

## CHAPTER EIGHT

# Migration, development and the EU security agenda

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Academics describe the relationship between migration and development as “unsettled”.<sup>2</sup> Nevertheless, it is widely accepted that poverty, conflicts and “bad governance” produce refugees, while, at least in the long run, “development will alleviate economically driven migrations” and “democratisation is likely to reduce forced movements”. It is also observed that people from poor countries working in richer countries are a valuable source of development (for both countries), with Third World countries receiving far more in remittances from their migrant workers than in development and humanitarian aid from the west.<sup>3</sup> But what of the links between migration and development policy?

*[I]t has become increasingly recognised that migration can be affected – intentionally or not – by intervention in the kindred arenas of development policy and assistance, as well as by wider policies and practice in the foreign and domestic spheres.<sup>4</sup>*

In policy-speak, the EU is seen to be pursuing a “conservative alliance containment model”. In practice this means the construction of a Fortress Europe and attempts to control migration “at source” by the use of aid and trade as “leverage” to secure the cooperation of developing countries. While these policies predate the terrorist attacks of 11 September 2001, it is apparent these events have given the project much impetus: increasing the preoccupation with immigration and border controls, further blurring the distinction between “refugee” and “terrorist” within media and institutional discourses and entrenching security doctrines ever deeper into western foreign policy.<sup>5</sup> This article traces the development of EU migration policy, its global approach and “contamination” of the development agenda.

### **Border controls and ‘buffer states’**

Contemporary EU migration policies date back to the Schengen Agreement and ad hoc, intergovernmental negotiations from the mid-1980s where officials from EEC interior ministries set the tone for swathes of immigration and asylum legislation based on “denial, prevention and deterrence”.<sup>6</sup> Almost two decades

on and “the whole panoply of modern policing with its associated rhetoric” has been employed against those seeking asylum or a better life in Western Europe.<sup>7</sup>

With a blueprint for “Fortress Europe”, the Maastricht Treaty on European Union (which entered into force in November 1993) allowed the development of policies on external border control, a strict visa regime, the imposition of ‘carrier sanctions’ and the ‘safe third country’ rule. Simultaneously, asylum-seekers, faced with no possible means of reaching the EU legitimately in order to make an application, have been forced into the hands of ‘traffickers’, providing a lucrative market for organised criminals (and not a few border guards). The EU’s response has been to harmonise criminal law not just on trafficking offences, but the ‘facilitation’ of illegal entry and residence, with an overbroad definition that threatens support networks and established migrant communities.<sup>8</sup>

A central tenet of EU immigration policy through the 1990s was the creation of a “buffer zone” in the accession countries of central and eastern Europe. Visa requirements, bilateral readmission agreements between EU and candidate countries, EC funding and technical assistance to immigration and border police authorities, declarations that central and eastern European countries are safe for the return or protection of refugees, and the condition that accession candidate countries must implement the EU Justice and Home Affairs *acquis* in full before they can be considered for full accession – have enabled the EU to successfully export its responsibility for countless asylum-seekers and refugees to the candidate states.<sup>9</sup> The way the buffer state system operates in practice is clearly illustrated in a case-study on the pre-accession relocation of Poland’s border controls from the western border with Germany to those at the eastern border with the Russian Federation, Belarus and Ukraine.<sup>10</sup>

## **Globalising immigration controls**

Having secured the cooperation of the buffer states to the east, the EU extended the approach to countries of origin and transit of migrants and refugees headed for Europe. At the Tampere summit (Finland) in October 1999, six action plans of the EU’s High Level Working Group on Immigration and Asylum (HLWG) were adopted. The policies were an attempt to pass responsibility for prevention of immigration to the countries of origin of refugees and migrants and the countries through which they pass by tying trade and aid to the prevention and return of “refugee flows”.<sup>11</sup>

The arrival in Italy and Greece in late 1997 and the beginning of 1998 of significant numbers of Iraqi Kurds, who had travelled by sea from Turkey, galvanised the EU into the drafting of an action plan to ensure that such an

“influx” did not recur. The plan equated asylum-seekers with illegal immigrants (the phrase “illegal refugees” was coined) and was aimed at prevention with the increased use of liaison officers working with carriers to stop “suspects” from boarding and universal fingerprinting of illegal entrants to make identification and return easier.<sup>12</sup> It proposed the return of these “illegal refugees” to “safe areas in the region of origin” (in this case, Turkey and Jordan).

