

'Fortress Europe raises the barricades' from Le Monde diplomatique (January 1999)

Caption: In January 1999, the French monthly magazine Le Monde diplomatique comments on the decision of the Fifteen to create a 'no-go area' — a 'cordon sanitaire' — along their shared borders, in order to achieve better control over the influx of immigrants and asylum seekers.

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ASYLUM SEEKERS NOT WELCOME

Fortress Europe raises the barricades

The continuing furore over the capture of Kurdish leader Abdullah Öcalan in February and the wave of Kurdish unrest it unleashed across Europe has served to heighten the EU's existing fears of uncontrollable waves of immigrants arriving at its doors. The Fifteen are in the process of creating a cordon sanitaire around their common borders, with the aim of turning Turkey and the countries of Central and Eastern Europe into buffer states who can receive refugees and process their demands for protection. Europe already has a security-based approach to immigration. Now it is seeking to offload its responsibilities onto third-party countries - with poor track records in human rights.

by JELLE VAN BUUREN*

The sight of Kurdish asylum-seekers arriving on Europe's coastlines in their small boats last winter caused panic in high places. Germany, Holland and Austria mobilised their immigration officers and threatened to close their borders. Italy, which had only recently joined the Schengen system, came under fire for poor surveillance of its frontiers. All this was for just 2,000 people fleeing the civil war in northern Iraq and south-eastern Turkey. A series of measures was set in place (most of them just extending existing measures) to combat the middlemen who help Kurdish asylum-seekers cross the borders: closer collaboration between border authorities, national police forces, intelligence services and Europol, and improved data-gathering systems.

The European Union embarked on a more ambitious initiative - which aroused less media interest - by opening a dialogue with Turkey on the possibility of a "regional solution" to the problem⁽¹⁾. A confidential report on meetings between European and Turkish officials gave more details on what this "solution" might be⁽²⁾. The EU is offering Turkey assistance on several fronts: strengthening its border controls, improving its ability to detect forged documents; facilities for the readmission of clandestine emigrants; and more effective measures against the trafficking of persons. Finally, it is proposing to offer Turkey financial and technical help to set up detention centres for illegal migrants entering the country. Significantly, Turkish officials ruled out any involvement by the United Nations High Commission for Refugees, saying that "the Turkish authorities did not see UNHCR involvement in the reception centres as appropriate, since only illegal migrants would be held there, nor did they want to see closer general cooperation on this issue with the UNHCR⁽³⁾."

Viewed logically, there is a problem here. When dealing with rights to asylum, the key question is whether you are dealing with an "illegal immigrant" or an "authentic" refugee. In Turkey's case, the question is far from theoretical. The UNHCR has often (as has Amnesty) criticised the Turkish authorities for their use of summary procedures, their refusal to recognise non-European asylum-seekers, and the fact that every year they repatriate thousands of refugees whose circumstances they have not even examined.

Turkey is not the country best placed to pronounce on the right to asylum⁽⁴⁾. It persecutes Kurds and left-wing political organisations. Its unwillingness to have the UNHCR probing into Turkish affairs is not surprising; but it is astonishing that the EU does not find it a problem. The EU has repeatedly criticised Turkey for violations of human rights. This has officially been cited as the reason for refusing Turkey's application to join the Union. But when it comes to arresting asylum-seekers, the Fifteen seem prepared to forget their objections.

The stakes are high for the EU, because Turkey is the main country of transit for asylum-seekers and migrants en route for Europe. It is not just the Kurds: Iraqis, Iranians, Afghans, Tamils and Pakistanis are all taking the "Balkan route". On top of this, Europe has been "producing" its own refugees over the past decade, particularly from the Balkans and former Yugoslavia: today they are reckoned to number 6.5 million, and in 1996 the EU governments spent more than \$12 billion on meeting their asylum requirements.

The EU is seeking to slow the entry of new asylum-seekers by enacting a whole range of legal and practical

measures. The Parliamentary Assembly of the Council of Europe and the UNHCR estimate that the sum effect of these restrictive measures, combining the status of refugee and illegal immigrant, is to threaten the right of asylum to which Europe's governments so generously subscribed in the wake of the second world war⁽⁵⁾.

