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'Fortress Europe?'- Circular Letter is the organ of **Platform 'Fortress Europe?'** and of the **GENEVA GROUP - Violence and Asylum in Europe**. The 'Platform' is an informal international network concerned with European harmonisation in the fields of internal security, policing, justice, data protection, immigration and asylum and its effects on fundamental rights and liberties. It is associated with the European Civic Forum. The **GENEVA GROUP - Violence and Asylum in Europe** came into being in 1993 at a conference organised by the University of Geneva. The Group wishes to contribute to international multidisciplinary discussion on the right to asylum and its interaction with other developments in society. The objective of the Circular Letter is to offer a forum for mutual information, analysis and critical debate among experts and laypeople, scholars and practitioners. The Circular Letter is published 10 times a year. It offers a selection of news, comment and messages based essentially on the contributions of its readers.

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EUROPEAN UNION

FREEDOM OF INFORMATION: 'GUARDIAN' WINS CASE AGAINST EU-COUNCIL

The European Court of Justice in Luxembourg (ECJ) has upheld the claim of the British newspaper, *The Guardian*, that it was unlawfully denied the minutes of ministers' "private" debates at EU Council meetings. In their decision of 19 October, the judges found that the Council was guilty of operating a systematic ban on the disclosure of documents which might reveal the position of individual member states in debates. The Council's decision to withhold minutes from *The Guardian* was annulled. Unfortunately, the Court refrained from examining *The Guardian's* more far-reaching claim that EU citizens have a fundamental right to know what happens when EU laws are made.

The story began in February 1993, when John Carvel, the Brussels correspondent of the *Guardian*, put in an application under the Council's "code of conduct" (on public access to Council documents) asking for three sets of minutes from Social Affairs, Agriculture and Justice and Home Affairs (JHA) Council meetings (see CL No.24, p.5).

The Council librarian sent some of the required documents to Mr Carvel, but withheld others, among them the JHA documents on the grounds of the necessary protection of "the institution's interests in the confidentiality of the proceedings". Mr Carvel's appeal against this ruling was rejected in May 1994 (a month after the deadline for reply) by the EU foreign ministers). Moreover, the ministers informed Mr Carvel that he should actually have been denied all the required documents and that he had been handed out some material only due to an "administrative error owing the novelty of the procedure for allowing public access".

The Council's justification for refusing access to the documents was a catch-all clause in the "code of conduct" which allowed it to withhold anything on the mere grounds of maintaining confidentiality. The Council gave no reason for withholding the particular documents required by Mr Carvel. Consequently, Mr Carvel filed a complaint at the ECJ. His case was supported by *The Guardian*, the European Parliament, and the two EU member states most in favour of public access, Holland and Denmark (see CL No. 28, p.4).

Council lied on blanket ban?

In the meantime, the Council, in a hasty effort to put an end to journalists' disturbing inquisitiveness, laid down a blanket ban on the disclosure of any minutes which might reveal national points of view. *The Guardian* learned this from a leaked memo written by the Council's own legal service, but the document could not be used in court without the Council's permission.

When the case came up for an oral hearing in July, the Council's lawyers assured the judges that it never operated a blanket ban, but the Danes and the Dutch said this was untrue.

Some weeks ago, the Council finally agreed a Danish proposal which ought to open up the minutes of future law-making sessions of the Council and the ECJ's decision states that the Council cannot hide behind rules of procedure which give priority to confidentiality over citizens' right of access.

A battle is won, but not the war

The ECJ found that the illegality of the ban on disclosing minutes was so clear-cut that it did not have to examine *The Guardian's* more far-reaching arguments referring to EU citizens' fundamental right to be fully informed on law-making in the EU.

Indeed, this is what the *Guardian* case is actually about. In a comment on the ECJ verdict, John Carvel explains his reasons for bringing the case to the court: "When I was posted to Brussels three years ago, I soon came to the conclusion that this Council operated under rules which were alien to European democratic traditions. While preaching the virtues of transparency, it legislated behind closed doors". In the EU, the real legislative power lies with the ministers of the member state, i.e. the Council, Carvel points out. "To that extent the Council has operated like a parliament, but - unlike all the parliaments of Europe - the legislative stages of its deliberations were confidential and without a verbatim transcript. Even the highly condensed minutes of decisions were classified." As a consequence, "the people could never hold their representatives accountable".

"For our part, we are content that we have nudged the debate in the right direction and have established the first chapter of EU law on freedom of information", John Carvel concludes. " We have established the legal floor, but we are still a long way from the ceiling.

Source: The *Guardian*, 20.10.95.

JUSTICE AND HOME AFFAIRS: THE PRIORITIES OF THE SPANISH PRESIDENCY

The Spanish presidency appears to have the following priorities in the areas of EU Justice and Home

Affairs: the signing of a Convention on the European Information System (EIS); the strengthening of Customs cooperation; preparatory work in view of an early implementation of the Europol Convention; common criteria for the definition of "criminal organisations"; the signing of a general Convention on harmonised extradition procedures, the setting up of an "ad hoc working group" on police research and police technology that is to tackle, *inter alia*, technical problems relating to the "legal interception of telecommunications"; and a number of points related to immigration and asylum.

EIS Convention and free movement

The European Information System (EIS) is to replace the Schengen Information System (SIS), once all EU member states have agreed on common rules regarding external border controls and the free movement of persons within the EU's common territory. A draft Convention on the European Information System has existed for quite some time. Its provisions are to a large extent identical with the Schengen Agreement's Title on the SIS (see CL No.24, pp.1-4). But, as with the Convention on the control of the common external borders, a dispute between Spain and the UK on the future of Gibraltar, as well as disagreement among the member states on jurisdictional powers for the European Court of Justice, have until now effectively blocked the signing of the EIS Convention. Nonetheless, the Spanish Presidency seems to have some hopes that the Convention could be signed at the next meeting of the Justice and Home Affairs Council (JHA) on 23-24 November.

Customs cooperation

Following the signing of the CIS (Customs Information System) Convention on 26 July (see CL No.36, p.10), work has concentrated on the planned revision of the so-called Naples Convention on mutual assistance between the Customs authorities of the member states. The item is on the provisional agenda of the 23 November JHA meeting, but according to a note of the Danish Ministry of Justice, "a number of substantial problems remain to be solved, before work can be completed".

