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SYNTHESIS REPORT OF THE INFORMATION NETWORK ON MIGRATION FROM THIRD COUNTRIES (RIMET)

BY

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NOTE

The contributions from 12 independent correspondents, who make up the Information Network on Migration from Non EC Countries (RIMET in its French acronym), have for the third time running been synthesized into a summary report by Claude-Valentin MARIE, with the support of the Services of the European Commission.

This report covers the evolution in the Member States for the year 1993. The information given does not necessarily reflect the positions or opinions of the European Commission.

Summaries of the national reports, established by the correspondents themselves, are to be found in the Appendix.

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INTRODUCTION

'A spanner in the works or grist to the mill?' Whether considered as a positive contribution or a dire menace, the implications of immigration for the future of the Member States of the European Union are once again to the forefront of controversy. The study which appeared in the Netherlands under this title and which addresses the contribution of minorities to the national wealth is an accurate reflection of the concern of an increasing number of senior officials to allay misgivings and encourage people not to give in to intolerance.

Many organisations have throughout 1993 accordingly compiled information on the economic and cultural importance of immigration. In parallel with this, many public figures (politicians, people from the academic and religious worlds) have endeavoured to justify or more accurately to *legitimise* the presence of foreigners and minorities in the countries of the EU thus hoping to head off the rise of racism and xenophobia.

Praiseworthy though these efforts may be, however, they are still not enough to stem the rise of hostile attitudes which sometimes threaten social peace. The imminence of elections was, it is true, hardly conducive to the allaying of misgivings; the problem of asylum seekers was once again at the heart of debates, even in Ireland, where there were fewer than 40 such cases in 1992 (38 to be exact, compared with 31 in 1991).

This heightened politicisation of the immigration issue triggered intense legislative activity designed primarily to further restrict the possibilities for entry and abode for nationals of non-Community countries. While the spotlight fell on asylum seekers, the other categories of potential migrants all received their share of attention, too. Against this background, the need for cooperation within the EU has been reiterated more firmly than ever, and both at national level and within the non-governmental organisations there is an increasingly urgent call for a European immigration policy.

Be that as it may, with the exception of asylum seekers, the marked upward trend of migration nevertheless generally continued throughout the EU, particularly in the southern countries of Europe. While the extent of legal entries is the same in both northern and southern European states, the latter are much worse affected by irregular immigration, thus confirming the switch in their status from that of countries of emigration to countries of immigration.

The effects of these events on the labour markets are far from being as negative as the high degree of reticence expressed at the social and political levels would seem to suggest. Despite a slowdown in economic growth, the employment potential for foreign labour is still substantial both in the north and in the south of Europe. The assessment of the President of the German Industrial Federation stressing that despite the deterioration on the employment front German firms were still calling on foreign workers is borne out by that of the Director-General of Italy's *Confindustria* which, running counter to the political climate in his country, states: "*we need immigrant labour. There is no competition between Italians and immigrants on the labour market*"¹.

¹ Le Monde diplomatique. No 478, January 1994, page 21.

Faced with the virtually unanimous resolve to close borders and adopt stringent attitudes, the need for integration has appeared less urgent while the requirements are still very much there. Throughout Europe, populations are becoming sedentary, families are getting bigger and their social demand is increasing and diversifying. Accommodation, schooling and occupational integration remain the burning issues in this context.

Despite the efforts made in all these areas, the data available unfortunately point to a rapid erosion of the slow progress made in previous years. The schooling of young people emanating from immigration is consequently an area of legitimate concern. The occupational impasse which follows on all too frequent school failure now means marginalisation for an increasing number of adolescents. This situation and the inherent risks it engenders of social disorientation and delinquency are making themselves felt in one way or another throughout the countries of the EU.

The situation is fortunately the focus of increasing awareness and potential solutions are being tried out; some give pride of place to prevention through pre-school and extra-curricular programmes targeted at the youngest elements, while others concentrate on integration through vocational training programmes and incentive (and even compulsory) measures to employ the older elements.

These efforts are important; they must be stressed, encouraged and above all scaled up to match the requirements. There is in fact no other alternative to the increasing social disorientation which now threatens these young people than to take on board their quest for advancement and to provide a positive response. Equality of opportunities is in this context the most important and the most legitimate of their demands. To cater for this requirement presupposes that they can be sure of entitlement to the same rights as any other citizen.

An increasingly political issue

"An increasing number of asylum seekers in the Member States have no real need of protection in the sense given to it by the Geneva Convention. They cause procedural bottlenecks and hold up the recognition of refugees of having a genuine need of protection. The spirit of the Geneva Convention should be upheld and the integrity of the right to asylum maintained". This extract from the explanatory statement of the bill of law submitted by the Luxembourg Government designed to amend asylum procedures clearly reflects the state of mind which is currently typical throughout the European Union. Everywhere the notion of "economic refugees" is henceforth used to legitimise widespread diffidence as regards asylum seekers and, far from being one of renewed tolerance, the year 1993 for them will have been the year of closed borders. Some see this to be a realistic and necessary development, while others see it as the sign of "the slow killing off of the right of asylum".

In many Member States this theme has elicited heated political debate often hinged on two central questions: have reception structures not reached saturation point? If so, what should be done to limit the flow of immigrants and asylum seekers? Given that in actual fact what is at stake within this debate goes beyond the mere problem of controlling flows and concerns more broadly the coexistence of indigenous European and of non-European populations.

In the Netherlands, for instance, nearly half the people interviewed during a survey in 1992 felt that there were too many foreigners in the country; and 15% of them personally resented their presence in daily life. The second survey conducted among young people of the 20-25

age group a year later confirms this trend: 2/3 considered that the limit had been reached in the Netherlands and that no more foreigners should be allowed in. These answers reflect a radical change of mood among the Dutch whose traditional tolerance is now manifestly receding as the recession deepens. Even if a third survey indicated, on the contrary, that most Dutch people (57%) were favourable to taking in refugees, the impact of the previous results on the government (and political circles in general) was not long in making itself felt. When in March 1993 the Prime Minister took on board the idea that the country had reached a limit in terms of taking people in and integrating them, this was welcomed by all sides. Be that as it may, this did not make his task any easier.

Discussions in the Parliament and the Senate on the new law on aliens have been stormy and opposition from non-governmental associations and organisations has also built up. The imminence of the 1994 elections further exacerbated this sensitivity. The immigration issue was high on the electoral agenda everywhere,² the common thrusts being the stepping up of checks at the national borders³, the acceleration of European cooperation to harmonise entry criteria and the fight against the causes of emigration from the countries of origin⁴. The only exception was the "*Groen Links*" left wing party which continued to argue in favour of a generous entry policy, particularly for refugees.

The controversy reached the same pitch in Belgium and relations became strained between the police forces and the populations emanating from immigration. Even though there were fewer clashes than in previous years, it was still feared that the European elections and the municipal elections would be the stage for an accentuation of populist reactions and demagogic arguments. The Francophone liberal party which included in its programme 12 proposals to reverse immigration flows, including pre-landing "selection" on planes, was the first example. Its Flemish counterpart (the VLD) proposed that a special police force be set up to carry out ("following the French example") [*sic*] raids to put an end to illegality and criminality in the towns. Illegals, it maintained, should be frightened off and discouraged from coming. But this "cleansing" approach implicitly goes further and challenges the legitimacy of the presence of foreigners residing legally in Belgium. In the town of Antwerp, for instance, the advocates of this approach speak of the depopulation and disappearance of indigenous inhabitants. Their argument is that 4 000 citizens of Antwerp are replaced every year by 3 500 foreigners: "if appropriate action is not taken quickly the town will be in the hands of foreigners in 10 years' time".

These claims would no doubt draw a smile were it not for the fact that their impact is gradually reaching ever wider sections of public opinion. And were it not especially for the fact that at the same time the conviction of the parties which are traditionally most receptive to a fair appreciation of such issues appear to be on the decline. As if they were, at best, frightened by

² In order to head off populist or xenophobic incidents all parties were initially urged to keep the issue off their campaign agendas. As this plea went unheard, the major parties and certain organisations for the defence of minorities agreed on the publication of a "Code of conduct". In addition to urging moderation and prudence in all statements on minorities and immigrants, this document makes general recommendations concerning the extreme right.

³ Analysing migrations in previous decades, a sociologist from the University of Amsterdam concludes in his thesis that the control of immigration by the EEC countries is rather limited. In his view, the most widespread form of migration is family reunification which he felt was unlikely to be banned. A policy of this kind in his opinion could be implemented only in authoritarian countries and could not be organised in countries which respect the fundamental human rights. As for quotas, they can only be applied to workers

⁴ The Christian Democrats also proposed that the possibilities for seasonal employment for foreigners be expanded.

the progress of this ideology among their voters, or, at worst, themselves also ready to make certain concessions. Replying to a journalist who commented that "*the imminence of the elections is overshadowing the ideal of equality which is traditionally defended by the socialist movement*", the chairman of the Social Party apologetically stated that he had not submitted an over-favourable programme as regards immigrants so as not to "*invite Nazi-style reactions*".

The run-up to the October 1993 by-elections in London was also characterised by marked racist connotations. The extreme right proved its increasing capacity to pull crowds while certain members of the Liberal Democrat Party did little to conceal their racist feelings in their electoral publications. The affair caused uproar. The Labour Party denounced these racist theses of the Liberal Democrats while within that party itself an official inquiry was launched on the incriminated publications. This inquiry confirmed the behaviour of the three party representatives accused, but also revealed that the militants of the Labour Party had behaved even more reprehensibly during the September 1993 campaign. This did nothing to improve the overall climate and in November the National Front came second behind the Conservative Party at the South Feltham (West London) council elections and also made substantial inroads during a local election in the West Midlands, once again coming ahead of the Liberal Democrats.

In Italy, the electoral context above all revealed that there was a little chance of a consensus on a genuine policy on controlling flows and integrating communities. The government coalition still in power at the time supported the objectives of the 1986 and 1990 laws on the entry and gradual integration of a restricted number of extra-Community nationals, but time had already run out for that coalition. On the contrary, the Republican Party and the Northern League openly opposed any new immigration and their resolve to restrict even further the issuing of residence permits and family reunification. The Northern League was even more forthright on immigration and maintained that the idea of a multiracial society was a threat to national identity and was even more unthinkable in an unemployment-beleaguered Italy. It thus called for the expulsion of all foreigners in an irregular situation and for the closing of the reception centres provided for by Law 39/1990.

While not altogether escaping the politicisation of the immigration issue there was comparatively little tension in Portugal and Spain. Neither the political parties nor the Portuguese press reflected hostile sentiments or rejection in the population and the President of the Republic has very naturally expressed his sensitivity to the immigrant associations in relation to their problems and has established a direct dialogue with these associations. Be that as it may, the institutional debate would probably have been more heated if the government not received from parliament the authorisation to legislate on this issue by decree law subject to the presidential veto. Moreover, it is the exercise of this right of veto which has reintroduced the prerogatives of the parliament in the process of amendment of the laws on political asylum.

In Spain the five main parties⁵ agree on the idea of the positive contribution of legal immigration to Spanish society. All want to see a positive policy of regulation of flows, consolidation of the administrative situation of aliens legally installed and measures of integration which are more voluntary and more consistent. Some, like the Spanish Socialist Worker Party and the Catalan Nationalist Party "Convergence and Union", envisage revision of the law on aliens which would have a threefold objective: to establish an unlimited residence permit, to

⁵ Among these five main political parties, three have national representation and two have a regionally circumscribed influence, one in Catalonia and the other in the Basque Country.

strengthen control of flows (fight against fraudulent use of the right to asylum, cooperation for the readmission of illegals) and to relaunch the quota policy in conjunction with the Autonomous Communities and the representatives of the sectors of activity concerned. The Catalan Nationalist Party argues for extension of regularisation, but as a corollary demands reinforcement of frontier checks and more stringent intervention by the labour inspectorate. Inasmuch as it holds illegal immigration responsible for the upsurge in racism and xenophobia in Spain, the Popular Party stresses the need for very stringent controls, giving priority to the fight against organised trade in illegal immigration and clandestine labour, and the expulsion of aliens in irregular situations.⁶

In the view of the PNV (Basque Nationalist Party) the *conditio sine qua non* for successful integration is public confidence in the capacity of the state to regulate entry flows. It is therefore imperative to step up the control of illegal immigration in order to make it possible to send back persons in irregular situations and introduce heavier sanctions against those who trade in labour.

Of all the parties it is undoubtedly the United Left (**Izquierda Unida**) which has given greatest attention to the issue in its electoral programme. It proposes *inter alia* the creation of a secretary of state for migration under the Ministry of Labour; the regulation of entry flows through bilateral agreements between governments and social organisations; the regularisation of aliens having a job or the offer of a job; and, lastly, the establishment of a right of appeal against expulsion. As regards asylum, the party proposes that its management be transferred to the Ministry of the Interior or the Ministry of Justice, that a temporary work permit be issued to asylum seekers and that they have a guarantee not to be sent back to countries where their lives might be in danger.

France: electoral promises kept!

In France, things have moved on from the electoral promise stage to their legislative implementation. The new government which emerged from the March 1993 elections as soon as it came to power symbolically selected the theme of immigration to mark its break with the previous approach by resolutely opting for a simultaneously restrictive and reassuring stance. Never before had legislation on immigration been so radically changed in such a short space of time and with such wide public support. Nor has action in favour of integration ever seemed further from the concerns of the authorities. Three texts were voted in during a single parliamentary session in 1993 and a fourth in the following one. They concern the legal provisions on nationality, identity checks and control of immigration. Each (except the second law on immigration control) was criticised by the Constitutional Council and once again heated discussions arose around the processing of requests for asylum.

