

# European Asylum Policy: A Fortress Under Construction<sup>1</sup>

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*This article examines trends in the flows of migrants and refugees into Western Europe and the increasingly restrictive response adopted by both national governments and inter-governmental institutions. The main elements of present asylum policies, and proposals for future changes in those policies, are outlined and critiqued, in particular the implications, both positive and negative, of the Maastricht Treaty. Some recommendations are made regarding the evolution of future policy.*

## Introduction

**O**n 18 June 1992, the Irish electorate voted overwhelmingly in favour of ratification of the Maastricht Treaty,<sup>2</sup> thereby giving its formal seal of approval to the prospect of Ireland participating in a more closely united European Community (EC). In the months which preceded the national referendum, the voters were assailed with predictions about the social and economic pros and cons of ratification. Most of these predictions focused on how movement towards further European union would affect the citizens of Ireland in their capacities as nationals of a member state within the EC. In the midst of all this, other aspects of ratification appear to have been significantly overlooked or perhaps simply ignored. One such

issue is the effect which entry into force of the Treaty will have on persons outside the Community itself, otherwise known in Community-speak as 'third country nationals', and, in particular, on refugees and asylum-seekers.

This article assesses the impact which ultimate entry into force of the Maastricht Treaty may have on the efforts of asylum-seekers to secure protection in Europe from persecution in their home countries. The provisions regarding asylum policy in the Treaty, however, really form part of a process which has been developed by European states over the course of the past decade and which has already been formalised in a number of international agreements. In fact, these agreements are, in their own fields, more significant than the provisions of the better known Maastricht Treaty: that they have received relatively scant public attention to date largely reflects the deliberately secretive nature of their formulation (see below). The developing European asylum policy has been sharply criticised by non-governmental organisations (NGOs) and academics alike for its blatant restrictionism, and for the manner in which aspects of it seriously threaten certain fundamental legal principles of refugee protection.<sup>3</sup>

Since the development of this policy would appear to have been driven by the changing nature of refugee movements in Europe over the past decade, we will begin by examining some relevant background trends in migrant and refugee movements. With this background in mind, we go on to outline the evolution of European asylum policy both at national and international levels. We conclude with a discussion of the implications of the Maastricht Treaty for persons seeking asylum in Europe.

## **Trends in migrant and refugee flows<sup>4</sup>**

In 1991, over 15 million foreigners were legally resident in Western Europe, with 13 million in the EC.<sup>5</sup> However, many of these were simply nationals of other EC states, so that the total number of non-EC resident foreigners in the EC was around 8 million (of whom approximately 25% were Turks and a further 25% were from North Africa).<sup>6</sup> Many more were undoubtedly resident illegally – quantification of their number is impossible

(though wild estimates are often used to fuel anti-immigrant prejudice).

Separating out immigrants and refugees, a total of over 1 million officially recognised refugees were estimated to live in Western Europe in 1990.<sup>7</sup> These figures must be seen in a global context: 83% of the world's refugees live in poor countries.<sup>8</sup> Despite talk of 'floods' of refugees, approximately only 5% of the world's refugees appear each year in Western Europe as asylum-seekers, though the figures are increasing (see below).<sup>9</sup>

Historical context is also important. In the late 1950s and early 1960s, European countries actively recruited millions of manual labourers under the so-called 'guest worker' system: Britain recruited West Indians and Asians, France – North Africans, the Netherlands – Indonesians and Surinamese, Germany – Turks and other southern Europeans.<sup>10</sup> In the mid-1970s, 10% of the German and French workforces consisted of people born outside those countries.<sup>11</sup>

Labour immigration (guest worker) agreements were mostly suspended by Western European countries in 1974 with the onset of recession.<sup>12</sup> The annual number of immigrants to Western Europe fell from 1.2 million in 1973 to less than 900,000 in 1990.<sup>13</sup> Clearly, much 'immigration' did not stop; instead, it assumed different characteristics. By the mid-1980s, over 80% of immigrants were admitted on social or humanitarian grounds (such as family reunion or study) and few were admitted as workers *per se*.<sup>14</sup> For example, two thirds of the 52,000 people allowed to permanently settle in Britain in 1990 were joining relatives already in the country.<sup>15</sup>

