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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

JHA-COUNCIL MEETING: NO PROGRESS ON EUROPOL

No agreement was reached at the meeting of the Justice and Home Affairs Council on 19 - 20 March on a judicial role for the European Court of Justice with regard to Europol. The UK alone is stubbornly opposing the ECJ's involvement and thereby delaying the implementation of the Europol Convention.

The Council however approved the annual report of EDU/Europol, reached political agreement on a Joint Action on co-operation in the fight against racism and xenophobia, and also edged closer to agreeing a common approach to extradition.

Europol

Once again, the JHA Council failed to reach agreement on the involvement of the ECJ. All member states apart from Britain believe that, in any dispute concerning Europol's activities, national courts should have the option of referring to the ECJ for a preliminary ruling.

At a press conference following the meeting, its president, the Italian Minister of Justice, Vincenzo Cialanella suggested that Britain had announced it would "withdraw" its reservation regarding the ECJ "before the next session" of the Council in June. Other sources, however, insist that Michael Howard, the British Home Secretary (interior minister) only indicated that London was prepared to further examine a solution enabling the other 14 member states to confer competencies on the ECJ by a declaration attached to the Convention. This would amount to an "opt-in" clause for the 14, as opposed to an opt-out clause for Britain (This latter formula has already been rejected by London). Mr Howard, however, made it very clear to his colleagues, that Britain consider even such a compromise formula as "neither necessary or appropriate".

The Council agreed on draft financial regulations for Europol and draft rules on the rights and obligations of liaison officers. Both sets of rules will have to be adopted by Europol's Management Board, once the Convention enters into force.

An Italian draft for implementing rules regarding Europol's analysis registers was not on the agenda of the meeting, probably due to the controversy triggered by the disclosure of the confidential draft in a number of national parliaments and the European Parliament (see CL No.41, p.1 and this issue, p.2).

The Ministers further approved without debate the annual report 1995 on Europol/ EDU by its Coordinator Jürgen Storbeck. According to the report, information requests to EDU have increased from 595 in 1994 to 1,474 in 1995. These figures must, however, be considered against the fact, that EDU's remit was extended to additional forms of crime (illegal immigration, trafficking of stolen motor vehicles and of nuclear substances) in March 1995. According to Mr Storbeck, varying attitudes of national police authorities towards Europol and differences of national legislation are still causing great problems for the agency.

The question of the Convention's ratification by the parliaments of the member states does not appear to have been addressed by the JHA ministers. In a number of member states parliaments are unlikely to begin the ratification process without a prior agreement on the involvement of the ECJ. Other member states are already preparing the adaption of their national legislation to the Convention. According to Ms Anita Gradin, the EU Commissioner in charge of Justice and Home Affairs cooperation, Britain, the Netherlands, and Sweden have begun work on the Europol Convention ahead of sending it to parliament.

Joint Action against racism and xenophobia

The Ministers reached political agreement on a "Joint Action" against racism and xenophobia. Britain had earlier advocated the adoption of a less binding "Resolution", but dropped its reservation after the other member states accepted a British declaration attached to the Joint Action, limiting its obligations under the text only to the prosecution of "dangerous, excessive or insulting" acts. With reference to their national law, Denmark and Greece also indicated that they would make restrictive use of the Joint Action.

As a matter of fact, while Joint Actions engage member states politically, they do not prevail over national law.

Convention on Extradition

According to the Italian Presidency, Ministers also brought their views closer with respect to the planned Convention on Extradition. The experts working on the text were asked to draft wordings which would extend extradition to members of criminal organisations with connection to terrorist activities. The Ministers further defined a scheme by which the extradition of own nationals would become the rule under the Convention. Individual member states would, however be able to opt out for renewable periods of five years or to decide case by case. It remains to be seen whether this alleged agreement on some of the most controversial aspects of the planned Convention will be confirmed by its speedy signing before the end of June, or whether it in fact mirrors a political need for the JHA Ministers to demonstrate unity following a fierce row between Spain and Belgium earlier this year, in which the Belgian judiciary refused to extradite two Basques suspected of terrorism in Spain.

Sources: General Secretariat of the EU-Council: Communication à la Presse, 1909e session du Conseil Justice et Affaires Intérieures, Brussels, 19/20.3.96; Agence 'Europe' - Nos. 6691 (20.3.96) and (21.3.96); Financial Times, 20.3.96; Reuter, 29.1.96; Bericht de

EUROPEAN PARLIAMENT VOTES FOR RESOLUTION ON EUROPOL

On 14 March, the European Parliament (EP) adopted a Resolution based on a report by Hartmut Nassauer, a Christian-Democrat MEP from Germany. Mr Nassauer strongly advocates a speedy ratification of the Europol Convention, regardless of prior agreement having been reached on the judicial role of the European Court of Justice (ECJ) and he also insists on the need for investigative and operational powers for Europol. But the final wording of the Resolution adopted by the EP shows that a majority of MEPs do not share the rapporteur's enthusiasm for unlimited European policing in the absence of judicial and parliamentary control.

The report was presented by the EP's Committee on Civil Liberties and Internal Affairs. A first version of Mr Nassauer's report was referred back to the Committee in mid-February and a debate on the Resolution postponed because of strong disagreement in parliament on central points of the report. However, even in his second report, Mr Nassauer stresses that it "seems unjustified to allow the [Europol] Convention as a whole to fail on account of the absence of provisions on ECJ jurisdiction". "The entire Europol project is at risk if it is made dependent on settling the ECJ issue", the report claims, somewhat dramatically, and says failure to get Europol running would be "politically irresponsible". This call for a rapid ratification, whatever the situation as regards jurisdiction of the ECJ, is shared in an Opinion presented by the EP's Committee on Legal Affairs and Citizens' Rights.

The report also emphasises that Europol "must not remain a data exchange and analytical agency for any length of time. In the long term the European Police Office needs its own investigative and operational powers".

The Nassauer Report, however, expresses strong criticism against denying the EP any serious right of control on Europol. The rights of the EP were "overlooked" in the drafting of the Convention, it says, and the EP was "neither kept appropriately informed about the progress of negotiations nor consulted prior to the decision of the European Council in Cannes". The report proposes that an "inter-institutional agreement", establishing in detail Parliament's rights, be reached between the Council and the EP - and threatens "a judicial solution" if no such agreement can be reached.

Resolution disavows conclusions of the report

The Resolution finally adopted by the EP after lengthy squabbling amounts to a disavowal of some of the reports main conclusions and recommendations. Thus, the Resolution calls on the parliaments of the Member States "not to embark upon ratification of the Europol Convention until powers to give preliminary rulings have been conferred upon the European Court of Justice" and demands that further work on the various sets of implementing rules under the Europol Convention should be suspended as long as the Convention is not ratified. Furthermore, the adaption of each Member State's legislation to the data protection standards set out by the Convention should be a "necessary part of the ratification process".