Europol

Work on establishing the internal rules, among other things for the organisation's administration and the analysis register seems to have made little progress. The presidency is merely planning a "discussion" of the subject at the next JHA meeting. The question of setting up a framework for the extended scope of Europol/EDU's activities (to illegal trafficking of nuclear materials, theft of motor vehicles and smuggling of illegal immigrants) will also be raised.

- Other projects of the presidency include
- the presentation before the end of the year of a report on the extent of organised crime and its development tendencies;
 - increased cooperation with central and Eastern European countries in fighting fraud in areas such as stock exchanges, credit business and telecommunications, illegal trafficking of motor vehicles and art, as well as money laundering.
 - a proposal for a common definition of the term "criminal organisation" and, in connection with this, initiatives for the protection of witnesses and "persons cooperating with justice";
 - improved mechanisms for mutual judicial assistance;
 - the signing of a "general" Convention on harmonised extradition procedures by the JHA Ministers.

A Convention on facilitated extradition procedures was signed on 26 July, but it concerns only extraditions which are consented to by the subject. The new draft Convention applies to all extradition procedures and provides for the extradition by member states of their own citizens and of persons accused of political crimes. This has raised doubts among certain member states, but the Spanish Presidency has nevertheless scheduled the signing of the Convention for the 23 November JHA meeting.

Interception of telecommunications

The Spanish Presidency wishes to set up a particular "ad hoc working group" on police research and police technology. The group shall deal with technical problems related to the legal interception of telecommunications, the use of DNA analyses in criminal cases, voice identification and audio-technical analyses, as well as with the introduction of a European standard for police-radio telecommunications.

Work is also continuing in fields such as police training and extended information exchange concerning hooliganism, violence, and violence related to racism and xenophobia.

Immigration and asylum policies

- Among the items to be examined and, possibly adopted at the 23 November JHA meeting are:
- a harmonised application of the definition of "refugee" under the 1951 Geneva Convention;
 - a convergence in the conditions of reception of asylum-seekers in the member states;
 - the status of long-standing foreign residents;
 - "burden sharing" in the event of mass influxes of refugees;
 - moves towards harmonisation of national practices on aid provided for voluntary return of foreigners without authorization to stay;

- conclusions of the feasibility study into an automated European Fingerprint Recognition System (EU-RODAC).

Sources: Information Note of the Danish Ministry of Justice to the Parliament's Legal Committee, 21.9.95 (on justice and police issues); Migration News Sheet, October 95, No. 151/95-10 (on immigration and asylum issues): Available at: MNS, 172-174, rue Joseph II, B-1040 Brussels; Tel/Fax: +32/2 2303750.

EUROPEAN PARLIAMENT REJECTS COUNCIL "CONCLUSION" ON CIREFI

On 22 September, the European Parliament (EP) adopted a resolution rejecting the Council's draft "Conclusion" on CIREFI, the Centre for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration. "Conclusions" are a customary instrument for ministerial policy decisions in the EU, the EP says, but they should not be used to "shield decisions with legal implications".

The EU runs two so-called "clearing houses" in the field of immigration and asylum: CIREA (Centre for Information, Discussion and Exchange on Asylum, established in June 1992) and CIREFI.

The CIREFI was established by the then 12 Ministers responsible for immigration at their London meeting in late 1992 (see CL No.11, p.1,2,10) and immediately took up work. The EP was not consulted.

The Council justified these proceedings by describing CIREFI as no more than an informal structure - just a label without any definite legal personality - which brings together national experts, without a set calendar, to exchange information and views.

The tasks of CIREFI fall into the following categories: statistical work; the gathering of data, the analysis of legal and illegal immigration; analyses relating to policing measures (forged documents, illegal immigration etc.).

According to the aforementioned Conclusion adopted by the JHA Council on 30 November 1994, the tasks of CIREFI are significantly extended to cover the collation of statistical information to **assist** member states in the **prevention** of illegal immigration and unlawful residence, **combating** illegal immigration networks and immigration crime in general, and **improving** deportation and repatriation practices and instruments, particularly with regard to modes of transport. It appears from the text that CIREFI will consist of a Standing Conference of national experts with logistical back-up from the General Secretariat of the Council and the national central units of the member states.

The EP resolution points out that CIREFI is thus "designed as a basic instrument for controlling illegal immigration", and that its activities will therefore have "legislative implications under Title VI [Justice and Home Affairs] of the TEU [Maastricht treaty]".

The EP points out that it was not consulted on the Conclusion prior to its adoption by the Council, but only "informed" later. This, the EP says, is a breach of Article K.6 of the TEU which states that the Presidency of the Council shall consult the parliament on "the principal aspects of activities" in the area of Justice and Home Affairs cooperation.

The EP's rapporteur, Ms Hedy d'Ancona, stresses that "in spite of the ambiguous wording of the text in question", the CIREFI's activities will produce legal effects. "Consequently, Parliament must in any case be consulted both on matters which come under the first pillar and those which come under the third pillar". The rapporteur notes that there is "no provision in any article of the Treaties for a "Conclusion of the Council" with a legislative scope. This is a clear case of Council's political and legislative roles becoming mixed up. Although it is customary for political decisions to take the form of Conclusions, it is unacceptable for this practical system to be used to shield decisions with legislative implications. It must be stressed that this lack of rigour in the formulation of Council acts constitutes an infringement of the principle of legal certainty, if nothing else".

Referring to the secrecy surrounding CIREFI activities the EP resolution notes that "research into immigration may be useful, but should not be conducted in conditions of secrecy" and warns against overlapping of CIREFI activities in the field of data collection with activities already assigned to bodies such as the European Communities' Statistical Office, the UNHCR, the planned European Information System, and Europol.

Sources: EP, Committee on Civil Liberties and Internal Affairs: Report on the draft Council conclusions on the organisation and development of CIREFI (C4-0008/95) A4-0186/95, 20.6.95, Rapp: Ms Hedy d'Ancona; EP resolution A4-0186/95 PE193.734, adopted 22.9.95.

