Immigration flows, particularly from countries outside the EU, continue, leading to net migration increases.” (Eurostat: Patterns and Trends in International Migration in Western Europe, Luxembourg, 2000, p. 183)

Many of the interviewed NGOs agreed that countries of immigration should institutionalise a permanent possibility for undocumented immigrants to legalise their situation. One proposal is that residence permits should be given to immigrants who can prove that they have lived in the country for a certain number of years. In this way, the creation of a segregated, marginalised and exploited underclass will be prevented.

Undocumented immigrants should have a “right to rights”, that is, expulsion of immigrants should be prohibited, at least as long as those immigrants are involved in legal cases (as prosecuting parties or witnesses) or are making a claim against employers or (social) insurance institutions. This has been partly implemented in Italy under the new Law for Foreigners in 1998, and is also true for migrants awaiting a court decision in Spain.

In accordance with the proposal of a directive of the European Commission on Family Reunion, a spouse (or a child) of a migrant should be entitled to an independent residence and work permit in order to prevent situations of marital mistreatment and of support of illegal employment. Support for women who have been victims of sexual exploitation is very scarce. They should have the right to legalisation and to prosecute the offenders, as is already legal practice in Italy and Belgium.

Unaccompanied children and youths up to age 18 should be entitled to residence permits and to integration measures. If they wish to return home, they should be supported in doing so. Immigration policy should be differentiated from the actions taken in the interest of the child. The asylum process must be accessible for children, but special procedures must be available.

Administration

The administration of residence and work permits should be transferred to the municipal or regional administration.

Work

In those countries where a quota system for work-related immigration exists (e.g. Italy and Spain), the process of formal employment and of quota decision should be eased and accelerated.

Asylum seekers should have the right to work while awaiting the decision on their case. Asylum seekers and undocumented migrants should have the right to go to court to dispute their wages or working conditions (cf. UN Convention for the Protection of the Rights of Migrant Workers and their Families).

Health

Everybody in the country should be entitled to public health care (a right guaranteed by the Belgian, Italian and Spanish constitutions) and this right must be put into practice.

Education

All children should be guaranteed access to schools without the danger of their own or their parents' deportation. They should have the right to obtain academic certificates; measures to promote the equality of chances should be taken, in particular in schools with a high presence of immigrant pupils. Children should have also access to kindergarten.

Political Parties

The Charter of European Political Parties for a Non-Racist Society (1998), a self-commitment of over 80 political parties to defend basic human rights and democratic principles and to reject all forms of racist violence, incitement to racial hatred and harassment and any form of racial discrimination, should be signed by all democratic political parties. The multiple social exclusion of undocumented migrants and the infringement on various human rights with respect to *sans papiers* provide a fertile ground for racism. Political parties in Europe should acknowledge this relationship.

Freedom of Mobility

Asylum seekers should not be obliged to ask for official permission when they want move within the country where they reside. The German "Residenzpflicht" (residence obligation) is unique in Europe. It hinders refugees from visiting friends, participating in cultural events, seeking support from a lawyer in a different administrative district, etc. and it represents an infringement on the human right to freedom of movement.

Deportation and Prison

Deportation centres cause many problems because people are imprisoned without having committed a crime. The living conditions are frequently inhumane; as a result, *sans papiers* regularly commit suicide in these centres. Since 1993, 36 people have died in deportation centres in Germany; at least 185 refugees tried to commit suicide or hurt themselves, and some only survived with severe injuries. During deportation, 5 refugees have died, and 97 were injured due to maltreatment. After deportation, 9 people died, and at least 239 were maltreated or tortured in their country of origin. In addition, *sans papiers* frequently cannot be deported anyway, because their nationality cannot be identified. Some NGOs demand the closure of the deportation centres.

The practice of a double penalty for immigrants (i.e. imprisonment first and deportation afterwards) must be abolished. Undocumented immigrants should have the same rights as citizens when it comes to being released on parole. Reintegration programmes for immigrants in prison should be developed.

6.3 Support of Civil Society

NGOs

The European Union should not only co-ordinate immigration policies in form of co-ordinating national police measures, but it should promote common policies which ensure that the human rights of all people on its territory are respected. The strategies of NGOs in the different areas of intervention (housing, schools, work, health services, etc.) should be supported by public authorities and be disseminated throughout the European Union.

The legal criminalisation of NGOs and private individuals working with and for *sans papiers* (cf. legal situation in Germany and Spain) must be abolished. The Belgian government has made a step in this direction by excluding from punishment those who help foreigners mainly for humanitarian reasons.

The European institutions should not only support NGOs, but also the self-organisations of *sans papiers*. It is very important for the NGOs to have access to some renewable basic subsidies to ease the stresses of their daily life and survival.

Research on immigrants and projects to support immigrants should benefit not only the research centre and the NGO by paying the salaries of their employees. Project objectives should not be self-referential, but should be geared toward effectively ameliorating the situation of immigrants.

7. Appendix: Main features of Legalisation Campaigns in Belgium, Italy and Spain

Country	Legalisations	Conditions of last legalisation	Type of permit	Numbers of last legalisation	Problems and advantages	Involvement of NGOs
Spain	1985 1991 1996 From 1993: annual quota 2000	All foreigners who can prove they were living in Spain before June 1999. Inclusion of family members & asylum seekers.	One-year residence permit or more, depending on previous legal situation.	December 2000: 246,089 applications. 82,845 have been refused.	Many residence permits granted in 1991 were not renewed one year later. Thus, new <i>sans papiers</i> .	In discussion of law and as assistants during the legalisation campaign.
Belgium	1974 1990s (some years for refugees) 1998 1999/2000	Asylum seeker after 3-4 years of residence. Foreigners who cannot return. Seriously ill persons. For humanitarian reasons & due to lasting social ties in Belgium. All should have been in Belgium as of October 1999.	Permanent permit.	1974: 7,448 legalisations. 1995-99: 6,137 legalisations. 2000: 50,000 people including approx. 20,000 children.	Slow decision-making. Short time to present demands to ask for lacking documents. Lack of knowledgeable support staff. Applicants are entitled to public health services and to a work permit.	In discussion of law, as assistants during the legalisation campaign and in legalisation commissions (only voice, no vote).
Italy	1982 1986-88 1990 1995-96 1998 From 1998: annual quota	All who have been in Italy as of March 1998 and have a (irregular) job.	Renewable one year or two year permits. The length increases in subsequent renewals.	1998: 250,792 applications, of which 36% were still in decision-making process in July 2000.	Creation of a "flood" of immigrants queuing up for legalisation. Reinforcement of the construction of migration as problem. Arbitrary line between entitlement to documents or illegality. Sudden extra burden of work for public services	Quite significant in spreading information, helping in filing application and providing legal help and advocacy. Very often, NGO are also involved in providing evidence of the foreigner's presence on the territory before the deadline.

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- Centre pour l'égalité des chances et la lutte contre le racisme. Rue de la Loi, 155, 1040 Bruxelles, Personne de contact: Jean Cornil
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Weinheim, December 2000