EP rejects the Council's draft implementing rules for analysis registers

With respect to Europol's analysis registers, the resolution is unequivocal: "Political affiliation, religious persuasion, race, sexual behaviour or any similar personal data or equivalent information may not be registered in Europol's records". The EP "expresses . . . its total opposition to the contents of a proposal from the Presidency of the Council seeking to record this sort of information and calls on the Council to withdraw its proposal" (Council proposal: se CL No.41, p.1).

Furthermore, the resolution calls for, inter alia

- extended citizens' rights of access to their own data;
- rights for courts and lawyers to check data produced by Europol in its analytical activities;
- a more precise determination of the time at which personal data in the Europol Information System shall be deleted.

The resolution also calls for comprehensive and timely information to be provided to the EP regarding all aspects and levels of Europol's activities. Among other things, pursuant to Article K.6 §2 of the TEU [Maastricht Treaty], the Council shall consult the European Parliament and "give due consideration to its views" with regard to the following matters:

- a decision to instruct Europol to deal with terrorism before the expiry of the period specified in the Convention (According to Article 2.2, Europol shall deal with such crimes within two years at the latest following the entry into force of the Convention);
- any decision to extend Europol's remit to additional forms of crimes listed in the annex to the Convention;
- all implementing rules under the Convention including, e.g. the rules regarding the analysis registers, the rules regarding information requests of Europol to other bodies of the EU, international organisations, third states and Interpol, and the rules for the communication of personal data by Europol to third states.

The EP further demands to be informed and consulted on disputes between Member States pertaining to the interpretation of the Convention, on amendments of the Convention (pursuant to its Article 43.1) and on the definition of forms of crimes by the Council.

As for investigative and operational powers to Europol, the Resolution is clearly in less of a hurry than Mr Nassauer. Thus, it suggests that the transfer to Europol of investigatory powers should be examined "at a later date". Operational powers should be given to Europol only if it is subject to the instructions of the European Commission" and on condition that it is made accountable to the EP and to national parliaments.

The adoption of the Resolution was preceded by a heated debate. The Social Democrat MEP Schulz denounced the "unlawful realisation" of Europol, with no parliamentary involvement in the drafting of the Convention. "After having presented us with *faits accomplis*, the Council will possibly graciously take note of what we will decide today. This is not a democratic behaviour! Such a Convention will not fare well; such a Convention cannot bear fruit." The German MEP Claudia Roth (Green Group) described Europol as a secret police outside any democratic control and with extensive powers to snoop on innocent citizens. "I believe that the means and structures set up with Europol for the fight against organised crime are far more dangerous for the rule of law than even organised crime". While the Italian Social-Democrat Bontempi said he agreed with most of Ms Roth's criticism without, however, sharing what he called her "apocalyptic conclusions", Mr Nassauer described Ms Roth's remark as an "abysmal and cynical malevolence and a monstrosity I refuse to accept".

Sources: European Parliament, Second Report on Europol, Committee on Civil Liberties and Internal Affairs, Rapp: Hartmut Nassauer, 29.2.96, A4-0061/96 PE 215.803 fin., and amended Resolution, adopted 14.3.96; Agence Europe, 13.2.96; our sources.

JOINT DEPORTATION OF ZAIRIANS BY FRANCE, GERMANY AND HOLLAND

On 29 February, 63 Zairians subject to deportation measures in France, Germany and the Netherlands were put on a plane chartered by the three governments. At Kinshasa-Ndjili airport, they were awaited by the Mobutu regime's various secret services. The Zairian humanitarian organisation, *La Voix des sans Voix*, witnessed the deportees' arrival.

In France, the deportation operation began two days earlier. At dawn, police in various parts of the country stormed the homes of Zairians subject to deportation orders and brought 40 people to Roissy-Charles de Gaulle airport in Paris, where they were detained in special units in the "extra-territorial" transit zone. A young woman who was arrested together with her three children aged six years, four years and five months said the police came at six in the morning. Her daughter was not allowed to put on her clothes and travelled in pyjamas, and the police prevented the family from taking with them their belongings or even money.

A further 13 deportees were brought to Roissy from Germany, and 10 from the Netherlands.

47 policemen escort 63 deportees

According to *La Voix des sans Voix*, the 63 deportees, including eight women and five children were escorted during the whole flight by a joint police force of 43 French, two Dutch and two German policemen, as well as a French doctor.

When the French *Air Charter* plane landed at Kinshasa airport, the runway was swarming with officers from the Zaire's Military Intelligence Service, SARM, the National Service for Intelligence and Protection (SNIP), the Gendarmerie, the Civil Guard, and President Mobutu's own secret service, DSP.

Among the persons gathering around the plane were the deputy chief of SNIP, German, French and Dutch diplomatic staff, and an official of the Dutch Ministry of Justice.

Zairian security then proceeded to mount "immigration control" inside the plane.

An incident occurred when a French policeman tried to take pictures of the deportees disembarking from the plane. His camera was seized by an officer of SNIP. The camera was later returned to its owner without the film.

The deportees from France told *La Voix des sans Voix* that they were badly treated by the escorting French policemen during the flight. Some deportees showed bruises. Some deportees said they were beaten up, and then immobilised with adhesive tape and handcuffs by policemen on the plane.

Mr Nfundu Mfwa Unu Wasolua, who was deported from Germany, is said to be held in a hospital. When leaving the plane at Kinshasa airport, he was unable to walk by himself and had to be assisted.

After leaving the plane, the deportees gathered in a waiting room, where the deputy chief of the SNIP's airport unit made a moralising speech. The SNIP official then allowed them to "go in freedom and return to their families".

Sources: Observation report of 'La Voix des sans Voix', Kinshasa, 1.3.96; Libération, 2/3.3.96.

ERRATA

We apologise for an error in our article "Swedish journalists challenge EU Council on secrecy" in our last issue (CL No.41, p.2). The number of EU-documents disclosed by the Swedish government was not 16, but actually 18 of a total of 20 documents.

SCHENGEN

DISPUTES BETWEEN MEMBER STATES BURDEN SCHENGEN COOPERATION

A Schengen mini-summit on drugs planned for early March was called off on 14 February after vehement new French criticism of Dutch drugs policies. On 21 February, the Schengen Executive Committee gathered in The Hague after threats by Spain to suspend judicial cooperation under the Schengen Agreement because of Belgium's refusal to extradite a Basque couple allegedly involved in ETA terrorism.

Drugs summit postponed *sine die*

The planned "drug summit" of the five founder member states of Schengen was abruptly cancelled by French President Chirac with the explanation that there was currently "no prospect of the sort of concrete achievement expected of a summit". Stung by the French move, the Dutch have so far pointedly refrained from suggesting a new date for the meeting.

