



## The case for a European citizenship for stateless and third-country nationals based on residence

The failure of the camp at Sangatte has debunked the deficiencies of European asylum and immigration procedures in dramatic fashion. It is time for Europe to act and break this deadlock.

To that end, the European Convention in charge of drafting a European constitution will need to define what common methods and standards should be applied to arrive at a genuine European asylum and immigration policy. This "community approach" would require a right of proposal by the Commission and joint adoption through a qualified majority in both the European Parliament and Council (thus representing a majority of all member states and a majority of the Union's total population).

However, a shared asylum policy should by no means be limited to the control of illegal immigration. It will also have to contribute to the abolition of people trade and refugee smuggling while instituting common



*Pervenche Berès, MEP*

procedures for integrating new immigrants - especially by reuniting them with their families.

In this context, I plead for recognition of a definition of citizenship not only based on a member state's nationality but also on the notion of *residence*.

Any third-country national who is a resident of the EU should be entitled to apply for European citizenship and all rights relating to it (including the right to vote in and eligibility for European Parliament and municipal elections, the right to good administration and representation, the right of access to public documents, the right to refer to a mediator, freedom of movement and residence, diplomatic and consular protection as well as petition rights). This must be possible without any prior need to demand and obtain a member state's citizenship.

If such conditions could indeed be achieved, the European Union would establish itself worldwide as a standard bearer for solidarity and tolerance.

**Sangatte and beyond**

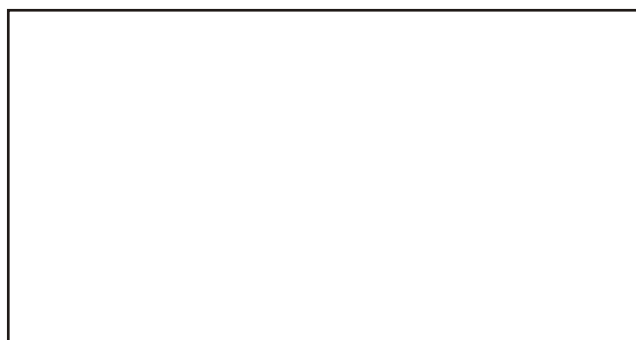
**Presidency of Greece:**  
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## Sangatte and Beyond

by Marie de Bernède  
IFIAS

**Since its inception, the centre at Sangatte has fed and hosted more than 60,000 people. It was set up in September 1999 as a provisional, strictly humanitarian effort but soon became so overcrowded that a permanent staff of 74 tried to assist some 2,000 immigrants in their daily struggle to survive away from home. Most of these refugees had either been wounded or caught diseases like scabies on their long way to Sangatte.**

*The closing of Sangatte centre has not changed anything. Both governments had hoped that more restrictive legislation would discourage immigrants from pouring into Sangatte.*

As living conditions became unacceptable, France and the United Kingdom put a premature stop to their joint project last December by closing the facility. At the same time, both governments were already initiating reforms of their nations' asylum and immigration laws.

But let's take a look at who the refugees at Sangatte were.

Mr. Smain Laacher spent several months in the camp near Calais. According to his research, the majority were Kurds fleeing Iraq or Afghanistan for Europe; 39 percent had been to school for at least 12 years and 15 percent were A-level graduates. Merchants and craftsmen made up the largest portion among the refugees with more than 30 percent, followed by students with 18 and workers with 13 percent. Some 12 percent were academics or professionals.

This is one more indication that only the more affluent among the world's poor can afford to flee their home country, mainly because they need to pay so-called "passeurs" who make a thriving business smuggling refugees across the (English) Channel. There are almost no women among these refugees - most are men risking their lives to get a job and then send money back home. Returning without doing so

would mean great humiliation and a tremendous loss of honour.

Since the centre's closing, the UK has agreed to accept 934 of the former occupants - 817 of whom hail from Iraq. They will receive a work permit, free housing for a year and a monthly allowance in government food and service stamps. Language training will also be provided along with social assistance and health care. Meanwhile, British authorities plan to integrate the 117 refugees from Afghanistan by reuniting them with their families in the UK. The remaining 148 immigrants from Sangatte will receive residence and one-year work permits in France, where they can apply for political asylum.

Yet, with the centre closed, no other facility has been proposed to handle the influx of refugees arriving at Sangatte - approximately 400 a day. They are now squatting municipal parks and churches. As a result, they often face police brutality in places like Calais, Paris and Vintimilles, where raids have been organised to intercept refugees and bring them to detention centres. Once there, they are ordered to leave the country within five days.