On the basis of present trends, asylum-seekers will outnumber 'traditional' migrants by 1995. By 1985 the number of asylum-seekers was already greater than the number of legally admitted foreign workers (not counting immigration for family reunion, etc.).<sup>16</sup> Many Western governments now perceive asylum applications to be a smokescreen for the 'economic migration' which they had attempted to end. An increasing number of asylum-seekers are alleged to be 'merely' seeking greater economic and personal security, rather than fleeing persecution on grounds of race, religion, nationality, membership of a particular social group or political opinion (which is the criterion that has to be fulfilled to qualify for refugee status).

There *has* been a dramatic increase in the numbers of those seeking asylum in Western Europe (here referring to the countries of the Council of Europe) – up from 14,000 in 1973,

to 71,000 in 1983, and around 500,000 in 1991.<sup>17</sup> It is estimated that 75% of those who are allowed to submit full asylum applications (after initial screening) stay within Western Europe after the procedures are completed – either with official refugee status as laid down under the 1951 UN Convention relating to the status of refugees, or with some form of ‘B-status’ which allows them to remain at least temporarily on humanitarian grounds (see below), or illegally.<sup>18</sup>

In total, over one million asylum-seekers arrived in Western Europe between 1983 and 1989: one third of them came from the Middle East, 15% from the Indian subcontinent (including 60,000 Tamils), 10% from Africa, and 20% from Eastern Europe.<sup>19</sup> Towards the end of the 1980s, the upsurge came primarily from countries on the Western European periphery such as Turkey and Yugoslavia.<sup>20</sup>

**Table:** Asylum applications per 1,000 of the population in selected European countries, 1991

Austria	3.6
Belgium	1.5
Denmark	0.9
Finland	0.4
France	0.8
Germany	3.3
Italy	0.6
<i>Ireland</i>	<i>0.01*</i>
Netherlands	1.4
Norway	1.1
Spain	0.2
Sweden	3.1
Switzerland	6.2
UK	1.0

\* Estimate for 1990

Sources: Inter-governmental Interior Ministries Secretariat, in *Financial Times*, 4 March 1992; Irish figure derived from figures in *Evening Press*, 10 February 1992

Germany absorbed the largest number of asylum-seekers during the 1980s: between 1983 and 1989, Germany processed 44% of all Western European asylum applications.<sup>21</sup> Relative to population size, the Scandinavian countries and Switzerland were most heavily affected and Britain and Ireland the least.<sup>22</sup> More up-to-date figures on 1991 flows (see table) show that

Germany and Austria have overtaken the Scandinavian countries in terms of applications relative to population size.<sup>23</sup>

This steady rise in asylum applications comes at a time when most Western European governments want to limit the number of 'foreigners' allowed to live and work in their countries. Hostility to new entrants from the Third World and elsewhere has grown throughout Europe in response to unemployment, rising social welfare costs and general feelings of being threatened or 'swamped'.<sup>24</sup> This hostility is evident even in traditionally liberal countries such as Sweden. Its most dramatic political expression is the rise in support for extreme right-wing parties with hostile policies towards immigrant and refugee communities. A recent survey of the rise of the extreme right in Europe concluded that a major factor in their growth was concern over migration/refugee issues.<sup>25</sup> The French National Front is the strongest and best known of these parties. There has also been a marked upsurge in anti-foreigner violence – for example, in Germany the number of recorded attacks on foreigners increased ten-fold between 1990 and 1991.<sup>26</sup>

## **The response of Western governments in the 1970s and 1980s**

In the context of the widespread characterisation by governments of asylum-seekers as 'economic migrants', it is necessary to examine changes in policy towards both immigrants and refugees. While international law would demand that asylum-seekers be accorded a quite separate status from 'economic migrants', government policy in both areas has been motivated by the desire to restrict inflows from both categories.

