



10 DOWNING STREET

THE PRIME MINISTER

18 April, 1983

Dear Nicholas.

Thank you for your letter of 18 March which raised the question of the removal to Rumania of Stancu Papasoiu and, more generally, our policy towards Polish and other East European asylum seekers.

Our policy relating to the grant of asylum is in accordance with the principles of Article 1 of the 1951 United Nations Convention Relating to the Status of Refugees and its 1967 Protocol and is reflected in the Immigration Rules. These state that "a person may apply for asylum in the United Kingdom on the grounds that, if he were required to leave, he would have to go to a country to which he is unwilling to go owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion". Accordingly where an applicant establishes that he has a well-founded fear of persecution for one of these reasons if he were to return to the country of his nationality, then he will generally qualify for the grant of asylum and recognition as a refugee. There is a distinction between refugee status and asylum. In simple terms it might be said that

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recognition as a refugee under the 1951 United Nation Convention binds us internationally and the grant of asylum is an historical, domestic practice which has no legal extra-territorial effect. Under the Convention we are bound not to send a person back to the frontiers of a State where that person has a well-founded fear of persecution; we also incur other obligations such as the issue on demand of a travel document prescribed by the Convention. Our asylum tradition, which precedes the Convention by many years has the same implication of non-refoulement but does not include an entitlement to documentation. In both cases, however, the person concerned will be given leave to enter or remain for 12 months in the first instance without employment restrictions.

/ As you will appreciate, cases do arise where doubts as to whether an applicant's fear is well-founded are impossible to resolve and, in such circumstances, it is our usual practice to give the benefit of the doubt to the person concerned and grant asylum but to withhold recognition as a refugee. The only practical effect that this has relates to the kind of travel documentation to which the person is then entitled.

In considering requests for asylum and recognition as a refugee we examine an applicant's personal and family background for evidence of political, religious, social or economic persecution which he may have suffered taking into account the nature of the society in which the applicant normally lives. It is not sufficient for an applicant to adduce as evidence of persecution difficulties that may be suffered generally in his own country and what we look for is evidence of discrimination/persecution directed specifically against the individual. Neither do we usually accept as grounds for granting asylum such matters as an objection to performing military service;

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the desire for a freer and more economically rewarding way of life in this country; or a wish to avoid the consequences of an infringement of a law of general applicability in the applicant's country of nationality. As you know Eastern European countries, among others, have laws which prohibit their nationals remaining abroad beyond the validity of their exit permits. Such laws are in the Government's view deplorable but they do not in themselves constitute persecution.

Since you wrote to me you have discussed the case of Mr. Papasoiu with David Waddington on 23 March and initiated the debate in the House of Lords on 29 March. Bernard Braine also, of course, raised the matter in an Adjournment Debate on 31 March. In the circumstances I will not repeat the facts of this particular case but confine myself to some general points.

Of course I share your distaste for the policies and activities of Ceausescu's Rumania but, if we are to maintain a consistent immigration policy, we cannot accept that anyone who comes here from Eastern Europe has the right of asylum or residence here just because if he returned to his own country he might suffer penalties for illegal departure or overstaying an exit permit. Our consideration of individual applications for asylum follows the criteria laid down in the 1951 Convention, which I have already detailed, giving, where necessary the benefit of the doubt to the applicant. Mr. Papasoiu gave different and conflicting accounts of his life in Rumania and there was every reason to doubt his credibility and disbelieve the story which he told very late in the day about having served years in prison for having tried to leave Rumania without the permission of the authorities. Having studied the facts myself, I am satisfied that the correct decision was reached and that it would have been wholly inappropriate to exercise discretion

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in his favour. Subsequent reports about Mr. Papasoiu only serve to reinforce the doubts felt about the veracity of his claims.

Let me now turn to our policy towards Poles. Since the imposition of martial law in Poland on 13 December 1981 we have not been requiring the departure from the United Kingdom of any Polish national who is unwilling to leave and who would have no country to go to other than Poland. Those Polish citizens who were legally in the United Kingdom at the time martial law was declared had their permitted stay extended on application by two months in the first instance, and subsequently by a further two months and if they had no relatives or friends in this country or other means of support then they were usually given authority to take employment.