The closing of Sangatte centre has not changed anything. Both governments had hoped that more restrictive legislation would discourage immigrants from pouring into Sangatte. But the British policy of "better legislation towards asylum" would seem to have failed. As refugees are more or less politely, sometimes even violently, deported by one European Union member state after the other, they continue down the road as far as they can go - and that's the UK, even if the country merely accepts one out of every ten political asylumseekers.

## Britain: The new Nationality, Immigration and Asylum Act of 2002

by Marie de Bernède  
IFIAS

Britain's new Nationality, Immigration and Asylum Act of 2002 took effect on January 8, 2003. Its purpose is to strengthen the nation's borders, counteract widespread abuse of the British asylum system and send a strong message to the rest of the world that United Kingdom is not a "soft touch".

To this end, the legislation introduces a list of so-called "safe countries," which includes Albania, Bulgaria, Jamaica, Macedonia, Moldova, Romania along with Serbia and Montenegro (the former

Federal Republic of Yugoslavia). Asylum demands from these countries are now regarded as per se unfounded and are automatically refused without further scrutiny.

The act also implements drastic measures that will lead to widespread homelessness and severe destitution among asylum seekers who fail to apply for asylum with immigration authorities immediately upon their arrival in the UK.

## Priorities during the European Presidency of Greece

### Joint Responsibility for a Comprehensive Immigration Policy

The principles of "freedom, security and justice" lined out in the Treaty of Amsterdam and in the conclusions of the European Council's special meeting at Tampere (Finland) give expression to a central concern of the European citizenry. Through a combination of such factors as globalisation, poverty and regional conflicts, the issue of immigration has swelled to unprecedented proportions, from which springs an entirely new responsibility for the European Union. At the same time, its eastern expansion creates a fresh set of challenges and opportunities - especially with respect to the Union's new borders and the implementation of a common policy that would require the support of 25 member states or more.

The interplay between immigration and economic development, the social and economic integration of legal immigrants paired with the need to address the problem of illegal immigration constitute the very framework for the Greek presidency.

Technical and financial aid to non-EU countries that the European Council pledged to provide during its summit in Seville will help create conditions in which those who would otherwise emigrate for economic reasons will stay in their home countries. Through better coordination of individual member states' national policies the Greek presidency hopes to work toward a comprehensive approach to immigration.

In light of the undeniable benefit of legal immigration in helping the European economy to stay competitive and in overcoming the Union's

demographic problem, such a policy must regulate and make full use of the flow of immigration rather than merely enact restrictive measures after the fact.

At the same time, the Greek presidency would like to stress that containing illegal immigration is of great collective concern for the Union and is a matter of joint responsibility. In addition to a coherent institutional framework for return and repatriation, the struggle against immigrant smuggling and people trade requires close cooperation with the countries of origin and transit. With respect to EU border control and repatriation policy, it is one important priority for the Greek presidency to execute common measures based on both - the roadmap developed by the Danish presidency and the forthcoming proposals by the European Commission on the creation of a fair system of sharing burdens among member states. It is in this context that the presidency's report to the European Council in Thessaloniki on the implementation of the principles of Seville assumes its full significance.

Thus, intensified efforts to apply efficient asylum procedures need to go in line with corresponding progress in conceiving joint strategies for addressing legal immigration and developing a common system of border controls.



Prime Minister, C. Simitis (C) meeting with the High Representative for the Common Foreign and Security Policy, J. Solana(R). Foreign Minister, G. Papandreou. Photo:Marogianni Maria

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### ESCAPE - REFUGEES ACROSS EUROPE

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#### Printing:

Printing-Office Klosinski, Iserlohn,  
Germany

Realised with support of the  
European Commission,  
Directorate general for Education  
and Culture.

**Please note:** The European  
Commission is not responsible  
for the content of ESCAPE.

## Chechen Refugees: Caught in a Vicious Circle

by *Laisa Valgapova*  
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**Highly reputed international NGOs have long been testifying to the gravity of human rights violations in Chechnya. Their reports indicate that so far about one fifth of the population has perished in Russian attacks while only half of all Chechens still remain on home soil.**

All the horrors suffered by Chechen civilians were, for instance, documented by Doctors Without Borders/Médecins Sans Frontières in their report to the European Council from November 2000. This analysis is so stringently objective that it must effectively dispel any doubts about the severity of the situation in Chechnya. The dangers of staying are such that leaving home has virtually become a question of survival for most Chechens.