By the end of the 1980s, almost all Western governments had tightened up on immigration regulations (e.g., limiting family reunion rights) and made access to refugee determination procedures more difficult.<sup>27</sup> Visa requirements were imposed on many national groups, and airlines and other carriers transporting those without the correct documentation became subject to heavy fines in many countries.<sup>28</sup> Many of the countries singled out for the imposition of visa requirements were those where human rights violations were well-

documented by organisations like Amnesty International – these included Iran, Iraq, China and Sri Lanka. These policies have the additional effect of turning airline staff into the ‘first line of defence’ of the immigration regime. Refugees were faced with the prospect of a long stay in detention (sometimes in prison) while their requests were processed.

Immigrants and asylum-seekers who succeeded in gaining entry found that their rights to housing, employment, social welfare benefits, language training, and counselling and advice services were severely limited. At the same time, police and other security forces were increasingly checking people’s credentials, deporting alleged ‘illegals’, and otherwise making life more difficult for potential immigrants and refugees. The 1989 Migrant and Refugee Manifesto, which was endorsed by a number of European NGOs active in this area, states that:

Entry requirements everywhere have been made tighter, and many European states... have reduced migrants’ and immigrants’ rights to work, to settle, to have access to education, medical and social services and welfare rights, and have placed legal obstacles in the way of family reunion.<sup>29</sup>

The criteria for assessing who is or is not a genuine refugee were also becoming more and more strict. In the early 1980s approximately 50% of applicants were recognised as genuine refugees in Western Europe, but this proportion had declined to 20% by 1988.<sup>30</sup> For example, only around 0.7% of Tamils are granted refugee status in the UK (compared to 70% in France), even though there would appear to be clear indications that the applicants could be fleeing from persecution.<sup>31</sup>

Many of those denied full refugee status are allowed to stay in the country to which they flee, but they are accorded so-called ‘non-Convention’ refugee status (or ‘exceptional leave to remain’). This puts them in an extremely insecure situation in which their future is completely at the discretion of the host government. Some Tamils and Iranians have been deported to their countries of origin while classified in this way.<sup>32</sup>

## Recent national initiatives

During 1991, Western governments became even more concerned about migrants/refugees and announced or proposed new unilateral measures of an increasingly restrictive nature to

cope with the 'threat'. The examples of France, Germany and the UK are particularly noteworthy.

Controversy about immigration and asylum in France escalated in 1991: the issue played a major role in the local elections in March 1992 and seems set to do the same in the parliamentary elections in 1993. A 1990 survey showed that 71% of French people believed there were too many Arabs in France and 42% actually disliked people from the Maghreb.<sup>33</sup> Many mainstream politicians appear to have swung towards the sorts of positions most readily associated with the National Front. Perhaps most notoriously, former premier Jacques Chirac claimed that 'the noise and the smell' of Arab and black immigrants was driving French workers crazy.<sup>34</sup>

French Prime Minister Edith Cresson joined in the affair in July 1991 by suggesting that the government would charter special planes to fly illegal immigrants (including 'bogus' asylum-seekers) home; she went on to remark that 'this would be totally free and it would not be for a holiday.'<sup>35</sup> A poll released by the Prime Minister's office showed that two thirds of French people supported the principle of forcible repatriation,<sup>36</sup> which could involve between 300,000 and 1 million people.<sup>37</sup> She also pledged stricter controls over the issuing of visas and more rigorous vetting of applications for temporary family visits. Those without legal residency status would no longer qualify for family allowances, and political refugees would have no automatic right to work permits (though they would receive a small allowance).<sup>38</sup> There was also a promise of a crackdown on employers using illegal immigrant labour in the clothing, building and cleaning industries.<sup>39</sup>

German concerns over immigration are more related to flows from Eastern Europe than are those of France. In particular, hundreds of thousands of 'ethnic Germans' (i.e. people living outside Germany eligible for German citizenship) from the former USSR, Poland and elsewhere have moved to Germany in the last few years. In addition, over 200,000 people applied for asylum in Germany in 1991.<sup>40</sup> It is within this latter category that flows from the Third World are causing significant concern. As in France, illegal entrants are now threatened with speedy deportation: the federal government will in future call for more or less immediate expulsion of those whose asylum requests have been turned down. Amnesty International's German branch estimated that those facing possible expulsion included 40,000 Sri Lankans, 30,000 Lebanese, 22,000 Iranians, 7,000 Afghans and 2,000 Ethiopians.<sup>41</sup> The German government denied that

so many were at risk and claims that appeal procedures will remain in operation.