Two features – one of form and the other of substance – stressed the importance of the amendments introduced. On the first, it is observed that for the first time the Order of 1945

⁶ In a report entitled "Immigration and aliens" submitted at its 11th congress this party sets out its views on the legal provisions of aliens. It is specified therein *inter alia* that "aliens and nationals have comparable access to rights and liberties" only in a restricted number of cases. Aliens are excluded from taking part in elections, matters of national defence, the right to proper accommodation and above all the right to work, the right of residence and the right to move freely around the country. Articles of the Spanish Constitution are quoted to support this thesis and the report concludes that the right of free movement and the right to work are a privilege accorded exclusively to Spanish citizens by the Constitution.

has been extended by a chapter VII entitled "*Asylum seekers*". And on the second it is no less significant that in order to achieve this it proved necessary to reform the Constitution following the rejection by the Constitutional Council on 13 August 1993 of a provision designed to cater for obligations imposed by the Schengen and Dublin Agreements. A vote in the congress (deputies and senators) at a special meeting on 19 November 1993⁷, thus amended the Constitution and added a new article⁸ in its Title VI (Treaties and international agreements).

However heated this debate may have been it nevertheless concerned only the major institutions of the State (Government, Assemblies, Constitutional Council, President of the Republic), with public opinion being markedly indifferent. This paradoxical situation reflects the very wide support of the bulk of public opinion for the new government's proposed clampdown on immigration. So although the issue was a touchy one, the new government had no trouble in bringing in fundamental reforms in a very short space of time without any real parliamentary opposition or public protest.

The contrast with the climate which reigned during the first cohabitation is striking in this respect. Two surveys conducted among a sample of young foreigners or young people born in France of North African parents, after the voting of the new texts in parliament, stress this perfectly. The majority (78% to 54%, depending on origin) of these young people stated that they were in favour of the new arrangements, with the exception of those affecting family reunification (42% favourable, 46% against).

A growing European dimension to the problem

The other main feature of the year was the increasing reference to Europe. Never had this reference been so frequent⁹; and never had it appeared so contradictory. This ever more urgent request for the immigration issues to be addressed in a European context also reflects a marked contrast between the firm stance adopted in some quarters and the hopes for a more open approach elsewhere. The firm stance is naturally taken by those countries which seek to use this framework to consolidate their powers of control. The hopes on the contrary are a feature of certain political parties, but above all of the non-governmental organisations (NGOs), which look to the European Union to stand back from a strictly "policing" approach and come up with a policy to safeguard individual rights in the context of national laws.

It is in Germany that this switch from thinking at national level to thinking at European Union level is the most noticeable, with a resolve to move away from the taboo of closed frontiers towards a genuine European immigration policy properly structured and coordinated. This is

⁷ An asylum seeker no longer has the possibility of referring the matter to the OFPRA when his entry into France has been refused for the reason that the examination of his request comes within the sphere of competence of another Member State in application of the Dublin Convention of 15 June 1990 and pursuant to the Schengen Convention of 19 June 1990.

⁸ Article 53-1 states: "*The Republic may conclude with the European states which are bound by identical commitments to its own when it comes to asylum and protection of human rights and basic liberties, agreements determining their respective competencies for examining the requests submitted to them. However, even if the request does not fall within their sphere of competence under these agreements, the authorities of the French Republic always have the right of granting asylum to any foreign citizen pursued by virtue of his/her action for the sake of freedom or who seeks the protection of France for some other reason*".

⁹ A survey in Spain showed that the majority of the population (53%) is in favour of Community legislation, compared with only one third (33%) expressing a preference for the safeguarding of the national prerogatives in this context.

the approach being pursued by a research group at the University of Mainz which proposes a draft European law on immigration¹⁰ and Mrs Schmalz-Jacobsen, federal government delegate responsible for aliens, who argues in favour of a coordinated immigration policy.¹¹

Similarly, the left wing party "Groen Links" in the Netherlands is militating for official recognition of the status of "*economic refugees*"¹² and the establishment of a programme of entry as a function of a reception capacity established at international level for each country. The "Charter 91" group in Belgium, fearing the impact of the Schengen agreements, is calling for the establishment of complete freedom of movement for non-Community residents.

The governments' perspective is, on the contrary, one of a necessary limitation of freedom of movement and establishment for persons from non-Community countries, with current focus being on asylum seekers. The explanatory statement of the draft amendment of asylum procedures proposed by the Minister of Justice in Luxembourg in June 1993 is a typical reflection of this perspective. The idea of harmonisation of policies on right of asylum across the Twelve in order to "*ensure applicants exactly the same treatment*" in each of the Member States, is high on the agenda. The Minister was gratified at the progress made in this direction ("*better than had been hoped*"), and hoped that "*the right to asylum would be enshrined in law*" in less than a year. It is worth pointing out that at the fifth conference of European Ministers on Migration on 18 November in Athens the Dutch Secretary of State for Justice suggested that asylum seekers be channelled to protected centres in their region of origin. Their files would be established there before being forwarded for processing to a potential host country. These centres would be placed under the responsibility of United Nations High Commissioner for Refugees (UNHCR). This approach was also shared by the Belgian commissioner-general for refugees for whom a policy of sending back could be truly efficient only if it was prepared at the European level. His opinion was that to send back an expelled person to the neighbouring country was simply to displace the problem rather than solve it and "*the Schengen, London and Trevi Agreements constituted major progress in this direction*".¹³

Making expulsion measures more effective was also to overcome the reticence of the country of origin to allow the "forced" return of their citizens, including those who had forfeited the right of asylum. In December 1992 the signatories to the Schengen Agreements instructed a central group to take stock of the situation as regards those countries which were reticent about this policy and to come up with proposals for proliferating this type of multilateral agreement. A draft agreement on the readmission of aliens is apparently being prepared by the European Union. At Benelux level a draft had been forwarded to the Czech and Slovak authorities, while discussions were under way with Croatia. The requirement of the Schengen Agreement which made Greece guardian of Europe's frontiers is also the justification put forward by the Athens government for the setting up of specialised corps to fight against illegal immigration. It invoked the Maastricht Treaty, which provides for common action at the Union's frontiers in

¹⁰ Europe Magazine No 10/1993, pp. 37 et seq.

¹¹ The theme has been taken up by Daniel Cohn-Bendit for whom "*a well-prepared European project*" is the precondition to the integration of aliens. (Die Ziet of 24 September 1993.) In the same vein, the aliens delegates of the central and provincial authorities at the end of October deplored the total lack of coordination on reception arrangements for refugees from former Yugoslavia.

¹² The Dutch liberal party (VVD) is totally opposed to recognition of this category of migrants.

¹³ As a reminder, the resolutions adopted by the twelve ministers at the London Council on 30 November 1992 were to be transposed into the relevant national laws.

order to limit illegal entries, and hoped to share with its partners the weight of this "new" responsibility.

International cooperation and prevention

In a spirit different to the "*take-back agreements*", another type of international agreement is emerging or re-appearing which could be called **cooperation/prevention**. This may take the form of programmes defined at national level, or of initiatives by groups or associations of foreign nationals seeking the support of public and private institutions in the host country or that of international organisations, and deserves to be more widely used.

Greece and Albania signed an agreement on a programme of this type, with a view to getting people to stay in their country by providing investment aid for the creation of jobs in the country of origin.¹⁴ This had an immediate impact; Greek investment in Albania has soared and the number of companies set up by Greeks increased substantially. In terms of number of enterprises installed and sums invested, Greece today ranks second among Albania's partners behind Italy. In 1993, there were 54 Greek companies, with US\$ 44 million capital invested. These were mostly medium-sized firms, bridging the gap between the big German, French, Austrian and Luxembourg companies on the one hand, and the small American, Belgian and Romanian ones on the other.

The International Organisation for Migration (IOM) and the Committee of Moroccan workers in the Netherlands are seeking financial support to set up a migration information centre in Al Houceima in the Riff Mountains in northern Morocco, which is where most Moroccan immigrants come from. The idea is to slow up emigration by telling prospective exiles what life is really like for immigrants in the Netherlands. This project complements the voluntary return programme for illegal Moroccans and development aid for northern Morocco.

In the summer of 1993 Luxembourg signed cooperation agreements with Nigeria, The Gambia, Burundi and Cape Verde, the last two being a breakthrough as these are framework agreements covering all relations between the players involved. They are four-year agreements tacitly renewed yearly. They provide for financial support for specific projects, the provision of qualified personnel, the payment of grants and vocational training periods.¹⁵ Lastly, in Italy, where there was hitherto no direct dialogue with the countries of origin on controlling flows and stopping trafficking which is sometimes very well organised, a preliminary cooperation agreement has just been signed with Morocco covering social affairs, justice and immigration.

Between "positive discrimination" and "urban management"

Generally speaking, integration policies made no significant progress during the year, governments' prime concern being to strengthen border checks. The Netherlands and Denmark, nevertheless, appear to provide the exception to this rule, for it is these two countries which made the greatest efforts to address the bases of an integration policy hinged once again on the theme "*positive discrimination*".

¹⁴ Greek companies investing up to 100 million drachmas (ECU 370 000) in Albania are given a 35% subsidy.

¹⁵ The aid to Cape Verde for the installation of infrastructures doubled in 1993 from 30 to 60 million francs. A bilateral agreement was signed with Nigeria, extending a project started in 1989. 50 million francs had gone to build a craftsman's village; an additional 60 million francs will thus be provided to build the second part of this village.

In Denmark the suspicion which this approach constantly engenders has led to a marked reassertion of the principle of equal treatment for nationals and foreigners. However, the debate is far from over even if, as will be seen, it has not reached the same pitch as in the Netherlands. Many municipalities are giving thought as to whether or not it is necessary to make a specific effort (in terms of strategy, organisation, financial resources, staffing levels) for the benefit of immigrants and refugees. The government commission has made one step in the direction of positive discrimination by proposing to establish a quota of places for young foreigners, in the face of opposition from the social partners who remain firmly opposed to the use of such an instrument in the context of employment policy. The union of local authorities went even further by upholding the idea of a pluralist intervention policy which respects the specific cultural features of the different populations. Lastly, there is an ever growing call in various institutions for personnel better trained in multi-cultural situations; some have even taken on multi-ethnic staff. Yet the gap remains wide between these proposals, official lines and the actual situation on the ground.

In the Netherlands, the submission to parliament in October 1993 of the annual report on minorities provided the opportunity for stocktaking and critical assessment of ten years of policy in favour of minorities. The government naturally enough stressed the progress made, emphasising the improvement in the education and housing of minorities, and the increase in their participation rates on the employment market. It nevertheless acknowledged that in these fields they lagged some considerable way still behind the Dutch citizens, unemployment remaining the black spot. As regards the members of parliament, the predominant position was to demand reassessment of objectives, the line taken (and ever more clearly expressed) being that the time has come for a less generous policy. A substantial majority feels that the government must henceforth define an "*overall project*", linking up security, living and working conditions and giving equal attention to ethnic minorities and to the Dutch. The advocates of this line have nevertheless publicly specified that the point was not to do away with specific measures in favour of minorities, but to embark upon a "*policy of social renewal*", centred on the town or more precisely the big towns.

These new guidelines are reminiscent of the decision taken in France in 1992 for global action in the less-favoured districts.¹⁶ This option taken by the previous government has been maintained. The interministerial committee on towns, meeting on 29 July 1993 under the chairmanship of the prime minister, decided to earmark approximately FF 15 000 million and two additional arrangements were added: the *plan d'urgence pour la ville* ('emergency plan for towns') and the *contrats de ville* ('town contracts'). The former, at an estimated cost of FF 5 000 million, are designed to simultaneously step up public services in the underprivileged districts and refurbish housing and surroundings in 88 towns deemed to deserve priority treatment¹⁷; the latter target simultaneously problems of housing, education, economic development, health and security.¹⁸ The idea is to replace various procedures currently used (local amenity development, district agreements, etc.) and they will be signed between the state and

¹⁶ See 1993 report.

¹⁷ Eleven major urban projects (GPU) were also adopted, involving major development work in problem urban areas and refurbishment of subsidised housing (HLM).

¹⁸ A circular (DPM 93/30 of 22 November 1993) describes how the FAS fund can be used for the immigrant integration section of each town contract. It specifies the priorities of the fund (intervening at the critical stages of integration, assisting common law services to take account of the specific difficulties of these populations, bring pockets of migrant workers out of their isolation) and the arrangements concerning financial support to top up financing from the state and local authorities.

the local authorities for a period of five years under the 11th plan (1994-98). They cover 185 priority sites and their estimated cost is FF 9 600 million.

This urban approach to the difficulties encountered, particularly with young people emanating from immigration, had also been adopted in Belgium. Financed by money from the national lottery, the Belgian programme is paid for from the *Fonds d'Impulsion à la Politique des Immigrés* (immigrants policy fund) set up following the 1991 riots and which, in essence, is a cross between France's FAS (social action fund) and DIV (the interministerial department for the towns). It does not commit any structural or recurrent financing but addresses urgent problems of integration in the big towns, which explains why 3/4 of the money available is reserved for projects in the five biggest Belgian cities, Brussels, Antwerp, Gand, Liège and Charleroi). In this framework, 40 priority action zones (ZAP) have been defined as a function of the socio-economic features of the population, housing conditions, the percentage of non-Community nationals and the conflicts and tensions which have already emerged. The projects submitted must fit into a programme defined by the interministerial conference on immigration policy and priority goes to investment expenditure on amenities (sporting and other) for young people in the neighbourhood; the fight against truancy; economic integration of young people in difficulty; prevention of juvenile delinquency¹⁹. In parallel with this, the "security contracts" implemented from 1990 on in certain 'high-risk' municipalities have been maintained²⁰. While certain are gratified at the progress in the quality of integration projects, the proximity of the two types of actions described arouses diffidence among many others. Besides the major differences between the sums earmarked (the lion's share going to the security contracts) it is the budgetary transfer from the integration fund to the security contracts which comes in for most criticism because of the link which is thus established between "immigration and security". The fact is that police action is the major beneficiary of the "security contracts", in spite of the declared resolve of the Minister for the Interior to establish a plan against exclusion in general.