France, which is highly critical of the liberal Dutch approach to soft drugs, has long been pressing for substantial changes in domestic Dutch policy. The French Minister for European Affairs, Michel Barnier, summed up his government's stance as follows: "What a state does on its own territory should not have detrimental effects on the others. The Netherlands will have to seal their territory." Mr Barnier has specifically called on the Dutch to introduce a mechanism to inspect containers in the port of Rotterdam, to reduce the number of "coffee shops" and clamp down on an estimated 35,000 - 50,000 Dutch cannabis growers.

On 25 March, France announced the long awaited abolition of controls at its internal Schengen borders with Spain and Germany, but insisted that checks at the borders with the Benelux-countries would be maintained as long as the Dutch refused to adapt their drugs policy to French demands.

German assessments of Dutch drug policies are more contradictory. While six Social Democrat *Länder* governments recently sent a letter to the Dutch government encouraging it to continue its "pragmatic and humane" policy, the Christian Democrat-led Federal Government in Bonn complains that between 50 and 90 per cent of all seized drug imports reach Germany via the port of Rotterdam. The Belgians too are uneasy about the Rotterdam-Lille "drugs highway" which crosses their country, but Belgian Prime Minister Dehaene nonetheless recently defended the Dutch neighbours against the "aggressive" tones from Paris and is highly critical of the French refusal to abolish internal border controls.

Demonstration of unity against terrorism

An extraordinary meeting of the Schengen Executive Committee (ExComm) took place on 21 February in The Hague. The meeting was called by the special request of Spain following a decision of the Belgian Ministry of Justice to set free a Basque couple whose extradition Spain had sought. The couple is suspected by the Spanish judiciary of having provided "logistic assistance" to ETA by accommodating a terrorist commando in their home. Furious at the decision, the Spanish government threatened to break off its further participation in the Schengen Group's judiciary cooperation. In the opinion of Spain, the Belgian refusal to approve the "automatic" extradition of terrorist suspects to another Schengen state amounts to an "unfriendly act, inadmissible within a common territory consisting of democratic states".

While the ExComm failed in bringing about a full reconciliation between Spain and Belgium, it succeeded in persuading the Spanish government not to suspend judicial cooperation within the Schengen framework.

In an obvious effort to give some moral satisfaction to Spain, the ExComm ministers adopted a common statement condemning "with utmost firmness . . . all forms of terrorism".

The ExComm further agreed to "urgently examine" the implementation of Article 60 of the Schengen Implementing Agreement regarding extradition and to press for a speedy signing of the planned EU Convention on Extradition before June 1996. Spain is strongly advocating the inclusion of a provision in the convention permitting the automatic extradition of persons suspected of some form of involvement in terrorism. Several member states are, however, reluctant to accept such a regulation, since it could result in an obligation to extradite persons accused of political offences (see CL No.40, pp.1-3).

Sources: German Federal Interior Ministry: Report on the extraordinary meeting of the Schengen Executive Committee on 21.2.96, Bonn, 28.2.96; Libération, 22.2.96; Le Monde, 23.2.96; Neue Zürcher Zeitung, 16/17.3.96, 26.3.96; Migration News Sheet No. 156/96-03 (MNS is available at: 172-174, rue Joseph II, B-1000 Brussels, Tel/Fax: +32/2 2303750).

UNHCR

UNHCR PLANS FOR THE RETURN OF REFUGEES FROM FORMER YUGOSLAVIA

Almost daily, difficulties and set-backs are being reported in implementing the Dayton Agreement in the former Yugoslavia. Nobody knows what will happen once the IFOR operation comes to an end in autumn, and Bosnia and Hercegovina lies in shambles. But pressed by the host countries, the UNHCR is already planning in detail the return of hundreds of thousands of refugees. "Voluntary" return to a "safe" country?

Sixty three per cent of all houses in Bosnia and Hercegovina (B&H) are damaged and 18 per cent completely destroyed. Seventy eight per cent of electricity production is crippled. The number of hospital beds has dropped by half since 1990 while infant mortality had doubled. This is the "home" to which some 1.3 internally displaced person and 1 million refugees in 25 mostly Western host countries are supposed to return. With temporary protection for war refugees from the former Yugoslavia being lifted in one host country after the other, hundreds of thousands of refugees have lost their right to stay and soon might have no other choice than "voluntary" repatriation encouraged by the host countries and organised by UNHCR.

UNHCR meeting in Oslo

An operational plan for regional return and repatriation movements was discussed at a conference chaired by the UNHCR in Oslo on 8 March. The conference was termed a "High-Level Working Meeting". However, the approximately 200 delegates met for only one day and there was no time for work or discussions. All the statements of the delegates, as well as the chairman's conclusions, had been written in advance. "The conference was more of a theatrical showpiece where national delegates recited their governments' preconceived standpoints, than a working meeting concentrating on the interests of the refugees", a Norwegian observer summed it up.

Voluntary of involuntary repatriation?

A central question about the repatriation of refugees to the republics on the territory of the former Yugoslavia is whether this return will be voluntary or forcible, and in the event of forcible return, which minimum criteria must be fulfilled regarding the safety of the returnees and the absorption capacity of the areas of return before people may be sent back against their will.

For the time being, there is no precise and legally binding international agreement on these crucial questions. As a consequence of the introduction of "temporary protection" schemes by Western European asylum countries, the question of voluntary or forcible return as well as the timing of repatriation operations is left to the discretion of the governments of the host countries. In Oslo, this was made very clear by, among others, the German government's representative who pointed out that the lifting of temporary protection is "a sovereign decision of Germany as much as of any other state who would wish to take such a decision". The lifting of temporary protection is a "clear signal for the temporary guests that their status is expiring", the German delegate continued, but stressed that this did not imply that the refugees would have to leave the country "immediately". After praising repatriation as "the best solution to a refugee situation", a representative for the Norwegian government said that "return on an involuntary basis should not be excluded".

UNHCR evasive on the issue of involuntary return

In the face of host countries' obvious hurry to repatriate as many refugees as possible as soon as possible, based on their own sovereign assessment of conditions of return, UNHCR is trying to persuade governments of the need for international coordination of return operations according to its own three-stage plan and has also set up a list of minimum criteria that should be met in the areas of return before refugees may be sent back. These so-called "benchmarks" are: 1. Amnesties for prisoners of war and deserters. 2. Functioning of the IFOR forces in compliance with the Dayton Agreement; 3. Functioning of local human rights monitoring structures in the whole of B&H.

However, as the UNHCR criteria are fairly sketchy and non-binding, they allow for extensive interpretation by each host country government. As for the UNHCR's three-stage plan for return, Germany, the country with most temporary refugees from Yugoslavia, made it plain in Oslo that it will repatriate its refugees according to its own agenda rather than following UNHCR recommendations. All this shows clearly that UNHCR has little means at its disposal to prevent host countries from forcibly sending back refugees.