UNITED KINGDOM

SAVAGE CUTBACKS IN WELFARE BENEFITS FOR ASYLUM-SEEKERS

Savage cutbacks in the entitlement of asylum-seekers in Britain to welfare benefits were announced by

Peter Lilley, Secretary of State for Social Security, on 11 October. Due to come into effect on 8 January 1996, the measures represent the latest attempt of the (conservative) Tory government to reduce the number of asylum-seekers applying for refugee status in Britain.

From January of next year any asylum-seeker who fails to apply for asylum immediately upon arrival in Britain will be ineligible for welfare benefits for the duration of their application.

The only exception to this draconian measure will be nationals whose country of origin is deemed by the Home Secretary to have become the "subject of upheaval" subsequent to their arrival in Britain. In such cases an in-country application will not lead to disqualification from benefits.

No welfare benefits pending appeals procedures

All asylum-seekers, including those who lodge their application on arrival, are to be disqualified from receipt of welfare benefits for the duration of the appeals procedure after an initial rejection of their application. This measure will also come into effect in January of 1996.

The new proposals will operate retrospectively: anyone who lodges an in-country application after 11 October (the day of Mr Lilley's announcement) will be taken off benefits on 8 January (the date when the new measures will come into effect).

Starving asylum-seekers out of the country?

Refugee organisations have been quick to condemn the proposals. The Refugee Council said that they would "leave 40,000 asylum-seekers destitute", while the Joint Council for the Welfare of Immigrants described the proposals as "scraping the barrel in an effort to starve some asylum-seekers out of the country".

Political, rather than economic objectives

The driving force behind the proposals is certainly not economic. The total amount of money saved by driving the majority of asylum-seekers off benefits (7 per cent of asylum applications in Britain are made in-country) will be £200 million per year - a drop in an ocean of the annual social security budget of £90 billion.

The proposals are a crude attempt to discourage victims of persecution from looking to Britain as their country of asylum, and to discourage them from pursuing appeals in the event of a first-instance rejection of their claim.

They will confront the majority of asylum-seekers in Britain with the "choice" of returning to the country where they have suffered persecution, or living in complete destitution for the duration of the asylum-application procedure (anything between six and eighteen months).

Press campaign prepared the ground for government action

The ground has been prepared for the Secretary of State's announcement by a run of press articles over the summer with the time-worn theme of "bogus asylum-seekers" and the alleged "explosion" in the number of persons seeking asylum in Britain.

Many of these articles also reported plans by the Home Secretary to introduce new legislation which would facilitate the rejection of asylum applications. The new legislation would introduce the concept of "safe countries of origin" and the abolition of oral hearings for "fast-track" appeals (where an application was deemed to be "manifestly unfounded").

Although there has so far been no formal announcement of plans to introduce these measures, it is clear that this new legislation will be included in the government's schedule of parliamentary business due to be announced on 15 November.

"Fast-track" legislation

Mr Lilley's proposal will not require primary legislation to be passed by the Houses of Parliament. Instead, all that is required is for a series of amendments to existing social security regulations to be approved by Parliament in a one-off vote. Hence the speed with which his announcement can be put into effect.

More applications - more rejections

Arguments advanced in support of the new measures do not stand up to scrutiny.

The number of asylum applications lodged in Britain in recent years has increased - but only by a relatively modest 10,000 since 1992. The 40,000 or so asylum applications now lodged in Britain annually pale into insignificance compared with the refugee populations of many Third World countries.

The rate of rejection of asylum applications has increased sharply over the same period. But this is less a reflection of the merits of the applications than it is a product of the government's crack-down on asylum-seekers, especially in the aftermath of the Asylum and Immigration (Appeals) Act of 1993.

When is a country "subject to upheaval"?

The supposed safeguard that in-country applications will not lead to benefit disentitlement when the Home Secretary deems a country to be "subject to upheaval" will also mean little or nothing in practice.

Given that rejection rates for asylum-seekers from countries such as Nigeria, Zaire, Algeria and Ghana (all of which are manifestly in a state of upheaval) are running at around the 99 per cent mark, it is difficult to envisage what cataclysmic event would have to occur before the Home Secretary deigned to recognise a country as being "subject to upheaval".

No prior legal advice for port applicants

Port applicants [asylum-seekers who lodge their application upon entry to the UK] will have the advantage of maintaining entitlement to benefits. But they will have the disadvantage of undergoing their initial asylum interview without having received any prior legal advice and in the absence of a legal representative, as well as possibly still being in a state of trauma. All of these factors reduce their chances of a successful asylum-application.

European harmonisation?

On one level the new measures are part of the general European-wide hostility towards asylum-seekers. On another level they represent a particularly British-Tory "solution" to the perceived "problem" of asylum-seekers.

Secretary of State Lilley belongs to the most anti-European faction of the Tories. As such, he is not overly concerned about the ongoing European-wide harmonisation in the sphere of asylum policies. Rather, he is primarily concerned simply about keeping as many asylum-seekers as possible out of Britain, especially given that most of them are black.

By depriving the majority of asylum-seekers of any entitlement to welfare benefits Mr Lilley clearly hopes to take a major step forward towards his vision of a refugee-free Britain.

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FBI-STYLE FORCE PLANNED IN BRITAIN

On 13 October, British Prime Minister John Major presented plans for the country's first national crime unit with operational powers. The unit will include officers from Britain's internal intelligence service, MI5, but police are expected to lead the FBI-style force.

Commenting on the plans, Mr Major said that organised crime was a "threat to the state" and that the Government would introduce a bill this autumn allowing MI5 to become involved in traditional crime-fighting for the first time. The Prime Minister announced that the planned FBI-style crime force will tackle drug traffickers and "organised criminals".

Although the details of how the force would operate have yet to be agreed, it is believed that it will involve the expansion of the National Criminal Intelligence Service (NCIS), which currently can only collect and process information. Under the Government's plans, the NCIS will be given an operational wing. This will enable it to target specific criminals, carry out undercover operations and make arrests.

MI5 is expected to work alongside the NCIS in carrying out surveillance and analyzing complex data. At first only about 20 of the MI5's 2,000 staff are expected to take part.

