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**Platform "Fortress Europe?"(PFE)** is an international network of groups and individuals concerned with European harmonization in the fields of internal security, policing, justice, immigration and asylum and its effects on fundamental rights and liberties.

By serving as a forum of mutual information, analysis and critical debate among experts and laymen, scholars and practitioners in both the East and West of Europe, PFE wishes to encourage a common search for alternative policies in conformity with human rights and constitutional democracy. As an informal and open network, PFE refrains from taking public stands, leaving such to the own initiative of each participating group or individual.

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The PFE's **Circular Letter (CL)** is published 10 times a year. The Circular offers a selection of news, comment and messages based essentially on the contributions of its readers. Its main aim is to facilitate direct contacts among the participants of PFE.

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**IN THIS ISSUE:**

Europe:

- European secrecy act coming up soon.....p.
- Official Secrets Act in the UK - a model for the EC? .....p.
- European police trade unions against executive powers for Europol.....p.

Bulgaria:

- 'Decommunization' in Bulgaria: gateway to democracy or witchhunt?.....p.
- Police violence against Roma in Pazardzhik.....p.
- Appeal to European jurists.....p.

Hungary:

- International Roma conference creates Pan-European Roma Parliament....p.

France:

- Racism and police - a report by the FIDH.....p.

Sweden:

- Racist comments of the Immigration Minister.....p.
- Government says no to police data base for preventive investigation...p.

Opinion:

- Fortress Europe? .....p.

Publications .....p.

Messages.....p.

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**sEUROPE/s**

**sEUROPEAN SECRECY ACT COMING UP SOON/s**

**sLast spring the European Commission prepared a proposal to introduce an Official Secrecy Law in the EC. Under this new regulation officials of the Commission in Brussels and their counterparts in the 12 member states will be able to classify documents about Community proposals and policies./s**

**sThis proposal has come under strong attack from several quarters. At their last meeting in Montreal in June the International Federation of Journalists adopted a motion initiated by Dutch and Danish members to express its anxiety. The federation fears that the new act will jeopardize initiatives for the creation of a European Act for the Freedom of Information./s**

**sWe publish this comment of the proposal by Eveline Lubbers (Amsterdam), followed by a briefing about official secrets policies in the UK, by Jolyon Jenkins (London). /s**

**sEC: FREEDOM OF INFORMATION OR SECRECY?/s**

**sThe proposal to introduce a UK-style official secrets regulation is a result of the Maastricht Agreement./s**

**sThe version discussed by the European Parliament this summer is formulated in extremely elastic terms. 'Classified information' is taken to mean "all forms of information whose unauthorized disclosure could be detrimental to the essential interests of the European Communities and of the Member States". The terms 'detrimental' and 'essential interests' are not defined. On the other hand the term 'information' expressly includes all imaginable forms of communication in a time of rapid technical progress./s**

**sThis makes the proposal a **blanket provision** which can be applied to any area of EC policy./s**

**sThere are no restrictions defined as to limit the areas of application. On the contrary, the provisions apply to "sensitive information connected with EEC or Euratom activities" both inside the Member States and institutions, as well as with regard to mutual information among the Member states./s**

**sEuropean State/s**

**sAnticipating unification, Europe is increasingly acting like an independent state. The Community deals with matters of defence (the German-French forces), foreign affairs (sanctions against the Serbs), migration and asylum policies. The harmonization of police- and judiciary policies, secretly prepared by the Schengen and TREVI groups, will also become an EC matter in the wake of Maastricht./s**

**sThe now proposed Act will provide the possibility to avoid publicity for decisions already taken outside any democratic consultation or control./s**

**sWith the EC beginning to adopt a state-like behaviour, it becomes ever more important to keep an eye on the democratic level of the Community./s**

**sSanctions/s**

**sThe introduction of a European Secrecy Act is likely to conflict with the practice of Member States with a more liberal legislation. The consequences for the long term are difficult to foresee. The proposal begs the question of different national laws on confidentiality. European civil servants will remain under EC jurisdiction. But as long as the Member States are free to implement the provisions of the secrecy act as they wish, this is likely to lead to strange situations. Disclosing European secrets in the United Kingdom for instance could be punished with serious penalties, whereas in the Netherlands the same disclosure would have no consequences at all. To end such an inequality of law there is a need to a standard European approach. /s**

**sThe regulation has force of law and can be implemented directly, without consultation of the**

various parliaments, even when it conflicts with national constitutions./s

### **sVetting/s**

sAnother item left to the creativity of the various Member States is the vetting or "screening" of those who have access to classified information. Each country will be able to apply its own practice and procedures in carrying out the vetting and there are no provisions neither for the individual subjected to vetting to be told of its findings nor any rights of appeal./s