In the final analysis, 1993 will have been characterised by the resolve which prevails within the Union, to achieve a firmer and more repressive immigration policy. Conditions of entry and abode have been tightened, expulsion procedures have been speeded up, the requirements for family reunification have been made more stringent and mixed marriages placed under greater scrutiny; consultation at the European level rounds off this "closed borders" approach. The first to suffer were undoubtedly the asylum seekers: the formalities for examining their files are undeniably a new instrument of controlling flows. In the face of this, and judging by the measures introduced over the past 12 months, integration has come off worse than ever in government policies.

Many observers see this policy as having a paradoxical cost. In terms of processing of requests for asylum, for instance, it apparently contributes (indirectly) to perpetuating illegality and worse still is considered to favour abuse. The procedures adopted are thus held to involve the twofold disadvantage of gradually nullifying the protection afforded, without preventing some

¹⁹ The subsidy for 1993 was established at BF 300 million. Additional financing has been released for a policy of voluntarist actions of cohabitation between the different communities and include a regional programme. The appropriations made available were BF 150 million in 1991, 160 million in 1992, falling back to 150 million in 1993.

²⁰ These contracts are based on a policy organised around five major thrusts: citizens' safety, the restoring of confidence among the police forces, better police organisation, better policing and the fight against the causes of urban crime.

from sidestepping the checks: the "cheats" always find a way into the country after obtaining the documents needed to get through the first lines of checks. The biggest loser in all this is the genuine refugee who hastily leaves his country hurriedly and without the "precious" advice of the organised channels.

By the same token, it is considered in Belgium that to reject general regularisation outright and opt for individual regularisation as a favour and not as a right, is part of the same paradox. In actual fact this option leaves the way free to arbitrariness, political pressure and influence peddling, all of which works to the advantage of those best informed and those with most support, who are often the best off but hardly the most deserving. This paradox works to the advantage of those who have support and penalises those who really need to be protected, and the whole issue should therefore manifestly be re-examined in depth. It is the Minister of the Interior in Belgium who sums up this inequitable state of affairs most clearly: "What I am afraid of is that we will move to other extreme. After being incredibly lax, we are now becoming incredibly repressive".

MIGRATION DYNAMICS: A GENERALLY POSITIVE PICTURE

All the Member States with the exception of the United Kingdom and Ireland had higher levels of legal immigration, made up – to differing degrees – of newly arrived (permanent, temporary or seasonal) workers, family members and students. These were supplemented in the case of Spain, Portugal and France by people who, having resided in the country for varying lengths of time without authorisation, managed to get their situation regularised.

Although the situation differs from country to country, the general picture now confirms the southern Member States of the Community as countries of immigration in as much as it is they who have had to bear the brunt of the illegal immigration flows. The situation of Greece is symptomatic in this regard, with the Greek authorities admitting that they have no way of assessing the number of foreigners in Greece.

To these legal and illegal arrivals of migrants from third countries, we have to add (in the case of Germany, Greece and Portugal) aliens who claim ties of origin to one of the Member States of the Union, with a view to acquiring the nationality of the country which they regard as both their old and their new home country.

At the same time, the number of newly arrived asylum-seekers slowed down everywhere but in Spain, Portugal and Belgium. Politicians put this reversal of the trend down to the effectiveness of measures adopted in previous years, seeing in it good grounds for forging ahead with more closely harmonised control procedures in the various Member States, a tightening-up of common arrangements and more coordination on the part of the national services concerned.

Southern Europe: new countries of immigration

The inexorable trend whereby all the southern European states, Portugal, Spain, Italy and Greece, are turning into countries of immigration as opposed to countries of emigration is continuing. They are more open than the northern states to the legal influx of non-Community nationals, but are also the worst affected by irregular immigration. They have therefore recently undertaken regularisation procedures which their neighbours with more longstanding traditions when it comes to immigration officially refuse to consider.

Whereas the regularisation procedure undertaken in Portugal substantially altered the structure of the foreign population officially authorised to stay in the country, no official publication has as yet appeared on the impact of these measures. According to indirect sources few applications were turned down but it proved to be a very difficult exercise, often because of applicants not knowing exactly where they stood.²¹ The coordination of the associations which monitored the operation said that this seriously affected efficiency and claimed that only half the 70 000 applications were actually processed, since the rest had not been properly filled out by the applicants. So many people called for another general regularisation procedure on the grounds that those who had failed in the first regularisation bid added to arrivals since 15 April 1992 brought the total number in irregular situations up to more than 30 000. The government

²¹ Some people with Portuguese nationality applied for regularisation, whereas others who were foreign but thought they were Portuguese failed to do so.

was not willing to do this for the time being, but it gave its assurance that there would be no witch-hunt – although anyone discovered in an irregular situation would be expelled.

Be that as it may, and even if the new legislation seems to have slowed things down a little,²² the applications for residence permits again rose in 1992 and the total number of residence permits issued was up 6.6%, an average increase masking major differences from one region to another: doubling in the north, also exceeding the average in the "islands", whereas the southern regions saw a decline of 8.6%. These new waves of immigrants were still predominantly male, particularly in groups from the Portuguese-speaking nations, with females remaining under the 40% mark. However, as stays are tending increasingly to become protracted and consequently prompt families to want to reunite, this could well change quite quickly. There was already a clear increase in the number of under 15s, particularly among non-Community nationals.

All in all, the number of foreigners officially recorded in Portugal rose from 86 982 in 1986 to 121 513 in 1992; the majority arrived from the Portuguese-speaking countries, primarily from Cape Verde and Brazil, 25% only coming from the European Union. Over two-thirds have settled in the Lisbon area and the valley of the Tagus, mostly nationals of non-Community countries (71%), EU nationals being more evenly spread over the country.

MAIN FOREIGN NATIONALITIES ESTABLISHED IN PORTUGAL

Africa	EEC	Cape Verde	Other Portuguese-speaking countries	Brazil	Other South American	Other Europe
54.445	31.421	31.127	18.502	14.048	5.912	3257

Spain, like its neighbour, continued its transformation to become a new country of immigration, attracting both Community residents (particularly from Portugal and the United Kingdom) and people from outside the Community (mainly Americans, Moroccans, Argentinians and Venezuelans). Families which were reunited under the collective regularisation procedure of 1991 had a lot to do with the change and accounted for almost 7 000 applications. The biggest contingent was of members of the families of Moroccan and Argentinian workers. However, there was no automatic link in the numbers involved in reuniting families and the number of people regularised. There were three main reasons for this. First of all, the majority of the regularised were young and single, second, some of them were already members of regularised families and, third, some of them were probably waiting until their permits had been renewed and they had some sort of job stability before bringing their families in to join them. Whatever the case may be, there is no doubt that the reuniting of families is something which is likely to gain ground in the coming years, particularly in the case of nationalities where the process is only just beginning and the potential is objectively large. The Moroccans are a good example of this.

For the first time, Spain's statistics on foreign nationals separated out the student category, to which 9 300 cards were issued in 1992, 20% of them to Americans and 12% to Moroccans.

²² From +239% in 1990/1, these applications rose by only 54.9% in the following year.

The size of the American group obviously reflected the increasing importance of Spanish in the United States. The Moroccan student population included young people who really were studying in Europe, others who opposed the political regime at home, and others who saw student status as a means of coming to work in Europe. There was only a small Community student population in comparison with the Latin Americans.

All in all, Spain had 393 000 resident foreigners on 31 December 1992.²³ Add to this figure the Community nationals with temporary or provisional permits, the students, the residents in the course of registration and the applicants for asylum and refuge,²⁴ and the total of legally registered aliens comes to 450 000, half of European origin. There is thus an increase for all the major regions of the world, but in comparative terms, only the African contingent had slightly increased its share.

In Italy, coming to grips with the realities of immigration is a more delicate matter, because it is so difficult to obtain recent, reliable data. There are three main reasons for this – first, the unabated flow of irregular immigration, second the traditional *laissez-faire* attitudes of the central government and/or regional authorities and, third, the technical inability to date of the Ministry of the Interior and the Ministry of Labour to collect and process statistics. This shortcoming is apparently of no great concern to the people in charge, who do not appear to bother about basing either the discussion or the approval of their policy on statistics which have been compiled and properly interpreted.

The Ministry of the Interior put the number of aliens with proper residence permits on 31 December 1993 at 987 405; most of these were men in their prime. The cities and their service activities explain why half of them are to be found in the north. Almost a quarter lived in Rome and the rate of growth of the flow of new arrivals to the city was twice the national average. The increase was even greater in Milan, which now had a foreign population of 137 000. Although economic considerations were the main cause of immigration, reuniting families was also gaining ground. In 1993, 14 000 people were allowed in to join their families and the number is rising regularly, with a particularly large contingent from North Africa.

MAIN FOREIGN NATIONALITIES ESTABLISHED IN ITALY

Morocco	ex-Yugoslavia	USA	Phillipines	Tunisia	Albania	Senegal	Egypt	China	Poland	Brazil
97 604	72 377	63 960	46 332	44 505	30 317	29 368	24 555	22 875	21 075	21 073

The pattern of migration in recent years has thus brought major changes in the nationality breakdown as regards foreigners residing in Italy. The Moroccans were still in the lead, followed by nationals of the former Yugoslavia, and then citizens of the USA. The Tunisians, who were in third place in 1992, have now been overtaken by the Filipinos and have slid into fifth place.

²³ In this, the Morrocans (54 105) had surged ahead to supplant the British as the country's biggest foreign community (source: Ministry of the Interior).

²⁴ All of whom have permits reflecting other legal statuses and are not included in the number of residents.

It is extremely difficult to get the size of the foreign population in Greece. Available data vary by a factor of three depending on the source, and comparisons are virtually out of the question. No proper links can be established between, say, the 108 000 workers recorded in the labour survey and the country's 500 000 aliens (350 000 of whom are illegal immigrants, according to an estimate by the Athens Institute of Labour) or between the Under-Secretary of State for Foreign Affairs' figure of 500 000 with no permits and the Ministry of Public Order's range of 100 000 to 150 000 of Albanians without papers. All these data are of course at variance with the figures printed in the press and the associations defending the various groups concerned. The only universal point of agreement is that there are huge numbers of aliens without residence permits in Greece as is confirmed by the permit issue records (least likely to contain statistical errors) held by the Ministry of Public Order. In 1993, 62 000 aliens were in possession of residence permits and almost half of them had work permits as well. A very tentative estimates puts the total number of foreigners resident in Greece at 340 000.

MAIN FOREIGN NATIONALITIES ESTABLISHED IN GREECE

Albania	Pontic Greeks	Egypt	Philippines	Poland
150 000	50 000	50 000	40 000	10 000

A more chequered pattern in Northern Europe

As for northern Europe, the most significant changes in 1993 took place in the Netherlands, the CBS (Dutch statistical office) considering 1993 to have been a year of a dual reversal of trends. On the one hand, and for the first time, the number of Community nationals fell; on the other, after falling off slightly the previous year, total entries were up by 12%.²⁵ Despite a slowdown in the arrival of Turks and Moroccans,²⁶ entries reached a record 93 000 for the first time since 1975, mainly because of increasing arrivals from Surinam. At 1 January 1993 foreigners (excluding the Surinamese and West Indians, who generally have a Dutch passport) accounted for 5% of the 15 million inhabitants of the Netherlands.²⁷ The total number of persons born abroad or having parents born abroad²⁸ was reckoned to be in excess of 2 million (nearly 14% of the population); 950 000 (6% of the population) belong to the groups covered by the policy on ethnic minorities.²⁹

²⁵ Particularly as this reference year has to be considered as exceptional in view of the regularisation of 10 000 foreigners in an irregular situation.

²⁶ Turkish and Moroccan immigration stood at 23 000 in 1990 but fell in 1992 to 16 700; the figure for 1993 should be in the region of 13 000.

²⁷ The rate of growth in the non-Dutch population fell from 6% at 1 January 1992 to 3% at 1 January 1993, mainly because of a high number of naturalisations.

²⁸ This non-indigenous population can be estimated on the basis of the *registertelling*. The information recorded in the municipal registers do not give the reason for immigration and cannot therefore be used to break down the different types of immigration (work, studies or reuniting of families). The proposal envisaged to link them to those of the foreign nationals register would make for a more accurate picture of the situation. Every two years, the CBS receives additional data from the registration offices on the population of every municipality. The origin of the citizens and their parents is given therein.

²⁹ The office estimates that annual immigration over the next five years will be 5 000, i.e. 10 000 more than in the previous calculations. In 40 years time, the Dutch population should then reach 17.7 million, i.e. 2.5 million more than now. 60% of this growth can apparently be put down to births and 40% to immigration.

MAIN FOREIGN NATIONALITIES ESTABLISHED IN THE NETHERLANDS

Turkey	EEC	Morocco	other African	Asia	Surinam	The Americas	ex-Yugoslavia
115 128	102 424	91 418	24 970	33 344	10 533	12 597	10 113

After dwindling in 1982-83 momentum built up again in Belgium, slowly at first (1984-88) and then gathering pace as from 1989. The natural annual balance is today around 20 000, with a migratory balance in excess of 33 000. Assuming this keeps up, nationals from non-Community countries will account for 6.7% of the total population in the year 2010, compared with 3% at present; in addition, one out of three babies born is foreign. At 1 January 1993, the total number of foreigners in Belgium stood at 909 265,³⁰ plus 20 000 or so refugees and just under 1 000 stateless persons. Brussels had the highest concentration of foreigners (28%), mostly persons aged under 29; 45% of children under 14 in the Belgian capital were Turkish or Moroccan.³¹

MAIN FOREIGN NATIONALITIES ESTABLISHED IN BELGIUM

Italy	other EEC	Morocco	Turkey	Zaire
217 534	319 132	145 000	88 300	14 600

MAIN FOREIGN NATIONALITIES ESTABLISHED IN GERMANY

Turkey	EEC	Ex-Yugoslavia	Poland	Romania	Morocco
1 854 945	1 503 708	915 636	285 553	167 327	80 278

Luxembourg still has the highest percentage of foreigners in all the European Union. At 1 January 1993, these accounted for over 30% of the total population, i.e. approximately 120 000.³² The flows had continued to rise constantly since 1987, but fell back slightly in 1992, although this slowdown³³ did not apply to nationals from non-Community countries who continued to arrive in greater numbers; moreover, for the first time, their migratory balance exceeded that of the Portuguese. Community nationals nevertheless continue to make up the bulk of foreigners established in Luxembourg, and they are also top of the list in terms of new entries (71% in 1992, compared with 77% in 1991). The net migratory balance recorded in

³⁰ Out of this total, 41% were nationals of non-Community countries.

