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9067041807 - The Consolidated Asylum and Migration Acquis: The EU Directives in an Expanded Europe

Peter J. van Krieken

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THE EU DIRECTIVES IN AN EXPANDED EUROPE

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Compiled and introduced by

Peter J. van Krieken

T•M•C•ASSER PRESS
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PREFACE

The world is in turmoil. Yet, whereas some parts seem to fall apart, others are slowly but determinedly working towards greater cohesion and increased cooperation. Europe is a fitting illustration of the many advantages of joining hands to create an area of freedom, security and justice.

Like other continents, Europe has a long history and may enjoy a great future. The future depends not only on how Europeans themselves work and live together, but also on how they see their place and position in the global context. Europe owes it to other parts of the world to strive together for increased understanding, effective cooperation and for a world where all can make a decent living without fear, without want.

It is the issue of asylum and migration that challenges Europe in a fascinating manner. It covers human beings in need, in need of freedom, security and justice. The question of how best to react to that challenge will always have to be posed and answered. The last decade has increasingly shown that it is an illusion to think that we can help humankind or the globalization process by means of migration. An inward-looking approach – can we help them, should we help them, can we use their services – denies the urgency of a more holistic approach. Such an approach should reflect the preamble to the 1975 ILO Labour Migration Convention, in which the need was emphasized ‘...to avoid the excessive and uncontrolled or unassisted increase of migratory movements because of their negative social and human consequences...’. It was also considered ‘...that in order to overcome underdevelopment and structural and chronic unemployment, the governments of many countries increasingly stress the desirability of encouraging the transfer of capital and technology, rather than the transfer of workers...’.

Europe, like no other continent, should be aware of the continuous need to offer a safe haven to genuine refugees. Having produced millions of refugees itself, it should cater for the needs of the millions who are currently refugees, or the millions to come. This should be done in a truly global way, paying attention to the possibilities and realities on the ground in the many refugee-receiving countries as well as in Europe. The right to seek and enjoy asylum from persecution should never be tinkered with.

As for migration, the time has come to truly consider the advantages and disadvantages of migratory movements on the personal level, country level through to the global level. As indicated in the Declaration of The Hague on the Future of Refugee and Migration Policy – presented to UN Secretary-General Kofi Annan in November 2002 at the Peace Palace in The Hague – the concern

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for both refugees and migrants has to be located within the context of economic and political globalization, with all its potential for greater human development and prosperity, on the one hand, or alienation, disempowerment, impoverishment and polarisation on the other.

Refugees and migrants matter enormously to the international community. Their future is an essential element in the notion of peaceful international cooperation, stability and economic security. The aspirations and needs of people on the move deserve attention, without forgetting the absolute necessity to make the option to stay in one's own country the most important one.

Europe, too, needs to respond creatively to the various challenges. The recent debate and efforts to lay down minimum norms should be seen in the wider, global context. As such, the new EU Directives, compiled and introduced by Dr. Peter van Krieken who himself was actively involved with the process that resulted in the Declaration of The Hague, deserve to be studied in detail.

The first steps have been taken. That in itself is a positive move. The international norms, however, remain in place; leaning towards the edges thereof should be prevented at all costs. Moreover, Europe needs to look upon the European challenges involved in the broader context of global developments and global cooperation. Europe should think global. Appropriate further steps need to be taken.

With that in mind, I wholeheartedly recommend this Handbook on the Consolidated Asylum and Migration Acquis to be used and studied so that the Directives and further European legislation can be closely followed, debated, criticized, improved and/or lauded.

The Hague, June 2004

Frans BOUWEN MA
*Senior International Consultant
to the The Hague Process on
Refugee and Migration Policy*

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This Volume is the logical follow-up to the *Asylum Acquis Handbook* (2000) and the *Migration Acquis Handbook* (2001) published by T.M.C. Asser Press. The asylum and migration debate is an ongoing one and it should hence come as no surprise that a great many new rules and regulations have meanwhile been agreed upon. Of particular importance, of course, was the Treaty of Amsterdam that entered into force on 1 May 1999. Under that Treaty it was decided to move the subjects of asylum and migration into the realm of the Treaty of the European Community. Moreover, it was determined that major legislative documents describing minimum norms should be agreed upon before the end of a 5-year transition period, that is before 1 May 2004. The latter date, also being the day on which the European Union was enlarged, carried special weight. And indeed, the Commission and Council more or less met the deadline.

Likewise, the T.M.C. Asser Press also imposed its deadline. A Volume containing the new Directives and supplementing the above-mentioned Handbooks should be on the market by the end of the summer of 2004. A race against time, that has only been won thanks to the kind and diligent assistance of Cristian Cartis. I am most grateful for his patience and involvement.

Moreover, I owe the team of T.M.C. Asser Press, Mr Peter Morris, the language editor, the indefatigable Frans Bouwen, ICMPD as well as the Röling Foundation and Johan Feitsma (*'still crazy after all these years'*) special thanks for their support.

Most of all, however, it is Diederik, Katrien and Sebastiaan who deserve praise for coping with a lack of attention and a dearth of sailing opportunities. Theirs is the new Europe. All together we should continue to build an area of veritable and viable freedom, security and justice.

The Hague, June 2004

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