On 30 November 1991 the European ministers responsible for immigration adopted the notion of "safe third countries": asylum seekers trying to enter the European Union and coming from one of those countries would be sent back without their application even being considered. In declaring the countries of Central and Eastern Europe safe, the EU thus provided itself with a *cordon sanitaire* down its eastern flank. "If you need protection, apply to them" is what Europe seems to be telling its asylum-rejects. "Why should we accord you protection when others could do it just as well themselves?"

As the UNHCR points out, for this to be acceptable, one would have to ensure that in the "safe" countries, asylum-seekers really did have access to procedures that would enable them to pursue their rights. But the countries of Central and Eastern Europe have only just ratified the Geneva Convention⁽⁶⁾, and even now they are not signing up to all its obligations. Germany is the country that makes most extensive use of the notion of "safe third countries", and it has now become impossible for an asylum-seeker to reach Germany by overland routes.

The EU is currently using similar techniques to block off its southern frontiers. One idea currently in favour is registering refugees within their region of origin. For several years there have been intergovernmental consultations on asylum rights, refugees and immigration. This informal network of the 15 main funders of the UNHCR⁽⁷⁾ has been pressing for measures that would make it possible to keep asylum-seekers in centres as close as possible to the countries they have come from. Within these "international protected areas" they would benefit from temporary protection⁽⁸⁾ from the UNHCR, the United States or the EU.

Two studies by this network highlight the advantages of such a system⁽⁹⁾. "In principle, the establishment of such facilities should make it possible for states to justify returning spontaneous asylum-seekers from their border to the International Protected Areas." And "Regional reception in the form of temporary protection in such International Protected Areas should dissuade migrants, who are not seeking protection, but a better standard of living in third countries, from abusing the instrument of protection."

Despite all this, the authors of the studies have to admit that the system has drawbacks. The aim of the operation is to offer temporary protection - but how long is temporary? Is it not the case that the creation of these international protected areas provides a handy safety valve for the international community, enabling them to park refugees there permanently? Isn't there a risk of institutionalisation in the host countries allocated to the refugees? The UNHCR itself is very critical of these projects, but its 15 main funders have a big say in any decision.

The European governments have adopted the notion of "safe regions" within a given country. They particularly want to apply this to the Kurds in Turkey. It would be up to refugees to get themselves to a protected zone within their own country, perhaps an area far from the area of fighting. With this attempt to get the reception of refugees organised in a region of Turkey itself, the EU is "creating facts" so that each agreement reached represents another step towards the system it is hoping to put into place - a system based on the probability that present flows of immigrants and refugees will continue to be structural, ongoing and massive.

Concentric circles

The Geneva Convention, which established the principle of the right to asylum, is not up to meeting the needs of the new world order. It was drawn up in an era when there was far less travel from one country to another and the cold war guaranteed a sort of stability. Not only were asylum-seekers few, but they matched the classic concept of the political refugee: male, dissident, intellectual or poet, preferably bearing signs of torture, and escaping from ruthless communist regimes in order to reach the "free world". But today we live in different times. The cold war is over. What we have now is widespread political and economic instability

affecting a large number of countries and regions. A dramatic escalation of social, religious and ethnic tensions is creating civil wars, tearing countries apart and sowing despair in their shattered societies.

The refugees created by these conflicts are a reminder to Europe of the poverty that exists in much of the world, and which it would rather forget. It also reminds Europe of its obligations under the Geneva Convention. But the EU's response can be summed up in one word. Control. It is trying to offload its responsibilities for asylum-seekers onto countries that do not have the necessary resources to deal with them. But at the same time, it intends to use those countries' workforces as a flexible, mobile pool of labour to solve its own problem of its ageing populations.

Thus the countries on Europe's eastern and southern flanks have a double role. On the one hand, they are required to curb immigration to Europe by modernising control techniques at their borders, for which they are to be given financial and technical assistance by the EU. They are to become "buffer states" with a specific responsibility for dealing with asylum-seekers, and they will be pressured to sign agreements with the Fifteen obliging them to re-admit illegal immigrants.

Equally importantly, by the terms of agreements signed with the EU these countries will become reservoirs of cheap and temporary labour. The Europe of the future will be a multi-layered entity structured around a central core, protected by a belt of associate countries. These will progressively tighten their border controls in return for their products and their workforces being given preferential access to the European single market.

