

# Fortress Europe?

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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.

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## SWEDEN

### **PALME MURDER: THE SOUTH AFRICAN CONNECTION AND THE SWEDISH POLICE LINK**

In late September, a former chief of a covert South African hit squad said that members of the apartheid regime's secret service had been involved in the 1986 assassination of Swedish Prime Minister Olof Palme. In Sweden these allegations revived long-standing theories linking Palme's murder to elements of the Swedish police and military which have ties to extreme-right international networks. Prominent critics claim the "police link" has never been seriously checked by the 'Palme Group' (the police panel that is investigating the murder). The question is whether Sweden's political establishment is really interested in finding a truth that could be hard to bear for a country that tends to regard itself as the best of democracies.

### **The South African connection**

Former police colonel Eugene de Kock is a professional killer. In the 1980s, he was the chief of the Vlakplaas "police training centre" - in fact a torture centre and the base for the apartheid regime's most ruthless death squad operations. A South African court recently convicted de Kock of a string of cold-blooded murders and other

atrocities. De Kock is believed to have made the allegations about the Palme murder in order to obtain a sentence reduction. De Kock said another secret service officer of the apartheid era, Craig Williamson, had masterminded the assassination of Palme. De Kock's allegations triggered a flood of revelations and mutual denunciations in the ranks of the former South African security forces.

#### **Operation "Long Reach": Mafia link**

It gradually emerged that Williamson had been the chief of operation "Long Reach". Officially, "Long Reach Ltd" was a private company offering security advice to foreign governments. In fact, it was set up by South African intelligence as a front for dirty tricks operations against opponents of apartheid, both in South Africa and abroad. It was also involved in arms trafficking. Two "Long Reach" associates - Mario Ricci and Leonardo Mordini in Lugano (Switzerland) - were businessmen with Mafia links.

#### **Bloody campaign of desperate Apartheid hard-liners**

In the early 1980s, South Africa was becoming increasingly isolated. The UN boycott measures were beginning to seriously affect the country's economy. The regime was becoming desperate and the most hard-line advocates of apartheid resorted to a new strategy. The objective was to paralyse the ANC by physically eliminating as many as possible of its leaders and prominent foreign supporters, while at the same time appeasing a presumed majority of the South African people by making some minor reforms. Consequently, South African hit squads sharply increased their activities abroad:

- In 1982, a burglary occurred at the office of the Pan African Congress in London. Two suspects were arrested. One of them, the Swede Bertil Wedin, was eventually acquitted by a British court. Wedin however admitted that he was working for South African intelligence - in particular for Craig Williamson.
- The same year, Ruth First, a close friend of Olof Palme and the wife of the South African Communist leader, Joe Slovo, was murdered in Mozambique, on the orders of Craig Williamson.
- Also in 1982, a bomb exploded in the ANC's London Office. The attack was an attempt to kill the then ANC President, Oliver Tambo, who had planned to attend a meeting in the office, but was unexpectedly prevented from coming. The same day, the Swede Wedin and another of Williamson's men, Peter Casselton,

hastily left London for Cyprus.

- In 1986 (the year of the Palme murder), the ANC office in Stockholm was blown up. The perpetrators were never found.
- In 1987 plans for "kidnapping" the entire ANC leadership during a meeting in London were uncovered. The thwarted operation was generally attributed to South African intelligence. Two Norwegians with a mercenary background and a British national were initially arrested but never charged - a fact that at that time gave rise to public suspicions of a possible involvement of British intelligence.
- In 1988, the ANC representative in Brussels narrowly escaped an assassination attempt.
- The same year, ANC representative Dulcie September was assassinated in Paris in front of her office. It later emerged that the killers were former French legionnaires hired in Belgium by the South African secret service.

#### **Craig Williamson infiltrated Swedish anti-apartheid agency**

In the 1970s, Craig Williamson, posing as a South African student opposed to apartheid, managed to get himself employed by the International University Exchange Fund (IUEF) in Geneva. The real purpose of this organisation, set up by the Swedish Social Democrats, was actually to channel secret Swedish financial assistance to the anti-apartheid movement, in particular to the ANC. In the Palme era, Sweden was the only Western country providing generous support to the ANC and Palme was an outspoken enemy of the Apartheid regime. In 1980, it came to light that Williamson was spying for the South African secret service and had managed to divert considerable sums destined for anti-apartheid groups to none other than the hit squads of the South African secret service. Through his infiltration of IUEF Williamson acquired excellent insider knowledge of Swedish politics and, above all, of some of Palme's closest collaborators. He must also have understood Palme's instrumental role in the fight against South African apartheid.

#### **The Swedish connection**

In Sweden, speculation about possible involvement of extreme-right circles within the police and the military in Palme's murder have flourished for ten years. The recent allegations made by a number of former members of the South African secret services have given rise to new questions in

Sweden about this "police link". The number of hints pointing in this direction is alarming.

### **Astounding account of a police officer: the police are concealing the truth**

Chief police superintendent Gösta Söderström should be considered a key witness. He was the police officer in charge at the murder site in the night of 28 February 1986, when Palme was shot. His startling version of that night's events was recently recalled in an article in Sweden's largest morning newspaper, *Dagens Nyheter*. Söderström says no less than that the police co-ordination headquarters are lying about what really happened the night of the assassination. It is not true, says Söderström, that the police came close to catching the assassin. Instead, a number of policemen were seen running around on the killer's escape route when Söderström and his men arrived on the site with considerable delay. "They helped him to escape", the superintendent bluntly claims. Only 7-8 minutes later did they come back and report to Söderström. Söderström is also convinced that what should have been a general police alarm was actually a "selective" alarm, directed to a limited number of hand-picked police cars. The general alarm was massively and crucially delayed. "Several policemen are lying and concealing facts", says Söderström.

Two committees inquiring into the Palme murder have found that the general alarm was not delayed and that superintendent Söderström must have "mistaken times". They have, however, omitted to comment on the fact that Söderström's driver noted exactly the same times in his own journal. It is also difficult to see how the committees of inquiry could reach their conclusions without access to evidence that would have been instrumental in establishing the truth.

The radio and telecommunication traffic of both the police command headquarters and the SOS-alarm headquarters are always tape-recorded in Sweden. Remarkably, the two tape-recordings of the night of the Palme murder, have never been disclosed. Following insistent requests from various quarters, the responsible authorities claimed alternately that the tapes had "disappeared", been "found again", or simply "burnt in accordance with regulations in force and general practice". Even the hand-written original of the police diary seems to have mysteriously vanished. The 'Palme Group' (the police panel investigating the murder) got only an edited machine-typed version - "a

forgery", according to superintendent Söderström.

### **Friends of apartheid in the Swedish police**

It is established that several Swedish police officers travelled to South Africa shortly before and after Palme's assassination. The police officers were all members of the International Police Association (IPA). The Palme Group has received hints that South African police officers, and in particular, Craig Williamson, also stayed in Stockholm around the time of the assassination, and that they were accommodated in a guest apartment owned by IPA Sweden. The mutual visits took place at a time when most international organisations and in particular national police agencies were officially boycotting South Africa.

Astonishingly, the Palme Group did not find it necessary to check the guest books of the Swedish and South African IPA guest houses. Investigative journalists, who very belatedly (in October 1996) tried to do so, discovered that the guest books of the relevant years around Palme's murder had "been lost", both in Sweden and South Africa.

The Palme Group also received hints very early on from various quarters that the IPA had secret premises in a building close to the site of Palme's murder. According to informers, a stock of firearms was kept in the premises. Only years later did the Palme Group check these hints. It discovered that the building was owned by a right-wing Estonian exile organisation which had let premises to a number of secretive organisations, all known for their hatred of Palme. Thus, according to a police memorandum, it was "almost certain" that the notorious World Anti-Communist League (WACL) had premises in the building, and "not impossible" that the IPA had too. Eventually, a Stockholm policeman also remembered a mysterious burglary, in which firearms (and nothing else) had been stolen from the building in question.

