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# European Immigration Reform: A Model for the United States?

By Rosemary Jenks

Western Europe has been plagued with economic recession, growing unemployment, particularly among immigrants,<sup>1</sup> and rising public service expenditures in recent years. It has also been faced with unprecedented immigration pressures — tens of thousands of Eastern Europeans seeking jobs and better living standards, and millions from the former Yugoslavia and Soviet Republics forced from their homes by ethnic strife have added to the already-significant stream of North Africans, Middle Easterners, Asians and others pouring into Western Europe. These pressures, along with an increasingly dissatisfied public, have prompted a wide range of immigration reform measures throughout Europe. This is particularly true in the member states of the European Union (EU), whose vision of a unified Europe requires that external borders of the EU be tightly regulated so that internal national borders can be abolished.

The United States is facing many of the same problems as Europe — unparalleled levels of immigration, a sluggish economy, high unemployment, rising taxes, and skyrocketing public service outlays. The main difference, however, is that the United States' perception of the historical role of immigration is vastly different than that of Europe.

European identity is tied strongly to national culture. The United States, in contrast, has always characterized itself as a nation of immigrants. Americans take great pride in our generous tradition of accepting legal immigrants and providing safe haven to those facing persecution at home. The true nature of this tradition, however, has been distorted in recent years by some politicians and special interest groups who have sought to make some of the excesses of current immigration policy sacrosanct. While these politicians and advocacy groups quote Emma Lazarus and hurl accusations of nativism, racism and xenophobia to stifle political debate, mass immigration continues to contribute to the United States' economic, environmental and social problems, creating a public reaction that is increasingly critical of Congressional inaction and skeptical of cornucopian rhetoric.

As a result of this public pressure, a wide variety of immigration reform measures — ranging from a

major reduction of legal immigration levels to accelerated asylum determinations to tougher border controls — have been introduced in the U.S. Congress over the past year. Instead of encouraging an objective evaluation of the problems of, or solutions to, mass immigration, the political debate spurred by these proposals continues to be characterized by emotionalism and inaction. The fact that Western European countries have already implemented and tested most of the U.S. proposals — along with a variety of other reform measures — is ignored in this debate. It seems only logical, though, that an evaluation of the effectiveness of the European measures would lend valuable insight into potential reform efforts in our country.

## Legal Immigration

Immigration to Western Europe, like that to the United States, takes three main forms: 1) legal, including family- and employment-based immigration; 2) humanitarian, including asylum seekers and/or refugees; and 3) illegal.

Employment-based immigration traditionally has been the central focus of European immigration policies. The industrial boom across Western Europe after World War II created a need for large numbers of unskilled workers. European governments sought to fill this need by creating a "guest worker" system, under which foreign workers were granted temporary work and residence permits. These workers were expected to return to their countries of origin when they were no longer needed. The 1973 oil crisis and a subsequent ban on foreign workers across Western Europe, however, proved that "there is nothing more permanent than a temporary worker."<sup>2</sup> Not only did these workers remain, they demanded that their families be allowed to join them, thus forcing European governments to set up family reunification programs.

Despite the general ban on foreign workers since 1973-74, most Western European countries have continued to allow employment-based immigration on a much smaller scale. As unemployment has risen and the current recession deepened, though, many European governments have tightened the regulation

of foreign workers. Local and regional authorities are being brought into the regulation process, either through consultations with federal governments to establish annual quotas for foreign workers, or by being delegated the authority to approve or deny work permits based on local labor conditions.

In mid-June 1994, because of double-digit unemployment rates, EU member states agreed to further tighten restrictions on foreign workers. Their formal resolution states that, "Member states will consider requests for admission to their territories for the purpose of employment only where vacancies ... cannot be filled by national and [EU] manpower or by non-[EU] manpower lawfully resident on a permanent basis." Moreover, they agreed that permission to work in the EU should be granted only on a temporary basis.<sup>3</sup>

Since the general ban on foreign workers, family reunification has become the main source of legal immigration to most Western European countries, as it is in the United States. In Europe, however, family reunification is generally limited to spouses and minor children of citizens and legal residents. Other family members, including parents, are admitted only under special circumstances, e.g., if they are dependent upon the sponsor in the country of destination and there are no other family members to provide for them in the country of origin.