³¹ In Flanders there were 273 272 foreigners, representing 4,69% of the population; however, if the count is restricted to nationals of non-Community countries, the number was 122 189 i.e. 2,1% of the population. The breakdown by nationality is completely different from that observed in the rest of Belgium, for there were more Dutch than Moroccans or Turks.

³² This annual figure supplied by the SATEC on the basis of figures from the last census takes account of the annual population balance (natural movements and migratory movements). This figure, probably underestimated because of the problems involved in calculating illegal immigration, is nonetheless the most reliable; other available sources conversely seem to markedly overestimate the number of foreigners.

³³ This slowdown is due solely to the fall in the number of Portuguese arriving, although they remain at the top in terms of entries recorded: 27% in 1992, compared with 32% in 1991.

1992, the highest since 1974, was due mainly to the fact that there was a record number of arrivals and the number of people returning to their own countries (return migration) was far lower than the number of departures of national citizens.³⁴

MAIN FOREIGN NATIONALITIES ESTABLISHED IN LUXEMBOURG

Portugal	Italy	France	Belgium	Germany
42 650	19 850	13 250	10 000	8 850

In France, the INSEE puts the annual migratory balance for the period 1990-92 at over 80 000 people, i.e. nearly twice that recorded six years previously. The figures for the first 10 months of 1993 suggest that this upward trend is likely to continue for all categories (at a rate which varies from 3% to 30% depending on the specific case involved), with the exception of entries of permanent workers whose numbers fell by an astonishing 56%. Admittedly, an end to the regularisation of those "not entitled to the right of asylum" considerably reduced the number of new permanent work permits being granted; only 1 300 people were issued one in the first 10 months of 1993, against 8 500 a year previously. On the other hand, the fall in flows of asylum seekers noted since 1989 appears to have ceased and the decline in the number of those benefiting from the status of refugees is slowing up (-2%).

MAIN FOREIGN NATIONALITIES ESTABLISHED IN FRANCE

Portugal	Algeria	Morocco	Italy	Spain	Tunisia	Africa*	South-east Asia**
649 714	614 207	572 652	252 759	216 047	206 336	176 745	112 915

* French-speaking black Africa

** Cambodia, Laos, Vietnam

Without distinguishing the reasons for entry, 116 588 people in 1992 obtained permission to stay (or a residence/work permit) valid for at least one year,³⁵ i.e. a rise of approximately 6% over the whole year. This result can be attributed entirely to arrivals of permanent employed earners, a category in which the numbers of EEC nationals – already far and away the majority – have increased threefold.³⁶ All the other flows either remained stable (members of families of French citizens), or fell back (persons with refugee status, visitors, families reuniting).³⁷ Two

³⁴ There is a substantial ebb and flow in the migration of Luxembourgers. Some choose to settle in the frontier areas where accommodation is more reasonably priced. Not forgetting the students who go abroad to complete their studies and those who are affected by vocational mobility, particularly executives working in big international companies.

³⁵ This total includes the strictly "measurable" flows. It includes all those who have to undergo the IOM's medical check (people migrating for the first time, those regularised, or those who are receiving a residence permit for the first time), holders of a resident's card (or a certificate of residence in the case of Algerians) issued under full entitlement who do not have to undergo this check. If we add to this flows which are poorly assessed, e.g. those relating to members of families of EEC nationals, the resulting estimated total is 135 372 foreigners, compared with 123 413 one year previously.

³⁶ The main reason for this is the entry into force from 1 January 1992 of the freedom of movement given to Spanish citizens and particularly to Portuguese citizens. In 1992, 15 221 Portuguese arrived in France (or were regularised), compared with 768 in 1991. All in all, arrivals of workers rose by 65%.

³⁷ The French statistical system does not make it possible to follow entry-exit migratory movements of nationals,

other types of legal migration have to be added, viz. workers having a "temporary" status and those having the status of "seasonal worker".³⁸ The first group includes - in descending order of size - asylum seekers, students, EEC workers having a short duration contract and those with a temporary work authorisation (APT). The second includes exclusively workers having a contract of employment lasting a maximum of six months, valid as a residence and work permit. The removal of the Iberian nationals from this group brings out a significant rise in the call for non-Community seasonal workers, mostly Polish (53%, i.e. 7 257).³⁹

Ireland, Denmark and the UK are exceptions to the trends observed throughout the EU. In Ireland, the number of nationals from non-Community countries entering for the purposes of employment fell in 1992 for the first time for several years. Permits issued fell by almost 8%, whereas they had risen an average of 17% per year throughout the 1988-1991 period.⁴⁰ Apart from the Japanese, whose numbers were well up on those of 1992, most of the permits issued or renewed went to Pakistanis, Americans and Canadians, and Indians.

Similarly in Denmark, where flows in recent years had risen sharply, the trend was reversed in 1993 following restrictions for entitlement for the purposes of reuniting families. Even so, the total number of foreign residents has doubled since 1976 and at 1 January 1993 stood at 180 103 persons, i.e. 3.5% of the total population.⁴¹ Once again, this growth is the virtually exclusive result of arrivals of nationals from non-Community countries, those from Scandinavia, the EU and North America being more or less unchanged. Breaking these entries down by nationalities, we find mainly Turks (18.7%) followed some way behind by Yugoslavs, British, Norwegians and stateless persons.

Main foreign nationalities established in Denmark

Turkey	Yugoslavia	United Kingdom	Norway	Stateless persons	Germany	Sweden
33 653	11 306	10 920	10 443	10 185	8 896	8 430

In 1992 the United Kingdom authorities issued 52 600 permanent resident permits, i.e. 2.4% down in one year. These permits were in nearly nine cases of 10 were granted for the purposes of reuniting families, first of all to spouses, then to the other members of the families concerned. Nearly half the recipients were nationals of the new Commonwealth, 6% citizens of the old Commonwealth, and 41% from other countries.⁴² Permanent residents permits were also issued to people who had been working for four years or more in the UK as an employed

residents of mainland France and inhabitants of the overseas departments. The migratory balance published each year by the INSEE considers all movements into and out of mainland France together and not those attributable to foreigners alone. The figure for this balance is likely to be revised (upwards or downwards) when the results of the latest census are to hand.

³⁸ These categories have permits valid from three months to one year.

³⁹ The extension of freedom of movement to the Spanish and Portuguese who regularly account for 80% to 90% of the numbers involved, makes it necessary to revise the way in which they are counted, in order to plot the trends in recent years accurately.

⁴⁰ Conversely, the number of work permits renewed continued to increase in 1992.

⁴¹ Out of this total, 58 941 are Scandinavian nationals, nationals for European Union and North America; 48 958 are refugees and 74 204 nationals from non-Community countries.

⁴² The largest contingent (29%) was from the Indian sub-continent.

earner, in management or in the liberal professions (7%), to refugees in the country for over four years (3%) and persons accepted on a discretionary basis after a long period of residence (4%).

The preliminary results of the 1991 census showed that just over three million emanating from ethnic minorities live in Great Britain, i.e. 5.5% of the total population. The bulk of these are Indians, followed by three categories of "blacks": Caribbean, African and "other blacks". This population is generally younger than the white population, with a predominance of under 15s and a minority of 65s and over. There are similar differences within this category. The group identified as "other blacks" is generally speaking the youngest; half its members are under 15, nine out of 10 are under 45. The Indians have the highest number of the oldest and of the youngest.

The flow of asylum seekers is slowing down

Whilst rising numbers were a characteristic of all the groups described above, this was not true of seekers of asylum where the tide seems to have been stemmed except in Spain, Belgium, the Netherlands and Portugal. The reversal of the trend shows that the rigorous methods adopted (refusal at airports, low acceptance rates and the lack of security for asylum seekers while their applications are being processed) were quick to take effect and to discourage potential applicants. In the United Kingdom this development is the most remarkable as the drop in numbers predated the entry into force of the restrictive provisions. In general, the restrictive measures adopted penalise applicants from Africa and the rest of the world more than Europeans, with preferential treatment being accorded to people from former Yugoslavia.

Whether this was a result of the new provisions being announced or of their actual effectiveness, the figures speak for themselves and are a source of satisfaction for the authorities of the Member States. The German government attributes the reversal of the trend which was mainly recorded in the second half of the year to its new policy and particularly its decision to amend the Basic Law, even though the number of applicants is still high (322 600 in 1993), as it is in France, Italy, Denmark and Greece. The situation is completely different in Spain, Belgium and Portugal, where the number of asylum seekers has continued to rise.

In Greece, the head of the Greek Council for Refugees claimed that only six out of every hundred people applying for the protection provided for in the Geneva Convention of 1951 and the New York Protocol of 1967 had any chance of their application being successful.⁴³ In fact the number of successful applications, which was only 51 in 1991, dropped even further in the first half of 1993. In all, 3 000 people currently had refugee status in Greece, a further 2 000 were registered with the UNHCR and some of them could be granted the benefit of a system of tolerance. Then there were those using Greece as a country of transit, most of whom were being looked after by the Greek chapter of the IOM⁴⁴.

⁴³ Take the example of the 22 Iraqis (including 16 children), who apparently arrived from Bulgaria. The government gave them six months to leave the country after a pointless argument with the Bulgarian authorities over the terms of immediate repatriation. The refugees applied to the UNHCR in Athens for residence and work permits and passports with the help of the Iraqi embassy.

⁴⁴ In 1992 the IOM steered 2 154 people to their final destination, in the most cases the USA. At the end of 1993, 8 695 were on the waiting list, considerably fewer than the preceding year, the majority of whom came from Iraq, Poland and Albania.

In France, the number of seekers of asylum has fallen by over a half within three years⁴⁵, mainly at the expense of people from Africa and Asia (including Turkey) whilst the numbers of European nationals amongst applicants, particularly from former Yugoslavia, increased slightly. In Denmark 15 000 of the 23 000 applicants registered at the end of 1993 were from former Yugoslavia and had provisional two-year residence permits. Refugee status was granted to 3 425 people in the course of the year as against 3 769 the year before.⁴⁶

In Italy, the Italian Refugee Council (CIR) recorded an even sharper fall (-78%)⁴⁷. Here again the restrictive measures clearly favoured applicants from eastern Europe (two-thirds of successful applicants in 1992) rather than those from Africa. A total of 14 000 refugees were recognised and a further 34 000 were let in on ad hoc decisions⁴⁸ but with no work permits or welfare. Some were in camps and 23 000 were receiving relief from a voluntary organisation. Generally speaking, refugees in Italy suffer enormously from the extremely protracted bureaucratic procedures and ill-defined institutional responsibilities which make it difficult for NGOs to take action.

In the United Kingdom the spectacular drop last year (-45%) preceded, as we have mentioned, adoption of the new legislation on asylum: 24 600 applicants were admitted in 1992 (as against 44 800 the previous year), 1 115 persons were accorded refugee status and over 15 000 others were not, but were given exceptional right of abode. Turks, Iraqis and Sudanese formed the largest contingents amongst those admitted, whilst Sri Lankans, Somalis and Ethiopians made up the majority of those turned down. In the same year 1 350 asylum seekers were repatriated or left voluntarily.⁴⁹ As elsewhere, people from former Yugoslavia were the main beneficiaries (23% of the total) with restrictions largely penalising African applicants whose numbers were reduced to 20 000.

In Portugal, in contrast with the previous trends, there has been no slowdown in the increase in the number of applicants, in spite of the closer scrutiny of cases and the constant fall in the number of favourable decisions prior to the entry into force of the new asylum act. Although the numbers are relatively modest, with 519 applications processed in 1992 (coming mainly from Zairis, Rumanians and Angolans), the increase from one year to another (+123%) is a matter of concern for the Lisbon authorities as is the growing presence amongst the applicants of people from eastern Europe. The figures for the first six months of 1993 (1 223 applications, with a growing Rumanian contingent) bore this out.

In Belgium the situation was on a very different scale. The number of applications which had risen by 16% in 1992, went up again by 44% in 1993. Although there was an appreciable slowing down in the last quarter, the total was over 25 000, the commonest nationalities being Rumanian, Zairi and Indian. Less than half the registered applications were processed in the course of the year with 16 725 being turned down and only 1 111 meeting with success⁵⁰. As a result the processing backlog is worsening (36 000 in 1993, i.e. 16 000 more in two years)

⁴⁵ From 61 372 in 1989 to 28 873 in 1992.

⁴⁶ On average 50% of the applications made were successful.

⁴⁷ From 27 000 in 1991 to 6 042 in 1992, with 3 449 of them the subject of legal inquiries.

⁴⁸ 8 000 Somalis and 26 000 people from former Yugoslavia.

⁴⁹ On 31 march 1993 there were still 42 000 applications to be processed.

⁵⁰ The average success rate is 6%, although it varies considerably from one nationality to another going up to 9% for Zairis and Angolans, down to 1% for Indians, Bulgarians, Pakistanis and Ghanaians and zero for Nigerians.

and the number of refusals is increasing⁵¹. The refugee commissioner said that Belgium was going through its worst asylum crisis ever and achieving the Minister of Interior's aim of clearing the administrative backlog by 1996 would, he claimed, mean giving the commission more money and more staff and speeding up the processing of applications⁵². A new type of problem emerged with the arrival in Zaventem of a number of Zairi minors, unaccompanied or abandoned in the airport's transit centres.