Instead of protecting the rights of the refugees in the host countries, UNHCR is now concentrating on drawing up organisational structures aimed at technically facilitating return, thereby taking the risk of participating in an operation that might prove disastrous to the refugees concerned. While two NGOs, ICRA (International Council of Voluntary Agencies) and ECRE (European Council on Refugees and Exiles) strongly oppose any

involuntary movement of refugees or internally displaced persons, UNHCR says that returns must be voluntary "at an initial stage".

UNHCR Plan of operation

In a document presented at the Oslo meeting, UNHCR names the fulfilment of its benchmarks and the creation of absorption capacities in returnee areas of B&H as conditions for the implementation of its repatriation and return plan. Under the Dayton agreement, Bosnian refugees may vote by absentee ballot in the forthcoming elections in B&H. The UNHCR states that taking part in the ballot does not imply a legal obligation to return - an obvious rebuke to Germany, which has announced that all Bosnians who vote will be sent back.

The success of the return and repatriation plan depends, inter alia, on the provision of "timely and detailed statistical information" both by the countries providing temporary protection to Bosnians and to prospective returnees on the situation prevailing in the areas of return. The UNHCR document emphasises the problem created by land-mines and booby traps set up in deserted houses. The removal of the devices will take years and their presence threatens to "diminish the momentum of return".

While the document focuses on the situation in B&H, it notes that the problem of refugees also affects the FRY (Serbia and Montenegro), Macedonia, Croatia, and Slovenia. This requires a "regional and even-handed approach to assistance".

According to the initial assumption following the signing of the Dayton Agreement, 500,000 internally displaced people and 370,000 refugees were to return during 1996. The tentative time-frame for the return of all temporary refugees and displaced persons is only two years from the signing of the Dayton agreement. It is clear today, says UNHCR, that these are "maximum figures contingent on security, funding, immediate large-scale reconstruction and mine clearance keeping pace with the actual rhythm of return and repatriation".

Reality on the ground contrasts with return plans

First experiences with "pilot projects" involving the return of Muslim Bosnians to areas now under Croat control illustrate the problems that might soon arise at a much larger scale. Thus, all of 100 Muslim families offered return to Croat-controlled Stolac, have so far refused to move. "In addition to the need for reconstruction, most of the Bosnian Muslims cite lack of adequate security guarantees as another obstacle to return", the UNHCR document explains.

The Bosnian Government informed the UNHCR that the local authorities in the municipalities of intended return will have to confirm the availability of accommodation prior to assisted repatriation movements.

Further "pilot projects" are planned in eastern Slavonia (Croatia), "when the conditions for return are safe".

Some 30,000 Croatian Serbs with asylum in the FRY wish to repatriate, but Croatian authorities have informed the UNHCR that repatriation of their citizens of Serb ethnicity from the FRY will have to await the outcome of the process of normalisation of relations between the two countries.

All this indicates that it is premature to even discuss large-scale return programmes at this time. Nonetheless, UNHCR activities in former Yugoslavia will focus on monitoring "trends and developments affecting returnees", "promoting equal treatment of returnees", and "intervening with national and local authorities, when the return process may be threatened".

With the publication of regularly up-dated Repatriation Information Reports, UNHCR will try to provide equal access of refugees to objective information on conditions in their intended areas of relocation.

The International Organisation for Migration (IOM) will be responsible for all operational and logistical aspects of organised international repatriation movements. The UNHCR recommends the easing of transit visa requirements for returnees. Hungary has offered to host a consultation on this.

In the meantime, the temporary refugees in the Western host countries will continue to live in a state of constant legal insecurity and under the permanent threat of being sent "home" too early.

Sources: UNHCR: Operational Plan for durable solutions within the framework of Annex 7 of the General Framework Agreement for Peace in Bosnia and Herzegovina and related regional return and repatriation movements, 27.2.96, HLWM/ 1996/1 Distr. restricted; The Chairman's Summing Up of the Oslo Meeting, 8.3.96; Rainbow Anti-Racist Organisation, Tromsø, Norway, Email: tvik@stud.isv.uit.no; Recommendations ICVA/ECRE Reference Group on former Yugoslavia, 5/6.2.96.

FRANCE

TOUGHER RULES FOR FAMILY REUNION LEAD TO TRAGEDIES

Since the entry into force of the so-called "Pasqua laws" on immigration (see CL No.17, p.7), an

increasing number of children under 18 are being put in the care of the social authorities on "childhood protection" grounds, because their parents have been deported. More and more youths also suddenly find themselves deprived of legal residence at their 18th birthday. The number of "clandestine" youths is assuming alarming proportions.

Leila is 21 years old and a Moroccan citizen. In January, the police prefecture ordered her to leave the country. Before the administrative court seized with her appeal, the young woman implored the judge: "I don't speak Arabic, I have no religious faith; in Morocco I have nobody left". Her parents as well as her brothers and sisters have residence permits, but Leila entered France at the age of 12 and her parents failed to formally apply for family reunion. "She will just have to return to Morocco and apply for a visa there", the representative of the police prefecture argued at the hearing. But Leila's lawyer replied: "You know very well that my client will never obtain a visa after having been subject to a deportation order". The President of the Court finally annulled the order. But Leila still has no permit.

Youssef is 18 years old. His father came to France alone from Algeria in 1963. When he had earned enough money to move into a larger apartment after years of hard work, the whole family reunited in France. Youssef went to school there and is currently preparing for his college examination. When he applied for a new ID card at the police prefecture, he was told that in order to stay in France as an adult, you must have entered the country before the age of 10. This was the case for Youssef's two young brothers. But Youssef himself was 13 when he arrived in France. Consequently, he was notified his deportation: "We will come and fetch you - there is nothing we can do about this", the counter clerk at the prefecture told him.

Recently, Youssef celebrated his 18th birthday. He has still been attending school since, but is permanently on his guard, wherever he goes. Once he will have left college, he will not be allowed to work. "It seems I'm a clandestine now", Youssef sums it up.

Cheryl (14 years) and Richelda (7 years) have lost their mother, Lusiete. She was forcibly returned to Zaire, a year ago, together with her partner. Both had come to France 15 years ago as asylum seekers. In 1990 their application was definitively turned down. But Lusiete and her companion had already found work and a home, and decided to stay in France as clandestines. Everything went well until 1993, when they decided to apply for legal residence. The police eventually apprehended the two at their home in Orléans, while the children were in school. Confronted with a deportation order at the police station, the couple hastily decided that their children should not go to Zaire, because "we have nothing there, and our life is here". Lusiete was sent to Zaire shortly after. Her companion refused to get on the plane. After three months in prison, he was released without documents and without a work permit.

Cheryl and Richelda, who were both born in France, were put in care of the social authorities and eventually placed with a French host family. In two years, Cheryl will be eligible for French citizenship, but her mother is unlikely to be allowed to return.