As the number of family members wishing to immigrate and the related public service costs have grown over recent years, some European countries have established stricter criteria to be met by the sponsor before family reunification is permitted. For example, Austria, France and the Netherlands now require that the sponsor has lived in the country legally for a designated period of time (ranging from two to seven years) and has adequate income (excluding any welfare benefits) and housing to provide for the immigrant family member(s). In other countries, such as Belgium and Denmark, the sponsor must meet a minimum monthly salary requirement based on the cost of living (not on the poverty level, as is the case in the United States) and the number of dependents seeking reunification. These measures serve to reduce both the number of applicants for family reunification and the public service costs associated with them. Denmark, which introduced the income requirement in 1992, estimates that the measure has reduced the number of family-based immigrants by 50 percent.

## Humanitarian Immigration

European countries do not have large-scale refugee programs comparable to that of the United States, so the vast majority of humanitarian immigrants are asylum seekers. As in the United States, the number of asylum seekers has exploded in recent years. Applications for asylum in EU member states alone jumped from about 140,000 in 1987 to

almost 560,000 in 1992, with Germany receiving close to 80 percent (438,191) of the 1992 total. Application approval rates, on the other hand, hover around five percent in most EU countries.<sup>4</sup>

On July 17, 1993, the *Washington Times* reported that "all European countries have recently toughened their asylum laws."<sup>5</sup> Although this is an exaggeration, it is not far off the mark. European governments have reacted more rapidly to the increase in asylum claims than has the United States. All EU member states except Greece, Ireland and Luxembourg have overhauled their asylum policies in the past two years, as have numerous non-EU countries such as Austria and Sweden.

The primary objectives of European asylum reform efforts are to shorten the decision-making process and find humane ways to ensure that asylum seekers whose claims are rejected are returned to the country of origin, thereby reducing the number of economic migrants seeking to use the asylum system to gain residence. They have found a variety of ways to shorten the decision-making process. The first, and most obvious, is to provide the responsible government agency with adequate personnel and other resources to examine the increased number of applications. A \$20 million 1990 investment in personnel and computer equipment enabled the French asylum office to reduce processing time from up to five years to an average of two months, and to reduce the backlog of applications from 50,000 in 1990 to 15,000 in 1991.<sup>6</sup> Similarly, the July 1993 German asylum law authorized additional personnel and administrative resources that allowed the Federal Office for the Recognition of Refugees to more than double the number of asylum decisions made in a six-month period — 267,791 cases were decided in the second half of 1993, compared to the 110,018 cases that were decided in the second half of 1992.<sup>7</sup>

Austria, France, Germany, the Netherlands, Sweden, Switzerland and the United Kingdom, among others, have all established expedited asylum procedures for certain applicants whose claims are considered "manifestly unfounded." These include asylum seekers who arrive without documents, those whose country of origin is considered generally free of persecution, and those who travel through a "safe third country" (i.e., one in which persecution is judged not to exist and in which the applicant could have sought protection) en route to the country in which they are requesting asylum. Lists of safe countries, which are determined at the national level, generally include Eastern European countries, such as Poland, Romania, Bulgaria, the Czech Republic and Slovakia (from which the bulk of asylum seekers enter Western Europe), all of Western Europe and North America, and certain other countries, such as Ghana, Senegal and Zambia, from which large numbers of rejected asylum seekers originate.