### **sThe United Kingdom/s**

sAn explanatory memorandum circulated to MP's by the Foreign Office says the UK is not in favor of the proposal as drafted. The government's objection to the proposal is not one of principle. Instead, the UK government would prefer measures that do not require new legislation and calls for procedures to ensure an "agreed standard of protection" to sensitive EC-documents in the interest of what it calls the "free flow of information between EC institutions and other Member States"./s

sThe nub of the UK government's argument is that "it remains an open question whether a Council regulation is the best means of implementing such procedures"./s

sThis suggests that they would favour an inter-governmental agreement which would not be subject to scrutiny by the European Parliament./s

### **sThe EC secrets in the Netherlands/s**

sThe first to mention the regulation, thanks to the revelation of the UK based publication "Statewatch", was the Dutch Human Rights Magazine MRM. The July issue revealed internal correspondence on the Euro-secrecy act between the Minister of Home Affairs and the State Secretary of Foreign Affairs. The Minister appears to be aware of the legal shortcomings of the proposal and is concerned about the illdefined concepts and the risks of expanding security measures. Nevertheless she says that anyone leaking confidential information is endangering the rules of democracy and is "driven by nothing than self-interest"./s

sAlthough the Dutch Federation of Journalists reacted with alarm to the MRM article and tried to raise public interest for the proposal, the issue has hardly been covered by the media so far. The Dutch representative in the European Committee for Legal Affairs, the Christian Democrat Jansen van Raaij claims the aim of the proposal is in fact to maximize the information facilities of citizens. He said however, that critics were welcome to send concretely formulated amendment proposals concerning specific provisions of EC-secrecy draft./s

### **sThe European Parliament/s**

sThe Legal Affairs Committee of the European Parliament showed some astonishment that the proposal had not been sent to the Parliament under the usual "consultation" procedure, but under the "cooperation" procedure instead, which only allows the Parliament one chance to comment (instead of two) and that other parliamentary committees affected by the issue were not informed./s

sAt its meeting on June 23 the Legal Affairs Committeee therefore agreed:/s

sa) to refer the proposal to three other committeees of the European Parliament: Civil Liberties and Internal Affairs; Environment; Rules and Procedures;/s

sb) to ask the Commisssion to set out the legal basis by which the proposal had been referred to the Parliament under the "cooperation" procedure (thus reducing the Parliament's chances to comment);/s

sc) to ask the Commission to bring forward freedom of information proposals./s

s  
/s

sThis delay offers the time and space required to start a campaign against the proposal in as

many Member States as possible./s

sParliaments and journalists, maybe even unions, have to be made aware of the far reaching consequences of the proposal./s

sThe proposal, 9 pages, can be requested at the European Commission Information Office in every Member State. Official title: Proposal for a Council Regulation (EEC) on the security measures applicable to classified information produced or transmitted in connection with EEC or Euratom activities. (92/C 72/16) - COM (92) 56 final. Submitted by the Commission on 26 February 1992. Dated 21 March 1992./s

sEveline Lubbers/s

sSources: Statewatch (PO Box 1516, London N16 0EW) No.3 & 4 1992; MRM (Mensenrechten Magazine, Postbus 17157, 1001 JD Amsterdam. /s

sFor further information: Eveline Lubbers, Buro Jansen & Janssen, Postbus 10591, NL-1001 EN Amsterdam./s

### **sOFFICIAL SECRETS IN THE UK - A MODEL FOR THE EC?/s**

s/s

sBritain has had an Official Secrets Act since 1889, but the most significant law was passed in 1911, in a mood of national panic about German spies posing as tourists. The act was rushed through all its parliamentary stages in one day, with only one hour's debate, and stayed in force for the next 78 years. Its most controversial aspect was section 2, which made it an offence for any civil servant to reveal any information obtained in the course of their employment, without authorisation. It was also an offence to receive such information, even unintentionally. There was no "public interest" defence./s

sNeedless to say, the act was in theory breached every day, and most "offences" went unpunished: after all, the most assiduous leakers of information were ministers and senior civil servants. However, there were a number of celebrated prosecutions. In 1977, two journalists were prosecuted for talking to a former soldier who had worked on signals intelligence in Cyprus. They were convicted, but the journalists were given "conditional discharges", and the soldier received a suspended sentence./s

sIn 1983, a young clerk who worked for the Ministry of Defence, Sarah Tisdall, was prosecuted for sending to the Guardian newspaper documents revealing when American cruise missiles would arrive in Britain. The documents disclosed how the government intended to evade parliamentary questions about the arrival of the missiles. Tisdall was given a six month prison sentence./s