### **Swedish WACL member teaches at Stockholm police academy**

In the 80s, professor of psychology Åke Ek was the Swedish WACL representative. Ek was teaching at the Stockholm police academy (*Polishögskolan*). He also led a highly secretive organisation of veterans of the Swedish UN forces, mercenaries and police. Mr Ek recently bluntly refused to answer any questions from Swedish TV journalists on the objectives and the members of his organisation. Mr Ek is just as taciturn about another

organisation he presided over in the 1980s - the "Sweden-South Africa association".

Such alarming information did, however, not lead to any action by the Palme Group. Thus, an identified group of policemen with far-right views were never seriously questioned, let alone asked to testify under oath, about their travels to South Africa, IPA, WACL, and another obscure far-right organisation, the so-called "European Workers Party" (EWP: the European branch of a US-based cult-like organisation founded by Lyndon LaRouche, with contacts inside a number of Western secret services). This is all the more astonishing, considering the remarkable profiles of some of these policemen:

- Policeman A He was first to arrive at the site when Palme was assassinated. According to his own statement, he tried to run after the assassin, but gave up because he suddenly became tired.
- Policeman B is known for calling Palme a "traitor" and a "Soviet spy";
- Policeman C is a notorious and declared Palme enemy;
- Policeman D owned an apartment in the street where Palme's assassin disappeared. The police eventually searched his home and, among other things, found old German Nazi insignia, as well as a large stock of walkie-talkies.
- Policemen E is a former paratrooper with the Swedish UN forces. He repeatedly visited South Africa together with a young Swedish businessman and outspoken Nazi. Both men had frequent contacts with the Swedish branch of the "European Workers Party".
- Former policeman Östling, a friend of D, is an arms dealer with extreme-right views. His associate visited South Africa shortly before Palme's assassination. At a police search in the two arms dealers' business premises, documents were found proving that Östling and his partner were doing business with the South African legation in Stockholm and a number of South African firms. Remarkably, Östling became a major supplier to the Stockholm police after the Palme murder.

Östling and his associate had a private rifle club. Among the other club members were:

- the police officer who happened to be on duty at the police co-ordination headquarters the very day of the Palme murder, when nothing seemed to work and the general police alarm was inexplicably delayed; and .

- a policeman who became a body guard for the Palme Group's first chief, Hans Holmér, together with other friends of arms dealer Östling.

Some of these policemen also had contacts with "Stay behind", the Swedish branch of the secret NATO organisation "Gladio". There are reasons to believe that Mr Ek's veterans' organisation was closely related to, if not identical with, "Stay behind".

#### **Bertil Wedin: contacts with SÄPO, South Africa, and the Turkish secret service**

A number of sources within the former South African secret services are now pointing out Bertil Wedin, the Swede who worked for Craig Williamson in London, as the man who actually shot Palme.

Mr Wedin has a remarkable profile: He is a notorious right-wing extremist and professional soldier with a past as a Congo mercenary and an officer of the Swedish Army. He also worked as an informer for SÄPO (the Swedish state security police) in the 1970. In the 1980s, Wedin was recruited by the South African secret services and was eventually stationed in London as one of Craig Williamson's men in the "Long Reach" operation. Since 1985 Wedin has lived in the Turkish part of Cyprus. He has worked for, among others the Turkish Ministry of Information and is said to have excellent contacts with the Turkish secret service MIT. Last, not least, Wedin is also a member of WACL.

#### **The missing link between Sweden and South Africa?**

In recent weeks, attention has focused on Wedin in connection with old and new evidence of a South African link in the Palme murder. Only ten days before the murder, an acquaintance of Wedin, Anders Larsson, warned the Swedish Foreign Ministry that circles within the police and SÄPO were planning the assassination of the Prime Minister before his planned visit to Moscow. Larsson said he had got the information from a "friend with good contacts within SÄPO".

As early as 1986 and 1987, Swedish authorities received information from several distinct sources suggesting a South African involvement in the Palme assassination. In one case, the information came from a trustworthy Swedish journalist who was referring to an officer of the British intelligence service, MI6. According to this source, Palme's assassination was planned by the South African secret service with the assistance of a Swede working for SÄPO. The

journalist immediately tape-recorded a memorandum and sent the tape to SÄPO. But SÄPO did not listen to him, nor did they forward the tape to the Palme Group. Only when new evidence of a South African connection emerged in 1994 - i.e. eight years later - did the Palme Group finally interrogate the journalist. As for the tape recording, it "got lost", according to SÄPO. Whereupon the Palme Group reached the conclusion that the journalist's account "lacked substance" since his information could not be linked to the site of the murder.

In the light of the above, a thorough inquiry into Bertil Wedin's various activities is evidently necessary. ANC experts on former South African hit squad activities believe that Wedin had too high a profile in his home country, Sweden, to actually "pull the trigger" himself. But he could well have served as an instrumental local link in a plot comprising the South African secret services and, perhaps, other international extreme right networks.

### **Some preliminary conclusions**

Was Palme killed by a South African death squad? For the time being, there is no substantial evidence linking South Africans to the murder site, and the man who actually pulled the trigger has still not been identified. Moreover, the recent allegations by Eugene de Kock and other professional killers must be considered highly unreliable on their own merits. But in view of a multitude of hints since 1986, pointing to South Africa, they must be taken seriously. It remains to be proven whether South African secret service actually planned and/or carried out the assassination of Olof Palme. But in view of the comprehensive information now at hand on the strategic objectives, the organisational structure and the international networking of the former South African secret service, their involvement in some way or another now must be regarded as very likely.

Similar conclusions suggest themselves with regard to the so-called "police link" in Sweden. While we are far from any proof of an involvement of circles within the Swedish police in the murder of the Social Democrat leader, it is an established fact that a troubling number of Swedish police officers were - and partly still are - moving in fascist and racist organisations with links to the South African Apartheid regime.

WACL, IPA, LaRouche's EWP and "Stay Behind" (Gladio) were part of an international extreme-right network that was particularly aggressive in the 1980s, at the climax of the Cold War. It is established that not only the South African government and a number of anti-Communist regimes in Third World countries, but also the US government in the Reagan era did not shy from using this private mercenary network for gathering intelligence and carrying out dirty tricks operations that would have compromised the official state security apparatus.

One would have expected that the very number of alarming items of evidence of extreme-right infiltration of the Swedish police would lead to an immediate and thorough investigation by the Palme Group and other state bodies dealing with the Palme murder. But again and again, the investigators summarily rejected information as too unsubstantiated as to justify further inquiries. It seems that the Palme Group gradually completely restricted its investigation to the search for the person who actually shot Palme. Consequently, it brushed aside any information which could not be directly linked to the site of the murder or the murder weapon. Possibly instrumental witnesses were heard years later, if at all, and important pieces of evidence had mysteriously disappeared, when the Palme Group belatedly condescended to check them.

Commenting on the South African connections of Swedish policemen, the renowned jurist and journalist Jesus Alcalá stressed in *Dagens Nyheter*: "There is, indeed, a South African link, even if South African security was not actively involved in the murder". And Lars Borgnäs, a TV-journalist who has investigated the "police link" for many years, recently compared the numerous elements of information suggesting a conspiracy of Swedish police, the South African secret services and an international extreme-right network with pieces of a puzzle. The problem, says Borgnäs, is that the Palme Group never even attempted to put the pieces together.

Indeed, it is hard to understand, why the policemen concerned were never cross-examined regarding the motives of their journeys to South Africa, their relations with IPA, WACL, "Stay behind" and LaRouche's EWP. And why was police superintendent Söderström never asked to repeat his very grave accusations against the police under oath before a court? Why did a committee of inquiry set up by the Government qualify the almost scandalous disappearance of not only one, but

several very sensitive tape-recordings as just an "excusable" blunder? Why was the secretive Mr Ek never subjected to cross-examination?