Stringent laws

Personal tragedies like the above have become frequent as a result of recent stringent foreigners legislation. A law of 31 August 1993 has hardened the conditions for family reunion, which is now refused on grounds such as lack of "sufficient" income and "inappropriate" housing. Family reunion must further take place at the same time for all family members and family members applying for reunion may not do this in France. Thus, family members who attempt to regularise their stay after having entered France with a tourist visa are denied residence and are liable to deportation. On humanitarian grounds the previous law provided for issuing 10 year residence permits to children under 10 who had entered the country outside a family reunion procedure. This age limit has now been lowered to six years. Moreover, the smallest misconduct of a child brought to the knowledge of the authorities will stop them getting a residence permit.

The number of young foreigners forced into illegality is unknown and the government does not appear to be particularly interested in finding out. But according to the Interior Ministry, children in possession of tourist visas continue to pour into the country every day. "They settle in with their parents and never leave again".

The interests of the child...

According to GISTI, a Paris-based organisation providing assistance and information to migrant workers, there are two main patterns of separation affecting children:

1. Separations often occur, when refugee families arrive at French airports with insufficient travel documents. Pending a sometimes lengthy preliminary examination, the adults are detained in the extra-territorial area of the airport, while the children are placed in state-run homes by juvenile courts, since airports' international zones are rightly not considered suitable for the accommodation of children. In the mean time, the parents are deported.
2. Parents already living in France without a stay permit are summoned by the prefecture on the pretext of the "regularisation" of their situation. The parents are then arrested at the counter, and eventually deported. While all this is happening, the children are at school. At the end of the day nobody comes and fetches them, whereupon the police send them to the social services.

In both cases, a juvenile court must decide on whether to deport a child or not in due consideration of the interests and the well-being of the child in question. For the magistrate, this implies an assessment of the conditions of return for the child with respect to hygiene, health and food. In some cases, families hit by a deportation order implore the magistrate to keep the children in France. Regularly, magistrates are thus confronted

with a dilemma: should they send a child to a country where his life is in danger or should they put him into state care and thus definitively separate him from his parents? The decision must be taken quickly as French deportation procedures are both speedy and brutal.

In some cases, parents simply disappear after having been returned to their home country. In this event, children are declared "abandoned" and may be adopted by a French family.

Sources: Libération, 2/3.3.96; for further information contact: Michèle Créoff, GISTI, 30 rue des Petites Ecuries, F-75010 Paris; Tel: +33/1 42470709; Fax: +33/1 42470747.

ASYLUM: MASSIVE DROP IN RECOGNISED REFUGEES

According to the French Ministry of Foreign Affairs, 4,958 applicants were granted refugee status in 1995. This would correspond to a recognition rate of 16 per cent as against 24 per cent in 1994. The figures of the Foreign Ministry are, however strongly called in question by human rights organisations.

Human rights organisations have nicknamed the most recent figures published by the Foreign Ministry the "December miracle". Indeed, official figures for the first 11 months of 1995 indicated that the number of asylum applications in France had decreased by almost a quarter last year and that only 2,845 applicants had actually been granted refugee status by the end of November, as against 7,025 in the whole of 1994. This indicated a recognition quota of less than 12 per cent for 1995, as against almost 24 per cent in 1994.

According to OFPRA, the French Office for the Recognition of Refugees, the apparent gap is due to imperfections of the current system of statistical registration. But this explanation has failed to convince refugee organisations. A representative for *France Terre d'Asile* said it was "astonishing to see an additional 2000 refugees hopping out of the hat". The NGOs stress that while legislation in other European states provides for various forms of refugee status, France offers protection to refugees under the 1951 Geneva Convention only. Consequently, Spain and Britain granted protection to more than 20 per cent of the applicants. Be it 11.5 per cent or 16.2 per cent, as now claimed by OFPRA, the French recognition quota is considerably lower.

A country by country assessment of the figures tends to further confirm refugee organisations' allegations of a clamp-down on the right of asylum. Thus, of the 2,854 positive asylum decisions within the first 11 months of 1995, almost 1000 concerned children of South-East Asian refugees who are automatically eligible for asylum at the age of 18. Thus, the share of asylum seekers from all other countries actually amounted to less than 2,000 positive decisions.

No chance for refugees from civil wars

Refugees from civil wars and civil unrest have hardly any chance of obtaining protection in France. Thus, only 7 per cent of Somali applicants were granted asylum. In many cases, applications of Somalis were not turned down due to a lack of evidence of persecution but due to the character of the persecution claimed. According to restrictive French interpretation, the term "refugee" in the Geneva Convention applies only to victims of persecution emanating from state authorities [In the meantime, the EU's Justice and Home Affairs Council has agreed a Joint Position on the definition of "refugee" adopting this French (and German) interpretation; see CL No.39, p.3]. In Somalia, persecution is linked to the "prevailing generalised climate of anarchy" in this country, OFPRA says. In the absence of any real state authority, there can not be any "persecutions emanating from the country's authorities", the agency concludes.

OFPRA was even more severe with the 107 asylum seekers from Liberia. All applications were turned down. As for Algeria, another country torn by internal violence, only 0.7 per cent of a total of 2,208 applicants were granted asylum.

Bogus refugees?

The official view is that the collapse of the number of asylum seekers proves the effectiveness of French measures against "asylum abuse" by "bogus refugees" - i.e. economic migrants.

This analysis is, however, demolished by a recent study published by Luc Legoux, a teacher at the Institute of Demography of the Paris-I university. Had only "bogus refugees" been dissuaded from seeking asylum in France, Legoux argues, the general recognition rate for refugees logically should have increased by the same proportion as the number of applications dropped. Based on a year by year analysis of asylum decisions, the researcher comes to the conclusion that the notorious "dissuasive measures" mainly affected "perfectly well-founded asylum applications" and actually conceal a clear hardening of admission criteria.

Source: Le Monde, 27.2.96, 1.3.96.

BALTIC SEA

REFUGEES AND MIGRANTS A HEAVY BURDEN FOR BALTIC STATES

Baltic Assembly/Nordic Council seminar on migration and asylum

Upon the auspices of IOM (International Organisation for Migration), a seminar on migration issues relevant to the Baltic Sea area took place in Esbo, Finland, 14 - 16 January. The seminar was attended by parliamentarians from all Nordic and Baltic states. The discussion focused on return of the Russian speaking population from the Baltic states to the CIS and the return of Baltic nationals from the CIS to the Baltic countries.

Delegations from the Baltic countries pointed out the increasing problem of illegal transit migration via Estonia, Latvia and Lithuania, expressing the need for readmission agreements to be signed with the neighbouring Russia, Belorussia and the Ukraine. The problem of asylum seekers and refugees was also raised at the seminar.

Estonian and Latvian representatives demonstrated clear opposition to joining the 1951 Geneva Convention on Refugees and even against the preparation of national legislation on refugees at this point of time, while the Lithuanian delegation presented the progress made in getting ready for the implementation of the refugee law.

A number of Baltic participants at the seminar expressed concern with regard to increasing transit migration. Such fears were also highlighted in Swedish media.