Always drafted for wider application, the Iraq plan was followed up in mid-1998 with a strategy paper from the then Austrian presidency of the EU. This gained notoriety for its assertion that the Geneva Convention was outdated and that individual rights of asylum should be replaced by “political offers” of finite protection by Member States. Its frankness was too much for other EU national governments and it was shelved. But its approach to migration strategy has been seized upon and developed. The Austrian plan proposed an integrated approach linking trade, development and migration policy with countries of origin and transit. “It is impossible to take decisions on Iraq, Pakistan, former Yugoslavia or Turkey” it commented, without taking into account the plainly visible tide of illegal migration. The EU “must use its economic and political muscle” to enforce return and readmission agreements with countries of origin and transit. “Progress in these areas should serve as an important criterion when development aid decisions are taken”. These passages, from the first draft of the Austrian strategy paper, did not survive scrutiny by other member states and were cut from the second draft of September 1998. But it was precisely these ideas which were developed in the other action plans on five more countries or regions which were major sources of migrants or refugees: Afghanistan, Somalia, Sri Lanka, Morocco and Albania (later extended to include Kosovo).

The adopted plans included detailed statistics showing the size and age structure, life expectancy and infant mortality of the population, imports and exports to and from the EU and the rest of the world, GDP, development aid and existing trade cooperation and readmission agreements – all of which are to be used to cajole these countries into accepting EU readmission policies. Of the six countries targeted for action, at least four can be described as refugee-producing countries. Yet none of the action plans contained any proposal which would allow refugees from those countries to seek asylum in Europe. The plans were about making people stay where they are – either in an unsafe country of origin or in precarious conditions in the region of origin – and about sending back those who made it to Europe.

A corollary for stopping migration from war-torn countries, repressive regimes and poverty is the improvement of the situation in those countries. Here the plans can be read either as utterly naive or deeply cynical. They offered peace,

reconstruction, development, reduction of poverty, with little elaboration as to how these laudable aims were to be achieved beyond a continuation of pre-existing humanitarian aid programmes. At Tampere there was no money put on the table to combat third world poverty, confirming the view taken by many civil society groups that the Action Plans were only concerned with expulsion and readmission.

There was a similar combination of vague and aspirational recommendations to improve the social, political, economic and human rights situation in countries of origin, though the plans managed specific, clear and implementable recommendations to stop migration from and through them: more airline liaison officers stationed at airports to prevent people boarding aircraft bound for Europe; new laws criminalizing trafficking and illegal exit; equipment and training to detect forged documents and arrangements for the identification and documentation of returning refugees. The levers of trade and aid are to be used explicitly in this process, particularly in the pursuit of readmission agreements, either free-standing or as part of trade and economic cooperation.

## Return and readmission

Although the six HLWG plans have not succeeded in the way their drafters had hoped, they have secured a central place for migration control and readmission in policy toward developing countries. No sooner had the ink dried on the far reaching “Tampere conclusions”; EU officials turned their attentions to the final stages of the negotiation of the Lomé Convention on aid and trade between the EU and 77 ACP (African, Caribbean and Pacific) states. With £8.5 billion to bargain with and a mandate from Tampere, the EU demanded – at the “last minute” (*Guardian*, 5.2.00) – the insertion of a clause on readmission and repatriation. The ACP states argued that there was no basis in international law for such a demand (the Legal Service of the EU concurred), but with little choice the ACP countries capitulated and Lomé IV was signed in February 2000.<sup>13</sup> Its successor, the Cotonou agreement, which will run from 2007–2020, strengthens the EU’s position in regard to imposition of readmission obligations.<sup>14</sup>