Therefore, many Chechens have appealed to the democratic and humane traditions of a free Europe, hoping to find refuge there. All member states of the European Union signed the Geneva Convention in 1951 and the protocol of 1967, thereby agreeing to welcome refugees who face persecution at home on one of the following grounds: ethnicity, religion, nationality, membership of a certain social group, political opinions.

But Chechens who have obtained legal refugee status are still an exception - especially in countries like Belgium, where asylum procedures have proved to be particularly harrowing and protracted. In general, Chechen refugees have seen their asylum demands rejected by EU countries with the explanation that they could instead resettle in any other region of the Russian Federation.

However, Chechens are not safe when they go

back to Russia.

In fact, the "innocence presumption" of a democratic legal system remains fiction in the Chechen case. It is exactly because of their origin that Chechens are presumed guilty anywhere within the Russian Federation.

Amnesty International and Russian human rights defence organizations have been collecting volumes of information about Russian law enforcement officials engaging in illegal identity profiling and arbitrary arrests against people of Chechen origin. Individual officers may even go as far as planting arms or drugs on detainees to justify their arrests. Sometimes, police also extort ransom money against the release of their prisoners.

In light of this, the decisions made by European authorities appear as legally untenable as they are impractical, particularly as the current situation in Chechnya will make repatriation efforts by the International Organization of Migration virtually impossible.

But those refugees who have been waiting for a response to their asylum demand for a year or two in accommodation centres only to receive an order to leave the territory are forced into an illegal existence. Most of these are single; fortunately, families have not been affected. Still, such policy would seem to stand in complete contradiction to the democratic ideal of human dignity.

## How to handle Underaged Refugees?

by *Ulrich Thoenes*  
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Like all minors, underaged refugees who have become separated from their families are entitled to special protection under the provisions of numerous international regulations. Maybe most prominent among these is the 1989 United Nations Convention on the Rights of the Child.

However, implementation of those rules has been spotty at best. It is, for instance, not uncommon for such children to share accommodations with up to 20 strangers.

Protection against arrest or forced return

(refoulement) is not always guaranteed either.

Conceived some five years ago as a joint initiative of *Save the Children* and the Office of the United Nations High Commissioner for Refugees (UNHCR), *Separated Children in Europe* has analysed the situation in 28 participating countries, informed about children's rights and conducted training.

Further information on the issue of separated children can be found in a training guide, which is ready for download at their website.

<http://www.separated-children-europe-programme.org/>

# Refugee and immigration policy from a Dutch perspective

by *Jan Marinus Wiersma*  
MEP

The core of the Dutch position on asylum is that a distinction needs to be made between the UN provisions regarding refugees and the greater migration issue.

While we do have to provide shelter and all related benefits to those who truly run the risk of being persecuted for their political beliefs or religion, many asylum seekers do not fit the UN definition for refugees. They are just trying to find a better life someplace else. As understandable as this is given the high level of poverty in large parts of this world, accepting such "economic refugees" is simply not feasible and would in the end ruin the chances of those in actual danger.

There is a consensus in the Netherlands that we should be strict in drawing this line

those coming from safe countries should leave, although exceptions to this rule will remain possible if well founded. Recent legislation has expedited the decision-making process, meaning asylum seekers are no longer left in limbo for years. And as a result of intensified border controls, fewer refugees have entered the country.

With declining numbers the immigration issue seems to have lost some of its urgency, as citizens have gained confidence in the government's ability to cope with it. As a side-effect of this newfound trust, public opinion now runs strongly in favour of granting a general amnesty to the many thousand asylum seekers stranded in Holland under the old rules, which would allow them to stay. Most of them have already built a life for themselves in the Netherlands.

Of course, the new rules do not apply to people from countries that are witnessing war or other humanitarian disaster. Eventually, however, the biggest challenge will be to improve the situation in the "countries of origin." In this regard, the Netherlands is already one of the largest donors of foreign aid in the world.

In Holland, public debate now focuses increasingly on those who have legally immigrated. The question remains how first, second and third-generation citizens of Moroccan or Turkish heritage can best be integrated. Thus, a central theme in the present negotiations to form a new government is to find the right mix of respecting cultural diversity and upholding democratic values to which the Dutch

society has traditionally subscribed. On one hand, citizens of foreign descent have the same rights as the "original" population, and the government has to protect them against discrimination.