It is possible that migration related problems will come up at the joint Baltic Assembly/Nordic Council meeting to be held in Vilnius, Lithuania, 14 - 16 April 1996.

Estonia

The Estonian Minister for Foreign Affairs, Siim Kallas, visited Sweden on 15 January and met his Swedish counterpart, Lena Hjelm-Wallen. The topics of discussion included the EU and refugee policy. Mrs. Hjelm-Wallen emphasised that it was essential for Estonia, as well as the other Baltic countries, to sign the UN Convention on Refugees. Mr Kallas said that Estonia will eventually sign the Convention but it will take time. "Visa-free travel between Sweden and Estonia won't be introduced any time soon", the Estonian Foreign Minister said after his visit to Sweden, "for there are three serious problems that won't be cleared up in the near future". According to Mr Kallas, Sweden is concerned about the possibility of checking all the people entering Estonia and the control of Estonian borders. The second problem is the question of refugees - Sweden wants Estonia to assume the obligation of readmitting refugees. The third obstacle is the Schengen agreement, which could make visa-free travel with Estonia more complicated.

Estonia is also negotiating on visa-free travel with Finland. Negotiations are expected to be finished by the end of this year. However, Finland first wants to see how Estonia will comply with the bilateral treaties on readmission of persons entering the countries illegally and on cooperation between the law enforcement structures. Another Finnish prerequisite for visa-free travel is for the Finnish authorities to be able to check the validity of Estonian passports electronically.

The Finnish-Estonian readmission agreement makes reference to the 1951 Convention on Refugees, in spite of the fact that Estonia has not yet joined the Convention. The Estonian Minister of Justice, Paul Varul, recently said that "we cannot start taking care of refugees as long as the living conditions of our own prison inmates remain inhuman".

Latvia

602 illegal migrants were deported from Latvia in 1995, according to the country's immigration authorities. Nearly 2,000 persons left Latvia last year "voluntarily" because of violating entry regulations and there are still many people in Latvia who were legal immigrants during the Soviet rule, but who failed to settle formalities after 1991 when Latvia regained independence. This category includes former guest workers from Vietnam and Mongolia in textile industry.

At the infamous Olaine prison, where asylum seekers stranded on their way to Western countries are detained as "illegal immigrants", there are currently about 140 persons. They are guarded by 40 members of the Immigration Police. According to the head of the Immigration Police, the maintenance of each person costs approximately US\$ 200 per month, as compared to the minimum monthly wage in Latvia, which is little more than US\$ 50. The police chief added that good conditions in the prison might contribute to increasing the flow of illegal migrants.

Latvia cannot join the UN Convention on Refugees unless it has signed readmission agreements with neighbouring states, the Head of the Latvian Parliament's Human Rights Committee, Antons Seiksts said. The head of the Immigration Police is of the same opinion and considers Latvia has to solve its internal problems first, before it starts thinking of refugees. In an interview with a Swedish newspaper, the Latvian Interior Minister, Dainis Turlais, stated that his country was unable for the time being to take its share of solving the refugee

problem, due to its economic problems. Mr Turlais also confirmed the existence of an oral agreement between the Swedish and Latvian governments to the effect that Latvia is prepared to readmit asylum-seekers who have entered Sweden via Latvia. Mr Turlais said asylum-seekers returned by Sweden will be detained in the Olaine prison. UNHCR's suggestion that the asylum seekers currently detained at Olaine be accepted by the Nordic countries in an "exceptional humanitarian operation" has met little response.

Lithuania

On 20 March, Lithuania introduced various bylaws to enable the implementation of its refugee law. In the light of the fact that Lithuanian authorities are facing increasing problems in taking care of the more than 400 "illegal migrants" detained in various places, UNHCR's Stockholm Office has suggested that Lithuanian authorities start an "advance implementation" of the refugee law. This would enable the separation of persons in need of international protection from illegal migrants.

According to the Lithuanian Border Police, statistics from 1995 show that illegal migration, mainly of persons from Asian countries, is the major problem on the borders. At present, 404 illegal immigrants are detained in Lithuania. The number of persons detained for having attempted to cross Lithuania illegally for Western or Northern countries was 1,696 persons in 1995. In January 1996, a group of 42 persons (21 Pakistanis, 13 Iraqis, four Chinese, three Afghans and one Somali) was reported to have been detained on the Lithuanian - Polish border.

So far there are no readmission agreements signed with Lithuania's Eastern neighbour states for returning illegal migrants to the countries from which they arrive. Border authorities of Lithuania and Belarus met on 18 January 1996 in Vilnius to discuss problems of illegal migration, but, according to a Belorussian negotiator, a readmission agreements can not be signed as long as the dispute over the Lithuanian-Belorussian border demarcation remains unresolved.

Sources: FARR (Swedish Network for Asylum and Refugee Support Groups); UNHCR-Stockholm, Regional Office for Baltic and Nordic Countries: Information Notes on Refugee Issues in the Baltic Countries, February and March 1996.

PORTUGAL

LATE AMNESTY FOR OTELO

On 1 March, the Portuguese Parliament finally passed an amnesty law white-washing more than 70 defendants sentenced for "membership of a terrorist association" in the so-called FUP/FP-25 mass-trial.

One of the defendants in the trial was Otelo de Crvalho, the hero of Portugal's "Carnation revolution" of 1974. In 1984, he was arrested, together with 70 other members of his small left-wing party, FUP, on terrorism charges.

The accusation against Otelo was based on a deliberately maintained confusion between his FUP party and FP-25, a clandestine armed organisation which claimed responsibility for a range of bloody attacks in the early 80s.

Although Otelo and other FUP-members were never accused of any involvement in the attacks, many of them were sentenced to long prison terms, based on the accusation's never proven claim that the FP-25 were the "armed wing" of Otelo's party.

Under Portuguese criminal law, a conviction for membership of a "terrorist association" does not require any evidence of the accused's involvement in a particular crime.

After years of trials and re-trials marked by procedural flaws and rivalries within the Portuguese judiciary, Otelo and his co-defendants were provisionally set free in 1989.

By adopting the amnesty law, the Socialist-Communist majority of Parliament fulfilled what was seen as the "last wish" of retiring President Mario Soares. Under the amnesty, only bloody deeds committed by certain members of FP-25 will continue to be punishable.

For the FUP-defendants concerned, their formal rehabilitation comes late. Many of them were detained on remand for years accused of crimes they had never committed.

Sources: C.E.D.R.I, Beatriz Robin-Graf; Neue Zürcher Zeitung, 15.3.96. See also CL No.10, p.1, November 1992.

OPINION

IS THE UNHCR GOING ASTRAY?

The UNHCR's action is no longer governed by international law, but by the whims of states and public opinion, Jean-Pierre Hocké, a former UN High Commissioner for Refugees, claims. From the protection of refugees as defined in the Geneva Convention in 1951, when thousands of people were leaving communist Europe, the UNHCR is drifting towards a hazy "defence of human rights".