EC Readmission agreements with third states have been painfully slow from the policy-makers’ perspective, though bilateral readmission agreements between EU member states and third countries have proliferated.<sup>15</sup> The next issue to be addressed is the many migrants that lack identification documents with which to establish nationality in order to carry out deportations. The European Commission proposes extending the Cotonou readmission obligations to cover “other third country nationals”; “trading human beings in exchange for financial aid”, say Amnesty International.<sup>16</sup>

In addition to the pursuit of readmission agreements, EU Justice and Home Affairs ministers have agreed two ‘return’ Action Plans for repatriation from the EU, preferably voluntary – but if not then forcibly – of all illegal migrants together with refugees whose countries are now “safe”. The first is a specific programme for Afghanistan and the second is a wider plan on increased expulsion across the board.<sup>17</sup> The former makes few provisions for the security of the people returned, contains no obligation not to go ahead if the human rights situation in Afghanistan does not allow for safe return, and little in the way of monitoring mechanisms. Officials hope to begin deportations in April 2003 – despite ongoing (and at times fierce) military action and calls from agencies working on the ground in Afghanistan to delay the plan. Some of the funding for the Afghani repatriations will come from the recently established “European Refugee Fund” (which was created to assist in the support and integration of refugees) – despite resistance from the External Relations and Development DGs in the Commission. The wider agreement on increased return provides for greater cooperation between the member states (a number of which have ambitious expulsion targets) including joint expulsions on special planes, which have already begun.

### **“A new vision for refugees”**

In Britain, with tabloid driven racism against refugees and asylum-seekers reaching hysterical proportions, a confidential policy document was leaked to the press in February 2003.<sup>18</sup> The government’s “new vision for refugees” is a “global network of safe havens” – “particular camps whose prime purpose is to provide a place of safety and process claims”. The underlying principle is “protection not migration” – there will be “no need to flee”. However, like the HLWG plans before them, the UK proposals make no concrete provisions as to how this utopian vision will be achieved. So, those still fleeing conflict, poverty, persecution or environmental disaster are to be housed in UNHCR administered camps, if not in the actual country they are fleeing, then in the region. All will be entitled to six months temporary protection while their asylum applications are being processed. Those that actually manage to reach the EU to make an application would be sent immediately to a safe haven in Europe – but potentially outside the EU – for processing (possibly the Ukraine post-EU enlargement or even Albania in the short-term).

Successful applicants for asylum will be entitled to protection in the EU or other developed countries. However, “resettlement cannot be a right” and the definition of refugee should be “at its narrowest” for long-term assistance, resettlement and local integration. Internally displaced refugees – there are

some 20 million worldwide – will not have access to the safe havens. There will be “some form of internal policing to avoid internal violence and prevent entry of combatants”, though refugees will be “free to leave” (but then ineligible for any form of international protection elsewhere).

The legitimacy of the plans is seen to rest on the camps’ provision of a level of protection in compliance with the European Convention on Human Rights and the Geneva Convention.<sup>19</sup> However, “basic humanitarian assistance should not be significantly higher than the local communities’ resources otherwise it will cause resentment”. Given the suggested locations for the “safe havens” – North or West Africa (likely northern Somalia for Somalians from the south; Morocco for Algerians), Turkey (and potentially Iran and northern Iraq for Iraqis and Kurds) and Europe (Ukraine for refugees from the east of the enlarged EU’s external border) – there is concern over the prospective conditions in the camps and, moreover, how people denied entrance to the West at the last will react? Apparently the only conclusion governments in Britain, Italy, Australia and elsewhere have drawn from the riots, suicides and hunger strikes in their domestic reception centres, is that out of sight is out of mind. For Raekha Prasad:

*For decades, from sub-Saharan Africa to Sri Lanka, more than 6 million of the 10 million refugees in UNHCR care have been trapped in exile, unable to return home or settle in their country of asylum ... In all but name, Britain is proposing a new network of refugee camps – designated areas where those inside have different rights from those outside. To envisage such a plan is to imagine ghettos created by the world’s most peaceful and richest countries in some of the world’s poorest and most unstable regions.<sup>20</sup>*