Expedited asylum procedures vary from country

to country, but they generally include a specific time period in which the initial decision must be reached, a reduction in the number of appeals and/or the time allowed for filing an appeal, and, in many cases, provisions allowing for the expulsion of rejected asylum seekers before the final appeal is decided. In Germany, for example, an asylum seeker arriving from another EU member state would be refused entry at the border or immediately expelled if found in the interior. The alien would have a right to appeal the decision, but only after he or she had left Germany. On the other hand, an asylum seeker arriving from a non-EU safe country (and Germany has determined all bordering countries to be safe) would be presumed to have a manifestly unfounded claim. This alien would be processed in the expedited system and then immediately returned to the safe country from which he or she arrived. These new provisions, which took effect in July 1993, have reduced the number of new asylum applications by more than 50 percent — from an average of over 37,000 per month in the first half of 1993, to about 17,000 per month in the latter half.<sup>8</sup>

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European governments have also taken steps to prevent asylum seekers from disappearing into society either before a decision is reached or once an application is rejected, and to prevent abuse of the welfare system. Most Western European countries have computerized alien registration systems into which personal data on asylum seekers and legally-resident aliens are entered. These data are usually shared with public welfare agencies and the police so that the residence status of foreign welfare applicants and suspected criminals can be verified quickly.

EU immigration ministers in 1992 agreed to the creation of an EU-wide automated fingerprint system for asylum seekers so that authorities in each member state have access to asylum data from all other member states. The purpose of this is to prevent asylum seekers who have been rejected in one member state from applying for asylum in another member state. This system, called EURODAC, is still in the planning stage.

In the meantime, many countries, including Austria, Belgium, Denmark, Germany, Switzerland and the United Kingdom have created national automated fingerprint identification systems to prevent aliens from filing multiple asylum or welfare claims under different names. The German fingerprint system, in its first six months of operation, identified 17,182 aliens who had filed more than one asylum claim in

Germany. The Belgian system has reduced the proportion of duplicate asylum applications found from 13 percent in September 1993 to three percent in March 1994. A 1993 experiment between the Swiss and Austrian governments, in which the Swiss randomly selected 100,000 asylum seekers' fingerprint records to compare with Austrian fingerprint records, found that more than ten percent of the asylum seekers had filed duplicate applications.

In addition to registration and identification systems, many European countries require asylum seekers to reside in government-run "reception" centers until a decision is reached on the application. Asylum seekers are generally not granted permission to work until their application is approved, although some countries make exceptions (e.g., if the application has been declared admissible, but is not yet approved; or if the final decision cannot be made for an extended period of time). The asylum claimants are provided with assistance in kind, including housing, food, medical care and language classes. Rejected asylum seekers are also kept at these centers pending deportation, as there is probability that they will try to disappear to avoid deportation.

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European governments have placed heavy emphasis on international cooperation to ensure the deportation of rejected asylum seekers. A number of individual European countries, as well as the EU as a whole, have signed "readmission agreements" with neighboring countries, such as Poland, Romania, Bulgaria and Morocco, from which significant numbers of ineligible asylum seekers and illegal aliens come. These agreements allow each signatory to return rejected asylum seekers and illegal immigrants to the territory of the other signatory if the alien entered from that country. For example, Germany has signed readmission agreements with Poland, Romania and Bulgaria, which allow Germany to return rejected asylum seekers and illegal border crossers who entered Germany from one of these countries. In exchange, Germany is providing each country with significant financial aid to assist in providing for these returnees and to enhance border control measures. Thus far, the system appears to be working fairly well, despite initial fears that the Eastern European countries would be unable to cope with the returnees.

The EU has its own version of an intra-Community readmission agreement — the Dublin Convention. The Dublin Convention determines which

EU member state is responsible for processing an asylum claim filed in the EU, and it gives other member states the right to deport an asylum seeker to the responsible country. The Convention has not yet entered into force because, although it has been signed by all 12 EU member states, only half of them have ratified it.

## Illegal Immigration

Illegal immigration is of increasing concern in Western Europe, as it is in the United States. Until recently, asylum seekers who were rejected but managed to avoid deportation comprised the bulk of illegal immigrants. The tightening of asylum policies throughout Europe, however, has resulted in a growing number of aliens seeking to enter illegally. In response, European governments have allocated more resources to border control efforts and supplemented border patrols with military units. The July 1993 German asylum law, which provided for increased resources and equipment for the Border Police, resulted in a 45 percent decline in apprehensions of illegal entrants — 35,000 illegals were arrested in the first half of 1993, compared to 19,200 in the second half. (Germany has 4,400 Border Police patrolling just its eastern border, whereas the United States has about 4,000 Border Patrol agents for the entire country.)