The long list of unexplainable omissions in the investigation of the Palme murder raises the question whether we are not dealing with a case of obstruction rather than with professional incompetence. Be it as it may, public confidence in the authorities' willingness to find the truth about the murder has dropped to freezing-point. The attempts of the government to re-establish public confidence in the investigation by setting up three committees of inquiry has had the opposite effect. None of the committees proved able or willing to conduct its own investigation. Instead, they chose to rely on selected information provided by the Palme Group.

As late as August, Social Democrat politician Sigvard Marjasin resigned from the presidency of the third committee of inquiry after being accused of fraud in his function as a county governor and amongst harsh criticism from Hans-Gunnar Axberger, a professor of law and member of the committee. Axberger accused Marjasin of "censorship" by his denying committee members access to sensitive records referring to the police trace.

This latest in a long series of public disputes over the Palme investigation is likely to further fuel a widespread feeling among the Swedish public, that no matter whether South African and/or Swedish police and security circles were actually involved in the murder of Olof Palme or not, neither the authorities in charge of the investigation nor the political establishment are interested in establishing a truth that could prove too hard to bear for a country that tends to regard itself as the world's most perfect democracy. As Carl Lidbom, Sweden's former ambassador in Paris and influential senior Social Democrat once put it: "It would be best for all parties if the murder of Olof Palme was never solved."

Sources: Dagens Nyheter, 9.10.96, 10.10.96, 12.10.96, 15.10.96; Swedish Television SVT 2: 'Striptease' 9.10.96; Aftonbladet, 29.9.96; Svenska Dagbladet, 27.9.96, 7.10.96; our sources.

## ITALY

### WAITING FOR A NEW IMMIGRATION LAW

For the fifth consecutive time, the

Italian government has amended the Decree on Immigration, better known as the "Dini Decree", after former Italian Prime Minister Dini, who issued its first version in November 1995. The most remarkable new aspect of the most recent amendment is the introduction of benefits for immigrants who help authorities to dismantle criminal organisations exploiting immigrants (mainly in prostitution). But ten months after the first government decree, the parliament is still showing itself unable to pass a new Immigration Law.

Italian politics, it is true, have been very turbulent for the last ten months. In particular, the anticipated dissolution of the Parliament and the formation of the first centre-left government in Italian history kept most members of parliament busy. Nonetheless, the delay in getting to work on the new Immigration Law gives rise to serious concern, especially in view of the ambiguity of the regulations currently in force.

### Decree a result of political blackmail

In order to understand the current debate on immigration policies, we need to recall the events of the last ten months.

The Dini government issued its immigration decree of November 1995 against a background of political squabbling on immigration. Before adopting a new immigration law, the Parliament wished to examine a number of propositions aiming at effectively preventing illegal immigration, whose steady increase the 1990 Immigration Law had failed to stop. In September 1995, the *Lega Nord* (the party of the autonomists in northern Italy which recently declared the secession of "Padania" (the North of Italy) threatened to vote down the national budget, if the government did not take urgent action - i.e. issue a decree - enabling the immediate expulsion of all immigrants without stay permits (the so-called clandestines) or breaching the law. Preceded by a massive and particularly ruthless press campaign, the blackmail worked as the *Lega Nord* wished: the government cut short the parliamentary debate on a new Immigration Law by promulgating its own decree.

This measure further strengthened two widespread public perceptions of immigration, which voluntary associations in support of immigrants have struggled with for a long time: that the phenomenon of immigration requires and justifies "state of emergency" measures, and that immigration is tantamount with

criminality.

As regards its content, the Dini Decree is contradictory - a typical product of political haggling. On the one hand it meets some of the demands of the *Lega Nord*, on the other hand, it attempts to counterbalance them by introducing some more positive regulations.

#### **Decree abolishes procedural guarantees**

The real reason of the decree was clearly the popular objective of expelling migrants from the Southern hemisphere. The old Immigration Law of 1990 already established a long list of cases justifying expulsion. The new and particularly grave element added by the Dini Decree was the extended use of expulsion as a measure of prevention and sanction without due process - i.e. in blatant non-observance of procedural guarantees such as the presumption of innocence and the right of defence. Moreover, the Decree introduced a number of formal obstacles preventing appeals against expulsion - e.g. a reduction of the appointed time for filing an appeal. More generally, the Decree has contributed to inequality before the law between Italian citizens and foreigners with respect to personal liberty. "Accompaniment to the frontier" - i.e. automatic and immediate execution of expulsion orders - is the rule. The decree provides for only a few exceptions from this rule, e.g. for children under age 16, pregnant women, residents for at least five years, etc. This does, however not change anything in the discriminating substance of the norm. Persons subject to an expulsion measure are banned from re-entering Italy for seven years.

#### **Political refugees denied entry**

The regulations on entry are another negative feature of the Decree. Entry is already restricted by the visa requirement for nationals of most non-EU countries. In addition to this, entry may be denied to a foreigner condemned in Italy or in *any other country* for one of the offences justifying expulsion under the Decree. As far as offences in another country are concerned, the legal and political situation in the country where a foreigner has been condemned is not taken into account. Thus, asylum seekers sentenced at home on false grounds can be denied entry. Foreigners must also show a medical health certificate at the time of entry. While this regulation is unlikely to contribute to better public health protection, it has contributed to a public perception of immigrants as bearers of contagious

diseases.

#### **Amnesty regulation for clandestines has little effect**

Among the more positive features of the Decree, one should mention the possibility for "irregular" immigrants to regularise their stay. However, the time set for applying for regularisation was extremely short. It expired on 31 March. Moreover, the Decree lacks an incentive for employers of irregular immigrants to facilitate their regularisation. Obviously, legal employment means higher labour costs for the employers. Finally, independent workers such as street vendors and craftsmen were not eligible for regularisation, although they represent an important part of Italy's clandestine foreign population.

Seasonal workers, most of them working in agriculture, were included for the first time in the official annual immigration quota. Under the quota regulation, they are granted leave to stay for at least six months a year. Stay can be extended to two years for seasonal workers able to certify employment not limited in time.

#### **Facilitated family reunion and better health care**

Some improvements were also made regarding family reunion. However, family reunion is not a right, but subject to a certain level of income and the availability of accommodation. Furthermore, the Decree guaranteed medical assistance to all foreigners in Italy on the same conditions as for Italian citizens and regardless a foreigner's legal status. Finally, more severe sanctions against employers of clandestine foreign workers and people facilitating illegal entry were introduced.

#### **Decrees instead of Law**

Immigrants' rights associations immediately started to campaign for some of the repressive provisions of the Decree to be dropped. According to the Italian Constitution, government decrees must be confirmed by both houses of parliament within 60 days, failing which the decree becomes invalid. During this 60 day period, the parliament can modify the decree. Due to the heated political atmosphere at the time the Dini Decree was issued, the parliament failed to meet the time limit for confirmation. Determined to implement the measures introduced by the Dini Decree in spite of its annulation, the new government led by Prime Minister Prodi reacted by simply issuing a new decree without any

substantial modifications. Only when the Decree was renewed for the fourth time in July 1996, did the government make an important modification by restricting expulsion to the cases provided for by the 1990 Immigration Law which, however, is still discriminatory. On the other hand, the fourth Decree reinforced immigration control measures in accordance with the requirements of the Schengen Convention. This implies automatic denial of stay to any foreigner having entered Italy without authorisation.

#### **Stay for "repentant" illegal immigrants collaborating with the judiciary**

Meanwhile, the government has dedicated itself to preparing a new Immigration Law. However, since the Bill will not be ready before the expiry date of the fourth Decree, the Government will once more have to resort to a renewed Decree. In September, the idea of a provision on *pentitismo* ("repentant" offenders' collaboration with justice), similar to the instrument introduced earlier for repentants charged with terrorist, Mafia and corruption crimes, was launched. Any illegal immigrant who collaborates with the judiciary in identifying criminals exploiting immigrants shall be rewarded with a stay permit. The prime objective of the *pentitismo* scheme in immigration is to destroy the fast-spreading prostitution rackets involving mostly very young clandestine immigrant girls, but it can be extended to other forms of profiting from illegal immigrants.