sIn 1984, a much more senior civil servant, Clive Ponting, was prosecuted for a similar offence: he had sent information to a member of parliament which demonstrated that ministers were giving misleading information to parliament about the sinking of the Argentinian ship, the 'General Belgrano', during the Falklands war. Ponting argued that he had a duty to leak this information. However, the judge ruled, controversially, that the interests of the state were identical with those of the government of the day. Although there was no legal doubt that Ponting was guilty, the jury acquitted him, presumably recognising the moral force of his argument./s

sThat was the last major official secrets prosecution: since then, the government conspicuously avoided such prosecutions and began using the civil law of "confidence" instead [e.g. the "Spycatcher" case against Peter Wright, the author of a book on the British secret services]./s

sIn 1989, a new official secrets act was passed to replace the old one. In some respects, it was an improvement on the old one, in that the prosecutions must prove that "harm" has been done to the national interest, a number of classes of information are now excluded from the criminal law, and it is no longer an offence to receive information. But the "harm" tests are very broadly worded, there is still no "public interest" defence, and the classes of information now excluded are those in respect of which prosecutions were never brought anyway. In the case of members

of the intelligence and security services, it is always illegal for them to disclose information, whether or not "harm" has been done./s

sAmong the categories of information specifically included in the act are: defence, international relations, and information obtained in confidence from other states or from international organisations. Police information is included if its disclosure is likely to result in the commission of offences, to facilitate an escape from custody or to impede the prevention or detection of crime./s

sThe government has hailed the new act as "a significant essay in openness", but this seems an overblown claim. The act still sends very clear signals to civil servants that they are not to disclose information on pain of criminal prosecution, and, in absence of a Freedom of Information Act, the strong climate of secrecy that surrounds British government and police has not been diminished./s

sJolyon Jenkins/s

### **sEUROPEAN POLICE TRADE UNIONS AGAINST EXECUTIVE POWERS FOR EUROPOL/s**

sConsensus was established at the Conference of the inter-European Police Trade Union (UISP) in Dublin in March 1992, that the planned European police unit Europol should not have any executive competences. The only union representatives in support of such an executive role were the Germans but they finally accepted the point of view of their foreign colleagues./s

sE.S./s

sSource: Dansk Politi, 15.5.92/s

### **sBULGARIA/s**

#### **s'DECOMMUNIZATION' IN BULGARIA: GATEWAY TO DEMOCRACY OR WITCHHUNT?/s**

**sIn the last three years, the new political elite of Bulgaria seems haunted by two passions: join Europe and punish the guilty. In the view of the new elite, the two goals are closely interrelated. In order to be accepted by the Western European countries, they say, Bulgaria must bring evidence that it has finished with totalitarian communist rule. But arbitrary, inquisition-like procedures against all those accused of having been too close to the former regime now threaten to sap the nucleus of transition to democratic constitutional rule./s**

**sCivil rights activists in Bulgaria fear a resurgence of totalitarianism with completely reversed premises./s**

s/s

sMost Bulgarians agree that the totalitarian regime of the past must be overcome. But the big question is, how to achieve this goal. In the beginning of summer the parliament discussed two draft bills on "decommunization". One proposal boils down to a German style "Berufsverbot" (occupation ban) à la bulgare, the other one strongly reminds one of the "denazification" in the forties. The two bills differ from each other when defining the "threshold of guilt" for former power holders, but both are based on the concept of "collective guilt"./s

sQuite significantly, the most outspoken criticism against the draft bills came from precisely those Bulgarian dissidents of the 80ies who played the leading role in initiating the popular movement that led to the downfall of the former regime. In their opinion the bills on "decommunization" are nothing else than an attempt at collective repression, in other words, a method widely used by precisely the former communist regime. They further point out that the bills leave it to the government to determine the list of "leading positions" in the public sector which should not be accessible to representatives of the former regime. Thus, the government would be free to raise or lower the threshold of professional access at will. At present, 95% of all employments in Bulgaria are offered by state institutions and state owned enterprises. Against this background the arbitrary and repressive character of the bills becomes even more obvious./s

sThe acting president of the republic has strongly opposed the bill projects./s

sIndeed, the question remains, if the proposed sanctions will hit those they have been designed for, the members of the former nomenclatura. Many of its most powerful representatives made skilful use of the big financial resources they had accumulated under the former regime in "recycling" themselves in private business. They are not likely to suffer from the professional ban measures./s

sThis begs the question, whether the widely celebrated "decommunization" is really intended to remove the former ruling class or whether it is not rather the expression of old repressive behaviours, a disguised attempt to reintroduce the reactionary political habits of the 30's which had a lot to do with anti-communism, but nothing with "European" democratic tradition./s

sIt is an intriguing fact that an astonishing number of former members of the Communist parties can be found among the supporters of the bills. All of them succeeded in accessing to high ranking positions in government and local levels, after having changed their political colour "just in time". Under the former regime they held second rank positions. With the help of the "decommunization" project they are attempting to definitively get rid of their former rivals in the party hierarchy./s

sHowever, the debate has not come to an end yet. Western European opinion is likely to play a crucial role for its outcome. As a matter of fact, for the new Bulgarian leadership the important issue behind all the talk about decommunization remains the desire to be "admitted" to Europe./s

sParaphrased from "Décommunisation à la bulgare", article by Antony Todorov in Diagonales Est-Ouest, special issue summer 92./s