Most European governments consider employer sanctions against hiring illegal aliens to be an integral component of national labor policy. Sanctions have been more effective in Europe than in the United States for three main reasons: 1) sanctions have been in force, in most cases, since the 1970s, so they have been fine-tuned and standardized to a greater degree; 2) sanctions are generally enforced by the labor department, rather than immigration authorities, as a routine part of labor inspections; and 3) most European countries have a single, standard identification system to establish work eligibility. These systems include national identity cards, as in France; national population registries, as in Scandinavia; tamper-resistant social security cards for work authorization purposes, as in Germany; and national alien registries, as in the Netherlands. Welfare agencies and other public service offices are often linked to these systems to prevent welfare abuse and identify illegal aliens. Most countries with such systems have enacted legislation designed specifically to prevent unauthorized access to these systems, so there has been very little concern that civil rights or privacy are being violated.

## Conclusion

The European immigration experience demonstrates that there is a plethora of measures that can be taken at the national level to control the various forms of immigration. The United States has, for at least the past year, been exploring some of these

options, but it has, as yet, failed to grasp the magnitude of the problem. Migrants are not only attracted to industrialized countries by family relationships, job opportunities and public services — the "pull" factors. They are also forced from their home countries by overpopulation, poverty, unemployment, natural disaster, civil unrest and war — the "push" factors. Immigrant-receiving nations are able, *given the political will*, to control the pull factors through national legislation and effective enforcement. The push factors, however, require a different response.

One of the main differences between U.S. and European immigration reform efforts is the much higher degree of regional and international cooperation that exists in Europe. Regional institutions such as the European Union and the European Economic Area have provided forums for information exchange and cooperation on immigration matters. In fact, a main provision of European Union is the establishment of a European Information System — a computerized data base containing information on asylum seekers, legal residents, and others, which will be accessible to all member states. Readmission agreements are another form of international cooperation. They have served both to enhance cooperation between immigrant-sending and -receiving countries, and to increase targeted financial aid to sending countries, which, in turn, gives sending countries an incentive to cooperate on other migration matters.

European governments have recognized that it is not feasible to attempt to manage immigration solely from the national level. The United States must acknowledge this, as well, because immigration pressures will not fade until concerted international efforts, in addition to national ones, are made to address the root causes of migration. According to the United Nations Population Fund's *The State of World Population: 1993*, unless industrialized countries cooperate and assist the developing world in slowing population growth, stimulating economic expansion, and creating jobs, migration "could become the human crisis of our age."<sup>9</sup> ■

### NOTES

<sup>1</sup> The unemployment rate among the immigrant population is two to three times higher than that among the native population in many Western European countries, including France, Germany, the Netherlands and Sweden. [Unless otherwise noted, statistics and other data on European immigration come from the European Information Network's *Migration News Sheet*, Nos. 118/93-01 through 135/94-06, January 1993-June 1994.]

<sup>2</sup> Friedrich Heckmann, "Is There a Migration Policy in Germany?" a paper presented at the European Forum for Migration Studies' Foundation Symposium in Bamberg, Germany, November 25-29, 1993.

<sup>3</sup> "EU Further Restricts Entry of Foreign Workers," Reuter News Service, June 19, 1994.

<sup>4</sup> Although the approval rate for asylum status is very low, a significant number (up to 50 percent in some countries) of claimants are granted permission to remain on humanitarian grounds. As in the United States, only a very small proportion of rejected asylum seekers are actually deported. (Rosemary Jenks, Ed., *Immigration and Nationality Policies of Leading Migration Nations*, Washington, D.C.: Center for Immigration Studies, 1992.)

<sup>5</sup> "Fortress Europe' Called Unrealistic," *The Washington Times*, July 17, 1993, p. A-1.

<sup>6</sup> Rosemary Jenks, Ed., op. cit., (France, p.5).

<sup>7</sup> Hailbronner, Kay, "Asylum Law Reform in the German Constitution," unpublished paper, 1994.

<sup>8</sup> Ibid.

<sup>9</sup> *The State of World Population: 1993*, New York: United Nations Population Fund, 1993.