A report produced under the Austrian presidency of the EU gives a hint of its future plans⁽¹⁰⁾. It proposes a "modification, updating and possible replacement" of the Geneva Convention and wonders whether the history of the right to asylum should be re-examined - particularly its early days when the protection provided was seen not as an individual subjective right, but as a political offer on the part of the receiving country. Receiving countries would then have far more flexibility.

The Austrians also suggested that economic and development aid should be made conditional to meeting Europe's requirements on controlling migration. They propose a plan based on concentric circles. The first circle would consist of the countries operating the Schengen system; the second circle the Mediterranean countries and countries which are candidates for EU membership, and which are expected to bring their immigration policies into line with Schengen criteria, especially in the areas of visas, border controls and repatriation policy. The third circle (the countries of the former USSR, Turkey, and North Africa) would be expected to concentrate on controlling transit routes and combating the middlemen who smuggle the migrants through, benefiting in return from increased economic cooperation. The fourth circle (the Middle East, China and Black Africa) is to eliminate the factors which prompt emigration in the first place.

The issue of migration is a paradox in the neo-liberal discourse which preaches deregulation, flexibility and privatisation, and favours the minimal state and the free circulation of goods, services and capital. But the rules of the game change totally when it comes to the free circulation of people and of the treatment of asylum-seekers. Then the state is called upon to use all the means at its disposal to limit freedom.

This paradox finds its most striking expression in the term "economic refugee", which was invented as a way of distinguishing between "true" and "false" asylum-seekers. The problem is not so much that the distinction is based on an artificial concept, but that the term has such a negative connotation. In fact, the so-called economic refugee embodies all the qualities that neo-liberalism would most like to see - a desire for progress and prosperity, individual responsibility, risk-taking etc. An unemployed Spaniard who leaves the south and travels north to seek work is seen as behaving commendably, a good example of flexibility and personal determination, two of the qualities that are required of the modern worker. But the worker who comes from more distant parts - with the same aims - is seen as a greedy opportunist.

Neo-liberalism makes great play with notions of "freedom", but when you look closer it is obvious that this freedom does not apply to everyone. It depends on the nationality and the personal situation of those who are invoking it. It is subordinated to economic relations and interests. From this point of view, the case of

immigration is far from being unique.

* Researcher and journalist on issues of European concern. Associate of Bureau Eurowatch, Leiden.

- (1) Council of the European Union, document 5573/98 ASIM 13 Europol 12, 28 January 1998.
- (2) Council of the European Union, document 6938/1/98 ASIM 78, 21 April 1998.
- (3) Op. cit.
- (4) Turkey has ratified the Geneva Convention, but with the proviso that only refugees arriving from the continent of Europe will be eligible for asylum procedures.
- (5) See for example the recommendations of the Parliamentary Assembly of the Council of Europe, no. 1149 of 1991 (Europe of 1992 and policies regarding asylum); no. 1236 of 1994 (Asylum rights) and no. 1327 of 1997 (Protection and strengthening of the human rights of refugees and asylum seekers in Europe). See also Christiane Berthiaume, "Le Droit d'asile en danger en Europe", *Réfugiés magazine* no. 101, 1995.
- (6) The Geneva Convention of 1951 stipulates that a refugee is recognised as such internationally when he/she has "well founded fears of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion".
- (7) Australia, Belgium, Denmark, Germany, Finland, Italy, Canada, Holland, Norway, Portugal, Sweden, Spain, the United States and Britain. France pulled out in 1996, arguing that the consultations were merely duplicating measures that were already being taken within the European Union.
- (8) The temporary protection provided by the UNHCR is obligatory within the terms of the articles creating the organisation and governing the right of asylum. It consists of temporary measures to be adopted in the event of the arrival of large numbers of refugees, which then have to lead to durable solutions. It permits the administrative authorities in the receiving countries not to pronounce immediately on individual cases.
- (9) Secretariat of the Intergovernmental Consultations (IGC) on asylum, refugees and migration policies in Europe, North America and Australia. Working paper on reception in the region of origin, September 1994; draft follow-up, August 1995.
- (10) Strategy paper on EU policy in matters of migration and asylum, CK4-27-ASIM 170, 1 July 1998.

Translated by Ed Emery