#### **Temporary patchwork measures affect democratic legitimacy**

To sum up, in dealing with the immigration issue, the government is continuing to resort to temporary patchwork measures, based, not on laws approved by parliament, but on its own decrees dictated by the tactical-political needs of the day. Obviously, such a practice lacks democratic legitimacy. Moreover, while the government is continually muddling through with new patchwork measures, it is easy to forget that the plethora of old and new obstacles to legal entry to the country actually already amount to the *de facto* abolition of the right of asylum in Italy.

Luciano Ardesi (Rome)

## **THE NETHERLANDS**

### **SISON CASE: RECOGNISED REFUGEE THREATENED WITH DEPORTATION**

**The Dutch Ministry of Justice is stubbornly seeking to deport a prominent Filipino communist leader, Jose Maria Sison, in spite of his recognition by the Raad van State (Highest Court) as a refugee under the Geneva Convention. It is widely believed that the Dutch government is acting upon pressure from "friendly governments" in Washington and Manila, and out of concern for important Dutch economic interests in the Philippines.**

Jose Maria Sison has long been a prominent figure in Filipino politics. Born in 1939, he became a lecturer in political science and literature at the University of the Philippines in the early 1960s and was a co-founder of the Communist Party of the Philippines (CPP) in 1968. After an assassination attempt against him the same year, he went underground. In 1977, he was arrested by the Marcos Regime, and subjected to eight months of torture and serious ill-treatment on the orders of General Fidel Ramos, now President of the Philippines. After nine years of imprisonment, Sison was set free following the overthrow of the Marcos regime in 1986 and was reinstated as a professor of political science. However, in 1988, the Filipino government cancelled Sison's passport on false charges under the Anti-Subversion Law and offered a bounty of 1 Million pesos on his head.

#### **A bizarre asylum procedure**

Fearing for his life, Mr Sison sought asylum in the Netherlands. His first application was rejected in 1990 by the Justice Ministry. In 1992, the Raad van State (the highest administrative court of the Netherlands) annulled this decision, whereupon the Justice Ministry simply made a second negative decision, based on new motives. The Justice Ministry based its decision mainly on a dossier of the Dutch Internal Secret Service, BVD, alleging Sison's involvement in terrorist activities in his home country. Sison appealed again.

In its verdict of February 1995, the Raad van State, found

- that there was no sufficient proof for the accusation of terrorism of the BVD;
- that Article 1 F of the Geneva Convention excluding refugee status for persons guilty of particularly serious crimes was not applicable in Mr Sison's case;
- that Mr Sison must be recognised as a refugee according to Article 1 A



of the Convention; and  
- that his forcible return to the Philippines would breach Article 3 of the European Convention on Human Rights, which prohibits the deportation of a person to a country where he is threatened with torture, inhuman or degrading treatment or punishment.

Nevertheless, the Ministry of Justice reiterated its rejection of Mr Sison's asylum application and ordered his expulsion in July 1996.

#### **Recognition does not imply admission**

In doing so, the Ministry of Justice is making use of what many regard as a loophole in the 1951 Geneva Convention on Refugees. Although the Convention establishes the criteria making a person eligible for refugee status, it does not establish an obligation for a state to actually admit a recognised refugee to its territory.

In the Netherlands this question of admission is regulated in Article 15 §2 of the foreigners law, according to which the admission of a recognised refugee may be refused, if he can be sent to a third country. A person may even be sent directly to his country of origin if there are "serious reasons" derivable from the "general interests" of the Netherlands. However, according to Mr Sison's lawyer, Robert van As, this latter rule does not stand on its own, but must be invoked in combination with the Geneva Convention's Articles 1 F (denial of refugee status for perpetrators of very serious crimes) or 33.2 (exception to the principle of *non-refoulement* for refugees whom there are "reasonable grounds for regarding as a danger to the security of the [host] country).

Since the *Raad van State* has unequivocally established that none of these two provisions applies to Mr Sison's case, he cannot be deported to the Philippines, but - although he is a recognised refugee - he may be deported to a third country willing to admit him.

A spokesman for the Ministry of Justice said in July: "In the first place, Sison himself must look for a country to go to. Eventually, and only in the second place, would the Ministry of Justice look for a country for him".

Supporters of Mr Sison now are concerned that the Dutch authorities might order him detained "pending deportation", in order to press him into finding another country of asylum.

Through his Dutch lawyer, Robert van As, Mr Sison has appealed against the expulsion measure. Pending a

final decision on his appeal, he cannot be deported.

Most observers believe it is unlikely that a country willing to admit Mr Sison can actually be found. Thus, even if his appeal is dismissed, he is likely to remain in the Netherlands. But his lawyer, Robert van As, points out that in this event Mr Sison would find himself in a "semi-legal situation", without the rights of a recognised refugee. "I know of no previous case where a recognised refugee is only tolerated in the host country", says Mr van As.

Roel Fernhout, professor of asylum law at the Catholic University of Nijmegen, says that the Dutch judiciary will have to decide on a matter of principle: "The question is whether you can say: 'We are not expelling Sison to the Philippines, but he has to leave our country'".

#### **Pressure from a "friendly government"?**

The Dutch authorities' handling of the Sison case is remarkable and seems contradictory at first sight. On the one hand, they have *de facto* tolerated the presence of Jose Maria Sison, his wife, and his son on Dutch soil for eight years. In doing so, they were fully aware of Sison's role within the NDFP (National Democratic Front of the Philippines), a coalition of leftist parties and organisations representing approximately 10 per cent of the Filipino population. Sison is the chief political consultant of the NDFP in its long-standing peace negotiations with the Government of the Republic of the Philippines (GRP). The NDFP-GRP negotiation panel has long been hosted by the Netherlands. The most recent round of talks actually took place in June 1996.

Although the Filipino government has recently reiterated claims that Mr Sison is responsible for a number of killings in the Philippines in 1985, 1989, and 1991, there are at present no charges against him. Mr Sison for his part has repeatedly pointed to the fact that he was in prison in the Philippines in 1985, and was living in the Netherlands in 1989 and 1991. He has firmly denied any involvement in any of the killings.

According to Mr Sison, as early as 1989/99, "US diplomatic sources" leaked information to the Dutch press suggesting that the US Government had "advised" the Dutch Government to deny him asylum. In 1991, a Dutch TV crew filmed a joint attempt by the American CIA and the Dutch BVD to recruit another Filipino asylum seeker in the Netherlands, Nathan

Quimpo, for spying on Sison and other Filipino opposition figures (see CL No.2, p.4). At that time, the Dutch Interior Ministry sought to justify the operation with threats of terrorist attacks against Dutch and American targets in the Netherlands, allegedly planned by the "New People's Army" (the armed wing of the CPP and a member organisation of the NDFP), but never substantiated these accusations.

At the court hearing preceding the first verdict of the *Raad van State* in 1992, the representative of the Dutch Ministry of Justice openly declared that a government friendly to both the Dutch and the Filipino governments would be "displeased and offended", if Sison were granted asylum in the Netherlands.

Meanwhile, the Dutch Secretary of State of Justice, Ms Schmitz, is continuing to depict Mr Sison as a terrorist suspect. Defending her decision to deport Mr Sison, she argued that the Netherlands did not want to be a "host country for future terrorist activities". Commenting on the accusation of the Dutch Ministry of Justice that he had "contacts" with terrorist movements, Mr Sison said: "I attend international conferences. There I talk to people from other liberation movements, like the Kurds or the ANC. Dutch ministers also do that. Are they also terrorists?"

Indeed, the Dutch government's accusations against Sison appear increasingly untenable, not to say absurd: The second verdict of the *Raad van State*, has actually cleared Mr Sison from being involved in terrorism. The charges against him in the Philippines were dropped some years ago. Most recently, President Ramos spectacularly invited Sison to come home, offering him a senatorship. Irrespective of General Ramos' true intentions, the offer stands in stark contrast with the Dutch accusations of terrorism.