Germany's ruling Christian Democrats have also argued for an overhaul of the country's liberal asylum laws so that nationals from certain 'safe' countries would automatically be deemed ineligible for refugee status (at present all applications must be considered). This proposal was originally opposed by most of the other parties and could not be implemented without some support from them – the asylum law is enshrined in the constitution and cannot be altered by a simple parliamentary majority vote. There are now indications that the opposition parties may re-think their stances in the light of recent anti-foreigner violence. (The concept of 'safe countries', whose nationals would not be eligible for consideration as asylum-seekers, is an increasingly popular one in other European countries also.)

In 1991, the British government announced a variety of proposals for tightening its asylum and immigration laws. These included the doubling – from £1,000 to £2,000 – of the fine for airlines carrying a passenger without the proper documentation; and the ending of the right to free legal assistance for all asylum and immigration cases, to be replaced by advice from the almost wholly government-funded UK Immigrant Advisory Service (UKIAS), few of whose staff are legally qualified. (This last mentioned proposal had to be reviewed due to disputes over the workings of UKIAS.) In addition, a proposed Asylum Bill likely to go before parliament in late 1992 or early 1993 contains provisions for the fingerprinting of applicants, a 'fast-track' deportation procedure for applicants whose claims are deemed to be 'clearly unfounded' (subject to an appeal which they would not be allowed attend), the ending of the automatic right to local authority housing for family applicants, and limitations on students' rights to remain in the country. There have also been proposed changes of a restrictive nature in the immigration rules administered by the government (which can be altered by administrative decision without recourse to legislation), some of which have been criticised by the UN High Commissioner for Refugees as being contrary to the UK's obligations under international law. Already in 1992, the proportion of asylum applicants being granted refugee status has dropped to an all-time low of 3% in the UK.<sup>42</sup>

## Cooperation between EC states

Cooperation between countries in these areas has been established by member states of the EC in formal, inter-governmental agreements. The use of inter-governmental arrangements, rather than the formal institutions of the EC itself, represents a deliberate decision to avoid scrutiny by EC bodies and accountability under EC law. Although none of the agreements which we will describe has yet been fully ratified, NGOs working on behalf of refugees expect that all will be ratified in the near future.

The *Schengen Convention*, signed in June 1990 by the Benelux countries, France and Germany, puts into effect an initial agreement reached between those countries in 1985, which was aimed at gradually removing border controls at their common borders. In the meantime, the Schengen group has been joined by Italy, Spain and Portugal, while Greece was recently granted observer status. The Convention as it now stands has recently been described as 'the blue-print for the legal structure' for European cooperation in the field of asylum policy.<sup>43</sup>

The Convention provides for uniform principles to be applied by signatory states in controlling their common borders. These include the standardisation of visa requirements, as well as the imposition of sanctions on airlines which carry passengers without visas. The practical effect of the latter provision is that employees of airline companies will act as governmental immigration officers, thus replicating the model already adopted by many national regimes (see above). It also lays down criteria for determining the country responsible for examining an asylum request and provides for mutual exchange of information on asylum-seekers.

The next significant Convention to be signed by EC states was the Convention Determining the State Responsible for Examining Applications for Asylum Lodged in one of the Member States of the EC, 15 June 1990. This Convention is commonly referred to as the *Dublin Convention*, and occasionally as the *Asylum Convention* (although, as will be shown, the latter title is somewhat of a misnomer since the Convention has little to do with the notion of asylum). Although it has been touted by European governments as a milestone of political cooperation in the field of asylum policy,<sup>44</sup> it has been widely criticised by human rights groups and NGOs.

