

Introduction: Europe – fortress or refuge?

by Heaven Crawley

The theme articles in this FMR challenge Europe's leaders to ensure that development of a common European asylum policy focuses on tackling the root causes of forced migration and on providing protection and integration and not simply keeping asylum seekers out of Europe.

On 1 May 2004 ten new countries joined the European Union,¹ increasing the EU's overall membership to 25 countries with a combined population of around 500 million. This date also marked the end of the five-year 'transitional period' for the implementation of the Amsterdam Treaty provisions on a common EU immigration and asylum policy.

From the outset, the rationale behind the development of a common European policy was that without minimum standards there would be a 'race to the bottom' as EU states adopted ever stricter policies so as not to appear a 'soft touch'. Certainly, on the face of it at least, it is logical that asylum and immigration policy should be dealt with at a European Union level – a European approach for a European issue. In practice, however, whilst efforts to harmonise were motivated partly by a desire to ensure that 'Fortress Europe' did not develop, in reality it has served only to cement this process.²

There are a number of complex and inter-related reasons why this has happened. The most obvious of these is the obsession – shared by most, if not all, EU Member States – with the number of asylum applications in Europe.³ In fact only a tiny proportion of the world's 20 million refugees, asylum seekers and internally displaced ever get to Europe. In 2002 over two-thirds of these people were hosted in the developing regions of the world, with the 49 least developed countries hosting 26% of the world's refugees.⁴ The UK hosts 11 persons per \$1 GDP per capita. In terms of its burden by GDP per capita the UK ranks 74th out of 155 countries in the world. By comparison Pakistan hosts 4,480 persons per \$1 GDP per capita, the DRC hosts

3,560 and Tanzania hosts 2,980.⁵ In terms of population size, the UK has five refugees and asylum seekers per 1,000 inhabitants, a ranking of 56 out of 163 globally. By contrast Liberia has 124 refugees and IDPs per 1,000 inhabitants, Armenia has 105 and Afghanistan has 68.

Although other countries in the world share far greater responsibility for the globally displaced, the substantial rise in asylum applications towards the end of the 1980s and the continuing high numbers in the last decade have driven policy change in EU member states. Following the exceptional peak of intake in the early 1990s due to the crises in the Former Republic of Yugoslavia and Eastern Europe, the number of applications rose more gradually from 234,000 in 1996 to 387,000 in 1999 and 390,000 in 2000. Since that time numbers have fallen further still and in 2004 the 25 EU countries recorded 19% fewer asylum requests than in the previous year.

Despite this, there remains a conviction, shared by politicians and the public alike, that the asylum system is subject to widespread abuse and that most asylum seekers are not genuinely in need of protection but are really economic migrants in search of a better life for themselves and their families. The irony of this assumption is not only that it flies in the face of what we see happening in the world – in Iraq, Sudan, Chechnya and elsewhere – but that Europe is desperately in need of both skilled and less skilled migrants to fill gaps in the diminishing labour force resulting from lower birth rates and changes in education and employment patterns.

One of the principle aims of European policy then has been to keep out those who are viewed as imposing financial and political costs whilst simultaneously attracting economic migrants who are able to benefit the economies of EU states. Not surprisingly, this has been a difficult – if not impossible – balance to strike because it means that many individuals are prevented from accessing Europe in the first place or when they do are subject to increasingly hostile conditions. And, as some of the articles in this issue of FMR suggest, those who have been most badly affected by this process are among those who are the most vulnerable and politically and economically marginalised. The impact on children is most obvious but other groups – including women whose applications for asylum do not fit a stereotypical male 'norm' – also appear to have particularly lost out.⁶

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At the same time as trying to keep asylum applicants from reaching Europe in the first place, there have been discussions in virtually all Member States – and particularly those with longer migration histories – about the need to integrate asylum seekers, refugees and other groups of migrants into the economic, cultural and social fabric of the EU. Governments want better integration for those already here and for those coming in legally and are trying to establish a new balance between the right of communities to their own customs and the right of society to cohesion. But this process has proved to be equally difficult because the policies of deterrence themselves undermine the ability of asylum seekers and refugees in Europe to integrate. Moreover, there has been a wholesale failure on the part of politicians and policy makers to explain the seemingly contradictory approach that is being taken to

address the multiple and sometimes competing needs and obligations associated with the international protection and migration regimes. As a result, public disquiet and, more recently, hostility have been allowed to increase and to drive the direction of European policy making. A vicious cycle has become firmly established.