In the Spain the effects of the extraordinary regularisation procedure in 1991 gave the situation as regards asylum seekers a very different profile from that observed elsewhere. Initially the regularisation procedure attracted some applicants who tried to use it to legalise their situation and drop the idea of applying for refugee status. This strategy accounts for the slight decline in 1991. Since then those who failed to legalise their situation (or who arrived after the final date) made another attempt to obtain legal status by applying for asylum, the majority (Peruvians, Dominicans and Senegalese) being migrant workers rather than refugees. The result was that in 1993 12 615 new applications were registered (39% from Latin America and 26% from Europe) with a spectacular increase in the number of applications from Chinese⁵³ who apparently take advantage of highly organised networks to help them across the French border⁵⁴. Between 1985 and 1992 asylum or refugee status was granted to a total of 1 975 people who brought a further 3 822 family members with them. In 1993, only 7% of the applications processed were successful (1 287). The biggest contingents were Peruvian, Rumanian, Polish, Dominican and Senegalese and were also the most likely to be refused. The main beneficiaries were Bosnians and Cubans.

The situation in Luxembourg is definitely the most difficult to judge in the absence of figures on the number of persons obtaining refugee status and the exact number of Yugoslav refugees. Selection is certainly getting tighter⁵⁵. In November 1993 the Minister of Justice put the figure at 1 293 refugees, well below the 2 020 announced by his departments a few months previously. He claimed that the difference was due to distinction which had to be made between the arrivals as counted by the reception office and the actual number who stayed in the country in the end (sic.). The majority were from Bosnia Herzegovina and were admitted on humanitarian grounds. There were more adults (69%) than minors and more men (58%) than women.

Nationals come home

The return, or more properly speaking arrival, of people coming back to their roots in the Member States to obtain preferential right of entry in their new host country continued last year. The main countries to be affected were Germany where numbers are still highest, Greece, where the trend seems stronger and, to a lesser extent, Portugal which saw an influx of Angolans with dual nationality, who had left Angola because of the virtually constant state of war there.

⁵¹ The CPAS no longer has to step in to help those who are refused other than to provide emergency medical assistance and any aid needed to leave. Backup programmes are set up with the help of the IOM.

⁵² Departments choked by applications (as in the Netherlands) and the CGRA's recent decision to handle the latest applications first and leave the old ones aside are the two main reasons put forward for this situation, in spite of the fact that 100 extra staff were recruited to the office for foreign nationals and 150 to the CGRA.

⁵³ There were 25 in 1992 and more than 1 500 in 1993 and now are in third place overall.

⁵⁴ Applicants for asylum or refugee status are not allowed to work while their cases are being processed although the majority of them in fact do.

⁵⁵ Of 225 applications for asylum submitted, 176 have been processed and/or turned down.

In Germany the numbers of repatriates arriving declined in 1993. Their total is 218 000 (i.e. 12 000 less than in 1992) and applications for residence permits are down by 60% (241 178 as against 402 375 in 1992). The authorities put this down to their policy towards Germans in Russia and in particular to the financial aid channelled into the areas around Omsk in the Altai and on the Volga. Over a period of four years (1989-1992) 60 000 Greeks from Albania and more than 41 000 Pontic Greeks from the former Soviet Union entered Greece. The flow of Pontics continued into 1993 and the recent conflicts in Georgia will in all probability have speeded it up. In August the government's "golden fleece" operation was run to help a thousand of them who were at risk from the civil war.

There are still major problems in integrating these people. That, at any rate, is the opinion of the President of the Pontic Association of Greece who complains that government measures cater neither for their need nor their expectations. He claims that their day-to-day problems of social security, unemployment, pay, discrimination on recruitment, housing and non-recognition of diplomas are not being dealt with effectively. Worse still the education system did not give the children proper help. Only a minority had the opportunity to learn Greek, although failure to speak the language was one of the main problems and vocational training was no better. The Institute of Labour's annual report confirmed that there was no real reception or integration policy for Greeks arriving from the former Soviet Union or Albania.

Incentives to leave: limited success

Despite their lack of popularity, one or two programmes offering migrants incentives to leave were maintained or renewed, some in the traditional form of financial incentives aimed at legally established workers (France, Netherlands), and others, more innovative, aimed at more specific target groups, such as asylum seekers, refugees, people refused asylum, or even illegally resident foreign nationals (Germany, Denmark, Belgium, France, Netherlands).

The traditional aid scheme for the resettlement of various categories of properly registered employees and unemployed set up in France in 1984 is still running, but operates on a voluntary basis, and the results so far must be acknowledged to be very modest⁵⁶. A similar repatriation allowance system was brought in in the Netherlands, but was apparently abused by people from the Antilles and Aruba, who saw it as a cheap trip home and knew that, as holders of Dutch passports, they could return to the Netherlands whenever they liked. Consequently, all the funds for 1992 were used up by September and, in October, the authorities decided to close the scheme to anyone with dual nationality, ignoring the criticism that this amounted to discrimination.

Germany and Denmark came up with more original programmes for asylum seekers and refugees. With the cooperation of the IMO, asylum seekers are offered repatriation grants and assistance with reintegration, along with information on the economic and social situation of their country of origin, practical assistance in the form of grants to set up small businesses at home and vocational training.

Denmark introduced repatriation grants for refugees in the summer of 1993. The amount of the grant was Dkr 5 000 (with a ceiling of Dkr 15 000 per family) plus travel costs, and the

⁵⁶ French statistics do not enable the numbers of other permanent departures of legally established foreign residents to be determined.

recipient was given the option of returning to Denmark in the year of repatriation. Few refugees have so far come forward, and the Ministry for the Interior is considering extending the scheme to all foreign nationals.

Germany and the Netherlands were also experimenting with new programmes for foreign nationals resident unlawfully and those refused asylum. The Dutch operation involved offering 55 Ghanians and 55 Somalis living illegally in Amsterdam the opportunity of vocational training for nine months plus a further nine months' training in their country of origin at the expense of the international Red Cross. If successful, this pilot project, run in conjunction with the Amsterdam aliens police, would be extended to an annual quota of 2 000 asylum seekers who had been refused legal admission⁵⁷.

Belgium also ran voluntary repatriation programmes for illegal immigrants in conjunction with the International Migration Organisation (IMO). Illegal immigrants who agree to leave are given a ticket home and a resettlement allowance of around Bfrs 10 000 per person. Only 820 volunteers took this option in 1992. A similar scheme (resettlement assistance for foreign nationals invited to leave French territory) was set up in France in 1991, also dependent on volunteers, which has so far met with very little success (between September 1991 and the end of 1992, 1 567 people, including family members, opted for this scheme). Another scheme is the joint Dutch/Moroccan initiative which involves voluntary repatriation for illegal immigrants, development aid to the northern part of the country and the opening of an information centre locally to warn people against the myths and pitfalls of emigration.

More naturalisation

As a natural extension of the situations already described, continuing influx and stabilisation of populations in the country of residence, the number of naturalisations has tended to increase automatically. This is certainly true of the Netherlands, Belgium, Spain and Portugal, although the trend is less evident in France and seems to be moving in the opposite direction in the United Kingdom. The results, however, are worth looking at closely, as they sometimes reflect very specific strategies on the part of certain population groups who have nothing at all to do with the traditional immigration traffic of the country concerned.

The sharpest increase in the number of naturalisations was in the Netherlands, 1992 being a record year, with 37 400 foreign nationals receiving Dutch nationality (other than by birth)⁵⁸. In 1990 there were only 14 000 and in 1991 30 000. The two main explanations for this are the new possibility for applicants of taking Dutch nationality without losing their original nationality and improvements in administrative procedures which have enabled the authorities to catch up on much of the backlog of applications from preceding years. The Turks (11 500)

⁵⁷ In the Netherlands, an estimated 3 000 Turks and Moroccans have returned home (or at least left the country) since 1991. The total numbers repatriated increased slightly in 1992 to 23 000, including 10 000 Europeans, and CBS estimates suggested that the number of non-Dutch nationals leaving would go down slightly in 1993. Adjustments to the register enabled 25 000 people to be deleted from the administrative records in 1992, including 16 000 non-Dutch nationals. The biggest contingents to leave the country through such "administrative adjustment" were the Turks and Moroccans, more of whom left this way than through official emigration procedures. If the numbers deleted are an accurate reflection of non-official departures, the actual migratory surplus of non-Dutch nationals in 1992 would be 46 000 rather than 58 000, most of this reduction being accounted for by Turks and Moroccans. According to CBS estimates, net migration in 1993 would be 36 000, 13 000 up on the previous year.

⁵⁸ 22 000 foreigners became Dutch nationals through naturalisation, 13 000 minors through co-naturalisation and 2 000 by other means.

and Moroccans (8 000) accounted for most of the naturalisations, but in relative terms the Surinamese had the highest acceptance rate.

In Belgium, changes in the law on nationality affecting children born of foreign parents also led to an increase in the number of applications, but nevertheless some people called into question the attitude of the administration. There were certain cases of abuse and sometimes discriminatory practices by the authorities when assessing the applicant's willingness to integrate. The extremely slow processing of naturalisation applications (two years on average extending to over five years in some cases) will also no doubt have put off some candidates. This partly explains why most of those accepted for naturalisation were in fact EC citizens, who are not the main target group of integration policy.

In Portugal, although the 1993 figures are not yet available, there also seems to be an upward trend, apparently largely accounted for by immigrants from the Far East (including Japan). Those concerned probably took advantage of the opportunity offered to descendants of Portuguese nationals to take Portuguese nationality even if they were not resident in Portugal and did not speak the language. The recent decision to transfer control over applications for Portuguese nationality to the Ministry for domestic administration (the aliens and borders department) suggests that the authorities are hoping to tighten up their approach here⁵⁹.

In Spain, a similar move seems to be behind what they call 'reclaiming nationality'. Spanish emigrants hoping to claim Spanish pensions and other social security benefits have been largely responsible for the massive increase in naturalisation applications over the past few years. An application to retrieve Spanish nationality does not, however, necessarily mean that the applicant will return to the country. The trend has been confirmed by the Police Directorate-General and the Ministry of Justice, pointing to 17 000 in 1992, half of which were from former Spanish nationals, and an expected 20 000 in 1993. With so many applications, processing is falling further and further behind. Demand is expected to peak quickly with a subsequent decline in this type of application. The Ministry of Justice figures of 7 618 naturalisations in 1992⁶⁰ should, however, given this situation, be treated with a degree of caution. They represent a huge increase over the preceding year, being more in line with the 1990 figures. In view of the foregoing, the degree of integration must be assessed in the light of the actual place of residence of the people concerned. Half those naturalised came from Latin America, but Morocco was second on the list after Argentina.

In France, the situation seems to have stabilised. In 1992, 95 300 people took French nationality⁶¹, three-quarters of whom went through normal naturalisation channels, receiving French nationality either by decree or through a nationality declaration, the remainder being automatic or without formal requirements, mainly young people born in France of foreign parents before the recent reform of the nationality code. There was a sharp increase in declarations of nationality by foreign nationals below the age of majority (or, in the case of the under 16s, by their parents in their name) which were up by 6% over the previous year, but had almost

⁵⁹ Particularly since a thriving trade in forged identity cards and documents claiming Portuguese descent is suspected in Portugal as elsewhere.

⁶⁰ Most of these (69%) were granted after residence in Spain of between 10 and 20 years depending on the origin of the applicant. There are other ways of obtaining Spanish nationality (direct entry in the civil register and at the consulates without going via the Ministry of Justice) which are not included in these statistics.

⁶¹ The figure for 1991 was 95 500.

tripled in comparison with the period 1985-1987. Parents are evidently hoping that having a French child will safeguard their own right to residence in France.

In the United Kingdom, on the other hand, there was sharp drop in naturalisations over the year, with 42 200 in 1992 as against 58 200 in 1991. The origin of these new citizens has also changed radically. In 1988, eight out of ten came from the New Commonwealth, while today this group accounts for only half, 27% of whom are from the Indian sub-continent. By contrast, the proportion from the rest of the world (non-European, Old Commonwealth and other British categories) had risen to 41%. The numbers taking British citizenship after a period of legal residence in the United Kingdom also dropped dramatically.

Migration and population prospects: the real challenge to society

To sum up, the general trend in the Union in 1992 and 1993 has therefore been for the influx of migrants from third countries to increase, if not accelerate. While this movement has a strong effect on the migratory balance of the various States, it has an even stronger effect on their population balance. Most new arrivals are young and they come into what are often ageing societies. The ageing and the depopulation which threaten the whole Community by the year 2015 are a matter of increasing concern. No State is spared. This factor must be taken into account when defining a "restrictive" or "positive" immigration policy.

In Belgium, for example, a Ministry of Pensions study confirmed that the present migratory trends would not be enough to offset this trend or to correct the unavoidable imbalance between those who work and those who do not. But the report expects any drastic closing of the frontiers to accelerate the process, something which would particularly affect Brussels, where population ageing would reach an all-time record (with 33% over 60).

These realities are even more crucial in Luxembourg. More than 30% of the population of the Grand Duchy are foreigners and their natural positive balance easily makes up for the natural negative balance of the nationals⁶². It is an understatement to say that they are an essential part of the country's population and they will be all the more so, since Luxembourg's rapid ageing, with an estimated 25% of the population not working by the year 2101, will be a major problem when it comes to the financing of social security.

Ageing is also the subject of lively debate in Germany, where Demographischer Wandel, a Bundestag committee, is investigating what the situation will be like in the year 2030. The place and role of aliens is a subject of controversy in Germany as well⁶³. In addition to the classic questions on the effects of population flows, Germany, and maybe other countries too, have another problem - the not always legal practice of adopting foreign children, who make up 19% of the country's total adoptions and, according to the Federal Statistical Office, their number is rising fast. Girls seem to be preferred, particularly in the case of Asian children (India 72.4% and the Philippines 64.8%)⁶⁴. If the report entitled "The trade in children is more

⁶² "Barely 20% of Luxembourg's female nationals are under 20, but more than 26% of them are over 60" (ECO-CEPS No 1/93 - Vieillir en Europe et au Luxembourg).

⁶³ The question of immigrants from the Third World and Eastern Europe was debated at a European population conference in Geneva in March 1993, and the OECD (Paris) produced a publication on it (The changing course of international migration). It was also discussed in the new world population report (5 & 6 July 1993) under the headings of: "Die meisten versuchen ihr Glück in der Stadt" (Most try their luck in the cities) and "Über 50 Millionen Unsichtbare" (More than 50 million invisible people).