As with the Schengen Convention, the Dublin Convention establishes criteria outlining which state should be responsible for determining an asylum request lodged in any one of the contracting states. Articles 4 to 8 set forth the criteria: the state deemed responsible may be the state in which the application for asylum is initially lodged, although other considerations such as family ties in another state or the state which issued the person with a valid entry visa may be taken into account. (An obvious problem in this regard is that the procedure for settling disputes about which country should handle an asylum request can involve lengthy delays and periods of uncertainty for the applicants.)<sup>45</sup> In addition, Articles 14 and 15 of the Convention provide for the mutual exchange of information about individual asylum-seekers between contracting states, professed to be aimed at assisting the state responsible for examining the asylum request in determining the claim.

While the notion of formalising criteria for determining which state should be responsible for examining an asylum request may, at first sight, appear to be a sensible proposition, the problem with the Convention is that it does not address issues of procedural due process or the substantive determination of asylum claims. Therefore, because the quality of the determination procedures varies considerably as between contracting states, this means that in practical terms a person seeking asylum in an EC state may be forced to apply for asylum in a country whose procedures are simply incapable of identifying all those in need of protection. As Amnesty International has pointed out, from the refugees' point of view the Convention could work in such a way as to prevent an asylum-seeker from applying for asylum in the particular EC state where there is the best chance of obtaining protection.<sup>46</sup>

The third inter-governmental agreement to be designed by EC States is the Draft Convention on the Crossing of External Borders of 24 June 1991. Although not yet signed by any of the member states, and open to possible modification before adoption, this draft Convention again provides *inter alia* for the placing of controls at the external borders of the contracting states; for cooperation in the imposition of visa requirements on nationals of particular states; and for sanctions on airlines which carry passengers who do not possess adequate travel documentation. Also, provision is made in Article 10 of the draft Treaty for a list to be drawn up which should be accessible to all contracting states, containing the names of third country nationals who should be refused entry to the territory of the

Community on grounds of public policy, or for posing a threat to national security.<sup>47</sup>

## Criticisms of the inter-governmental Conventions

Of the many criticisms that have been made about the above Conventions from a procedural stand-point, the two major criticisms which are continually raised and which are common to all three Conventions are:

Firstly, all these Conventions – the Schengen Convention, the Dublin Convention and the Draft Convention on the Crossing of External Borders – have been aptly described as ‘undemocratic.’<sup>48</sup> The entire drafting process took place behind closed doors, without any input by the national parliaments of the member states, NGOs or lawyers’ groups. The European Parliament was kept completely out of the Schengen negotiations, although it was ‘informed’ about the drafting of the Dublin Convention.

Moreover, in the case of the Schengen Convention, national parliaments will be left entirely out of the picture since the accord provides for the setting up of an Executive Committee of government ministers which is exclusively empowered to interpret and implement the Convention. This means that the Executive will have exclusive control of the implementation of Schengen, with no possibility for review of its decisions either judicially or by national parliaments.<sup>49</sup> Thus, it is hardly surprising that people in countries like France and the Netherlands have protested against such wholesale violations of their parliamentary traditions.<sup>50</sup>

Furthermore, none of the Conventions is subject to review by any of the institutions of the EC (other than the Council of Ministers). Because the inter-governmental conference approach to cooperation formally operates outside the EC institutions, the European Commission and the Court of Justice, as well as the European Parliament, are entirely divorced from the decision-making process. This means that there is no meaningful, independent, supervisory body in place at European level to monitor the implementation of these Conventions.<sup>51</sup>

The second major criticism of the Conventions is that no attempt was made in any of these instruments to incorporate

uniform principles of asylum law and policy, and asylum procedures in particular, amongst the member states.<sup>52</sup> Yet it would be simply impossible for these kind of Conventions to work in any way fairly when their implementation varies from state to state. For this reason, if ratification of all these Conventions is, as is the feeling amongst most NGOs and governments, a *fait accompli*, provisions for the establishment of uniform substantive and procedural due process for the determination of refugee claims must be the next step forward, provided such uniform rules are in accordance with the fundamental principles of international asylum law.<sup>53</sup>