Mr Sison for his part has declined the invitation which he considers a trap. Stressing that there is still a bounty on his head, he says: "They will not murder me upon arrival in Manila, like the opposition leader Aquino in 1983, but they will hit me somewhat later".

Moreover, Mr Sison feels that leaving the Netherlands now would amount to "running away" from the serious accusations of the Dutch government.

Sources: International Campaign for Asylum of the Sison Family, c/o P.O.Box 2041, NL-3800 Amersfort; Tel/Fax: +31/33 4723084, E-mail: ndf@antenna.nl; Our interview with Robert van As, lawyer, 30.9.96; Trouw, 23.7.96; Het Parool, 27.7.96.

## Comment

The clumsy, if not outrageous, handling of the Sison case by the Dutch authorities, suggests that weighty political interests are interfering with the due course of justice. Indeed, there are strong reasons to believe, that, after years of exile, Jose Maria Sison continues to be considered a nuisance by powerful circles inside and outside the Philippines.

Sison has a reputation of being an orthodox Communist hard-liner, representing the most radical and confrontational tendencies within the NDFP. As opposed to Nur Misuari, the leader of the Muslim Moro National Liberation Front, who signed a peace agreement with the Ramos Government in early September, and who is now running for elections in the Party of Mr Ramos, there is nothing to suggest that Mr Sison intends to give up his uncompromising opposition against the Government. Consequently, he might now be regarded as a major obstacle to progress in the NDFP-GRP peace negotiations. Together with the determination of the US Government to eradicate all remnants of communism in the fast expanding Eastern Asian economic area, and the strong presence of Dutch based international companies such as Shell, Unilever, ING-Barring and Philips in the Philippines, this could well be the explanation for the Dutch government's obstinacy in trying to get rid of Sison now, even at the price of undermining the credibility of Dutch and, eventually, European asylum policy. This is, indeed, what is at a stake. For, whether one sympathises with Mr Sison's ideological stances or not, it is hard to imagine a political refugee more genuine in the sense of the Geneva Convention than the Filipino Communist leader.

N.B.

## GERMAN FEDERAL PROSECUTOR BLOCKED DUTCH INTERNET PROVIDER

In September, the German Federal Office of Prosecution (*Bundesanwaltshaft*) summoned a number of German Internet providers to block access to a Web site run by the Dutch Internet server XS4ALL (Access for all), because XS4ALL made the newest issue of the German left-wing paper *Radikal* accessible to Internet users. According to the Prosecutor General, an article in the paper contains instructions for

**sabotage.**

The Federal Prosecutor General is currently investigating *Radikal* for presumed terrorist activities and the "promotion" of terrorism. In the Netherlands, however, *Radikal* is not illegal.

The Prosecutor general's summon to the German Internet providers was not based on the order of a court and according to an official German legal report, German Internet providers cannot be held responsible for the content of material they make accessible on other systems via Internet. Therefore, according to prevailing interpretation of German law, the Dutch authorities alone would have the right to take legal action against materials stored on XS4ALL, if and only if these are an

infringement of Dutch law.

**Intimidated Internet providers**

Nonetheless, a number of German service providers, quickly obeyed the Prosecutor General's order, apparently out of fear of being investigated in their turn. They blocked their customers' access not just to the *Radikal* home page, but to XS4ALL as a whole. The measure prevented XS4ALL customers from communicating with German Internet users, since E-mail is not passed through a number of German Internet routers. XS4ALL customers were also prevented from accessing German web sites.

The German censorship caused serious economic damage to XS4ALL, with some customers terminating their account at the Dutch provider.

### **Outrageous act of censorship**

XS4ALL calls it an outrage that 3100 customers with home pages on its web site were blocked by a measure actually aimed at one single home page. XS4ALL claims that both the German prosecution authorities and the service providers complying with the summon are violating Article 10 of the European Convention on Human Rights (freedom of expression and information).

FIfF, a German organisation of computer professionals, noted in a press release that "German prosecutors together with the People's Republic of China and Singapore find themselves on the forefront of efforts to get the Internet under control".

XS4ALL, though it has expressed willingness to assist Dutch police in identifying on-line criminals abusing the system, has a policy against censoring clients. Mirroring this position, at least one German Internet provider pointed out to the Prosecutor General that their compliance with the censorship request may cause them to violate contracts with their own German users, and that the government's liability threats are tantamount to holding a phone company liable for what users say on the telephone.

### **XS4ALL manager under threat of arrest in Germany?**

XS4ALL manager Rodriguez says he received warnings that the German authorities could seek his arrest on "promotion of terrorism" charges and that he was tempted to disconnect the *Radikal* pages from XS4ALL because of this intense intimidation. "But if XS4ALL bent to this kind of intimidation, we would create a precedent", Rodriguez argues. "The Germans might see it as a 'reward' for their acts. They would be stimulated to continue on this road, and might become an example for other countries. Imagine if every country had these standards. Any country could order their own Internet service providers to block a foreign site. Imagine the authorities of those countries having the powers to prosecute [the representatives of] foreign Internet providers, when they visit their country, or when they are extradited. These acts of aggression against Internet providers and users would profoundly change the Internet if they were tolerated".

Although the spreading of *Radikal* via Internet is not punishable in the Netherlands, Rodriguez' concerns are not as far fetched as might appear at first sight. As a matter of fact, the German authorities argue that all

providers who contribute spreading the banned issue of the paper should be prosecuted for "promotion of terrorism" according to German criminal law. In Germany, even subscribers to *Radikal* have been violently arrested in the past.

#### **A "terrorist association" under the EU Convention on Extradition?**

Recently, the EU Ministers of Justice and Home Affairs signed the EU Convention on Extradition (see article in this issue and CL No.45, p.2). Under the Convention (which, however, is not yet in force), member states bind themselves to extradite persons not punishable under their national law, if the crime for which extradition is requested by another member state is a "conspiracy" or a "criminal association" aiming at committing terrorist crimes. Since the German prosecution authorities regard the incriminated *Radikal* article as an incitement to commit terrorist crimes, anybody spreading it could theoretically be considered a member of a terrorist "conspiracy" or "criminal association", according to the fuzzy definition of the Convention.

#### **Hard to control the Internet**

So far, the German war on the Internet community has proven to be a spectacular flop, at least as far as its declared purpose - removing *Radikal* from the Internet - is concerned. In fact, the spectacular action of the Prosecutor General represented an un hoped-for public relations boost for the tiny and usually unnoticed "anarchist" rag. In protest against "German censorship" of the Internet and in solidarity with XS4ALL, more than 20 service providers outside Germany "mirrored" the offending *Radikal* home page on their web sites and thereby effectively broke the German "electronic blockade". The prediction of XS4ALL manager Rodriguez in a message to German Internet providers was fulfilled: "Realise that a lot of Internet users consider it a sport to redistribute censored information. The way to write a best-seller on the Net is to have it censored by some government".

The successful counter-attack vigorously demonstrated the growing strength of the international Internet community and the difficulties governments are facing in attempting to gain control of this new means of global communication. With their Quixotic campaign against the windmills - i.e. the supposed international Internet terrorists, the German authorities drew world-

wide mockery.

#### **XS4ALL considers complaint against Germany**

In the meantime, the German Internet providers have all quietly reopened access to XS4ALL, arguing that the blockage operation was technically ineffective and counter-productive. Moreover, they are demanding that a court check the lawfulness of the Prosecutor General's summons.

In the Netherlands, XS4ALL is considering filing a complaint against Germany for violation of article 10 of the European Convention on Human Rights. XS4ALL regards the case as a precedent. "What happens if Germany demands to block AOL, EFF, Compuserve, Prodigy, the Well, Netcom and Demon Internet next week?", wonders XS4ALL's manager Rodriguez. A Dutch Member of the European Parliament, Elly Plooij has addressed the European Commission. Among other things, the MEP wishes to know whether the Commission regards the German blocking of access to "the services of Dutch industry" as a violation of the free-trade agreements in the European internal market.