⁶⁴ 513 of all foreign minors adopted in the old Länder came from Europe (38%), 421 from Asia (31.2%), 330 from

like a local bazaar”⁶⁵ is to be believed, there are already 20 000 adopted foreign children in Germany and a quarter of them have come through commercial or illegal channels.

Foreigners age too!

Foreigners age just like everyone else. This is self-evident, but it means nothing to many people. It is as if the obsession with entry control makes people believe in the eternal youth of immigrants. While more and more measures are being taken concerning the elderly in Europe – and there were many such measures in 1993 – the future of elderly migrants is, at most, a subject for study (in France), academic meetings, seminars or advanced training for social workers (Germany). However, no significant action has been taken so far even though the migrant workers of the post-War period are already ageing, and more and more of them will choose to end their days in their host country in the years to come.

Focusing more attention on this question than other countries, the Federal German Government brought out a voluminous report on the subject in October 1993⁶⁶, pointing out that the percentage of foreigners in the 60+ bracket would be 24.1% by the year 2030, as against the 1.8% of 1991, and, conversely, that the percentage of young non-Germans would slide from 30.2% to 21.8%. Germany currently has 300 000 foreigners aged 60+. These retired aliens do not have as good a standard of living as might have been hoped. Their health tends to be mediocre, their incomes very modest and they are often unhappy with their situation. This, at least, is what emerged from a survey of the living conditions of retired aliens, which the Turkish Study Centre conducted for the Federal Ministry of Labour and Social Affairs⁶⁷.

In France, 7.8% of the foreign population surveyed in 1990 was aged 65+, a total of 280 184 people, the majority women, who are therefore overrepresented in this age group.

In Denmark, the foreign population was younger, overall, than the national population, but it still contained a fairly large number of “pre-pensioners,”⁶⁸ an ever-growing percentage in absolute and relative terms. Many local authorities are already reporting difficulties in their handling of them and catering for a range of cultures, with health care a particular problem when treatment is at variance with the traditions of the country of origin. It is already clear that the staff who look after these people (home care and home help) have gaps in their training, but nothing is being done about this. Retired aliens are very unenthusiastic about old people’s homes and most of them expect their children to follow tradition and take them in.

Such difficulties already exist in the Netherlands, where retired aliens have little access to assistance programmes. In 1991 there were already more than 77 000 people from ethnic minorities in the 50+ age group and there will be 121 000 of them by 1996. There are already

America (24.4%) and 86 from Africa and other parts of the world (6.4%). The main countries of origin were India (185 children), Romania (182 children), Brazil (108 children), Yugoslavia (90 children), Poland (77 children) and the Philippines (71 children).

⁶⁵ Rolf Bach - Der Kindermarkt erinnert oft an einen ländlichen Kleinviehbasar - Frankfurter Rundschau, 20 September 1993. Most of these children come from South Korea, India, Thailand, the Philippines, Sri Lanka, Colombia, Peru, Bolivia, Paraguay, Chile, Brazil, Ecuador and the small countries of Central America.

⁶⁶ Bundestag document (BT-Drs 12/5796 of 8 October 1993).

⁶⁷ Ausländer in Deutschland - 2/1993/ pp 5 et seq. See also the report: Sie wollen auch nicht dauernd Enkel hüten (They don’t want to depend on their children either).

⁶⁸ The proportion is 4.1% for the Turks and 7.4% for the Yugoslavians, as against the national average of 5.3%.

16 000 over-65s. Many of them are Moluccans, and there is a smaller number of Turks and Moroccans, but this will change fast. In general their grasp of Dutch is too poor for them to be able to claim the assistance to which they are entitled. As in Germany, their main concerns are housing and their low incomes. Many of them hope that their children will be able to take care of them and they cannot conceive of going into an old people's home. Various foreigners' organisations have decided to run special housing schemes with this in mind. In the Hague, for example, there are three such schemes for people from Surinam and a retirement home is being built for the Chinese. There are also projects run for the Turks, which are being financed by the regional authorities and the EEC. In Luxembourg, the Government is helping to finance an old people's home in ... Fiolhoso, in Portugal.

THE LABOUR MARKET

The expanding foreign labour force clearly affects the workings and structures of the labour markets most in southern Europe, in the new countries of immigration. Despite the general decline in the employment situation, no-one questions the usefulness of the foreign workers. And that is not all. The sectoral distribution of alien workers (with a constant drift towards the services sector) and the development of self-employment show that they are being more flexible than nationals in responding to the new demands of the economic and social changes of today.

The boom in self-employment

The trend towards alien or foreign workers setting up their own businesses has increased right across Europe. And more and more foreigners are moving out of the sectors traditionally reserved for immigrants and are providing more everyday products and services for the whole population. Developments in the Netherlands, Belgium and the UK are a good illustration of this trend.

In the Netherlands, there were twice as many such businesses as in 1986 and there is a constant upward trend in their turnover. There are now 19 000 of them, representing 3.1% of the non-Dutch working population – close to the national average of 3.6%⁶⁹. A survey conducted in Amsterdam confirms this trend. There are at least 5 000 in the city, three times as many as a decade ago, with the Turks in the lead, followed by people from Surinam, Morocco and Egypt. The Government is trying to boost this trend by making business creation advice and assistance services more efficient.

The same situation is emerging in Belgium where there are as many foreign as national self-employed and employers. According to a ministerial survey of the middle classes in 1992, 42% of the nation's traders are foreigners. In 1993, 6 175 new self-employed work permits were issued. The main recipients were Moroccans (23.6%), Turks (15.1%) and Asians (15%) and the main activities those of businessmen, traders, caterers, middlemen and builders. The same trend is apparent in Spain, France and Italy.

The situation has apparently developed even further in the UK since a recent survey (Ethnic Minorities in Great Britain: Economic Characteristics) found that workers from ethnic minorities in the UK were more likely to be self-employed than British whites, the most successful being the Chinese and Bangladeshis. The Ethnic Origins and the Labour Market survey (in the Employment Gazette for February 1993) confirms this, saying that there were more self-employed among Indian, Pakistani and Bangladeshi men (26-24%) than among West Indian or Guyanan men. Only the latter had a smaller percentage of self-employed than the whites (11%, as against 17%).

Another study (Ethnic enterprise and the high street Bank: a survey of ethnic businesses in two localities) looked at businesses opened by three minority groups, Bangladeshis, Afro-Caribbean and Greek Cypriots, in a clearly defined environment. It showed that their owners have higher than average qualifications and certainly better than the small-time white traders. More than

⁶⁹ From a study on the effects of the policy of the Ministry of Economic Affairs.

a third depend on their own communities to make their businesses work, eight out of 10 use workers from those communities and 40% use family labour.

The firms very rarely belong to professional organisations or chambers of commerce, perhaps because these are predominantly white organisations. Their external financial links are fairly complex and a fifth only ever use funds from their own communities. The longer-standing businesses in the UK are run by Greek Cypriots, who have the highest turnover and the biggest staffs. The smaller and more recent firms belong to Afro-Caribbeans (all those investigated had been opened since 1980), most of whom work in food and non-professional services. The Bangladeshis tend to be in catering and clothing.

An increasing share in the labour markets of southern Europe

In Greece, all political and union leaders agree that the foreign workforce has a major effect on the labour market. The Institute of Labour of the Federation of Greek Labour Unions says that it makes up 10% of the working population and 20% of all employees in work. Although the aliens fuel a parallel economy and occupy jobs which bypass the labour regulations, they do not really harm the national workforce, the organisation maintains⁷⁰. In fact nationals and aliens tend to complement each other, except in the building trade, where many foreigners are employed illegally. In that particular case, the unions complain bitterly of the threat to social rights and solidarity⁷¹. The Institute also complains about the inefficiency of the Government's policies of a firm hand and its blindness to the realities of immigration. It endorses the union claim (thrown out by the Government) for a regularisation move⁷² to bring these workers out of the black economy and into a recognised one.

During the second half of 1993, the Greek Government issued a total of 5 612 work permits (2 325 to men and 3 287 to women), but it is not clear how many were for new arrivals and how many were to regularise the situation of people already present. The Ministry of Public Order said that more than half the properly registered 28 161 workers in 1993 came from other EEC countries. The non-EEC contingent dropped from 18 000 to around 11 000 (following the authorities' clamp-down on new permits). Of the new arrivals most of those from Eastern Europe and Africa were men and most of those from North America, Latin America and Asia were women working mainly in domestic service, nursing and waitressing.

The labour survey (there are reservations as to its statistical reliability) put the number of aliens⁷³ of working age (15-64) at 48 000 and non-EEC workers at 43 000 in 1991, 12 000 of them from Eastern Europe and 14 000 with dual nationality. Of those with jobs, 68% of Community nationals and 74% of third country nationals were employees.

⁷⁰ Another recent study (Petrinioti, 1993, pp. 97-100) said that the presence of irregular aliens on the labour market made it possible (at least temporarily) to save flagging and unproductive firms by taking low wages and sometimes making for lower non-wage costs.

⁷¹ The heavy pressure on building workers' wages led the unions to authorise aliens to join their movement, even if they did not have work permits.

⁷² This proposal came direct from the Federation of Greek Labour Unions in the debate on the Aliens Act, passed in 1991. This regularisation ought to have been accompanied, as the Federation suggested, by a policy of social integration along the lines of provisions which other countries (France and Italy, for example) had made for their clandestine immigrants.

⁷³ A third (41 000) apparently had dual nationality (Greek plus, usually, American, Canadian or Australian).

In Spain, the labour market was still feeling the effects of the collective regularisation of 1991⁷⁴. The bulk of the authorisations went to men (72%), many of them working in the tertiary sector (65%) and nationals of African countries (50%), with Moroccans in the lead (38%), were the main beneficiaries. Then came the Latin Americans, Asians (mainly Chinese and Filipinos) and finally the non-Community Europeans (8.5%), among whom the only significant percentage (2.4%) was of Poles.

Since the start of the operation, the situation of 109 886 workers has been regularised and 18 226 applications turned down⁷⁵. By 15 September 1993, eight out of ten of the permits issued had been renewed, so some aliens, who are probably working illegally, did not turn up to have their papers renewed. This shows just how difficult it is to keep them all legal, particularly given the characteristics of the sectors of the economy in which they are employed (i.e. the retail trade, domestic service and seasonal work in farming and construction) and the minimal skills required in the sort of jobs which they do. Yet the Directorate-General for Migration had published instructions encouraging them to renew their permits and had cut the paperwork to a minimum to make it easier to do so.

In 1992, 55 027 (57.7%) of the permits issued were non-permanent, covering periods of up to a year (A, B-initial and D); 922 went to border workers and 32 327 (41.3%) were permanent, i.e. for more than a year (B-renewed, C and E). Then 24 593 authorisations were issued to Community nationals in 1992, mostly to British people, followed by Portuguese and Germans. None of the major international events of the year (the World Exhibition in Seville, the Olympic Games in Barcelona or Madrid, European City of Culture) affected the flow of Community workers. All in all, nearly 140 000 workers from third countries held work permits in Spain at the end of 1992. In comparison with 1991, the effects of regularisation were very marked with a big increase in Africans, who now made up almost half of the total and men, who now accounted for more than 70%. The contingent of foreign workers in 1993 was 20 600, half of whom found temporary jobs in agriculture and half permanent employment in domestic service⁷⁶.

Italy numbers the most immigrant workers in its foreign population, over half the foreigners on Italian soil (54%) being actively employed. In 1992, there were 123 686 non-Community workers, 2 000 fewer than in 1991, the largest contingents being Moroccans, Tunisians and Filipinos, most of whom were men, young (a third aged between 25 and 29) with only rudimentary schooling (18.8% had completed their compulsory education and 0.9% had a diploma) and largely unskilled (78.8%). Most of them settled in the north and, to a lesser extent, in the centre; only a few live in the south and even fewer on the islands. They are spread fairly evenly over the various sectors of activity in industry and in the tertiary sector. Three-quarters were recruited - often recently (only 15% of them having been employed for more than a year) - direct by their employers (76.4%) and not through the provincial employment agency.

⁷⁴ 120 585 permits were registered and 95 276 authorisations issued that year. Only a fifth of applications received were turned down.

⁷⁵ Some left Spain after being refused a permit, others were expelled (3 444) and repatriated (2 357) in 1992 and others stayed illegally.

⁷⁶ Over 5 000 applications for cleaning ladies were recorded, mainly in Madrid and Barcelona. Around 400 (slightly less than 10%) were turned down.

In Portugal, there was little variation in the rate of alien activity in 1993. At the two ends of the scale were the most active Community nationals and the least active American contingent. In the various sectors of activity, the biggest increases were in industry and the building trade. All nationalities followed the trend, although it was particularly noticeable among the traditionally best-qualified aliens.

In northern Europe, Luxembourg obviously had the biggest percentage of foreign labour in the national economy (52% of all active employees) with, of course, a large majority from other countries of the European Union. Clearly, freedom of movement for Portuguese workers, which came into effect fully in the Community on 31 December 1992, has had the greatest impact on the Luxembourg labour market⁷⁷. And what is more, employment of foreigners is still on the increase (+5 500 in 1992) at the expense of nationals (-1 000) who are only in fifth place in the employment stakes for 1992. And of course the large contingent of frontier workers accounts for 25% of all employees. By sector, Luxembourgers were in a majority only in tertiary activities, provided public service is included. Services overall are now the biggest employers of aliens (60.2% of them work in this sector), far ahead of industry (20%) and building and public works (18.9%), but aliens still account for seven of every ten employees in the primary sector and two-thirds in the secondary sector⁷⁸.