For the time being, NCIS is under the Home Office (Interior Ministry), but police chiefs want these links to be cut and demand that the new force operate as an independent outfit with a police chief in charge. A select unit from the country's 1,500 regional crime squad officers and special staff from the metropolitan Police would be attached to the NCIS.

Customs authorities, MI6 (the foreign intelligence service) and GCHQ (the Government Communication Headquarters: another intelligence agency theoretically accountable to the Foreign Minister) would continue to provide information and intelligence on organised crime.

The President of the Association of Chief Police Officers (ACPO), Jim Sharples, has welcomed the inclusion of MI5 in the fight against organised crime, but demanded that any agencies involved must have "a proper legal framework and must be accountable and transparent". For the time being, this is not the case with MI5. According to a report published by the parliamentary ombudsman on 19 October, the Home Office is refusing to disclose even the number of records held on individuals by MI5 on the grounds of "the security of the state". The ombudsman has accepted the Home Office's refusal, but his response is likely to be seized on by critics of the Government's decision to allow the MI5 to extend its role to combating serious crime on the grounds that it is unaccountable. MI5's records on individuals are believed to range from 500,000 to a million. They are held indefinitely on microfiche or computer.

The ACPO does not object to MI5 agents continuing to give evidence during trials behind screens to protect their identity. Civil rights organisations fear that this practice could lead to miscarriages of justice.

MI5's director, Ms Stella Rimington, has been lobbying for involvement of the secret service in the fight against crime ever since the collapse of the Eastern Bloc and later the cease-fire in Northern Ireland. However, the police are treating MI5's new involvement very cautiously and will seek to ensure their control of traditional crime-fighting.

Source: The Independent, 14.10.95; The Guardian, 19.10.95; On British security and police forces, see: "Statewatching the new Europe", ed. Tony Bunyan. Available at: Statewatch, PO Box 1516, London N16 0EW.

Comment

The British Government's plans to entrust an intelligence service with a role in the fight against crime are another illustration of a general European trend towards blurring the lines between the traditionally distinct tasks of the state's three formerly distinct security structures, i.e. the police, the intelligence services, and the military. As reported earlier in this publication, Germany too introduced legislation in late 1994 providing for a role of its foreign secret service, BND, in the fight against crime (see CL No 21, p.1, No.36, p.6). In France, the military's role in combating terrorist crime is currently being highlighted by the army's involvement in the "Vigipirate" operation.

All these developments tend to confirm that the striking ambiguity of both the Europol Convention and the Schengen Agreement on the role of national secret services in European police cooperation mirror a very deliberate policy of European governments aiming to discreetly open the way for a gradual amalgamation of formerly distinct police and secret service tasks by the member states.

N.B.

GERMANY

POLICE INFORMATION SYSTEM INPOL: NEW CONCEPTION

A working group led by the BKA (Federal Office of Criminal Investigation) has presented a first overview on the current reorganisation of INPOL, the computerised Police Information System.

An important innovation planned by the working group is the stronger emphasis on direct links between police computers at the *Länder* level and the various European information systems concerned with policing. However, the original concept of a central federal computer is not being abandoned.

An instrumental change will take place with the introduction of a new architecture of the INPOL system. The current structure of the system is based on a core of data enabling no more than the identification of a person. These core data are accessible to all users of the system. Supplementary information is accessible only to certain categories of officers. Under the new architecture developed by the working group, the new core of the system will be made of five separate categories of data, namely on persons, institutions, objectives, objects and indications. Hitherto, these selection criteria have been used only in the PIOS-registers, special information registers for the search for terrorists. This architecture enables the "generation of suspicion" based on the comparison of apparently non-suspicious data registered in the five core categories. The separation of data that should be retrieved only for particular purposes and by competent officers is to be ensured by special "security software". However, experts of Fiff, an organisation of critical computer scientists in Germany, are doubtful about the technical feasibility of this separation of sensitive data.

According to their magazine, *Fiff-Kommunikation*, the planned "security software" is a "courageous intention".

In the view of *Fiff-Kommunikation*, the reorganisation of INPOL is further proof that special techniques of criminal investigation whose introduction was originally justified as an exceptional means to fight terrorism, are gradually being extended to data processing in everyday policing.

Source: Fiff-Kommunikation 3/95 (September). Contact: Fiff, Reuterstr. 44, D-53113 Bonn; Tel: +49/228 219548, Fax: +49/228 214924; E-mail: fiff-ko@informatik.uni-bonn.de

OPINION

The following article is based on the first part of a paper published in the course of a national discussion in the Netherlands, known as the "Third Chamber". The first and second chamber are the Dutch Senate and House of Parliament. The Third Chamber was an initiative of Dutch extraparliamentary groups, to discuss and connect four big issues within the (radical) left movement in the Netherlands: migration, environment, welfare state and democracy.

The second part of the paper will be published in CL No. 39.

MIGRATION: HOW'S ABOUT THE BORDERLAND...

In this paper, we seek to offer a political and historical approach to the issue of migration, enabling us both to judge government policies and to shape every day migrants' support at the same time. As in the rest of Europe, politicians in the Netherlands are increasingly suggesting that there is no room left for newcomers - whether refugees or those seeking work and wages. No sooner has the "Iron Curtain" between the East and West been torn down, than a new one is under construction. Western Europe is now being fenced off both to the East and South.

Migration is viewed exclusively as an "outside" threat to our affluence and assets. In the migration debates held in established political circles there appears to be no room for a historical approach to the problem. Instead, migration is being presented as a temporary phenomenon. As for the principle of international solidarity, it too seems all but forgotten.

General starting points

As members of the extraparliamentary opposition concerned with the results of migration on a daily basis, we wish to state the following:

1) The image as presented by the media and by many a leading politician - that of the Netherlands being "flooded" under a "tidal wave" of immigrants and refugees - needs to be countered by assessment of the fact that migration to and from the Netherlands is a given. People move out, people come in. The positive balance of newcomers on the sum total of migration is comparatively small. The number of Dutch citizens living abroad is fairly equal to that of foreigners living in the Netherlands.

The question, therefore, is more a matter of why so few people do turn to the Netherlands at all. Out of all the world's migration - whether compulsory or otherwise - a mere fraction, no more than a few per million, ever heads for the Netherlands.