Yet the German Federal Office of Prosecution still seems to believe that, in spite of a lost battle, the war can still be won. While keeping a low profile in an obvious attempt to prevent further publicity, it has not dropped the criminal investigation against the German service providers, which it had actually initiated in spite of their quick compliance with the summons.

#### **German EU-Commissioner advocates speedy measures against the "abuse of Internet"**

At the same time, Hans-Martin Bangemann, the German EU-Commissioner responsible for information technologies, is calling for joint action of the Union against the "abuse of the Internet" through technical measures and international agreements. The Commissioner announced that Germany will host an international conference on the issue in 1997. Bangemann is justifying the German move with the need to fight against the spreading of "child pornography and Nazi propaganda" via the Internet.

Sources: Access for All, Amsterdam, Fax: +31/20 6274498, <http://www.xs4all.nl>; FIFF-press release: Protest against electronic censorship: <http://www.uni-paderborn.de/arbeitsgruppen/fiff/fiff.html>; Süddeutsche Zeitung, 17.10.96.

# EUROPEAN UNION

## AMNESTY INTERNATIONAL CONCERNED ABOUT EU CONVENTION ON EXTRADITION

Amnesty International (AI) is concerned that the EU Convention on Extradition will contribute to a further erosion of the right of asylum within the EU, despite a joint declaration on the right of asylum which is annexed to the Convention. The Convention was signed by the EU Justice and Home Affairs (JHA) Ministers at an informal meeting in Dublin, on 26-27 September. The following is quoted from an AI press release of 24 September.

### Risk of extradition on arbitrary grounds

The wording of the Convention is extremely vague and cumbersome. Article 3 provides that an extraditable offence includes a "conspiracy or an association to commit offences". An "offence" is defined to include the vague formulation of "... creating a collective danger for persons". Article 3(4), meanwhile, could allow for the extradition of a person for political activities "even where that person does not take part in the actual execution of the offence or offences concerned". AI is concerned that a person may be extradited on what would otherwise be arbitrary grounds.

The Convention provides in Article 5 that a state may not refuse an extradition on the grounds that the offence concerned is politically motivated, while in Article 12 the Convention provides for the re-extradition of an individual to another member state, without the consent of the surrendering state seeking and obtaining guarantees in relation to any further removal from the receiving state.

AI is concerned that, with the entry into force of the Convention, those deemed to be involved in or support "terrorist causes" or those deemed to be a threat to "public order" to a member state of the EU may be excluded from refugee status and find themselves extradited, re-extradited or further removed to a country where they would face serious human rights violations.

The Convention needs to read in the light of the current issue of "terrorist offences", which at present is on the political agenda of many states and, more particularly, in conjunction with the draft United

Kingdom Further Declaration in Implementation of the 1994 Declaration on Measures to Eliminate International Terrorism which is expected to be debated at the sixth Committee of the General Assembly of the United Nations this year.

AI states that: "The introduction of regional limitations to the right to seek and enjoy asylum could have long-term negative effects for the right to seek asylum not only in Europe but beyond".

Source: AI European Union Association, Rue du Commerce 70-72, B-1040 Brussels, Tel: +32/2 5021499; Fax: +32/2 5025686; E-mail: 101662.1314@compuserve.com; on Convention on Extradition see also CL No.45, p.2, No.44, p.3, No.40, p.1.

## BELATED DISCLOSURE OF SECRET COUNCIL REPORT ON TRANSPARENCY

In mid October, the Council's Permanent Committee of Representatives (COREPER) belatedly listened to reason and disclosed a previously secret report on public access to Council documents. The report shows that very few EU citizens are making applications for access. But those who do risk being considered tiresome busy-bodies.

The Report by EU Council's Secretary General is from July 1996. But ironically, while the document is about the implementation of Council commitments to public access, the report was classified as confidential for several months at the insistence of France and the Netherlands. The French Government argued that the report should be disclosed only if its findings led to changes in the existing policy on access to documents.

### Secret document on openness an embarrassment

COREPER's recent about-turn may be attributed to the fact that the document was being widely leaked both by officials in Brussels and in a number of member states, and that the decision to refuse public access to a document on public access was beginning to cause major embarrassment to the Council at a time when the EU Intergovernmental Conference (IGC) is discussing the need to insert principles of openness and transparency into the revised Treaty on European Union (TEU: Maastricht Treaty).

Only 142 applications for access in two years

A major part of the report focuses on statistics regarding applications made by the public and their handling by the Council administration in 1994 and 1995. In this period, only 142 applications, covering a total of 378 non-public Council documents were made. Most requests were tabled by academics (27%), lawyers (23%) and journalists (23%). Most applications concerned documents in the areas of Justice and Home Affairs (JHA) and Institutional Affairs and Information Policy. A favourable reply was given for 222 documents, i.e. 59%. The quota of favourable decisions concerning JHA documents does, however, not follow from the report. We may assume that it is considerably lower than the average in this area, traditionally marked by secrecy.

### **Council anxious to protect confidentiality of its proceedings**

The General Secretariat's refusal to grant access was confirmed by the Council in respect of 10 confirmatory applications (i.e. complaints against refusal). The Council gave applicants full or partial satisfaction in six other cases.

Refusal of access was most often based on grounds such as the "protection of the confidentiality of the Council's proceedings" and the "protection of the public interest (including public security, international relations, court proceedings).

### **Need for a register of Council documents**

The report notes that applications for access are often too vague to enable easy identification. Thus, for example, an application for "all texts in connection with the Europol Convention" is likely to be turned down for lack of precision. The report underlines that a request by the General Secretariat for the application to be more specific "may not be construed as a refusal" permitting a confirmatory application. The problem for applicants is that they often have no way of knowing whether, and eventually which, documents on a particular subject actually exist. In this connection, the report cautiously suggests that "consideration might be given to the possibility" of establishing a complete register of Council documents. Proposals to this effect have been made by Sweden, where such registers are mandatory under national freedom of information legislation and have proven to be instrumental in enabling public access in practice.

### **Council impertinence against British journalist**

The report points to the fact that prevailing rules do not enable the Council to deal with "excessive" applications and contends that "the very nature of certain applications sometimes elicits the thought that steps are being taken to test the system rather than exercise a legitimate option". As an illustration the report mentions the example of "a single applicant" who alone applied for access to "more than one third of all documents requested by all applicants" during the two-year period under review. The report concludes that provisions should be considered to the effect that applications which are "manifestly excessive or involve

disproportionate costs" are refused, "where appropriate, after examination of the reasons for the applicant's interest".

The "single applicant", who seems to have irritated Council officials by his frequent requests, is undoubtedly none other than Tony Bunyan, the editor of the British bulletin *Statewatch*, who has been engaged in a number of secrecy disputes with the Council. To label Mr Bunyan an "excessive" and "illegitimate" applicant is simply impertinent. *Statewatch* is one of the few publications providing in-depth information on Justice and Home Affairs cooperation in the EU on a regular basis. The irritation revealed by the report about a journalist, whose only crime consists in doing his job of informing the public, speaks volumes about the Council's understanding of transparency. As for documents whose disclosure, in the view of the Council's staff, involves "disproportionate" costs and work, a comment of Steve Peers, Director of the Centre for European Commercial Law at the University of Essex hits the nail on the head: "If photocopying documents takes up a lot of [Council officials'] time, the answer is to place all Council documents on the Internet".

#### **The Council's conclusions from the *Journalisten* case**

The report stresses that "documents containing legal positions of the Council Legal Service should not be released to the public, since, if the Council subsequently departed from the position of the Legal Service, any defence of the Council in a dispute would prove difficult precisely since such defence is provided by its Legal Service". The report therefore recommends that "protection of public interests" as a ground for refusing access should comprise "legal certainty". This recommendation clearly reflects to the case of *Journalisten*, the weekly of the Swedish Union of Journalists, which filed a complaint to the European Court of Justice following the Council's refusal to disclose a number of documents on Justice and Home Affairs cooperation (see CL No.41, p.2). The Council replied with a statement of defence prepared by its Legal Service. In strict compliance with Swedish freedom of information rules, *Journalisten* put this document on the Internet - a move that is said to have caused hysterical outbursts among officials of the Legal Service and Council staff.