In France, two apparently contradictory figures emerged from surveys designed to measure alien activity. One of these, the INSEE labour survey for 1990 and 1991, confirms the indications of the 1990 census on foreign labour. The other, the ACEMO (Activity and Conditions of Employment of the Labour Force) survey, run by the Labour Ministry in December 1991⁷⁹, suggests the opposite, namely an increase of around 35 000 (+5%) since 1988. This is the first improvement recorded since 1973 and means that aliens now represent 7.7% instead of 7.3% of all employees. The information from the ACEMO survey provides us with the figures for the breakdown of alien employees by nationality and by sector. The EEC contingent (constant composition) dropped by about three points (46% in 1988, but down to 42.8% in 1991), the North Africans remained stable (37%) and the black Africans increased by almost two points (from 5.3% in 1988 to 7.1% in 1991). The survey also confirms the predominance of the tertiary sector as the leading employer of alien labour (39%), ahead of industry (35%), the leader hitherto, and building and public works (26%).

This constant, and in some cases renewed, contribution from foreigners to the national economy can also be seen in Germany. The president of the Federation of Industry and the president of the Federal Confederation of Employers' Associations confirm that, despite the deteriorating employment situation, German companies are still employing foreigners. This is verified by the German placement centre for employees which, in 1992, placed 6 760 foreign workers on the basis of unconditional agreements⁸⁰. In addition there were 200 000 seasonal workers, nine out of ten of whom came from Eastern Europe, and only 2% from other Member States of the European Union. The Minister of Labour estimates the number of new immigrants entering the labour market in Germany between 1 January and the end of September 1993 at 320 000.

⁷⁷ Legislation was amended on 12 February 1993 to comply with the directives of 28 June 1990 on residence of various categories of foreigners.

⁷⁸ These figures do not include international civil servants or the self-employed.

⁷⁹ This survey covers firms with more than 10 on the payroll in the private sector (agriculture, the civil service, domestic service and temporary work agencies excluded).

⁸⁰ Of this figure 3 917 were guest workers, 1 455 nursing staff, 1 205 seasonal workers and 183 had other qualifications or occupied management posts.

In the Netherlands too migrant workers are still being hired and the number of work permits has been on the increase regularly since 1990, the majority being granted to Europeans, in the main Poles (40%). In 1992 9 600 work permits were issued (3% more than in the previous year) particularly for seasonal work in agriculture (153 in 1991, 1 000 in 1992); the number of applications turned down is slightly over 2 000.

In the United Kingdom 10 000 new work permits were issued in 1992, a similar figure to that for the previous year⁸¹. However, this figure only partially reflects the real impact of these newcomers to the labour market since family members who also have direct right to access and people requesting asylum whose applications are being examined should also be included. Overall the initial results of the labour force survey show that the employment sectors for workers belonging to ethnic minorities scarcely differ from those of their white counterparts. The former are employed slightly more frequently in the distributive trades, hotels, catering and repair services and the women in this group rather more frequently in medical or health services. However there are appreciable differences between the communities. 59% of Indians are manual workers as against only a third of West Indians and two-fifths of Pakistanis and Bangladeshis.

Conflicting trends in unemployment amongst foreigners

In the long term the greater vulnerability to unemployment of foreigners and other immigration populations now appears to be offset by structural trends which often work in their favour. These two aspects emerge clearly from the situation in France⁸². According to the results of the INSEE employment surveys of March 1991 and 1992 confirming the figures from the census in 1990 non-EEC nationals had a rate of unemployment (as defined by the ILO) twice or two and a half times as high as the average rate for all employees⁸³. However, the increase in foreigners looking for work over the first nine months of 1993 is lower than the national average (+6.4% as against +7.3%)⁸⁴, leading to a slight drop in their share in the total for job seekers enrolled at the employment agency and a more appreciable drop in the figure for non-EEC nationals⁸⁵. Judging by the unemployment rate, non-Community nationals certainly seem to be the most vulnerable but if we look at the reduction of the percentage of job seekers, they seem to be adapting to the recent economic climate, which offers more opportunity for work, better than nationals or the people from other Community countries.

⁸¹ The majority of the beneficiaries were from the American continent, outnumbering all the others by a factor of two.

⁸² There are two indicators whereby we can assess the situation of aliens on the job market in France – their rate of employment, as provided by the census and INSEE's job survey and the percentage they represent of all job seekers at the end of every month, as provided by the national employment agency (ANPE).

⁸³ The following results were obtained in 1992 – all workers 10.1%, aliens 18.6%, EEC nationals 9.7% and non-EEC nationals 25.7%. Closer analysis by sex and age group shows that young women from non-EEC countries of between 15 and 24 fared worst, over half of them not having a job.

⁸⁴ Between 31 December 1991 and 31 December 1992 the total number of job seekers went from 2 918 778 to 3 076 004, some 12% of whom were foreigners. In contrast to findings in previous years, EEC nationals were in the lead in the alien unemployment increase over these two years. The Portuguese, the hardest hit, were way ahead of all other nationalities. The latest information (end of the third quarter in 1993) confirms these trends.

⁸⁵ At the same time the increase in the number of women amongst unemployed foreigners has been increasing and is now over a third (36%). The figure is slightly lower for non-EEC nationals (35%) but is 45% for EEC nationals and 40.5% for Asians.

Similar trends have been observed in Belgium and Italy. In Brussels alien unemployment increased more slowly than national unemployment, particularly amongst women. But, as in France, their unemployment rate was still higher than the national average (6.4% as against 3.7%). The Italian Labour Ministry gave a figure of 72 347 for alien job seekers in 1992 which was 14% down in a year. And about one out of five had been on the dole for more than a year and 43% for between three months and a year. Just half of the country's unemployed were in the north and a third were Moroccans, followed by Tunisians and Senegalese, the majority of whom were men.

In the Netherlands the situation is more complicated in as far as in 1993 the number of people out of work established a new record since the end of the war, making life more difficult for the central employment office which had set itself the objective of bringing unemployment amongst minorities to a level comparable with that of nationals. Nevertheless the figures available on the rate of "inactive persons" (workers receiving benefit, persons actively seeking employment or who have not yet started work) show that although the rate remains four to five times as high amongst foreigners as amongst nationals, the employment situation for the minorities did, however, improve between 1988 and 1992.

These trends were not followed in Germany, Denmark, Spain, Luxembourg and the United Kingdom. The latest employment report in Germany records a marked increase in employment amongst foreigners (+35%) in the old Länder where the percentage of job seekers went up to 15%, whilst remaining low in the new Länder (1.2%). In Denmark refugees and alien immigrants are under-represented in the working population (2.5%) and over-represented amongst the job seekers (6.8%). Generally speaking their average rates of unemployment are fairly high and they are often out of work for more than a year or 18 months. However, the results differed from one group to another, with refugees depending more on social assistance, and immigrants more on unemployment benefit.

In Luxembourg foreigners have, on the whole, suffered more from the decline in the labour market than nationals. They represented 48.5% of job seekers in 1993 as against 41% in May 1991. However, the figures vary considerably from one nationality to another, the most vulnerable being the Portuguese who alone accounted for 20.5% of job seekers. Over a third of the job seekers are between 20 and 29. In Greece the number of unemployed aliens is estimated at 5 600 though there are reservations as to the reliability of the figures. The most vulnerable are the East Europeans whilst Community nationals are the best placed.

Two reports produced in the United Kingdom in the course of the year – the Labour Force Survey and Investing in Black People – confirm the discrimination between nationals and ethnic minorities in the job market and in vocational training. The first of these in February 1993 reveals that minorities are twice as likely to be out of work as whites with equivalent qualifications⁸⁶. The worst off are West Indians and members of the Pakistani and Bangladeshi communities. The situation is worse still for young people in the 16-24 age group and, there too, the Pakistanis, Bangladeshis and West Indians seem to be suffering most. The GMB, one of the biggest unions, said the situation was particularly worrying in the West and East Midlands, Yorkshire and Humberside. The worst figures for blacks were in Liverpool, Manchester and

⁸⁶ A total of 8% of whites of working age are looking for work as against 15% of adults from ethnic minorities; 3% of whites with secondary school qualifications are out of work compared with 6% for minorities.

the London boroughs of Hackney, Kensington and Chelsea where unemployment was between 29% and 35% and the worst for Asians in Tower Hamlets, in London (41.9%).

The National Council for Voluntary Organisations and the Black Training and Enterprise Group said that the figures reflected the inequality between the groups when it came to vocational training and maintained that the facilities offered by the Training and Enterprise Councils (TECs) were unsuited to the realities of the ethnic minorities. A survey of over half the 82 TECs in England and Wales showed that only 22 had minority assistance policies and less than half were concerned with finding out what the minorities needed. The direction and management staff of a second group of 18 TECs were shown to be all whites, but to have ethnic minorities over-represented at the lowest levels of qualifications.

The explanation may be right, but it is not sufficient. A recent study of labour surveys from 1984 to 1990 by the Institute of Political Studies emphasised the difference between the way the minorities had progressed in schools and universities and their showing on the job market. The average time which young Indians, Afro-Asians and Chinese of over 16 spent in education had improved consistently, to the point where it was now better than among white youngsters of the same age. In the 16-24 age bracket, 44% of Chinese, 41% of Afro-Asians and 36% of Indians had one A level, while the figure for whites of the same age was only 33%⁸⁷. This trend is reflected in the distribution of young graduates. More and more youngsters from minorities go into accountancy, medicine, the laws and computing. 25% of Afro-Asians and Indians study these subjects (the percentage being the same among the white population) but it goes up to 30% among the Chinese. However, young Pakistanis, Bangladeshis and West Indians are making little headway. Many of them (and more than the whites) do stay in education after the age of 16, but their final results are not so good. Again it is the Pakistani and Bangladeshi groups which are the most vulnerable as they have the biggest percentages of young people with no qualifications. On the labour market, most of them find themselves in unskilled or semi-skilled manual jobs – which are increasingly rare. The Africans and West Indians mainly find skilled manual work.

In Spain the situation is less clear-cut and the figures need to be interpreted with caution. According to Spain's National Employment Institute (INEM) 26 686 foreign workers were out of a job in January 1993, eight out of 10 of whom were men, the majority Moroccan. The under-representation of women was linked to the more favourable situation in the services sector (which is heavily feminised) and the over-representation of Moroccans to the extent of unemployment in agriculture and the building trade (the sectors which Moroccans prefer). However, these figures are only relative. Last year, registering with INEM made it possible to obtain a document stating that the holder "intended to obtain a job", which registered immigrants needed to have their work permits renewed. So the number of people registered does not automatically indicate the actual extent of alien unemployment.

Five years to improve employment in France

Unemployment is a major political challenge in all the Member States, regardless of the (more or less) favourable trends noted here and there. All the countries are devising programmes, announcing plans and reforming legislation, usually with the twofold aim of heading off the

⁸⁷ Although many Indians and Chinese achieve a good level of education, more and more of them have none and the consequences on the job market are obvious – 28% of employees of Indian or Chinese origin are semi-qualified, but 37% have no qualifications at all.

risk of destabilisation by taking a social approach to the situation of the worst off and encouraging flexible employment practices to boost the firms' productivity.

France has not been lagging behind, for last year was one of general and specific measures along these lines, with the five-year law on labour, employment and vocational training, passed in December 1993, as the kingpin⁸⁸. This law, containing 83 Articles, is divided into four titles covering the four major aims of encouraging job creation and access, relaxing work organisation (re-arranging working time), developing and decentralising vocational training and integration (in particular by modernising the system of apprenticeships) and, lastly, coordinating, simplifying and improving the public employment offices.

Some of these measures are more directly concerned with young people from the immigrant population. They include, first, gradual decentralisation (over five years) of vocational training facilities for young people (Article 49), for the whole reception, information and monitoring network (local offices and reception, information and guidance services) is involved here. The law also provides for the design (after a survey of needs and available means) of a regional development plan for young people's training facilities (Article 52), which should set out a general policy for the region, to be submitted for approval to the Regional Council, after the Prefect has been consulted. The third aim (Articles 54-65) is to develop and modernise the apprenticeship system, which is the poor relation in training in France, and this is of particular concern to young foreigners, who represent about 5% of the people concerned.

Various other provisions preceded this law. The most ambitious of them (law 93-953 of 27 July 1993) is designed to encourage employment and apprenticeships by reducing the firms' social costs by exempting them from family allowance contributions under certain circumstances and by providing them with tax credits according to how many new contracts of apprenticeship they had. Two other practical schemes targeted specific groups. The first involved creating networks of sponsors to give young people with problems easier access to employment⁸⁹ and the second aimed to shift the focus of employment-solidarity contracts to priority target groups⁹⁰.

Lastly, two decrees opened the French civil service to Community nationals, in application of the principle laid down in the law of July 1991. One of these (93-659 of 26 March 1993) related to public hospitals and the other (93-853 of 11 June 1993) to some sections of staff at the Ministry of Youth and Sports. Portugal also produced an anti-unemployment package in February and March 1993 and this was completed by the Order of 6 July 1993, which redefined the rules of access to vocational training for underprivileged groups, including minorities.

⁸⁸ With the exception of three Articles (34, 35 and 36), specifically aimed at aliens.

⁸⁹ This was aimed at 16-25-year olds (level VI or V) with major social problems or, more specifically, level V foreigners faced with problems of discrimination (Ministry of Labour/Ministry of Social Affairs circular of 26 January 1993).

⁹⁰ Circular CDE 93-18 of the Ministry of Labour, Employment and Vocational Training of 2 June 1993.

Positive discrimination in the Netherlands – Mandatory rather than voluntary action

The debate on minorities has frequently seen clashes between the supporters of programmes open to all-comers and those in favour of specific action on behalf of minorities. The outcome is no help in deciding which is the better approach. In the Netherlands, for example, the positive discrimination policy started in the early 1990s does not have a very good record. Neither the EMO plan to open more civil service jobs to minorities nor the management-union accord to secure equal opportunities in the job market by 1995 nor the army and police plan are close to achieving their aims.