## Asylum policy and the Maastricht Treaty

How does the Maastricht Treaty impinge on the development of asylum policy in Europe? Some of the Treaty's provisions regarding asylum policy would appear to have some positive potential. The main provisions are contained in Title 6 of the Treaty under the heading 'Cooperation in the Sphere of Justice and Home Affairs'. The fact that asylum policy is dealt with in this section along with issues such as drug addiction, combating of terrorism and judicial cooperation in criminal law, is, however, itself a warning signal of the shape of things to come.

These provisions acknowledge the fact that cooperation in asylum policy has taken place at the inter-governmental level. They provide for a framework for cooperation within the Union which is intended to operate mostly outside Community structures. In this respect, Article K.3 provides that member states shall inform and consult one another within the Council of Ministers with a view to coordinating their action. Decisions on these areas are to be taken by unanimous vote of the Council. While the Court of Justice is not to have any *prima facie* competence in these areas, Article K.3(c) does provide some potential for a supervisory role for the Court of Justice if member states make specific stipulations for same. The European Commission is given the right of initiative with regard to these areas, while the European Parliament has the right to put questions and to make recommendations with regard to these matters. Most significantly, provision is made in Article K.9 for the Council to decide unanimously that the areas covered can be dealt with by Community structures.

Notwithstanding these potentially positive provisions, Article 100c of the Treaty contains far-reaching provisions of the negative variety. It provides that the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, shall determine the third countries whose nationals must be in possession of a visa when crossing the external borders of the member states. It goes on to provide, however, for an emergency procedure whereby in the event of an emergency situation in a third country which could lead to a sudden influx of nationals from that country into the Community, the Council, acting by a qualified majority on a recommendation from the Commission, may impose a visa requirement for nationals coming from the country in question for a period not exceeding six months. The possibility of this visa requirement being extended is also left open by the terms of Article 100c. There is no provision for the involvement of the European Parliament here, as a result of which it can be argued that the provision could lead to an enormous abuse of power on the part of the Council.

## Future prospects

The positive signs in the Maastricht Treaty for asylum policy are that, at the very least, the Treaty does provide the potential for active involvement of all the Community institutions in the asylum process. On the other hand, there is also the possibility that the Treaty could do nothing more than maintain the existing status quo as regards European asylum policy. That means keeping the evolution of that policy at an inter-governmental level, with negotiations proceeding in secret, as well as ensuring that the operation of that policy remains unsupervised by any of the institutions of the Community. Worse still, the provision for emergency action in Article 100c could in fact lead to wide abuses in the case of large movements of refugees seeking protection from persecution. This negative outlook is further reinforced when one peruses the working programme which has recently been developed by the European Ministers responsible for immigration – otherwise known as the Ad Hoc Immigration Group – for the future harmonisation of asylum policy in Europe.<sup>54</sup> The language used throughout indicates that the policy is driven by collective self-interest in keeping asylum-seekers out of the EC, rather than principled adherence to international law.

This last point is of the utmost importance: the number of asylum-seekers who come to Europe should not be a consideration in drawing up policy, and attempts to reduce that number should certainly not be a basis for policy changes. The crucial issue is whether each individual case is fairly assessed to determine whether the person is in genuine need of asylum because of a well founded fear of persecution. Our obligations under international law demand that all who are entitled to asylum be granted it – this should be the case regardless of whether dozens or hundred of thousands of people are involved.

Given that Maastricht's provisions on asylum policy could develop either positively or negatively, we want to conclude this paper by joining with other lawyers and human rights groups working on behalf of refugees in urging people to lobby their politicians to give specific undertakings that the provisions in the Maastricht Treaty as regards asylum policy be made the subject of full EC cooperation – involving roles for the Court of Justice and the European Parliament – and taken out of the exclusive hands of the Executive.<sup>55</sup> Such a move towards greater democratisation of the process would enhance the prospects for the development of a more progressive and less fortress-orientated policy.