#### **Swedish freedom of information policy upsets the Council**

Regarding the substance of the *Journalisten* case, the report says: "Attention is drawn to the fact that the purpose of Decision 93/731/EC [of 20 December 1993 on public access to Council documents] is that the Council should consider whether to agree to a request for access to its documents, in accordance with its own pre-determined rules. Decision 93/731/EC itself would be superfluous if the applicant were able to obtain the document through a civil service despite a decision to the contrary by the Council". This refers to the fact, that the Swedish Government granted *Journalisten* to most of the Council documents whose disclosure the Council itself refused.

#### **The cumbersome work of denying information**

The report notes that the vast majority of Council documents refer to its proceedings or preparatory discussions of its various bodies. Protection of the "confidentiality of the proceedings" is therefore a frequent reason for denying access. Applicants then often make a confirmatory application entailing a cumbersome procedure involving experts, Ambassadors (COREPER) and Ministers (Council). The report therefore recommends that certain categories of documents denied on confidentiality of proceedings grounds be made accessible to the public, once the Council of Ministers has taken its decision on the issue involved.

The recommendation only confirms that the Council still is miles away from an understanding of the principles of open government and democratic accountability. It should be obvious that public access to documents makes little sense when it is limited to decisions which have already been taken. And indeed, the real purpose of the recommendation is not to extend public access, but to spare Unions civil servants and ministers some "cumbersome" work in maintaining secrecy.

Sources: Report by the Secretary General on the implementation of the Council decision on public access to Council documents, July 1996; European Voice, 3-9.10.96, 10-16.10.96.

## **OPINION**

### **INTER-EUROPEAN EXCHANGES: THE PROBLEM OF VISAS AND OTHER**



## **OBSTACLES TO MOBILITY**

At the beginning of the Helsinki process in the early seventies, back in the days of the Cold War, freedom of movement was held up as one of the touchstone criteria for adherence to fundamental rights on which the countries of the Eastern bloc could be judged. Every major document produced by the successive CSCE conferences in Helsinki, Madrid, Vienna, Copenhagen... included chapters on "human contacts" where the importance of "freer movement and contacts among citizens" was stressed. The participating States promised to "shorten the waiting time for visa decisions, as well as simplify practices and administrative requirements for visa applications".

### **EU and Schengen: a maze of administrative obstacles to East-West mobility**

This was of course all aimed at the communist countries of Eastern Europe. Since the fall of the Berlin Wall, the situation has been reversed. The rich western countries of the European Union, particularly those within the Schengen group, are determined to restrict entry across the EU external frontier and have erected a maze of administrative obstacles to East-West mobility. The experience of the European Civic Forum (ECF) and many other organisations involved in East-West cooperation show that it is becoming increasingly difficult to carry out this sort of work, particularly in the CIS countries. There are few NGOs or associations which are in a position or willing to invest the considerable time, energy and resources needed to organise and carry out such programmes of exchange, despite these obstacles.

### **Sense of resignation in the East may trigger migratory movements to the West**

And yet it is the long-term interest of our continent to develop and support a vast network of East-West exchange and cooperation which could contribute towards the economic and social development of eastern European countries confronted with a deepening crisis. All of the old structures from the communist era are collapsing without there being any real creation of new jobs or economic activity. There is a growing sense of resignation and despair due to most people's conviction that nothing is going to change. Even if they remain strongly attached to their home region, the only alternative seems to be to go and

look for at least seasonal work in a neighbouring country or in the West.

There is a serious risk that in a few years time we will witness massive migration towards the comparatively rich countries in the West, or at least a catastrophic brain drain.

### **Inter-European exchanges a necessary means of conflict prevention**

At the same time, such inter-European exchanges favour mutual understanding between peoples and communities. This can help prevent future conflict and inter-ethnic tension. If the dream of a Common European Home is to come about, it will be thanks to the wide variety of exchanges and decentralised projects, whose concept and objectives have been developed by the populations directly concerned.

### **ECF proposal for a new European policy on visa**

The ideal goal of every European must surely be to see total freedom of movement throughout the continent. But as this is unlikely for some time to come, the ECF believes that it is essential to establish a new policy on visas with regard to Eastern Europe which seeks to encourage, rather than hinder, the development of civic East-West cooperation.

A certain number of advantages should be granted to people who participate in projects and programmes of training and exchange organised by "recognised" organisations who act as "guarantors" vis-à-vis the authorities of the western countries concerned. National or international NGOs could be granted a recognised status by an institution such as the OSCE, European Union or Council of Europe. The "inviting bodies" would be above all local and regional authorities, associations and NGOs, as well as universities, professional schools and training centres. Within such a framework the visa procedure would be simplified. Applications would be treated rapidly and visas provided free of charge to the East Europeans concerned (a visa costs up to an average month's salary). It must be made possible to organise longer-term professional training courses. When a municipality or "recognised" NGO wishes to invite a group for a course or seminar, it should be possible to make a group visa application which will be treated rapidly.

Such ideas have already been proposed by Council of Europe experts and committees, but so far without any concrete effect. The ECF has begun to distribute a document\* incorporating these proposals to

representatives of the European Parliament, Council of Europe and at the OSCE Review Conference in Vienna in November. I would be very interested to receive any comments or proposals concerning this question from *Fortress Europe?* readers. I would also welcome contact with other NGOs involved in East-West cooperation which have experienced similar difficulties with visas and other obstacles to mobility.

Nicholas Bell

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\*) The six-page ECF document (Promoting or hindering civic cooperation between Eastern and Western Europe - The problem of visas and other obstacles to mobility) can be ordered in English or French from the above address.

### **POLICE BRUTALITY IN BULGARIA: THE SHADOW OF THE "IRON HAND"**

In a number of Central and Eastern European countries, the collapse of the former communist state systems and the following transition to deregulated market economies has led to a rise of crime. This disquieting development, in its turn, has fuelled calls for tough, "iron hand" policing. Krassimir Kanev is the Chairman of the Bulgarian Helsinki Committee. In the following contribution he suggests that the Bulgarian law enforcement apparatus is slipping from democratic and judicial control. Wide-spread police brutality is contributing to a climate of insecurity no less than crime itself, writes Kanev.

#### **Linking the rise of crime to democratic development**

More than five years after the beginning of the democratic transition in Bulgaria, the public debate on the basic values of democracy faces a problem which was constantly discussed in the "informal circles" during the communist regime and for a short period of time also after its fall - police brutality, and the abuse of force by law enforcement officials. Several years after 1991 interested circles, mainly among former and present police officers, were trying to establish a necessary link between democratic development and the rise of crime. The image of the state as a "village without dogs" as well as the policeman with his hands tied by "democracy", poorly paid and ill-equipped to deal with modern crime

was systematically pressed upon the public by politicians and media, by police officers, businessmen, nationalists and hate groups.

#### **"Tough cops": heroes or criminals?**

As the years passed, there was a general ideological and political backlash; and against this background the law was gradually giving the police a free hand. The battered Ladas were replaced by new Chryslers and BMWs and some newspapers began to describe the deeds of "cops" in almost sacred overtones.

At the same time, however, alarming reports began to appear:

- in 1994 a gang of policemen from Kiustendil committed a series of murders and robberies culminating in the brutal, almost public, murder of Violeta Georgieva in the centre of the city;
- in February 1994, a policeman killed the emigrant Krustiu Krustev in Sofia;
- in January 1995 another policeman killed an innocent person in Sofia in front of his wife; and
- in April 1995, after a brutal assault in one police station in Sofia, several policemen killed Hristo Hristov with kicks and a specially prepared stick, while simultaneously drowning his shouts with music from loudspeakers.

These were the reported cases. There were however many more cases that remained unreported.