On the other hand, they should try to become an integral part of society, accepting its rules while engaging more in communication for instance, by learning the language.

As is the case in most European Union countries, there is no real discussion of the long-term connection between immigration and the aging of the population in the Netherlands, but it will become a serious concern over time. Getting labour from the new member states will not be the solution since they have the same problem. Unfortunately, the present economic situation with its growing unemployment offers little incentive to press this point, though times will change.

Overall, migration pressures will not go away. We do not know if the Schengen system will protect us forever. To the East of the EU, many are waiting for a chance to go West. Just ask a young person from the Ukraine! And that is not even mentioning the countless refugees who have flocked to EU neighbours from Central Asia and beyond.

What is needed to overcome these problems is more direct EU involvement. Not only must the Union support these countries in combating illegal immigration, it should also help create a situation in which those nations' younger generations no longer wish to leave their home countries. There must further be an opportunity for foreign refugees already stranded there to return home.

Most importantly, however, we should be careful to avoid building a "Fortress Europe" on the erroneous assumption that the boat is full or that we can somehow refuse to look ahead and deny our cultural diversity.



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# Hungary's legislation ready for Europe?

by Ulrich Thoenes  
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While the number of asylum demands last year thus dropped by one third compared to 2001, the steep overall decline in asylum requests worldwide meant that Hungary went from 16<sup>th</sup> to 15<sup>th</sup> place in 2002 putting it ahead of EU member states Denmark, Finland, Greece, Luxemburg, Portugal and Spain.

However, the acceptance rate in Hungary remains low: Amere 174 of the 8,024 asylum seekers whose claims were processed in 2001 obtained legal refugee status. This comes out to a rate of 2.1 percent (compared to 5.3 percent for the same time period in Germany). An additional 290 refugees were granted a toleration of stay in Hungary (at a rate of 3.6 percent). By contrast, some 3.000 asylum demands were denied. Even larger yet was the number of asylum claims that had to be suspended a total of 4,565.

“People leave even before their claims can be processed; most continue on to their actual destination,” explains Zsuzsanna Végh, who heads the Office of Immigration and Nationality of the Ministry of the Interior (OIN).

This goes to show that Hungary remains above all a transit country for refugees.

## From where they come

For years now, Hungary has primarily been a receiving country for refugees from Afghanistan. In 2002, for instance, about every third asylum seeker arrived from the Hindu Kush nation. That year's fourth quarter alone saw 464 Afghans request asylum in Hungary more than in Germany, where only 412 applied.

Another third hails from Iraq, while applicants from more than 80 countries make up the remaining third.

Also important to note in this context is that Hungary is situated along one of the main migration routes to Western Europe. And it borders directly on seven other countries Austria, Croatia, Romania, Slovakia, Slovenia, the Ukraine and Serbia-Montenegro.

## New Legislation

In 1998, Hungary introduced new asylum legislation that eliminated the previous geographical restriction to Europe and introduced considerable improvements, already largely conforming to European Union guidelines. After its adoption, refugee numbers skyrocketed and peaked in 1999.

Even more incisive changes of existing regulations came in 2002, when the law governing foreign nationals was reformed. Until then, residence permits had either been unlimited in duration, were valid for less than a year or for one to five years. Since January 1, 2002, there is now one “unified residence permit” valid for a maximum of two years with an option for a two-year extension. Meanwhile, the traditional immigration permit has been replaced with a “settlement permit.”

## In addition, altered asylum proceedings now follow these steps:

Regional OIN agencies prepare a first assessment of the asylum claim. In case an appeal is filed within 15 days after a negative evaluation, the OIN initiates special proceedings. If these proceedings confirm an initial denial, another appeal can be filed with the courts again no later than 15 days after the decision.

As a last resort, an appeal to the country's supreme court is no longer impossible, even if there are no explicit legal provisions for such action.

## Outlook

Hungary's immigration policy should pose no obstacle to its planned accession to the European Union. More urgent, however, is the need to address persisting problems in the treatment of its own minorities. There are, for instance, still deficiencies in creating equal opportunities for the country's population of Roma. That aside, the new so-called “status law” of 2002 has spurred a vivid public debate because of the benefits it grants to the approximately 5 million Hungarians who live abroad.

## Asylum requests in Hungary (rounded to the next fifty)

1998	7,400
1999	11,500
2000	7,800
2001	9,550
2002	6,350

## The Bottom Line

This is the final issue of Escape. We would like to take this opportunity to thank our partners and our readers for their vital interest and feedback.

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