### Footnotes

1. An earlier version of this paper was presented by Suzanne Egan at a public meeting on the Maastricht Treaty, 'Economic Integration, Human Disintegration?', hosted by Comhlámh Human Rights Group on 3 June 1992, in Kinlay House, Dublin. The authors are grateful to Jill Rutter of the British Refugee Council for her valuable comments on an earlier draft; responsibility for any remaining errors is the authors'.
2. Although the formal title for the treaty is the Treaty on European Union, throughout this article it will be referred to by its more popular name, viz. the Maastricht Treaty.
3. See, for example, Amnesty International (1991), *Europe: Human Rights and the Need for a Fair Asylum Policy* (AI Index: Eur 01/03/9 1); 'Third World Migrants and Refugees in the "Common European Home"', *Trócaire North-South Issues Paper*, No. 18, May 1992; H. Meijers (1990), 'Refugees in Western Europe: Schengen Affects the Entire Refugee Law', *I.J.R.L.*, No. 2, p. 428; and H. Meijers (ed.) (1991), *Schengen: Internationalisation of Central Chapters of the Law on Aliens, Refugees, Security and the Police*, Kluwer Law and Taxation Publishers.
4. Queries may be raised about our focus on both migrant and refugee movements in this and some later sections. Many observers would argue that the two categories should always be discussed separately to ensure that the cause of refugees is not 'discredited' by association with 'economic migrants'. However, we feel that it is impossible to properly understand present policies towards refugees without considering more general issues of migration – this is the rationale behind the discussion which follows. It is possible, in the context of overall First World-Third World relations, to argue for a broad-based relaxation of all immigration restrictions. See, for

- example, A. Storey, (1992), 'Why people in the "First World" should oppose all immigration controls', unpublished paper, Trócaire, Dublin. However, this article focuses on the narrower, and more urgent, issue of ensuring protection for those fleeing immediate persecution.
5. W.R. Bohning, (1991), 'Integration and Immigration Pressures in Western Europe', *International Labour Review*, Vol. 130, No. 4, p. 449
  6. Ibid.
  7. NGO-EC Liaison Committee (1990), *Europe 1993 in Solidarity with the Third World*, discussion document, Brussels
  8. Figure supplied by the British Refugee Council from its asylum statistics for 1990
  9. Ibid.
  10. G. Loescher, 'The European Community and Refugees', *International Affairs*, Volume 65, No. 4, (1989), p. 621
  11. *The Economist*, 17 August 1991
  12. Britain had moved to limit the immigration of workers at an earlier stage – the Commonwealth Immigrants Act was passed as early as 1962.
  13. *Financial Times*, 23 July 1991
  14. Loescher, op. cit., p. 621
  15. *The Economist*, 15 February 1992
  16. Loescher, op. cit., p. 621
  17. *Financial Times*, 23 July 1991; *The Economist*, 17 August 1991
  18. *Financial Times*, 23 July 1991
  19. Loescher, op. cit., p. 622
  20. Ibid.
  21. Ibid., p. 623
  22. Ibid.
  23. A significant change which seems to be occurring in 1992 is a sharp drop in asylum applications to the UK – these are running at approximately half their 1991 level, according to figures supplied by the British Refugee Council.
  24. These fears exist even though only 2.3% of the EC's inhabitants (excluding North Americans) are foreign citizens (*The Economist*, 15 February 1992).
  25. C. Husbands, (1991), 'The extreme right – a European explosion?', unpublished paper, London School of Economics and Political Science
  26. *The Economist*, 15 February 1992
  27. See, for example, Loescher, (1989), op. cit., p. 624.
  28. Six of the 12 EC countries impose such carrier fines (British Refugee Council figures).
  29. Refugee Forum and Migrant Rights Action Network (1989), *The Migrant and Refugee Manifesto*, London
  30. Loescher, (1989), op. cit., p. 624
  31. Figures supplied by the British Refugee Council
  32. Loescher, (1989), op. cit., p. 626
  33. *The Economist*, 29 June 1991
  34. *The Guardian*, 28 June 1991
  35. *The Guardian*, 12 July 1991
  36. *The Independent*, 11 July 1991
  37. *Financial Times*, 23 July 1991
  38. *The Economist*, 17 August 1991
  39. *The Guardian*, 11 July 1991. Worse may be to come: a senator of the centre-right UDF group has compared immigrants to the Nazi occupation of France and urged explicit priority for French nationals in job allocation.