The key question that needs to be addressed in terms of the European asylum system is easier to ask than it is to answer: namely, where do we go from here? There seems little doubt that if the approach to harmonisation continues in its current direction the role of Europe in providing protection to even a small proportion of the world's displaced is likely to diminish further still. There are measures that EU states could take, either individually or collectively, to counter some of the impacts of increased external border control. One is to provide mechanisms for those seeking asylum to come to Europe through protected entry routes (as discussed briefly in relation to the issues facing Chechen asylum seekers). Another is to establish mechanisms for large-scale supported resettlement into Europe as proposed by the European Commission but yet to be developed on anything but a very small scale.⁷

Large-scale resettlement

Sixteen countries worldwide offer refugee resettlement programmes in partnership with UNHCR. Six of these are EU Member States – Ireland, Finland, Denmark, the Netherlands, the UK and Sweden.⁸ Norway also has a resettlement programme. The numbers of refugees being resettled globally declined sharply after the terrorist attacks in New York in 2001. The numbers have now started to increase and in 2004 nearly 100,000 places were made available, mainly in the US, Canada and Australia. However, fewer than 5,000 of these refugees are resettled to Europe each year and although the UK began a resettlement scheme for vulnerable refugees who are in need of long-term protection – focusing primarily on those currently living in refugee camps in Liberia – since that time only around 160 people have entered the UK as part of the scheme.

In the current political climate there are concerns that the development of a large-scale European resettlement programme might be used to justify a political discourse – and ultimately change in policy approach – which distinguishes between 'legitimate' and 'illegitimate' modes of entry and implies that there is

no longer a necessity for asylum seekers to enter illegally or under false pretences because of the existence of an alternative 'gateway', although in reality this is very small and selective. These concerns are based in part on the development of a two-tier system in Australia where those who arrive in an 'unauthorised' manner are detained in remote centres and even if they are eventually granted asylum are only granted temporary status. In other words, even if a person is recognised as a refugee, they can never enjoy the same rights as someone with an identical claim who arrived on the resettlement programme.

Although these concerns are entirely justifiable given what we have seen happen in Europe over recent years, the reality is that such an approach already exists in many EU Member States. Asylum seekers who arrive spontaneously are viewed as illegitimate even in the absence of these alternatives, or where such alternatives are limited in scale. Given this context, the key issue is how to increase the scale of resettlement to provide meaningful long-term durable solutions for those in need of protection.

The European Commission has already identified an EU-wide

Albanian asylum seekers reach Italy.



resettlement scheme as one aspect of ensuring more accessible, equitable and managed asylum systems and has commissioned a study on the feasibility of setting up resettlement schemes in EU Member States or at EU level. Any resettlement schemes which are developed will need to be much more substantial than existing ones if they are to have anything other than a negligible impact (an annual European quota of 100,000 is the emerging consensus), must be treated as a complement to, rather than as a substitute for, the right to seek asylum spontaneously and should not be a substitute for the legally binding rights that attach to a refugee who has directly engaged the protection obligations of a state party to the 1951 Refugee Convention. This means that failure to access such procedures should never be used as a reason to deny an asylum seeker access to a procedure, or to draw adverse inferences about the genuineness of his/her other claim for protection. This in turn will require the concept of a 'refugee' to be reconceptualised and reclaimed.

Reconceptualising refugees

Measures to enable forced migrants to enter and settle in the EU and to contribute their often very considerable skills and energy to the European labour market will require three very significant but inter-related shifts in political thinking.