2) All abstraction aside, and in view of our everyday experience, what strikes us is the way in which the Dutch, when settling abroad for an extended period, are often treated with a fair amount of respect by those around them for their adventurous spirit and courage. Their migration is seldom compulsory and is never conceived of as a "problem", even though economic motives (improvement of one's position) are often involved. Elsewhere, too, the departure of kinsfolk frequently involves expectations of progress and the improvement of one's lot. It is, however, self-evident that in many and large parts of the world, the backgrounds of departure or migration - aside from any such motive as social mobility - lie in the fact that war, hunger, poverty and persecution are the order of the day. The problem is not migration, it is the circumstances from which one flees.

3) Our assessment of migration is highly dependent on the question of its compulsory nature. Yet, as a matter of fact, the influx of migrants often has a positive impact on life in the "host countries". The arriving migrants deepen local culture, as well as lending dynamic and varied new elements to society.

4) By presenting migration itself as the problem, many politicians ignore or deny the interconnection between migratory flows and the world's developing economic and political power structures and environmental devastation. Particularly neglected are the effects of economic and political interventions carried out by Western companies, nations and institutions such as EU, IMF, and World Bank, which influence economic, political and ecological conditions worldwide. The IMF and World Bank insist on structural spending cuts in social services and food distribution. In their programmes, they stress the export of only a limited amount of products. A surplus of these products on the world market plunges such countries still further into economic slump. Large-scale agricultural programmes and the urban concentration of industries and capital further strengthen the popular drift to the large cities, where it appears as a cheap labourers' reservoir. Such urbanisation comprises a first step in a migratory pattern. A pattern which, in fact, follows the trajectory of the global concentration of resources, 80 per cent of which are reserved on behalf of a mere 20 per cent of the world's population.

Besides economic interventions, certain Western powers are playing a crucial role in regions suffering from war and armed political conflict, in particular in relation to arms supplies. Many a criminal regime owes its continued existence to the political and economical support of the West.

Due to the unequal character of the world exchange ratio of goods and services, large sections of the population are impoverished. This inequality of

exchange lies at the basis of a veritable spiral of social unrest, of revolts met in turn with repression, and culminating in inevitable migration. A clear example of this is to be seen in Morocco.

5) The world is becoming a village. It may fairly be said that virtually all countries and, in consequence, their inhabitants, are somehow integrated in world trade - a trade dominated by affluent societies. Means of mass communication have further "diminished distances". Factors such as modern communications systems support increasing migration. Alienation and consumerism are forcibly and unilaterally promoted worldwide by means of television broadcasts and advertising campaigns. The distorted representation of life and the social order in the West, i.e. that of abundance, freedom, employment, provisions, luxury, etc., exercises an irresistible appeal. Extensive air traffic has provided the technical means of moving swiftly from any given part of the world to any other. Thus, fleeing to some other part of the world is often a quicker and, above all, safer option than having to cross one's own country's borders over land.

A few causes and effects of migration

In every age, there have been large groups of people who somehow chose to leave their habitats. If, indeed, their numbers have grown nowadays, it is mostly a matter of the increasing world population. Many of the causes of migration have changed very little over the centuries. War, civil war, ethnic conflicts, all continue to send large communities into exile. Among the migrants are people fleeing from repressive regimes (sometimes supported by the West); people actually involved in acts of resistance and therefore physically threatened, but also people who refuse to live a life equalling a virtual social minefield.

A motive of increasing importance, yet thus far hardly recognised as such, involves those women who seek refuge from sexual violence (such as the women in former Yugoslavia) or from practices forced upon them (such as Chinese women resisting compulsory abortion, or African women defying circumcision). What is new about this is the fact that, for the first time ever, women choose to take refuge on these specific grounds. However, this is generally not regarded sufficient grounds for a residence permit.

Another novelty are the human-inflicted environmental disasters that drive people into exile. People have always fled from earthquakes, floods and other disasters. Contemporary disasters are increasingly caused by large-scale deforestation and consequent desertification, leaking or exploding chemical plants, landfills of chemical waste, etc.. Such migratory flows may be expected to grow immensely in the future, as ever larger areas of the planet fall at risk of becoming uninhabitable. Such environmental issues often cannot be separated from the economic issues arising from them. Environmental issues will destroy an area's economic capacities. The deforestation taking place in South America both for timber and the clearing of farmland - farmland used to feed cattle intended for North American fast-food chains. Within a few years, the soil is completely exhausted and erosion occurs. This amounts to environmental annihilation.

Another factor are the pay offs of loans from IMF and the World Bank, and the conditions that go to accompany them. The lifting of subsidies on fossil fuels has meant that many people have to resort to burning wood instead. The pay offs necessitate a growing export industry. This export consists by and large of mineral resources, timber, and agricultural products such as fodder, resulting in massive erosion and signs of exhaustion of the soil. Thus, in the Philippines, where there is access to fertile farmland, it is cultivated mainly to grow monocultural crops such as sugar cane intended for export purposes. Only a limited number of people profit from this, as a result of which there are millions of farmers who take to the forests in order to burn down their own patch of land.

Besides these more or less involuntary causes for leaving one's country, Western governments distinguish "voluntary" migration, the sole objective of which is assumed to be life improvement. Naturally, all migration is essentially directed at improvement of one's life abroad. Moreover, economic circumstances may well prove an equally pressing cause for departure. In fact, it is hard to distinguish between voluntary and involuntary, nor are such distinctions very useful. A Colombian female moving to the Netherlands in order to prostitute herself may well have made a conscious decision on doing so, yet for the purpose of sending her children to a qualified, i.e. expensive, private school, in the hope of providing them with a better future. People are less and less prepared to accept their lack of prospects and their poverty. Moreover, the mass media constantly drum it into them that life elsewhere is better.