Critics argue that the ‘new vision’ proposals are incompatible with the right to seek and enjoy asylum which is enshrined in a number international human rights agreements.<sup>21</sup> They would also seriously undermine the principle of international burden sharing developed by signatories to the 1951 Geneva Convention and set an appalling example to other states. The government realises the plans are unpalatable in many quarters, but proposes a trial project of one or two camps/“external processing zones” under the auspices of a “coalition of the willing” – potentially including Australia, USA and Canada. “Countries would be persuaded to host a safe haven” because “they are probably dealing with a large refugee population already”. The “best chance of success on this front is if we can sell the programme as a real investment in that region”.

Thus, the project depends on a number of factors. Primarily, other western states need to back the UK proposals. While it remains to be seen if the EU will

embrace the project as a whole, there is much potential for a coalition of willing states.<sup>22</sup> The extent to which the UNHCR supports the proposals is as yet unclear, though Commissioner Ruud Lubbers is very enthusiastic.<sup>23</sup> Moreover, the proposals make it clear to the UNHCR that if it does not accept the role devised for it, the International Organisation for Migration is waiting willingly in the wings. Finally, the cooperation of countries to host “safe havens” must be secured:

*“[A]t every level of governance (domestic, EU, international) in development, trade, conflict resolution and promotion of human rights, the factor of reducing forced migration should be explicit and played into the wider agendas of these objectives.”*

### **Contamination of the development agenda**

An agenda for the type of international governance the UK proposes is already evolving at the EU level. In June 2002, the Seville European Council agreed upon the establishment of a single body for General Affairs and External Relations. Gone was the commitment in Article 3 of the TEU giving development policy an independent role in foreign policy – it will instead be considered alongside security and defence and external trade and aid. This suggests a report commissioned by the European Parliament, “creates a risk of development considerations being seen as less important, even ignored”.<sup>24</sup>

Alas, this seems an almost certainty. Post-September 11 it is not only migration concerns that are contaminating the development agenda with recourse to the powers of persuasion assured by aid and trade. Financial Intelligence Units from the USA and EU member states in the pursuit of terrorist funds and assets have designated non-cooperating countries to face sanctions, potentially as part of wider anti-terrorism clauses to be imposed on the developing world in the same way as readmission clauses. The European Commission has also suggested that there will be a greater allocation of resources to developing countries to combat “crime and terrorism” in its 2003–04 review of Country and Regional Strategy Papers.

There are also institutional and political links between development considerations and the EU Common Foreign and Security Policy. The EU’s creation of a Rapid Reaction Force will (eventually) be used against “growing violence destabilising law and order, breaches of the peace, outbreaks of fighting, armed conflicts, massive population movements ...” Together with the EU’s “non-military crisis management” capability, it marks a radical departure from the earlier frameworks which were “politically neutral and ... aimed exclusively at alleviating human suffering”<sup>25</sup>.

A supposed distinction between the “defence” of the EU (which is defined as NATO’s job) and “peacekeeping [and] peacemaking” is quite spurious, and moreover, the idea that the EU should act independently in military or “non-military” operations in sovereign states has huge implications – as does the use of non-military “crisis management” to ensure that the EU has “more reliable partners, more secure investments” (Javier Solana, Secretary General of the EU). In many respects, the EU plans (regardless of the current disarray in attempting to put them into place) follow a similar, if less explicit, doctrine of military intervention, peace-keeping and reconstruction pursued by the USA (although the USA has shown little interest in the “reconstruction” of Afghanistan).

## Conclusions and concerns

“Unsettled” as the links between migration and development may be, a number of concerns are obvious. The vast majority of the world’s refugees already stay within their region in the developing or “post-communist world”. Estimates as to the global number of refugees suggest a fall in recent times from 17.6–18.2 million in 1992 to 12–14.5 million in 2000 (Sørensen et al., 2003:7). The European Commission cites 1.9 million refugees in EU territory (fifteen per cent of this total),<sup>26</sup> yet EU governments are increasingly insistent that as many as possible should be returned and in future seek “protection in the region” – all by forcible means if necessary.