According to the UNHCR (Office of the United Nations High Commissioner for Refugees), the "New World Order" (after 1989) has both compelled and allowed the international community to address the refugee problem in an entirely new way. Indeed, the UNHCR wants to move from a "traditional", i.e. reactive, approach focusing on exile and the specificity of the refugee status to a new approach focusing on the countries of origin, and this in a global perspective.

A break-up in conventional categories of victims?

Moreover, according to the UNHCR, the events in the former Yugoslavia have clearly illustrated the break-up in conventional categories of victims. As a consequence, the UNHCR, although an agency for the world's refugees, has actually more and more been dealing with people displaced, or even besieged, inside their own country.

Somewhat surprisingly, the UNHCR concludes that the above evolution is leading an increasing number of analysts and operational agencies to abandon the definition of "refugee" under the 1951 Geneva Convention and instead, to talk in a more general manner of "displaced people", "uprooted populations" and "involuntary migrants".¹

With a view to the globalisation of the UNHCR's action and the efforts it wants to make in the domain of prevention and long-term solutions, the acting High Commissioner, Mrs Ogata, has pointed out that the work of the UNHCR lies within the wider framework of UN action for conducting political negotiations, carrying out peace-keeping operations, and economic and social development for the defence of human rights and the protection of the environment. What is Mrs Ogata trying to say by this?²

In the early 1950s, the Convention was drawn up in order to grant protection to refugees from Communism. At that time, nobody would have believed that in 1985 a certain Mr Gorbachov was to launch the process of Perestroika that gradually brought about the implosion of the Soviet Union. Consequently, in 1951 the idea of *permanent* asylum was considered the only acceptable solution.

In the late 1970s then, with the massive exodus of the "boat people", the USA, haunted by their Vietnam remorse, were not in a position to demand the cooperation of the neighbouring Asian and South-East Asian countries beyond their ensuring the transit of Vietnamese refugees towards their final reception in either the USA or some other Western allied country. This was the background for the scheme of reinstallation in a third country.

The ambiguity of repatriation

However, ten years later, when the exodus took the shape of an endless night-mare, both the transit and the receiving countries carried through the return of refugees to Vietnam. In a similar way the return of refugees to their villages suggested itself as the most natural solution in Central America, when the Esquipula peace treaty put an end to the conflicts in Salvador and Nicaragua. In this situation, the UNHCR's task was to enable the refugees not only to reintegrate within their communities of origin but also to benefit fully from the development plan launched by the UN. These two schemes of action, however, also tend to show the ambiguity of repatriation in the country of origin as a possible solution: while this solution was acceptable and likely in the case of Central America, the dramatic incidents in Hong Kong were, at the very least, an indication of its premature character in the Asian context.

Thus, just as in the past, the nature of refugee generating conflicts and crises will continue to impose the solutions enabling the victims to become citizens in their full rights again. This is why I find it somewhat difficult to understand the difference now made by the UNHCR between a reactive attitude termed "traditional" and a proactive attitude.

From the "right to stay at home" to the "obligation to stay at home"

I wish to stress the ambiguity ensuing from the UNHCR's emphasis on the country of origin. This notion clearly introduces a new concept through the "right to stay at home".

Let us recall that, in the course of the last ten years governments - and particularly Western governments - have manipulated the definition of the term "refugee" under the 1951 Geneva Convention and decreed measures, first of dissuasion, and later of coercion, to arbitrarily limit their obligations under the Convention. The underlying logic of this policy has led the same countries to refuse refugee status to, for example, refugees of war. They decreed that in a conflict all civilians were exposed to the same risks and therefore could not use these risks as an argument making them eligible for refugee status.

The next step quite naturally leads to promoting the concept of the "right to stay at home". And all of a sudden, the UNHCR is championing the "obligation to stay at home".

It is astonishing that the UNHCR, in attempting to stick to the new realities of the post-Cold War era, moves away from the specificity of refugees for the sake of a global approach and of merging into the equally global actions of the UN.

Defense of the right of asylum or blurred struggle for human rights?

Not only does the UNHCR accept that the refugee is no longer a specific victim (admittedly less and less popular throughout the world), but it is surreptitiously slipping from the defence of the standards set by the 1951 Convention towards a more blurred and thinned-down struggle for human rights. By doing so, the UNHCR is renouncing its own responsibility as the guardian of the 1951 Convention and engaging, together with others, in a fight that is moral rather than legal. It is, indeed, so much more comfortable no longer to find oneself on the front line, and - in the event of failure - to hide behind a vague collective responsibility of the international community!

Is it really a coincidence, when these new categories of victims emphasised by the UNHCR - uprooted populations, involuntary migrants - do not at all enjoy the same specific legal protection as refugees, interned civilians, populations living under occupation, etc.?

At the very moment when the Secretary General of the United Nations is loudly deploring the powerlessness to which he is condemned by the Security Council, the UNHCR declares it has become the UN system's global agency in charge of acting in all sectors of activity displayed by the UN.

In trying to behave as a maid-of-all-work, the UNHCR is losing its credibility and its soul.

Let me make it clear that I have no intention of pressing the UNHCR into a strait jacket, to forbid it any evolution. The experience gathered in the course of the last 30 years clearly underlines the vital need for movement, imagination and flexibility, all of which humanitarian organisations must show in order to adapt to constantly changing situations. But the entrusted humanitarian organisations can canvass new trails only on condition that they keep their orientation. At the risk of going astray, they may at no time take their eyes off the guiding star - international humanitarian law. It represents this "common good" that symbolises the few progresses made by mankind for nearly two centuries in containing its predatory instinct and in trying not to lapse into the most abject barbarity whenever it resorts to violence.

In defending this "common good" the UNHCR as well as the ICRC (International Committee of the Red Cross) must always navigate with utmost caution. From time to time they must endeavour to "reconcile" the respect of the commitments made by the states with the arguments the latter put forward in order to escape their obligations under the relevant conventions.

Humanitarian action as a political bargaining chip

The error of approach made by the UNHCR lies in its belief that it can develop a partnership with the governments that is based on a durable convergence between humanitarian objectives and the political interests, no matter how legitimate, of the latter.

The states are all too familiar with the practice of double standards for their commitment to "interfere" in a non-partial and systematic way to be credible: one intervenes in Iraqi Kurdistan but lets the genocide in Rwanda happen; the atrocities committed last summer in Srebrenica (8000-10,000 people massacred or disappeared) are covered with a veil. These very days [December 1995], the UNHCR is witnessing a new rupture of the convergence described above, as the European Union has just restricted the right of asylum by excluding victims of extremist [non-state sponsored] groups [see CL No.39, p.3].

Recent examples show that whenever the UNHCR merges into a UN action comprising political negotiation, a peace-keeping operation (blue helmets) and humanitarian action, the latter is always subordinated to the two first. By force of circumstances the humanitarian objectives become bargaining chips in the negotiation process. They are used by the international mediators for the purpose of achieving progress in negotiations. Most often, this is detrimental to the fate and the rights of the victims.