#### **Shootings, torture and ill-treatment**

In May 1995, the then Interior Minister Nachev stated that 17 people died while in custody during the previous 14 months. In June 1996, Amnesty International published a special report describing several unreported cases of deaths in suspicious circumstances and more than 20 other cases of shootings, torture and ill-treatment by law enforcement officials (See BULGARIA: Shootings, deaths in custody, torture and ill-treatment, AI Report, June 1996, AI INDEX: EUR 15/07/96). Almost nothing has been written about the "techniques" for extraction of evidence in some police stations and in "investigation" prisons, although a number of complaints to non-governmental groups refer to systematic ill-treatment, including the use of "Falaka" - blows with sticks on the soles of the feet. And, as in other cases of human rights violations, the ethnic minorities, some religious and other marginal groups are at greater risk when confronted with the police. The

police in Bulgaria, it emerged, are not a group which is immune from committing crimes.

### **Legal obstacles prevent prosecution of policemen**

But what can be done to launch criminal prosecutions in such cases? Are police perpetrators put on equal footing before the law with other citizens? The answer is no. Prosecution of police brutality in Bulgaria faces serious obstacles. Some of them stem from the law, the largest part of which in this particular aspect remained unchanged since the communist regime. These obstacles are the main reason for the climate of impunity which accompanies all abuses by police officers.

The first obstacle arises when criminal suspects are detained. For the vast majority of detainees, especially when they belong to an ethnic minority or are coloured foreigners, the right to a lawyer from the moment of detention in Bulgaria exists only on paper. There is no mechanism established by law which could serve as an effective guarantee. The same goes for the right of detainees to be medically examined by a doctor. When this issue was brought to the attention of several police officers by researchers of the Bulgarian Helsinki Committee in February-March 1995, the most favourable response was a condescending smile. But the most serious problem with the prosecution of police brutality seems to be the difficulty in bringing a lawsuit afterwards.

In the Bulgarian criminal justice system this is done only by the military prosecutor with no active participation of the victim. There is no mechanism for bringing a private case. And if the prosecutor refuses to bring the case to court, which happens frequently, particularly with victims belonging to some ethnic minorities, this practically rules out any opportunity for redress, since there is no judicial review of refusals. In this respect, even the Bulgarian pre-war system was more progressive and more sensitive to the victim than the present one.

### **"Iron hand" policing a security threat**

And, last but not least, there is no civil control of law enforcement officials in Bulgaria. This seems to be so alien to Bulgarian tradition and to the mentality of the administration that the few timid attempts in the past of some groups to promote the idea were met with

mockery.

Many viewed the "iron hand" as a panacea for both the high crime rate and other types of "socially undesirable" conduct. But the shadow it threw and continues to throw contributes to insecurity no less than crime itself.

Krassimir Kanev

This article was first published in OBEKTIV (7/96), the newsletter of the Bulgarian Helsinki Committee. Contact: 21, Gladstone St, 1000 Sofia, Bulgaria; Tel/Fax: +359/2 816823, or 873659, E-mail: bhc@sf.cit.bg

## **MESSAGE**

### **INFORMATION REQUEST**

#### **Background**

The Austrian Ministry for Social Affairs has changed the funding policy for federally supported Austrian Immigrants Advisory Offices (*Ausländerberatungsstellen*). Until now, these offices counselled immigrants on a broad range of topics including housing, job referral, work permits, refugee aid, child care, etc., although the advisors were only officially permitted to deal with work related topics in the most narrow sense of the word. Austria has no official immigration and integration policy. Immigrants are still considered guest workers who will some day return "home". Because of the large number of immigrant youth now entering the job market and the high percentage of unemployed immigrants the Austrian Immigrants Advisory Offices are required as of November to concentrate on this group.

#### **Practical Steps**

To date a comprehensive plan for counselling and supporting young immigrants and unemployed immigrants has not existed in Austria. The few projects that do exist are mainly stopgap and largely funded by a mixed bag of organizations, i.e. Catholic Church, city welfare offices, voluntary associations, Chamber of Labour, etc. The Salzburg Immigrants Advisory Office has requested that we look for successful models of local projects in other EU countries. We need reports, preferably in German, or else in English, on projects on the city level (best would be cities between 50.000 and 300.000), including:

- job entry, apprenticeship, and counselling projects for young

- immigrants;
- retraining and placement of unemployed immigrants;
- training of immigrant women entering the job market for the first time or after a lengthy absence because of childbearing and training;
- cooperation between self-help groups and trade unions, city welfare agencies, etc.

Please contact us as soon as possible on this because we must translate any English documents and assist the Salzburg Immigrants Advisory Office in setting up a pilot project by the end of this year.

Thanks, Eugene Sensenig

Contact: BAMB - Federal Working Group  
Codetermination, c/o Eugene Sensenig,  
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662-881145.

## DOCUMENTS AND PUBLICATIONS

***Er Schengen noe for Norge? - Et bidrag til europeisk politiforskning,*** by Professor Thomas Mathiesen, publications of the Institute of Sociology of Law at the University of Oslo, No. 54, Oslo 1996, 68 p., in Norwegian, ISBN 82-90783-07-8.

A brilliant analysis of Schengen cooperation and its implications for policing in Europe. The brochure also addresses the political and constitutional consequences of Schengen membership for the non-EU state Norway.

Available from: Institutet for Rettssosiologi, Universitetet i Oslo, St Olavs plass 5, N-0165 Oslo; Fax: +47/22 850202.

***The foreigner, his family and European Law,*** Report by Mylène Nys, jurist at the Institute of Sociology of the Free University of Brussels, published by *European Coordination for the Right of Foreigners to Live with their Families*, Paris 1996, brochure 24 p, in English.

Available from: Coordination Européenne, 25 Bd. de Bonne Nouvelle, F-75002 Paris; Fax: +33/1 40410359.

***Activities of the Council of Europe in the migration field,*** Council of Europe, Strasbourg 1996, CDMG(96) 15 E, infodoc\emig15.96, 68 p.

The documentation gives a brief survey of Council of Europe activities relevant to migration, the situation of migrants and community relations. In addition to the intergovernmental activities carried out under the auspices of the European Committee on Migration (CDMG), details are given of activities carried out by many other Council of Europe bodies during the last five years, which have a bearing on the situation of migrants.

***La collaboration policière internationale en Europe*** (International police cooperation in Europe), by G. Renault, J. Vanderborght, L. van Outrive, article published in *Déviante et Société*, 1996, Vol. 20, No. 2, pp. 173-192. The first part of the paper provides a systematic overview of relatively classical research on international police cooperation in Europe. The second part is about more recent research, using a social-political approach.

**International Helsinki Federation for Human Rights: Annual report 1996,**

IHF, Vienna 1996, 240 p.

The report examines developments in the field of human rights in the majority of the participating States of the OSCE in the course of 1995.

**Children of Bulgaria - Police Violence and Arbitrary Confinement,** Human Rights Watch Children's Rights Project - Human Rights Watch/Helsinki, New York, September 1996, 145 p.

The report concludes that street children in Bulgaria are often subjected to physical abuse and other mistreatment by police, the very people who are supposed to protect them. Once detained, children fall victim to gross procedural inadequacies in the juvenile justice system in Bulgaria. In particular, the practice of confining children to penal institutions, without due process, violates international law.

#### **EU JHA-Council:**

- **Mise en oeuvre des conclusions du Conseil européen de Madrid de décembre 1995 en matière de drogue,** EU Council, Brussels, 13.6.96, 7745/2/96, REV 2, LIMITE, CORDROGUE 32, 13 p., in French. Report on the implementation of the Conclusions of the European Council in Madrid in December 1995 regarding drugs.
- **Rapport sur la lutte contre la drogue en Amérique Latine et dans les Caraïbes,** EU Council, Brussels, 13.6.96, 6879/3/96, REV 3, LIMITE, CORDROGUE 25, 79 p., in French. Annex: The Caribbean and the Drugs Problem, Report, EU Experts Group, April 1996, 60 p., in English.

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