So what of the effect on development? If, as policy-makers suggest, refugees are a “burden” for developed countries (though there is much evidence to the contrary), they are, by this argument, clearly a greater burden for developing countries. For example, Iran currently hosts and supports 1.4 million refugees from Afghanistan and Pakistan more than 2 million as against less than 100,000 in Europe – who are to be returned as quickly as possible to this supposedly “safe” country.

This comes at a time when assistance from “Official Development Aid” is falling and developing countries are increasingly dependent on remittances<sup>27</sup>: in 1997, ODA dropped to the same level of funding as 1981 in real terms; there has been “no serious debt relief”; and since, 1992, donor countries have even been able to include in their ODA figures, money spent on refugees and asylum-seekers living in the donor country.<sup>28</sup>

Finally, what are the implications for development policy of prioritising and diverting funds toward the prevention of migration (and terrorism) “at source”, and how will the doctrines of regime change, pre-emptive strikes, crisis-management, peace-keeping and migration control interact and unfold in

policy and practice? The UK Government's "new vision for refugees" offers a stark warning:

*[O]ur focus should be on ensuring that forced migration is for a temporary period only ... [T]he international community must take action to resolve conflicts, and human rights abuse and commit to post conflict reconstruction to enable sustainable return. There is no international law permitting such intervention and it is still highly controversial. Nevertheless, refugee flows have been used in the past to justify intervention, for example in Kosovo ... As a last resort, there needs to be military intervention.*

- 1 Statewatch is an independent group of journalists, researchers lawyers and academics monitoring justice and home affairs and civil liberties in the EU (see [www.statewatch.org](http://www.statewatch.org)).
- 2 Sørensen et al suggest that "There is no direct link between poverty, economic development, population growth". Sørensen et al, 'The Migration-Development Nexus ...', *International Migration Quarterly*, vol 40 (5) Special Issue 2/2002.
- 3 P. Gammeltoft (2002), 'Remittances and Other Financial Flows to Developing Countries', *ibid*.
- 4 Sørensen et al, p.10, *opcit* note 2.
- 5 F. Webber and L. Fekete (1996) 'Europe – from refugee to terrorist', *Race and Class*, vol 38, no. 2, (pp. 77-82). See also L. Fekete (2002) 'All in the name of security' in P. Scraton (ed) *Beyond September 11: An anthology of dissent* (London: Pluto).
- 6 Examples include the Schengen Agreement (1986), the creation of the "Ad Hoc Group on Immigration" (1986) and "Co-ordinators Group on the Free Movement of Persons" (1988) and the Action Plan in the "Palma document" (1989). See documentation in T. Bunyan (ed) (1997) *Key texts on justice and home affairs in the European Union* (London: Statewatch).
- 7 F. Webber (1995) *Crimes of arrival: Refugees and Asylum-seekers in the New Europe* (London: Statewatch).
- 8 *Statewatch European Monitor*, vol 3, no 4 (Feb 2003).
- 9 Western Europe's cordon sanitaire, *Statewatch Bulletin*, Nov/Dec 1993 (vol 3, no 6) and Checking the fences: Immigration and asylum in the associated states, *Statewatch Bulletin*, May/June 1996 (vol 6, no 3).
- 10 Under the PHARE programmes for 2001 and 2002, the EU is funding Poland's preparations for the opening up of the western border and the transfer of personnel, equipment and practise to militarise the eastern border in time for full accession to the EU in 2007/8. Advanced surveillance equipment and communications technology has been ordered and the number of border guards will double from some 5,300 at present. The plans almost completely ignore local considerations at the future EU external border and will potentially impact dramatically on the development of border areas. See H. Dietrich (2002) *The new border regime at Bug River*, *Bürgerrechte & Polizei/CILIP* 73 (3/2002). Plans for the post-enlargement buffer states – applicants to the EU and its future "neighbours" – are underway.
- 11 This section borrows heavily from an article by Frances Webber, 'Tampere: Globalising immigration controls', *Statewatch Bulletin*, Sept/Oct 1999 (vol 9, no 5), pp. 15-18.
- 12 "Influx of migrants from Iraq and the neighbouring region", Council of the EU document 5573/98, 28.1.98.
- 13 The opinion of the EU Legal Service stated "it is doubtful whether, in the absence of a specific agreement to this effect [readmission] between the concerned states, a general principle of international law exists, whereby these states would be obliged to readmit their own nationals when the latter