#### **sAPPEAL TO EUROPEAN JURISTS/s**

sWe have been approached by a Bulgarian civil liberties group which is seeking contact with legal experts from Western Europe who would be willing to study and comment the "decommunization" draft bills and their possible effects on fundamental constitutional rights in Bulgaria. Such an "observatory" mission of an international group of jurists could have a decisive effect on the outcome of the debate in Bulgaria./s

sIf you are interested in participating at such a mission, please contact Nicholas Busch (Tel/Fax: +46 23 43008) for further information./s

#### **sPOLICE VIOLENCE AGAINST ROMAS IN PAZARDZHIK/s**

**sPazardzhik is a city of about 82,000 inhabitants, 120 kilometers East of Sofia and 30 kilometers West of Plovdiv, Bulgaria's second largest city./s**

**sThe local Roma community numbers about 24,000 persons. Most of them are Muslims, some insisting on a strong Turkish identity. According to rough estimates, unemployment among Roma persons of working age is at present about 80%/s**

**sThis is the social background of a story beginning with five young Romas stealing cherries from a tree and ending with police raids of extraordinary brutality against an entire Roma neighborhood./s**

sWhen five Roma men tried to steal cherries from an orchard, they were roughly chased away by local police shooting in the air. The excessive action of the police resulted in a crowd of about 200 Romas attacking the police with stones. The latter started shooting. Three policemen were injured by stones, two Romas were shot (one of them in the hip)./s

sAt about 4 A.M. on June 29, strong police forces (local and from a neighbor town) surrounded the Roma community. The policemen carried submachine guns and lead dogs. The crack-down was ordered by the Regional Director of Internal Affairs in Pazardzhik as a "passport check and search for arms. The permission of the Chief secretary of the Interior Ministry was also secured. First, all persons found on the streets were checked and searched. Later police started searching homes, breaking the windows and doors of every house, regardless of whether there

was a family inside or not. Systematically the furniture was destroyed and all money found was 'confiscated' (no documents were given to the owners)./s

sDuring the whole operation inhabitants (innocent of any crime and including women, children and aged persons) were badly beaten and cursed at with discriminatory comments against the Roma people. Young women and girls were sexually harassed. The inhabitants of one house were stood up against its wall "in order to be shot", as the policemen told them. They were made to stand there and believe that they were to all die while their house was "searched" in the above manner. An old woman was forced under her bed, while policemen jumped up and down on the bed above her, listening to her cries./s

sOne Roma man's leg was broken with a hammer in the presence of his wife and his children. Another man was taken to hospital in a state of commotion, after being tied and beaten in the street for everyone to see. Romas with lighter injuries were turned away from a hospital by policemen at the door./s

sNo firearms were found. One case of negligible passport irregularity was unearthed. A machete and 20 kitchen knives were confiscated./s

sThe day after, a protest rally staged by the Roma community was dispersed by the police. Heavily armed policemen making discriminatory comments patrolled the neighborhood. Local administrators verbally abused Romas. During the week following the pogrom-like events, Romas were denied access to restaurants and cafes in the center of the city. Passport checks were made constantly and people were harassed./s

sThe Roma witnesses to these acts, especially women and children, are as a result in a state of deep stress. Parents are reporting of children who can not sleep at night, who have begun to stammer or to wet themselves./s

sKrassimir Kanev/s

sSources: official police press releases and eye-witness accounts recorded by K.Kanev and his colleagues./s