By the beginning of April 1982 the situation in Poland had not improved and consequently those Poles who remained unwilling to return home were given successive further extensions of stay until April/May 1983. We also allowed those Polish citizens who were here illegally or who were already the subject of Deportation Orders to remain in this country.

On 9 March Willie Whitelaw announced that he had now decided that those Polish citizens who have been enjoying exceptional treatment outside the Immigration Rules would be granted a further extension of stay of twelve months with no restriction on employment. In future, however, we intend to draw a distinction between those Polish citizens who have remained in this country since the declaration of martial law and those who are now seeking visas for temporary visits to the United Kingdom. While we have agreed to continue general exceptional treatment for the former (who found themselves outside Poland at the critical time as it were for reasons beyond their own control) it would not be

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appropriate to extend the same arrangements to all new Polish visitors as the Polish authorities relax their restrictions on foreign visits and the number of Polish citizens coming to this country on short visits increases. We will, of course, continue to consider sympathetically applications from any who claim they are afraid to return on an individual basis. Willie Whitelaw has also announced the Government's willingness to consider applications from ex-detainees who have decided of their own free will to seek resettlement outside Poland and for whom the United Kingdom is, by ties of family, education or language, the most appropriate country of resettlement and who are personally acceptable. You may like to know that some two hundred such applications are under consideration.

As you know, there has been a general appeal by the Austrian Government to friendly States to share the burden of the large influx of Polish nationals to that country. The United Kingdom Government responded to this appeal by informing the Austrians that we will consider applications from Poles in Austria, who have been formally recognised as refugees under the 1951 United Nations Convention Relating to the Status of Refugees, for resettlement in the United Kingdom where this country is the most appropriate country of resettlement by virtue of family or other ties, where proper sponsorship in respect of both accommodation and maintenance is forthcoming and the applicant is personally acceptable. For your information, of the seventeen applications received, seven have been approved, five refused and five remain under consideration. While we considered our response most carefully we did not feel it possible in present circumstances to accept a fixed quota of refugees.

/During 1982

During 1982 4,167 applications for asylum were received from nationals of 69 countries, 513 of which were from Polish citizens. (These figures include applications made to our Posts abroad.)

I must make it clear, however, that experience to date indicates that many are not refugees within the criteria set out in the 1951 Convention and the Immigration Rules. Applications are considered very carefully but while one has sympathy for those faced with the prospect of living under the social, economic and political difficulties currently prevailing in Poland, this does not mean that any Pole who prefers to live in the West should automatically be regarded as a refugee. It is because many of the Polish citizens now in this country do not qualify as refugees and because we do not think it right to require their return under present circumstances that we have been prepared to allow them to remain in this country exceptionally and outside the Immigration Rules.

From the foregoing, you will see that those Poles who are granted asylum with or without refugee status are protected from return to Poland but no such long term guarantee has been given to those who have been granted leave to remain on an exceptional basis. It is obviously a matter for political decision whether circumstances within Poland reach a position where we can generally expect these to travel home, but it is implicit in Willie Whitelaw's recent announcement that we do not regard the latest moves in Poland, including the suspension of martial law and the release of detainees, as evidencing a sufficient improvement of the internal situation.

In dealing with Polish citizens in this country we must also have due regard to the problems faced by the increasing number of people from other countries also experiencing serious internal problems and to the need to achieve fairness and

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equality of treatment for the individuals concerned consistent with our policy of firm immigration control. There are very much larger numbers of Iranian asylum seekers in this country and most who do not qualify for asylum are also being allowed to remain exceptionally outside the Immigration Rules. Similar considerations also apply to other nationalities: for example Afghans, Ugandans, Lebanese and some Central Americans who do not wish to return home in view of the present internal situations in their countries.

I am sorry that this has been a long reply but I hope that it will reassure you that the Government is anxious to do what it can to help those Poles who have sought to remain in this country since the imposition of martial law or who have been detained by the military authorities in Poland. I can assure you that as a Government we are committed to offering refuge to all those who qualify for political asylum (whether or not we are in sympathy with their political aspirations) but for all nationalities there are pressure groups who would like to see the people concerned treated exceptionally even if they do not qualify as refugees. This pressure must be resisted if we are to maintain the strict immigration control to which the Government is committed. If we were to agree to give an open ended offer of asylum of any East European it would be very difficult to resist other pressures from countries like Iran.

Yours ever

Rayner

The Lord Bethell