- do not wish to return to their State of origin". See 'Lomé Convention used to impose repatriation on the world's poorest countries', *Statewatch Bulletin*, March/May 2000 (vol 10, no 2).
- 14 Article 13 of the Cotonou Agreement includes the explicit commitment of the ACP states to "accept the return and readmission of any of its nationals who are illegally present in the territory of a Member State of the European Union, at that Member State's request and without further formalities".
  - 15 To date, the EC has signed one readmission agreement with Hong Kong. Negotiations with Sri Lanka and Macao have been completed. Negotiations with Morocco, Russia, Pakistan, Ukraine, China, Albania, Algeria and Turkey are underway. Agreements with numerous other countries are sought.
  - 16 Amnesty International EU, Press Release, 26.11.02.
  - 17 See Council of the EU documents 15215/02, 4.12.02 and 14673/02, 25.11.02 respectively.
  - 18 The final version of "A new vision for refugees" is still awaited at the time of writing. The version referred to here is a draft dated 5 February 2003.
  - 19 The document sees the crucial issue as whether the safe havens will be seen by the Courts as compatible with Article 3 of the Geneva Convention which provides for non-refoulement of refugees to unsafe countries. In one of several references to the potential amendment of the Geneva Convention, it is suggested that "[i]t may be wise to state this in a revised version of the Geneva Convention".
  - 20 'Refugee camps don't work', *The Guardian*, 10.2.03.
  - 21 The right to seek and enjoy asylum enshrined in Article 14 (1) of the Universal Declaration of Human Rights (1948) and Article 18 of the Charter of Fundamental Rights of the European Union (2000). External processing would also compromise a number of other fundamental rights of those fleeing persecution as included in the Refugee Convention and other international human rights treaties.
  - 22 The UK proposals actually build on EU discussions from 1998 when EU senior officials visited the Turkish government to discuss financing such a camp (see *Statewatch* bulletin vol 8, no 3). The Justice and Home Affairs Directorate of the European Commission has held informal discussions with UK Home Office on the proposal during February and March 2003 and the EU has called on the Commission to "elaborate further on strengthening the use of development cooperation in the search of solutions for refugees, in return and reintegration, as well as local integration" ('Draft Council conclusions on Migration and Development', Council of the EU document 6175/03, 7.2.03). EU Justice and Home Affairs ministers discussed the UK proposals at an informal meeting on 28 March 2003, see: 'UK asylum plan for "safe havens"', *Statewatch News Online*, <http://www.statewatch.org/news/2003/apr/10safe.htm>. Moreover, there are precedents for "coalitions of the willing" in multilateral border operations and joint sea patrols outside the EU framework, see: 'Europe's first migrant patrol founders on the rocks of incomprehension', *The Independent*, 11.3.03.
  - 23 "Lubbers offers new approaches on asylum-migration issue", UNHCR Press Release, 28.3.03.
  - 24 R. Pabst (2003) "The impact of 11 September 2001 on the developing countries and the implications for EU development policy", European Parliament, DG Research Working Paper, DEVE 106 EN 01/2003.
  - 25 'Global "policing" role for the EU', *Statewatch Bulletin*, June/August 2000 (vol 10, no 3/4).
  - 26 European Commission document COM (2002) 703, 3.12.02.
  - 27 Gammeltoft, P. (2002), *opcit* note 3.
  - 28 According to B. S. Chimini in 1988, 20 per cent of total humanitarian assistance was spent on supporting refugees and asylum-seekers in donor countries. The sums amounted to just under a billion dollars, or more than a third of bilateral humanitarian assistance. See 'Aid, Relief and Containment ...', *opcit* note 2 (p.81).