## **sHUNGARY/s**

### **sINTERNATIONAL ROMA CONFERENCE IN BUDAPEST CREATES PAN-EUROPEAN ROMA PARLIAMENT/s**

sRoma populations in almost all European countries are confronted with ever growing violence, discrimination and racism. Unemployment among Romas has risen to dramatic levels in Eastern European countries. In certain regions of Southern Hungary for instance, nearly 100% of Romas of working age are unemployed. Hungary's Roma population numbers about 500,000. As the recent racist attacks against a refugee hostel housing mostly Romanian Romas in Rostock (Germany) show, pogrom-like violence against Romas is spreading all over Europe./s

sAgainst this background a European Conference of Romas met in Budapest, at the end of August, to discuss a common Roma response. Among other measures, the creation of a permanent European Roma Parliament was decided with the aim to ensure a better political representation of Roma interests in the wake of European unification. The parliament's presidency is to meet every two months./s

sSource: BBC-International Service; Newsdesk, 28.8.92 /s

## **sFRANCE/s**

### **sRACISM AND POLICE - A REPORT BY THE INTERNATIONAL FEDERATION OF HUMAN RIGHTS/s**

sThe International Federation of Human Rights, FIDH, has published a report on racism and police in France. The authors are Jean Claude Bernheim, professor of criminology at the Universities of Ottawa and Montreal, secretary in charge of detention matters at the FIDH and president of the Canadian Office for Detainees Rights, and Giovana Borgese, member of the board of the Italian League of Human Rights./s

**sThe report insists on the close relation of certain police powers (identity checks and police custody) conflicting with the Human Rights guarantee prohibiting any form of arbitrary detention on the one hand, and police acts of racism and discrimination on the other./s**

**sAlthough the report focuses on the situation in France, its findings concern a problem which exists in every European country and they are particularly important in view of the Europe wide and ever growing call for more police control powers in the context of the planned abolition of internal border controls in the EC./s**

sThe report begins with a critical comparison of French legislation on identity checks (Contrôle d'identité), the 'garde à vue' (an ill-famed form of police custody particular to France), and the access to legal defence (Droit à l'avocat) at the stage of preliminary police investigation. The authors draw the severe conclusion that the "fatherland of Human Rights" does not live up to the principles first stipulated in the 1789 declaration of human and citizen's rights (Déclaration des droits de l'homme et du citoyen) and that a number of provisions and practices conflict with the European Convention on Human Rights guarantees regarding the freedom of persons and fair trial. /s

### **sIdentity checks/s**

sThe authors criticize the right of the French police to check identities in absence of any materialized suspicion against the concerned. Indeed, identity controls are permitted in order to "prevent an encroachment on public order, particularly an encroachment on the security of persons and goods". In other words, they are allowed, wherever and whenever the police believe that a potential risk exists./s

sThe authors understand identity checks as the first stage of privation of liberty, Indeed, totally innocent and a priori non-suspected persons can be held by police for up to six hours for the sole motive of checking their identity./s

sQuite obviously, such police powers open the door to arbitrary, discriminatory and racist practices, often based merely on the physical appearance of persons. As the report shows, certain groups of young people, non-whites and marginals are far more likely to be submitted to an ID-check./s

sFrom all this the authors draw the conclusion that "identity checks as presently authorized open the door to encroachments of all kind, particularly to the one of "the offence of physical appearance" (délit de facies). Hence it follows that the French State must amend its legislation and the penal procedure code in order to purely and simply prohibit identity controls". As for controls of foreigners, they "must be based on the principle of presumed innocence and intervene only when a crime or an offence has been or is on the point of being committed" ./s

### **sThe 'garde à vue'/s**

sAccording to the official reading, the French form of police custody, the 'garde à vue', is neither an arrest nor a state of detention. The 'garde à vue' is instead defined as the placing of a person considered as a suspect or as a **witness** "at disposal" in the localities of the criminal investigation police (police judiciaire). It is an exclusive power of the police judiciaire which was legalized as late as 1958./s

sAt present 'the garde à vue' can be decided on by an officer of the police judiciaire in order to question a person in case of 'in flagranti' procedures or of preliminary investigation./s

sThis detention can last for 24 hours and can be prolonged for a further 24 hours on written authorization of the public prosecutor (procureur de la République), to whom the person under custody must be presented./s

sIn drug related cases the prosecutor can allow prolongations extending the 'garde à vue' to up to 4 days./s

sAccording to the criminal procedure code (art.77) any person can be submitted to such a measure of custody whenever "necessities of the investigation" exist. As there are no



restrictions to this provision, any witness, friend or family member of a possible suspect can be detained in this manner./s

sAs a result, the police can in practice keep a person in custody for 24 hours without justifying this by any specified charges against him./s

sThe practice very common among public prosecutors to sign prolongation authorizations without having seen the person concerned, further paves the way for all kinds of serious and frequent power abuse./s

sAstonishingly enough, the criminal procedure code does not permit the detainee to refer to the irregularity of a 'garde à vue' neither in front of the criminal court nor in the course of the investigation in front of the investigative judge (juge d'instruction). A complaint can be brought only to the chamber of accusation. Thus, the authors conclude, "every thing is set up in a way as to jeopardize the efforts a victim could make in order to restore his most elementary fundamental rights"./s

sIn the view of the authors the institution of 'garde à vue' is simply in breach of the European Convention on Human Rights' (ECHR) article 5, and more specifically paras 2 and 4./s

sThe French State cannot reject this reproach by invoking its own interpretation of the 'garde à vue' as being neither an arrest nor a detention. Indeed, the European Commission of Human rights has repeatedly stated that Article 5.1 applies to **any privation of liberty of short duration**./s

sThe authors note with astonishment that thus far no case involving the 'garde à vue' as opposed to the application of the ECHR has been brought to court in France./s

sIn the opinion of the authors there is a deliberate policy in France aiming at restricting as far as possible the application of the Convention./s