Besides the motive of poor economic circumstances, there is the question of lawlessness. Even in some so-called democratic countries, corruption, nepotism and unorganised violence have reached such proportions that for a person lacking the right or even sufficient connections, or the required family or ethnic background, it may prove very hard to get anywhere at all. Many societies slip into a state of total anarchy, in which people are at risk of being arrested because such and such a police officer is in need of cash, and where being robbed becomes a daily routine. Few local businesses manage to survive routine extortion by corrupt officials. Such lawlessness, which reigns over many so-called democracies, deprives people of all hope of ever accomplishing anything at home. To the inhabitants of these nations, migration not only represents a means of financial improvement, but above all the hope of a future lost to them in their lands of birth. Having grown accustomed to a life without any rights, restrictive measures against these illegal immigrants are of little avail.

Consequences of emigration for the countries of origin

To a number of societies in the Third World, emigration is becoming an increasingly important factor. Its effects may be observed most clearly in the Caribbean, where today between 5 and 18 per cent of the population reside

abroad. There is hardly a Caribbean family without at least some relatives in the USA.

Large-scale emigration may serve to relieve the pressures of population growth, or to reduce political and economical tensions. But there are consequences less welcome. Best known of these is the "brain drain" occurring in so many of the Southern countries. More and more, the better educated will opt for a less demanding existence in the West. The sometimes substantial financial contribution to a nation's economy provided by the money returned by the migrants, has ambiguous effects. While often supporting entire families, the money also disrupts existing wage structures. Families in which one of the members lives abroad and sends home money to them, may soon have a higher income than the average physician or school teacher. There is no longer any point in undergoing a lengthy and costly education. The wise thing to do is to make it for the West. Thus, education, traditionally an important means of personal improvement, loses much of its appeal. Increasingly, the hope of a better future is projected on a foreign destination.

One side effect accompanying recent forms of migration is the fact that the costs of the reproduction of labour are transferred to Third World countries. Thus, Dominican mothers residing in the United States will often send off their young kids to their grandmothers back home, since it is cheaper than providing for day care in the US (and because they themselves need all the energy they can get to cope with appallingly long working hours). Countries of emigration are becoming both the nurseries and the old folks' homes (the repatriating elderly migrants) of the Western world. In the Dominican Republic, there exist villages without any productive population. A country's own economic activities grind to a halt. There is no-one left to engage in them.

The Dutch policy

The Dutch policy is characterised by complete ignorance of the causes of migration. As we said earlier, one important cause of compulsory migration is to be found in the economic state of affairs and political power structures. Politicians are stuck in the existing economic order's mechanisms, from which they cannot break free if they wanted to.

Dutch politics concentrate on short-term solutions designed to keep the problem out of the European context. The whole policy deteriorates into a matter of nationality. It is not the causes, but the consequences of migration which are under fire; consequently, it is the migrants who end up in the dock. The fact that migration is a constant factor is ignored. It is the same type of politics as are applied to our unemployment situation; increasing regulation and repression, used to imply that the "problem" may yet be contained.

By repeated suggestion that migration is a short-term, containable problem, whereas this is obviously not the case, a general mood of panic is being created. A mood which is further strengthened by the vocabulary used by politicians and officials when addressing the issue of migration.

To think of migration as containable is an illusion. This has become obvious over the past few decades in the increasing migration from Central America to the USA. Despite thousands of border guards, massive fences and electronic surveillance systems, hundreds of people make it to the US every day, often at risk of their own lives. It is estimated that some millions of mainly Mexicans are now staying illegally in the US.

Harmonisation

There have been attempts since 1985 to "harmonise" European migration policies.

The objective is to contain, control and ultimately prevent migration from the outside. In fact, "harmonisation" here means the adjustment of the migration policies of the various countries involved to that of the most restrictive among them.

The nations of the European Community and their bordering neighbours sign treaties involving the automatic expulsion of refugees arriving through those countries, to those countries, based on the so-called "safe third country" assumption.

This means in effect the creation of a "safety belt" surrounding Europe. Apart from this, intensified procedures both while boarding in the countries of origin, and on arrival at Western airports render "undocumented" travel to Europe next to impossible. Finally, those who manage to overcome such obstacles face internment in detention centres such as the "border hospice" in the Netherlands.

The realisation of these harmonised migration policies takes place far from democratically. There is no democratic control on either the making or the implementation of the various agreements. Thus, we are faced with the emergence of utterly unaccountable European information networks and official working groups on migration, such as the K.4 Committee's numerous working groups, in which refugees' (support) groups and other NGO's have no say whatsoever.

Restrictive regulations

In perfect keeping with the European Community, the Dutch government is developing ever more restrictive measures, e.g. the revised immigration law in force as of 1995, and the impending adoption of the "Aliens Administration System", VAS, in 1994. Further amendments of immigration laws are in store.

Much has been said about the revised Aliens Act. One major argument of its proponents holds that it will provide the practical means to reject those refugees whose application for asylum is "manifestly unfounded". In 1992, the group in question comprised no more than eight per cent of the total number of refugees to the Netherlands.

Critiques of the law mostly concerned the various negative measures directed against the refugees, such

as abolition of the right to appeal and the extension of detention possibilities against refugees and illegal immigrants. In September 1995 the government decided to re-establish the right to appeal in some cases, but the extent of this has yet to be specified. However, the law also involves severely negative consequences for all aliens other than refugees: those arriving in the course of family reunification, for studies or employment, and all other aliens residing in the Netherlands on a legal basis.

Increasingly, these and other new developments in immigration policies tend to clash with international treaties on human rights and commitments.

National surveillance of aliens

Apart from the various measures taken to enforce border surveillance, there is a development towards an "effective" national surveillance of aliens, in which the aforementioned VAS will serve a key role. The VAS, a type of highly extended automated database, will be used to register all aliens resident in the Netherlands. One of the types of data will be the Social Security Number. Thus, the VAS will serve an important function both in the exclusion of illegal immigrants from public services, as to their general location. Many government institutions have online access to the system. The public servant at the counter (of the town hall, hospital, or social security office) will become a direct extension of the Justice Department. The VAS will further be used for street patrol purposes. Officers will have to decide on their own when or when not to run a given individual through their computer. The persons checked may be expected to be mainly people of colour or with poor command of the Dutch language. The VAS here becomes a racist instrument.

As for the recently introduced, limited obligation to carry identification papers, the same applies here as with the VAS. Since it is up to the official in question to decide when or when not to ask for an ID, he or she will usually do so in said cases. All "immigrants" are registered under the VAS, yet whether a person is Dutch or illegal who will tell? That is to say: black people make sure you carry your ID.