- He has also called for the expulsion of immigrants unemployed for more than two years or convicted of imprisonable crimes, and demanded that immigrants' rights to French citizenship through birth or marriage be abolished (*The Economist*, 29 June 1991). Later in 1991, former President, Valéry Giscard d'Estaing, termed immigration an 'invasion' and argued that only people who had French parents should be automatically entitled to French citizenship i.e., immigrants and their children could be excluded (*The Irish Times*, 24 September 1991).
40. *The Independent*, 9 March 1992; *Financial Times*, 4 March 1992. The German government estimates that the cost of handling asylum requests was around \$4 billion in 1991.
  41. *The Guardian*, 4 July 1991
  42. All information in this paragraph was supplied by the British Refugee Council.
  43. A. Kuijer, 'The Schengen Implementation Agreement: Criticism and Alternatives', speech delivered at Rotterdam, 29 January 1992, p.2
  44. 'The Dublin Convention may be regarded as a first major step in cooperation on asylum policy between the Twelve', *Report from the Ministers Responsible for Immigration to the European Council Meeting in Maastricht on Immigration and Asylum Policy*, Brussels, 3 December 1991 (SN 4038/91 WG/930), p.43.
  45. '[T]he country where the asylum application has been made has three months to decide who should examine the application. If the country finds that another is responsible, according to the Convention, it can apply to the second country. The latter has six months to reply, followed by one month to execute a transfer if the application is granted. Under the Dublin Convention it may, therefore, take up to ten months before a factual examination of an asylum application' ('European Conventions Regulating Asylum Policy', British Refugee Council, unpublished paper, 1991).
  46. Amnesty International, op.cit, p. 25
  47. Article 13 goes on to provide that the exchange of information on data contained in the joint list shall be computerised and available for consultation by the competent authorities of the Member States.
  48. Kuijer, op. cit., p. 2
  49. 'The Schengen development process took place in secrecy but, however, it also asks national parliaments to transfer a part of their powers to the Schengen Executive Committee, which is going to be a committee of the governments under which the committee is empowered to give decisions on the interpretation and implementation of the S.I.A. [Schengen Implementation Accord]. In other words the government then becomes the judges. There is no judicial control of the S.I.A.', B. Eagar, 'Refugee Issues in Europe: Recent Developments and Ireland's Response', speech delivered at Irish Refugee Council Meeting, 28 March 1992, p. 5.
  50. Kuijer, op.cit., p. 2
  51. 'Real harmonization, independent on [sic] restrictive policy arguments is only possible through international supervision of the decisions of the national courts. [N]either the Dublin Convention nor the Schengen Agreements bring about this harmonisation, while they do not provide for such a spontaneous harmonisation through an international court with jurisdiction to review national decisions for their conformity with these treaties...', R. Fernhour, 'The legal-structure of IGC-treaties and conventions concerning immigrants and refugees', speech at Nijmegen, 31 January 1992.
  52. 'They set out criteria for determining the state responsible for dealing with an asylum request... without taking into account that asylum procedures vary considerably among the contracting states and in some states fall short of international standards', Amnesty International, op. cit, p.5.

53. Ibid, pp. 18-23
54. Op.cit. (Footnote 44)
55. 'We must underline that the possibility exists in the Maastricht Treaty for the rights of asylum-seekers to be secured but that if people are in favour of European Union and in favour of the Maastricht Treaty that they must insist to every politician...that the provision in respect of the rights of asylum seekers must be transferred to Community law and taken away from the secretive government bodies that are making the decisions now', Eagar, op.cit, p. 12.