### **sThe right to legal defence/s**

sAs opposed to e.g. the USA and Canada, where lawyers can meet their client as soon as he is arrested, this right of immediate access to a lawyer is not part of the established principles of French law. As long as the police investigation and, in particular, the 'garde à vue' lasts and as long as an investigative judge has not been charged with a case, no person detained by the police has the right to contact a lawyer. However, as the authors put it, "nothing can justify keeping persons presumed innocent **incommunicado** for up to four days"./s

sThis negation of the right to legal defence amounts to a blatant violation of article 5.4 of the ECHR./s

sHence follows, say the authors, that the right of access to a lawyer is inherent to the fact of being deprived of ones liberty in the course of a police intervention./s

### **sThe particular situation of foreigners/s**

sFrench legislation subjects all foreigners to the general obligation to undergo identity checks anywhere on French territory./s

sThis leads to an uncomfortable situation for the police: "In the scope of their task, policemen are, it is true, on the one hand confronted directly with the demands of their superior administrations and indirectly of the political authorities, on the other hand with legislation and obligations forbidding them to act on a discriminatory basis. How, indeed, can one spot a foreigner in a cosmopolite country or city? Honest policemen, aware of their task can only be confronted with a dilemma. For others, imbued by their power and maybe racist, this is the perfect opportunity to bring to bear their ideology."/s

sThe authors point out that it is well known how things use to go. "At random one stops persons whose physical appearance does not conform with the 'national' profile. At a defined and demarcated place [for instance a subway station] all persons with 'strange' physique are checked with the hope that some individuals in irregular situation will be among them."/s

sPolice racism manifests itself first in the motives behind an identity check. Then follows a certain provocation by humiliating and eventually racist comments which frequently cause an aggressive verbal reaction entailing more or less intense physical violence./s

sThe report cites a number of specific cases confirming the above ascertainties. Frequently the intercepted persons end up in 'garde à vue' totally isolated in some local police station where they are even more exposed to the threat of verbal and sometimes extremely brutal physical abuse./s

sIn the opinion of the authors racist behaviour within the police must be combatted with particular severity, "because, in that [the police] detains more power than the citizen, its acts have more serious consequences". And the report repeatedly points at the fact that the notoriously strong team spirit (esprit de corps) constitutes a strong handicap in combatting racism inside the police. Police as a whole can not, of course, be qualified as racist, but the policemen as a corps, even when they, for their part, condemn these attitudes, "protect those who are [racist]"/s

### **sPolitics and racism/s**

sThe chapter begins with a quotation from P.-A. Taguieff ('Face au racism', Paris, la Découverte, 1991): "Nowadays, the fears, the phobias and cynical electoral calculation supersede political projects, the respect of principles and - just as well and maybe most of all - they supersede analysis."/s

sThe authors insist on the importance of symbolical signals in politics, particularly as expressed through both public declarations and lack of comment by high ranking politicians. Sometimes deliberate, sometimes unreflected discriminatory remarks of politicians can trigger racist behaviours in society. Effects can be particularly devastating in hierarchical corps such as the police where a behaviour in conformity with the power structures of society is widely seen as identical with "good" behaviour./s

### **sPolice and racism/s**

sThe report demonstrates the strong influence of police arbitrariness on the course of criminal procedures. The police in fact decide quite freely and according to its own often arbitrary selection criteria, which cases are to be referred to criminal justice. /s

sNo wonder then, that in all stages of penal prosecution foreigners are overrepresented. While foreigners represent 7-8% of the population of France, they make out 16% of all suspects and 15,5% of the accused. Prisoners on remand constitute 79% of the prison population in France. While this figure is 75% for nationals, it is over 90% for foreigners. While prison sentences are on probation for 60% of nationals, this is the case for only 40% of foreigners./s

### **sConclusions and recommendations/s**

sPolice racism has something to do with the powers conferred both on the institution and on the police officers themselves./s

sIt is therefore often difficult to distinguish power abuse as such from racist abuse. Indeed, directives addressed to the police sometimes contribute to a discriminatory character of its missions. Racist police officers are also encouraged by organizational structures./s

sThe authors are well aware that it is difficult to change the minds of racist policemen. They therefore limit themselves to the proposal of concrete legislative and organizational measures which should act as barriers against racist behaviour./s

sBased on the findings above they call for:/s

s- the abolition of identity checks (which in their view amount to a form of privation of liberty without grounds);/s

s- the abolition of the 'garde à vue'(as a form of detention of non-suspects);/s

s- the guarantee of the right to see a lawyer at the earliest stage of privation of liberty (In order

to materially secure this right, the authors propose the creation of on call lawyers accessible 24 hours a day).