The legal authorities are dependent for the implementation of their policies on the cooperation of the civilian population, who are expected to denounce illegal immigrants in close alliance with the public administration.

The police department alone does not have the capacity to trace every illegal residing within our borders, and depends on information provided by civilians. It is quite likely that at least some of the population and public servants will not find themselves in agreement with increasingly restrictive policies, and will tend to sabotage them.

Since June 1994 there has been an obligation to identify yourself in a "limited number" of situations; in fact, this amounts to a general ID obligation. The ID law of June 1994 primarily aims at excluding illegal migrants from the regular labour market.

Furthermore, the government plans the introduction of a new law, the so-called *Koppelingswet*. The Bill aims at excluding illegal migrants and refugees with a temporary permit from all public services and benefits (anything from medical care to fishing licences). Access to these rights will require permanent residence permit. The VAS will be used to carry out the controls.

Are the Netherlands "overcrowded"?

In an attempt to legitimize official policies, the Netherlands are suggested to be "overpopulated". This argument serves to create the image of migration as a disruptive force to Dutch society, and thereby contributes to an atmosphere of terror which finds an outlet in the growing support for extreme right policies. In reaction to this, we see only short-term measures taken, designed to suggest that migration may be contained through restrictive regulations.

The idea that the Netherlands are overcrowded is based on various assumptions.

Environmental

The onslaught on our environment is much less a question of the population increase, as it is of waste and non-durability. The manure surplus for instance poses a far more real environmental threat. Environmental factors are not to be contained through national borders. National borders are human, artificial creations.

Lack of space

In January, 1994, the Zadelhoff agency (brokerage) predicted that during the same year, the vacant space in Dutch office buildings would further expand to 2.7 million square meters.

If it were publicized tomorrow that the United Nations had decided to move to "de Randstad", the West Netherlands urban conglomerate, requesting facilities for its thousands of employees, there would be no question of stating that we are "full". On the contrary, they would be saluted as they arrived.

The debate of whether "the Netherlands are overcrowded" is defined by the matter of national borders. Environmental action groups have developed a rather different concept: that of the applicability of environmental space - three quarters of the sum total of which appear to be reserved for one quarter of the world population.

Rate of acceptance

Any society's rate of acceptance with regard to the number of allowable migrants is naturally dependent on official policies and current opinions. Until a few years ago, nobody had even bothered with illegal immigrants - of

which there were, however, plenty. There has, for instance, always been the matter of large numbers of illegal European immigrants (specifically from Great Britain). In fact, few ever perceived this as a problematic situation. It is, rather, a case of politicians creating the problem through numerous statements - statements depicting migrants, especially illegal immigrants, as the outside danger undermining our society. It naturally follows that there must be a firm response.

Instead of the development of a policy based primarily on the premises of the permanence of migration flows towards Europe, and the relation of that migration to economic, political and ecological factors which demand resolution, quite the contrary is at hand. Migration is viewed as an isolated case, a problem in its own right; a problem to Europe that is to be combated with any means at our disposal. This policy, combined with the statements of politicians in defence of it, has accelerated the spread of racist prejudice amongst the population.

Consequences of Dutch policy

The question of whether the Netherlands are "full" or not is irrelevant, since the answer to it is irrelevant. The whole world is "full", and there is little to assume that this fullness should bypass the Netherlands unnoticed. Furthermore, the question of whether the Netherlands be declared "full" or not has little to do with the actual mass of migratory flows to those Netherlands. Even if the Dutch government - in answer to said "fullness" - should further restrict its migration policies, this will not deter people from coming. Measures to stop migration are fruitless. Thick apparatuses such as the Dutch state will never match people's infinite creativity when it comes to finding new loopholes in the law. Perhaps the flow may be somewhat curbed; however, the price paid for this impediment by both the migrants and Dutch society as a whole is inordinately high. Restrictive measures will render more and more migratory channels subject to "organised crime", as the roads formerly open to migrants of their own accord are increasingly blocked. Future migrants will be driven into the wide open arms of "organised crime", demanding high fees for offering them a last resort to entrance routes. Potential migrants will willingly pay growing rates, forced by the pressure and dream of migration. We need only to think here of media images of what migrants worldwide are willing to cope with (ramshackle boats, rat-infested pipes, etc.).

Measures taken against it will only raise the costs of any intended migration. As a result, the migration mafia will find it increasingly profitable to bribe Dutch citizens involved in the admission of foreigners. Already, countless Dutch passports disappear each year prior to distribution, ready to be completed by corrupt officials. The increasing market rates are likely to tempt an increasing number of people.

The state is perverting its own system. More and more, the migration mafia will start to resemble that of illegal narcotics. More restrictive immigration policies will only force illegal immigrants into the margins of society, where they will have no option but to further have themselves exploited in increasingly appalling conditions, in order to survive.

Illegal labour is tantamount to cheap labour and thus, despite the risks, illegal immigrants will remain attractive for Dutch employers. None of this will ever rid us of illegal immigrants. Illegal immigrants cannot be put off by denying them basic rights such as health care and education, since their situation at home was far worse to begin with. More restrictive immigration policies not only serve to worsen the immigrants' lives, they affect the entire Dutch society. Through them, we are faced with "American situations". In the old housing districts, raids will become the order of the day. Besides alienated pensioners lying dead for weeks, there will be more and more cases of dead illegals who died simply because they couldn't afford to see a doctor. Children of illegal immigrants collected at school by the registration office (good luck explaining them away to your kid son or daughter!), or from sweatshops where they work twelve hours a day. More beggars and homeless in the streets. More tenements of illegal immigrants, jam-packed like sardines in a tin.

The boarding up of more and more of the routes out of illegality will turn a small section of the migrants into desperados, desperate at all costs to make what they can from their stay. They have nothing to lose. This development may already be observed in small gangs of North African boys in the major cities.

A more restrictive immigration policy strengthens the social segregation in our own society. Through it, society becomes more ruthless, violent, and corrupt.

There can be no question of a choice of whether the Netherlands are full or not. The migrants will continue to arrive regardless of our "choice". The question, rather, is how to deal with the fact. Put simply, it is a matter of providing a Somali with a shelter - or finding him on your doorstep one sunny morning.