The first is a recognition that whilst the asylum determination systems of Europe have over the years come to define a 'Convention refugee' so narrowly that few now qualify, this does not mean that the majority of asylum seekers are in reality economic migrants and that they do not have protection needs. During the period 1990-2000, nearly 60% of all those seeking asylum in Europe originated from just ten countries in which there was well-documented conflict, human rights abuse and political repression.⁹ Politicians and policy makers can and do argue that not all of these individuals were directly affected by these conflicts but that does not and should not be allowed to detract from the fact that these conflicts undermine the ability of the individuals concerned to live without fear. Nor should it be allowed to detract from the real-

ity that EU policies to address the root causes of these conflicts would probably have had significantly more impact on the number of applications in Europe than any number of measures to prevent asylum seekers from entering.

Secondly, it is time for EU governments

to abandon the assumption that it is possible to distinguish between those seen as 'economically productive' and those viewed largely as an economic 'burden'. People are not simply units of labour but come with – or have aspirations for – family and other relationships and a desire to find a meaningful place in the society in which they live. This is often what it means to be truly integrated. Whilst employment is a very important part of this process, it is not the final or necessarily most important indicator of integration. Unless and until EU states accept their obligations towards those who are in need of protection and value migrants (economic or otherwise) for reasons that are not simply related to the contribution that they can make to economic growth but to society more generally, we are in danger of establishing a 'guestworker' system similar to that seen in Europe in the 1950s and 1960s and with similar long-term consequences.

Last, but by no means least, the language of protection and of the rights and needs of refugees needs to be reclaimed. In the European context it is rare to hear discussion of refugee issues others than in the context of debates about integration. In most political and policy discussions, and in the media 'debate' that often accompanies it, the terms 'economic migrant' and 'asylum seeker' prevail. Not only does this set up a false dichotomy between the two but it does not allow any space for discussion of the principles of protection or of the reasons why the concept of asylum is important. At the same time the term 'asylum seeker' – even more so than 'economic migrant' – has become a term of abuse with connotations that go far beyond the reality of an individual awaiting a decision on their need or otherwise for protection. The language of 'refuge' is important not only in terms of how Europe treats the people within its borders but

also in terms of our international role and responsibilities.

What is needed to generate these shifts in thinking? The articles which follow make a number of practical suggestions but what is needed

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above all else is political courage: brave European leaders willing to urge public opinion towards a more nuanced and sophisticated approach to the issues of asylum and migration. Such a shift would build on Europe's powerful political and economic place in the world, acknowledge and attempt to address the root causes of international conflict and provide meaningful and long-term mechanisms for providing protection to those who are unable to get it in their countries of origin. Europe has an obligation towards the world's refugees but it also has an obligation towards itself. At the moment it appears to be fulfilling neither.

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1. These are Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic and Slovenia.
2. www.statewatch.org/news/2004/jun/03fortress-europe.htm
3. Zetter *et al* (2003) *The Impact of Asylum Policies in Europe 1990-2000*, Home Office Research Study 259; available at www.homeoffice.gov.uk/rds/pdfs2/hors259.pdf
4. UNHCR (2004) *Statistical Yearbook 2002; Trends in Displacement, Protection and Solutions*, UNHCR; available at www.unhcr.ch/statistics. See also 'Falling asylum figures: a wake-up call for the EU?' by Raymond Hall, UNHCR Bureau for Europe, p54 of this FMR.
5. *Asylum in the UK: An ippr Fact File* (2005), available at www.ippr.org/ecomm/files/asylum_factfile_feb05.pdf
6. For a comparative analysis of gender-related persecution in national asylum legislation and practice in Europe see www.unhcr.ch/cgi-bin/texis/vtx/home/opedoc.pdf?tbl=RESEARCH&id=40c071354&page=research
7. http://europa.eu.int/comm/justice_home/doc_centre/asylum/common/asylumstudy_dchr_2002_en.pdf
8. Non-EU Member States which offer resettlement programmes are: Australia, Benin, Brazil, Burkina Faso, Canada, Chile, Iceland, New Zealand, Norway and the US.
9. Castles, Crawley and Loughna (2002) *States of Conflict: Causes and patterns of forced migration to the EU and policy responses*, London: IPPR