/s

sThe importance of strong sanctions is stressed. In serious cases of power abuse by a representative of the state, removal from office should be obligatory. Acts of racism should be automatically considered as serious power abuse. Investigations concerning police abuse should be led by a special institution of control and appeal independent from police and government./s

sSanctions should not be limited to punishment of the perpetrator but comprise redress of the legal damage done to the victim./s

sIn the event of encroachment on the rights of the accused redress measures should range from the rejection of all evidence produced in an irregular way to nullity of the entire criminal procedure. The burden of proof regarding the legality of the taking of evidence must be with the prosecution. /s

sIn the authors' opinion the combat against racism, as long as the state is concerned, begins with the recognition, respect and enforcement of the rights and liberties of all men and women under its jurisdiction./s

sN.B./s

sSource: Jean-Claude Bernheim, Giovana Borgese, Racisme et Police en France, Rapport de la FIDH no. 153, ISBN 077.8736, Montréal, 20 Mai 1992./s

**sSWEDEN/s**

**sFEARS, PHOBIAS AND ELECTORAL CALCULATION - IMMIGRATION MINISTER MAKES DISCRIMINATORY REMARKS AGAINST KOSOVO-ALBANIANS/s**

s"Apparently there is a certain tradition or something else that makes them [the Kosovo-Albanians] more inclined to filching and stealing bicycles, laundry and whatever else than any other refugee group."/s

sThis blunt remark was made on TV-news by no less a person than the Swedish minister in charge of immigration, Birgit Friggebo (Liberal party). The Minister's statement was based merely on an enquiry carried out by the immigration authority SIV in Southern Sweden, according to which Kosovo-Albanians are "overrepresented" among asylum seekers involved in delinquency. These findings were however strongly questioned from various sides. Critics point out that they provide no clear statistical evidence and that they are mainly based on subjective assessments of directors of refugee reception centers. Furthermore, the findings refer not only to persons found guilty but to all suspects as well. The findings further fail to demonstrate, if the alleged "overrepresentation" of Kosovo-Albanians in delinquency (mostly petty crime) is not simply due to the fact that with 35,000 asylum seekers they constitute more than half of the total number of asylum seekers (65,000) in Sweden./s

sMinister Friggebo's comment is likely to have devastating effects at a time where, as a result of the massive arrival of refugees from former Yugoslavia, asylum policies are becoming a highly political and sensitive issue in public opinion./s

sOnly days after Friggebo's TV-appearance a refugee center was attacked in a Stockholm suburb and in a broadcast of the state-radio Iranian refugees were accused in the lump of being involved in drug crime. The allegations were based merely on the assessment of a local police chief who said that half of the Iranians were drug traffickers. /s

sA refugee center in a Stockholm suburb was also attacked by racists a few days after the Minister's remarks./s

sMeanwhile the Swedish immigration authority has called on police and the office of public prosecution to take speedier action against asylum seekers even in cases of petty crime./s

sMore policing is however unlikely to bring a solution to the problem. Increased delinquency among asylum seekers is due to an increased refugee population and to the government's policy of placing asylum seekers in central camp facilities pending a decision on their application that can take months or years. In the case of Kosovo-Albanians this situation is particularly untenable as they have practically no chance of obtaining asylum according to the current Swedish practice./s

sMrs. Friggebo's remarks have drawn strong reactions from various sides. Representatives of the former communist party, 'Vänsterpartiet,' have brought an action against the Minister for "instigation against an ethnic group" and the president of the youth organization of Mrs. Friggebo's Liberal party has asked for her resignation./s

sThe events described above must be seen against the background of the Swedish government's goal to implement an ever more restrictive refugee policy in line with the EC, a policy which previously has not drawn strong support from the public./s

sN.B./s

sSources: Dagens Nyheter, 21.8.92; Swedish State Radio P 1, 21.8.92./s

### **sGOVERNMENT SAYS NO TO POLICE DATA BASE FOR PREVENTIVE CRIMINAL INVESTIGATION/s**

sThe Swedish data inspection board has rejected plans by the National Police Board (Rikspolisstyrelse) to set up a computerized register of persons who are not suspected of any specific crime but whom the police suspects to be involved in major criminality. An appeal by the National Police board against this decision was equally rejected by the government./s