Ed Hollants (Autonom Centrum) and Jan Muter (St. Opstand), with advice from Gerard Eykelenboom and Lisbeth Venicz

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EVENTS

FIFTH INTERNATIONAL RESEARCH AND ADVISORY PANEL CONFERENCE ON FORCED MIGRATION 9-12 April 1996, Eldoret, Kenya

The newly-formed International Association for the Study of Forced Migration (IASFM) will convene the fifth International Research and Advisory Panel Conference on Forced Migration (IRAP) in Eldoret, Kenya, from 9-12 April 1996. The conference is being hosted in the "developing world" for the first time, and will take place at the Centre for Refugee Studies, Moi University, Eldoret, Kenya.

Since the first meeting in January 1990, IRAP has developed into the largest and most wide-ranging international conference devoted solely to forced migration issues in the world. Held every two years, the aim of the conference is to provide an interdisciplinary forum for intellectual exchange and communication between academic researchers, refugee professionals and policy makers, and to stimulate debate on research priorities and policy issues. Discussion at the fifth IRAP conference will concentrate on a number of key themes, on which offers of research or discussion papers are urgently sought:

- Gender Issues in Forced Migration;
- The Reception and Representation of Refugees in Host Countries;
- Repatriation and Reconstruction;
- Forced Migration and Environmental Change;
- Unaccompanied Minors.

After an opening session on 9 April, in which two international experts (one researcher, and one policy-maker) discuss the major challenges facing the international refugee regime, each of the following four days will be wholly or partly devoted to one of the themes listed above. In each case, plenary sessions to be addressed by invited keynote speakers will be followed by parallel workshops providing a forum for discussion of submitted papers, or allowing for round-table discussion on particular issues or regions.

In addition to these formal sessions, membership of the Executive Committee of IASFM for 1996-98 will be open for election at the conference, whilst there is likely to be a series of specialist workshops on issues such as regional activities, teaching, public policy, etc., at the initiative of conference participants. A range of optional excursions will also be available at the end of the conference.

Abstracts (100 words) are invited from academics, policy makers, practitioners and refugees on any of the above themes. They should be sent immediately to: Dr Loes van Willigen, Chair, IRAP Programme Committee, Stichting Pharos, Postbus 13318, 3507 LH Utrecht, The Netherlands; Tel: +31/30 349800; Fax: +31/30 364560.

For more information on the conference contact: Monica Kathina, IRAP Local Secretary, Centre for Refugee Studies, Moi University, PO Box 3900, Eldoret, Kenya; Tel: +254/321 43620 ext. 240; Fax: +254/321 43047.

DOCUMENTS AND PUBLICATIONS

EUROPEAN PARLIAMENT:

- On the Communication from the Commission to the Council and the European parliament on immigration and asylum policies - Report of the Committee on Civil Liberties and Internal Affairs (CCLIA), 29.6.95, A4-0169/95 PE 211.

476/fin., Rapp: Jan Wiebenga. Resolution A4-0169/95 PE 193.733, adopted 21.9.95.

The EP takes the view that Recommendations, Resolutions and other decisions of general application by the Council on immigration and asylum policies are "wrongly excluded from parliamentary and judicial scrutiny and are therefore not acceptable as forms of Union legislation". The EP once again urges the Commission to take its responsibility seriously in this policy area by using its right to propose legislation, and calls for "proper judicial supervision" of Justice and Home Affairs cooperation by the European Court of Justice.

The Community should develop common criteria for determining whether refugees must be granted permanent or temporary admission, it says in the resolution. "[The] principle of provisional admission must not be used to avoid offering permanent protection to refugees".

- On the draft Council Resolution on the admission of third-country nationals to the territory of the Member States of the European Union for study purposes (C4-0005/95) - Report of the CCLIA, 20.6.95, A4-

0181/95 PE 211.488/fin., Rapp: Ernesto Caccavale. Resolution A4-0181/95 PE 193.734 adopted 22.9.95.

- On a draft Council recommendation concerning a specimen bilateral readmission agreement between a member State of the EU and a third country (C4-0006/95) - Report of the CCLIA A4-0184/95 PE 211.778/fin., 20.6.95, Rapp: Ms Claudia Roth.

A motion for a resolution attached to the report, inter alia calls on the member states to concentrate their efforts on the integration of persons who have lived in the EU for several years and on programmes for voluntary return and reintegration in countries of origin, instead of relying on readmission agreements. The motion also stresses the need for more specific provisions stipulating that the European Human Rights Convention and the Geneva Convention on Refugees shall remain unaffected. More specifically, the report calls for additional guarantees to ensure that the human rights situation in third countries is examined comprehensively, and that asylum-seekers whose applications were not considered in depth because of the application of the safe third country concept are not sent back to third countries denying them full access to an asylum procedure.

The vote on the resolution was postponed.

UNHCR: Background paper on Turkish asylum seekers, Centre for Documentation on Refugees, Geneva, September 1994, 19 p.

Synoptical information on: asylum applications and asylum adjudication in Europe (the proportion of positive decisions on Turkish asylum applications has risen, while the number of applications has fallen); the situation of specific groups and ethnic minorities; the Turkish security forces' operations against the PKK and the Kurdish civilian population; relevant legal provisions (Anti-terror law, Penal Code); extralegal executions and torture.

Relating to the situation of the Kurds, the paper reports increased tension between Turks and Kurds and a climate of intolerance in traditionally non-Kurdish areas of Western Turkey, particularly in cities such as Adana and Mersin.

Mention is made also of special sanctions against conscientious objectors, draft evaders and deserters. According to the report, there are more than 200,000 deserters from the Turkish army.

Annual report 1995 - International Helsinki Federation (IHF), 235 p.

Contents: CSCE developments in 1994; IHF/Phare Democracy Project; Country issues (reports on the human rights situation in 35 countries, including the following Western European states: Austria, Finland, Germany, Greece, Italy, and Norway).

Available from: IHF, Rummelhardtgasse 2/18, A-1090 Vienna; Tel: +43/1 4027387, Fax: +43/1 4087444; E-mail: helsinki@ping.at

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