Western powers have made off with humanitarian commitments

The trend I am pointing at is all the more disquieting in view of the fact that since 1989 the Western powers, liberated from Soviet pressure, have made off with humanitarian commitments, while at the same time claiming their commitment to solve conflicts. The truth, however, is that, while abounding in humanitarian goodwill and showing pity for the victims, they let the political problems deteriorate. Think of Somalia, Bosnia and Rwanda.

In the era of the Cold War, it sufficed to complain to the respective "protective big brother" to usually obtain a better behaviour of the "little brother" concerned. Thus, a visit to Fidel Castro enabled me to get the MPLA in Angola to lift their ban on aid convoys in support of the civilian populations in areas controlled by UNITA. In the same way, a visit in Washington resulted in the ICRC being granted access again to the prisoners detained by the Salvadorian military.

In short, the "humanitarians" were good at "making use" of the politicians. Today, the opposite is true. It is therefore absolutely necessary that the UNHCR and the ICRC regain initiative.

The point is of course not to create conflict between the governments and the humanitarians. Indeed, the humanitarians would certainly find themselves as the losers in such a game. On the other hand, the entrusted agencies - the ICRC and the UNHCR - must preserve and widen their right of humanitarian initiative. To achieve this, they would be well advised to draw benefit from temporary convergences between their humanitarian objectives and legitimate political interests of the governments. As soon as such a convergence ceases to exist, the conditions must be created for promoting a new situation of convergence. This is a process without end, but at the same time it is the condition *sine qua non* for the humanitarians not to be snowed under.

UNHCR must demand the respect of agreed legal obligations

You might find it surprising that a former chief of operations of the ICRC and former High Commissioner for refugees who is not even a jurist, insists so strongly on the law and, in particular, on agreed legal obligations in the field.

You will easily understand the reason for my approach through a quotation from Olivier Russbach's book "L'ONU contre L'ONU" [The UN against the UN]: By placing oneself in a perspective of creation of new international law, one automatically makes oneself dependent on the states that are alone empowered to sign new texts . . . By, on the other hand, placing oneself in the perspective of existing law, one is able to demand the respect of contracted obligations. The first perspective results in a political approach in which the states are the actors, the second results in a legal approach in which the states are debtors of obligations they have contracted".

By resolutely placing themselves in this latter perspective the humanitarians can widen the scope of their interventions in favour of the victims and can obtain a better conditions for developing the widest possible range through very concrete actions. In short, law must facilitate action. In its turn, action strengthens the law and, in the long term, enables its development.

In recent years, the major protagonists of humanitarian action have been too cruelly defeated. They have no reason to be satisfied with results they like to present as "globally positive".

Many conflicts are still going on - 35 today throughout the world - and others threaten to break out in the near future.

It is in these conflicts, and primarily on the field, i.e. there where the victims can be found, that the UNHCR and the ICRC will either prove faithful or betray their mandate, succeed or fail in saving millions of victims from death, hunger and humiliation. We are not questioning the commitment of their personnel on the field. It is indeed remarkable. On the other hand, it is for the senior executives of these institutions to move away from all ambiguities and shady deals into which some would like to lure them. This is the price of the life and the dignity they have been entrusted to preserve.

Jean-Pierre Hocké (Geneva)

1. See: State of the World Refugees - In Search of Solutions, UNHCR, Geneva, November 1995.

2. Ibid: preface by High Commissioner Mrs Ogata.

DOCUMENTS AND PUBLICATIONS

EU COMMISSION

Langdon Report on the preparation of the associated Central European countries for membership of the EU: Justice and Home Affairs, Brussels, 18.01.96, SEK(96)86, 35 p., in German.

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A vision of Europol, note from the Europol Drugs Unit to the Europol Working Party, Brussels, 20.12.95, 9540/1/95 REV 1 limite Europol 83, 18 p., in English.

Draft regulation on confidentiality, note from the presidency to Europol Working Party, Brussels, 15.11.95, 9204/1/95, Rev 1 limite Europol 73, 32 p., in English.

AMNESTY INTERNATIONAL

United Kingdom: Wrongful Detention of Asylum-Seeker Raghbir Singh, February 1996, AI Index: EUR 45/01/96, 10 p.

Federal Republic of Germany: The alleged ill-treatment of foreigners - An update to the May 1995 report, February 1996, AI Index: EUR 00/000/1996, 12 p.

Cinquante ans de législation sur les étrangers, PLEIN DROIT No.29-30 (Nov 1995), 110 p., in French. This issue deals with the development of French foreigners law since 1945. With contributions of, among others, Jean-Pierre Alaux, Alfred Grosser, Danièle Lochak, Christian Bruschi and Patrick Mony. Available at: GISTI, 30, rue des Petites Ecuries, F-75010 Paris; Tel: +33/1 42 470760; Fax: +33/1 42 470709.

Detention of Asylum-Seekers in Europe, UNHCR, Regional Bureau for Europe, European Series Vol. 1, No 4, October 1995, ISBN 92-1-100 707-0, 231 p.

In the absence of any overall and well-documented survey on detention of asylum seekers in Europe, UNHCR decided to undertake this study which consists of: a set of UNHCR Guidelines; a summary of the international human rights law and standards relevant to detention with special emphasis on Europe; and a description and summary of the legal basis, practice and conditions of detention in each European state (country overview).

Human Rights Project, Bulgaria: Annual Report 1995, Human Rights Project, 13 Uzunjovska Street, 2nd floor, 1000 Sofia, Bulgaria, Tel/Fax: +359/2 875577; Email: hrproject@sf.cit.bg; 27 p., in English.

The report focuses on the human rights situation of the Roma Community and the legal defence of Roma victims of human rights abuse in Bulgaria.

OBEKTIV - Monthly Newsletter of the Bulgarian Helsinki Committee (BHC), ISSN - 1310 -3911, January 1996. Full text of the BHC's 1995 report. The BHC monitors the state of human rights of ethnic and religious minorities, refugees, detained persons, freedom of expression, and legislation concerning these topics.

Available at: 21 Gladstone St, 1000 Sofia, Bulgaria, Tel/Fax: +359/2 816823 or 873659; Email: bhc@sf.cit.bg

EVENTS

COUNCIL OF EUROPE: Mediterranean Conference on Population, Migration and Development, Palma de Mallorca, 15-17 October 1996.

The aim of the conference is to promote a dialogue between Europe and the States in the South and East of the Mediterranean on: demographic trends and their medium and long term consequences; migration flows towards Europe, their root causes, their development, and their effects on countries of origin and countries of destination; the relationship between economic development and emigration, the role and effectiveness of cooperation and partnership.

For further information contact: Council of Europe, Population and Migration Division, Mr Franco Millich, Tel: +33/88 412331, Fax: +33/88 412731, Email: franco.millich@dase.coe.fr

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