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US POLICE CHIEFS ATTACK INTERPOL

According to a report from New York in the Independent, "Interpol is squirming under the spotlight after chiefs of police accused it of withholding information about a Palestinian guerilla chief's visit to France this year".

The National association of Chiefs of Police (Nacop) said on Monday (2 March) that Interpol, which has its headquarters in France, knew that Georges Habash, head of the Popular Front for the Liberation of Palestine, planned to enter the country for medical treatment, but the organisation failed to notify the proper authorities. Nacop also said that Interpol had admitted it did not have a file on Mr Habash, even though the PFLP has been blamed for terrorist attacks, including the 1976 hijacking of an Air France jet. Dr Habash's visit touched off one of the worst scandals to afflict the present French government.

The head of Nacop, Gerald Arenberg, said Interpol's failure showed "it is a liability to effective law enforcement and a threat to the safety and privacy of citizens around the world". Nacop, which has 11'000 members and is influential in defining US law-enforcement policies, has lobbied Congress to halt all US contributions to Interpol.

Interpol responded yesterday (4 March) by accusing Nacop of "ignorance"... "Interpol's files only contain information of a criminal nature sent by member states", Yves Barbot, the president of the organisation, said. "None of the 158 member countries, including the US, had sent such documents concerning Habash..."

Interpol... has always taken to an extreme its own rule that it should avoid all involvement in politics. However, it recently began using more modern equipment after criticism that it was ineffective in the fight against drug-smuggling, money-laundering and terrorism.

The US attack touched a raw nerve with Interpol by saying the European Community was so mistrustful of the organisation that it had set up its own police co-ordinating force, Europol. Moves to eliminate internal borders in Europe and the upheavals in the continent have forced Interpol, founded in 1923, to make a hurried readjustment.

But it is a small organisation, with an annual budget of £8.7m and only about 90 police officers among its 280-member staff. Its secretary general since 1985 has been a straight-talking former Scotland Yard (i.e. from London's police force) officer, Raymond Kendall.

In recent interviews [any information on these interviews is welcome] Mr Kendall has spoken of how Interpol has evaded its own ban on investigating politically motivated crimes by distinguishing between a crime and its motive. More complicated, he said, are cases of state-sponsored terrorism".

Quoted from The Independent, 4.3.92

AUSTRIA

THE NEW SECURITY POLICE LAW: AUSTRIA'S "PRE HOC" HARMONIZATION WITH SCHENGEN POLICIES?

Four important bills in the domains of security police, asylum, compulsory domicile registration and the right of residence indicate a turningpoint for the political climate in the alpine republic: More order and control, more "security" and a stronger hand of the executive on the one hand, less liberality, transparency and democracy on the other. Is this Austria's way to qualify for EC-membership?

In Circular Letter No.3 we commented the asylum bill (p.3: New, restrictive law threatens right to asylum). Here follows a critical synopsis on the security police law.

The "Federal law on the organization of security administration and the exercise of security policing" (SPG) was voted on October 2, 1991 by the Austrian parliament. It replaces regulations on police powers and organization, some of which date back to as far as the Austro-Hungarian empire in 1850 and for the first time introduces the principle of some form of legal and parliamentary control on the activities of the political police, the Stapo (Staatspolizei).

A series of revelations and scandals involving police and Stapo in recent

years had heightened public awareness and criticism of police misbehaviour and are one explanation for the relatively speedy introduction of the new law.

The Stapo's role in two spectacular cases of economic crime (the "Lucona" and the "Noricum" cases) involving senior government officials and politicians and embarrassing reports by Amnesty International by the Commission for the prevention of torture of the Council of Europe on cases of grave ill-treatment by Austrian policemen. Moreover, revelations on extensive political surveillance of citizens by the Stapo had caused widespread indignation: Indeed, 775 officials were spying on citizens in their chief occupation with an estimated annual budget of one billion Austrian Schillings. The Interior ministry itself acknowledged the existence of 59'000 Stapo files. "Mothers against nuclear threats" and citizens protesting against the setting-up of a waste deposit in their neighbourhood were among the "political suspects" detected by the Stapo. In the sarcastic Austrian vernacular the Stapo was soon called the "Alpine Stasi" (after the former East German state security).

Improvements

Indeed, the SPG brings some improvements with regard to civil liberties and fundamental rights in a formerly extra-legal domain. Thus the stipulation of the ultima ratio principle - the interference in individual liberties only as a last mean - and the principle of proportionate action provide a minimum of protection against police arbitrariness. Moreover, an independent instance of complaint has been created and data protection regulations have been extended to certain domains of non computerized data processing.

But the most significant progress can be found in the ban for the Stapo to collect discretionary data on persons in a purely preventive manner.

Spongy legal language opens the door to abuse

Unfortunately the inclusion of these principles is very much reduced to hollow declarations of intent through the introduction of a series of paragraphs which undermine the above-named guarantees by dangerously vague definitions of the terms employed.

Thus the following rights of the concerned are embodied in

30, alinea 1:

- the right to be informed, upon request, on cause and purpose of a police intervention;
- the right to obtain the service number of the intervening police official(s);
- the right to call in a person of confidence;
- the right to utter facts of importance with regard to the official act and to demand for their establishment.

But all this is at once jeopardized through alinea 2 of the same paragraph which bluntly states that "this does not apply, when the carrying out of the task would thereby be put at a risk". Thus it is precisely the official, vis-à-vis whom these rights are meant to provide protection, who decides if they shall be apply or not to the particular case. Thus, what has been clearly regulated in the first alinea, is left to discretionary decision in the second.

In a first draft of alinea 2 it still said: "...would thereby be **prevented**" (and not "**put at a risk**"). This little modification shows that the numerous "elastic" regulations in the SPG are not due to sloppy formulation work but rather to deliberate action of the legislator.

With the regulation on "security checks" new spheres of difficult to control activities of the Stapo are created. According to

55 al.2 the security police must screen persons "when the person concerned is assigned for a task, within which it will exercise administrative authority of command and coercion or have decisive influence on the realization of other acts of administration or other important administrative decisions, and when a particular public law corporation demands it".

According to

53 and following the police may already collect and process data, when it believes that it thus serves the "prevention of probable dangerous attacks against life, health, morality, liberty, property or environment" or the maintenance of "public order" at the occasion of a "particular event". Thus, such police surveillance is neither limited to the verifiable preparation of concrete serious crimes nor to the circle of persons actually engendering the alleged "dangerous attack" (attack punishable by penal law). In combined application with

30 al.2 this facilitates vast covert surveillance operations against non-suspects. The mere formulation of

53 and following is strongly reminiscent of article 99 al.3 of Schengen II.

What is "public order"? The SPG furnishes generations of European jurists who have desperately meditated on the possible meaning of this term with a simple and easy to apply definition:
According to

27 "public order" is nothing else than "order in public places". The latter are, quite obviously, places "which can be acceded to by a cercle of persons not defined in advance".

According to

53 the police may investigate personal data, when a "cercle of persons not defined in advance" accedes to a "public place" at a "particular event" Anybody who "disturbs public order without justification by particularly reckless behaviour" can be sentenced to up to two weeks of imprisonment.

Another provision says that personal data may be collected only, when this is "essential" for carrying out a task. Not even an attempt is made to define this term.

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The German gypsy communities granted 20 million lei in solidarity

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