sEberhard Stüber/s

sSource: Arbetaren, Stockholm, 14.8.92/s

### **sOPINION/s**

#### **sFORTRESS EUROPE?/s**

s/s

sby Andy Storey, Dublin/s

sl must confess to a certain suspicion about the project of EC union, or, more precisely, its ideological justifications. My suspicions arise from the following questions. Do people in the EC feel a sense of belonging to a 'common European home'? Given that national and ethnic loyalties are undergoing resurgences, what force might prompt people to define themselves as 'European', rather than (or even as well as) German, Scottish, Basque or whatever? What practical relevance does the notion of a 'European' identity have for people who seem to be increasingly defining themselves in terms of smaller and smaller geographical and population units? One answer to these questions has been provided by the writer Caryl Phillips:/s

s "Europe... is trying to forge a new unity through trade, despite the divisions at the heart of European consciousness, as squabbling tribes stare at each other across national boundaries... [Europe] still looks askance at 'strangers' as they alone reinforce a sense of self. Ultimately, the one certainty for Europe is that she knows a 'nigger' when she sees one: she should - they were a figment of her imagination, a product of her creative mind."

/s

sThe danger which Phillips identifies is that 'European' identity will be manufactured by reference to what it is not, that in order to legitimise a drive for unity which is essentially based on economic motives a cloak of 'European' fellow feeling will be woven from the fabric of xenophobia./s

sThere is a danger that the EC will be encouraged to subscribe to an image of itself as a white, Christian citadel, sometimes repulsing invading pagan hordes (mainly Muslims) and other times sallying forth into the world on a supposedly civilising mission (more precisely, to defend 'its'

resources). Absurd as this image is, it is nonetheless cultivated by references to Europe's Judaeo-Christian ethos, its roots in Roman and Greek civilisations, its proud legacy of the Renaissance and the Enlightenment (rather than the Inquisition and colonialism) etc. What such references commonly omit is the enormous contributions to European progress and prosperity made by Muslim philosophers and astronomers, Arab traders, the exploited people of Europe's colonies (including the victims of the Slave Trade), and many others whose descendants are rarely now accepted as truly 'European'. These omissions reinforce the tendency to define 'Europe' in xenophobic and racist terms./s

sThis is not an idle debate - officially sanctioned ideologies which define certain (mainly non-white) people as 'foreigners' who do not belong in 'Europe' help to create the conditions in which neo-nazi political parties can attain credibility, and in which violent attacks against 'outsiders' are seen by the perpetrators as no more than 'taking the law into their own hands'. They also legitimise policies which seek to exclude those who do not 'belong'. Nowhere can this be seen more clearly than in the current debates about immigration and asylum policies in the EC./s

s[The contribution above is drawn from '**Fortress Europe: Issues confronting migrants and refugees**', a paper presented by the author at the 6th annual Ilscæ conference, June 1992. Andy Storey works for the Catholic development agency Trocaire in Ireland./s

sContact: Andy Storey, 169 Booterstown Avenue, Co. Dublin, Ireland. Tel: +353/1/2885385, Fax: +353/1/2883577./s

#### sPUBLICATIONS/s

s**The Impact of EC Border policies on the Policing of 'Refugees' in Eastern and central Europe**, 20 page dossier by Dr. Mike King, University of Leicester, March 1992. The paper gives a survey within everybody's grasp on all relevant fora such as Schengen, TREVI, the Group of Co-ordinators, the Berlin Conference and their interaction with regard to Eastern and Central Europe. Equally interesting is the bibliography containing 37 references./s

sContact: Dr. Mike King, Centre for the Study of Public Order, University of Leicester, 6 Salsbury Road, Leicester LE1 7QR, U.K. Tel:+44/533-522489, Fax:+44/533-523944./s

s**Changing Eastern Europe: Implications for Third World migrants and refugees**, 25 pages, seminar paper, UCC Sociology Dept., by Andy Storey, November 1991./s

sContact: Andy Storey, Trocaire, 169 Booterstown Avenue, Co. Dublin, Ireland; Tel:+353/1-2885385, Fax:+353/1-2883577./s

#### sMESSAGES/s

##### sMigrant workers as shop stewards?/s

sMigrant workers are prohibited by law from becoming shop stewards in Austria. We, i.e. the Salzburg Migrant Voting Rights Group, would like to compare the rights of migrant shop stewards in all European countries. I'm looking for some one who can supply us with a complete list of said legislation./s

sPlease contact: Dr. Eugene Sensenig, Hofhaymerallee 21/31, A-5020 Salzburg. Tel:+43/662-881145, Fax:+43/662-87090019./s

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