The second Labour Council report on application of the management-union agreement on minorities is not very optimistic about the chances of success⁹¹. Either nothing is known about the agreement, or even if it is, it is failing to prompt company heads to act accordingly⁹². After three years of application, there has been practically no increase in the number of employees from ethnic minorities. Scarcely a quarter of firms checked have attempted to act on it in their personnel management. In October, the Minister of Labour and Social Affairs admitted that success was not on the cards and that equality would not be achieved by the year 2000. There were three reasons for this – the growth of the working population, the current recession and prejudice in Dutch society. And of course there was the lack of qualifications of the people concerned and the fact that the minorities were concentrated in urban areas with the highest rates of unemployment⁹³.

Under the EMO plan, 310 people – and not the projected 500 – were recruited into the administration in 1992. There were 729 recruitments in all in 1991 and 1992 which was 29% of the total instead of the targeted 40%. Although the results very much depend on how much notice the departments take of the programme⁹⁴, there is also a blatant contradiction between this voluntary measure and the staff cutting policy run elsewhere in the civil service. The NCB (the country's immigrant centre), following the example of the successful "1 000 jobs for Moluccans"⁹⁵ plan, is pleading for a "1000 jobs for Turks and Moroccans" plan, since these groups fared worst in the EMO plan. The results of the drive to get a 1% increase in the number of army and police posts offered to minorities in 1990-1993 were no better. Little more than half of the projected 510 foreigners had been recruited by March 1993, despite the appointment of a "minorities coordinator" in each military unit and adjustments to the usual methods of selection and training. The two explanations generally given were the location of defence units outside the urban areas where the minorities live and the difficulties which aliens found in serving under a foreign flag. And of course there was the by no means negligible reluctance of the army itself, which is not used to recruiting foreigners.

⁹¹ It provided for 60 000 jobless aliens to be hired by 1995.

⁹² Two thirds of companies with more than 100 staff and a quarter of those with 10-99 staff had heard of the agreement, but only 2% of those had taken any action or intended to do so.

⁹³ It was suggested that simple jobs be created for unskilled workers, who included large numbers of foreigners – the first victims of advancing technology, which demands a higher level of training. The Ministry of the Interior and the Labour Ministry commissioned a survey of this in both public and private sectors.

⁹⁴ The Ministry of the Interior wrote to Parliament, announcing that, if the results were not conclusive, then the departments which were the most behind would have to earmark posts for immigrants.

⁹⁵ This plan offered every immigrant involved a personal guidance service on education, training and finding work. They were assured that they would obtain work immediately. The NCB asked the Ministry of the Interior to fund the programme which was estimated to cost FL 40 million.

The relative failure of these voluntary programmes seemed to have swept away the last vestiges of the Government's reluctance to legislate in this area. At the end of 1992, following the recommendations of the SER, the Labour Ministry presented Parliament with a bill (temporary law developing the involvement of ethnic minorities in the labour market), but it was the counter-proposal (law on the development of the involvement of ethnic minorities in the labour market), tabled by the left-wing "Groen Links" party in November 1992, which was passed in the end.

For the first time, employers are **obliged to encourage the employment of ethnic minorities**. All employers of more than 35 staff must endeavour to hire equal percentages of employees from these groups and to prevent work practices and conditions of employment being a barrier to their presence in the firm. They must keep a record of progress on this front by setting up a separate personnel management system making specific mention of ethnic groups. They are to send the chamber of commerce an annual report on the ethnic origins of staff (and those who retired during the year), mentioning what has been done to promote equal employment, and produce an action programme, after consultation with the works council, laying down the firm's future recruitment, promotion and dismissals policy. This report is to describe briefly the firm's hierarchical structure and the distribution of foreigners within the structure and forecast how many can be recruited and promoted in the coming year. **Failure to comply with these provisions is an offence** within the meaning of the law on economic offences. The unions and the NGOs welcome it, but the employers obviously do not. Other new schemes were announced in building and public works⁹⁶, service companies, the Amsterdam banks and the printing sector. The big insurance companies also set up this type of programme just when then they needed to cut back on staff. The unions suggested creating various jobs in security – the attendant reduction in theft would constitute savings for the firms.

Illegal work: an increasingly varied and international phenomenon

Illegal work, whether linked to illegal entry or not, is an entirely typical feature of the (dys)functioning of the labour market in times of a crisis or change. Opinions on it are always divided. Some consider it a "*scourge which has to be dealt with as firmly as is necessary*" whilst others display cynical pragmatism and talk about the need for an underground economy to keep some sectors afloat. At present the prevailing view in the Union, at least as officially expressed by political leaders, is in favour of a firm stand against it. In general, the irregularities which are targeted are confined to the employment of foreigners, only France and Germany having developed a wider interpretation of the concept of "illegal work" which also includes any illegal aspects of work and employment involving their own nationals.

These differences in approach account for the fact that, essentially, the provisions adopted over the year have largely targeted the employment of foreigners. The penalties incurred by employers hiring workers without authorisation have been increased (in Belgium, Germany,

⁹⁶ Building and public works were to offer 3 000 jobs for foreigners between now and 1997 and the professional organisations were to help them settle in amongst the workers. The printing sector decided to hire 100 unemployed aliens to cope with its labour shortage, essentially in unskilled jobs. If this worked, 900 more unemployed were to come into the programme over the next year or two. The services firms and the bank offer 500 posts p.a. to enable foreigners to get some experience and, in return, these people agree to accept the minimum wage and attend training courses. The ultimate aim is to provide jobs for 80% of the people involved in the scheme, although not necessarily in the companies which took them on in the first place. Diplomas were to be issued, which, it was hoped, would open the way to firms with no experience of foreigners.

Luxembourg and France), checks on companies have been stepped up (Belgium, France and Italy), the coordination of departmental activity has been eased (Belgium and France), sometimes quotas have been set (Portugal, Spain and Germany) and, more of a novelty, a provision is being drafted in Luxembourg which penalises a foreign worker continuing to occupy a job after having been refused a work permit.

However, the inspectorates are also more and more concerned about increasing irregularities in subcontracting operations and the provision of services, particularly on the part of foreign companies. These have led to more vigilance being required of persons placing orders in subcontracting operations (in the Netherlands, France and Germany), and for the conditions governing the provision of services with foreign partners to be specified more clearly (in France, Germany and Luxembourg).

It is in Luxembourg that awareness of these issues is apparently keenest and is reflected in the concept of "*social dumping*" which covers all means of bypassing labour law practised by companies⁹⁷. The development in the building and public works sector (where 80% of workers are foreigners, mainly Portuguese) is a good illustration of the reasons for this unease. After an employment surge from 1986 to 1992 the Luxembourg building trade is now faced with an economic downturn with redundancies, short-time work, ducking of the collective agreement and, above all, growth in illegal work through increased subcontracting. Many people in positions of responsibility feel that the crisis facing the building industry threatens to disrupt the rest of the national economy.

Three examples, *inter alia*, illustrate the kind of practices at issue here. The first is the case of two Poles who set up a company not listed in the trade register for the illegal hire of labour not declared to social security. The firm which used the workers employed them for 10 to 13 hours a day and gave them containers to live in. The profits went to Germany to the giver of the principal order. A second example is of a French temporary job agency, which recruited employees in Portugal and transferred them from there to Luxembourg to the European Investment Bank building site. The workers were paid 30% less than laid down in the collective agreement and were used during general holidays in the building trade without any social security declaration being made. The last example is of employees from eastern Europe without work permits and employed by German companies for work done for the account of Luxembourgish companies.

Such practices are not confined to the building and public works sector. In the wine trade, for example, a lot of abuse has been seen with the hiring of temporary Polish workers who can now be recruited via a highly simplified administrative procedure. In the absence of any checks these workers are employed without the benefit of standard pay and conditions of employment. Some people hint that demands for flexibility from wine industry leaders have led to quasi-institutional tolerance.

Cases have also occurred in the transport industry such as a company employing some 40 Czech, Slovakian, Hungarian and Polish drivers illegally. The Luxembourgish union LCGB puts the number of jobs occupied using hired out temporary labour at between 6 000 and 8 000. As there is no legislation governing this type of employment, the workers do not benefit from

⁹⁷ The concept of "*social dumping*" mainly designates illegal employment (in one form or another) of foreign labour.

guarantees under collective agreements and are not paid the same as the permanent staff of the company hiring them out.

The increase in such practices triggered a general call for forceful intervention by the authorities. The president of the OGB-L harshly criticised companies making use of loopholes in the law and claimed that illegal work, clandestine labour and false subcontracting created anarchy in the labour market and threatened regular employment. The building section of the OGB-L said that it wanted all building sector employees, resident and non-resident to wear a social badge along the lines of systems used in Germany and Belgium and intended to see whether Luxembourg should have a register of workers on construction sites as they had in Belgium and France⁹⁸. It also called for more checks to be carried out and for more resources for the labour inspectorate. The buildings committee called for an overhaul of the policy of issuing collective work permits to companies operating in national territory with non-Community workers⁹⁹. The federation of artisans entirely agreed with the demands for tighter application of the social security and labour laws. The Economic and Social Council in Luxembourg referred to "*disruption of the labour market and distortion of competition*" and denounced "*infiltration of the labour market by firms and individuals working in complete illegality and hiring or selling labour like latter-day slave traders*"¹⁰⁰.

The Luxembourg prime minister confirmed his government's intention to wage war on "social dumping" and the Labour Ministry was working on measures for systematic checks and harsher penalties. This obviously aroused strong hostility amongst the employers. The building and public work employers' organisation said that the sector was no longer sheltered from foreign competition as it had been previously and that any further regulations would interfere with the flexibility it needed to stay competitive¹⁰¹.

In a statement made recently in Germany the Ministry of Labour established a parallel between unemployment and immigration of workers. Whilst recognising the need for foreign labour, he said that the best way of fighting unemployment was to limit both legal and illegal immigration from the countries in the east and non-EEC countries. He estimated the number of new immigrants entering the labour market between 1 January and end of September 1993 to be 320 000. Regardless of the importance attached to this estimate, the real bone of contention across the Rhine was the matter of German companies using contract workers (mainly from eastern Europe) under cover of cooperation agreements with firms in their countries of origin¹⁰².

⁹⁸ In Belgium every worker employed on a building site must, when a check is carried out, present a card validated by the social building fund and attesting that his employer has, since hiring him, fulfilled his obligations to make the necessary declarations to the social authorities. If a worker does not hold such a card or presents a provisional document to the inspector, a check as to the regularity of his situation will be carried out immediately with the social protection organisations. In the event of dissimulation by workers, penalties can be imposed under the legislation though these are less severe than those for employing foreigners without a permit.

⁹⁹ Over the past few years this has been a common way for making up for the shortage of firms with enough workers and materials to undertake large projects.

¹⁰⁰ The Economic and Social Council welcomed the fact that the people of eastern Europe had regained their freedom but stressed the "*danger of cutthroat competition based on cheap illegal work were increasingly real*". Opinion on economic, financial and social trends in the country, 6 April 1993.

¹⁰¹ This also applied to the call for a fourth week of collective holiday in the summer, a measure which the unions said would give Portuguese workers the opportunity to spend more time with their families in Portugal.

¹⁰² See the Rimet report 1992. These agreements establish the maximum number of workers from each country authorised to be beneficiaries of this scheme. It thus authorises manufacturing on service contracts which allow foreign companies to obtain work permits for their employees. These must, in principle, be skilled workers and

The numbers of such workers rose from 20 000 over the past three years to 100 000 by the beginning of 1993. This practice resulted in a great deal of abuse, particularly in the building and public works sector. Checks showed that many of these workers did not have a work permit. People with responsibility in the sector called for the quotas to be axed and the federal government said it wanted to ensure that existing regulations were adhered to. The matter was to be brought before the Federal Constitutional Court.

This became such an important issue that it was the main subject of discussion at the meeting of the Commission of Labour and Order in Bonn in January 1993 under the very specific heading of "*Abuse of alien seasonal white and blue-collar workers, dumping in the matter of wages and the labour law and a tighter clampdown on illegal labour*". This meeting was attended by the political parties, the two sides of industry, the assemblies of commerce and industry, the frontier police and representatives of the European Commission. Here again, the need for German companies to employ foreign workers was not contested. The real issue was the legal instruments which would allow effective monitoring of the contracts concluded and the labour used. Opponents of the system complain that it introduces considerable distortion in the labour market by enabling an increasing number of workers paid considerably less than provided for officially by intergovernmental agreements to be employed illegally, whilst at the same time the conditions of employment defined by collective agreements can not be altered.

If they are not intended to fulfil their original purpose, these contracts for hiring out services (like others on an international scale carried out in the context of freedom of movement within the Community) do, in fact, constitute opportunities to escape the constraints of German legislation on the hiring out of labour, provision of staff and on guarantees for temporary workers, not to mention - to return to the building industry - the prohibition in law on using temporary workers in this sector. Other means of bypassing legislation are also used, such as bringing in foreign workers as "self-employed workers" when they actually are employees. These are sometimes unemployed people on the dole in another EEC country generally recruited through the press by companies in the Netherlands who place them at the disposal of German companies¹⁰³. As mentioned above, these practices are most frequent in the construction and public works sector, but also occur in transport. The unfair competition which results only increases the difficulties in supervising the labour market and increases the risk of social conflict.

Belgium also has to contend with such "self-employed workers", either nationals or foreigners, and illegal work under the cover of free provision of services within the economic territory of the Union, particularly in the building industry where temporary work is also banned. Apart from the fact that the minimum wage is not paid, this system also permits people to be hired out illegally in breach of the rules on temporary work as it is known that the workers concerned are rarely registered with the social protection authorities.

New measures to regulate the labour market

All the Member States of the Union profess concern at illegal work but at present it is the countries of the North which have the surveillance systems and penalties offering the greatest

the duration of their stay in Germany may not exceed two years, or in exceptional cases three.

¹⁰³ This type of practice which is fairly old seems to have come back into vogue over the past few years. See C-V Marie "*Clandestine immigration and illegal immigrants in the Member States of the Council of Europe*". Introductory report to the third conference of the European ministers. Council of Europe, 13-15 May 1987.

deterrent and which evince the greatest willingness to develop them. This is the case in Germany where the fight against undeclared employment is in the hands of the Federal Employment Office and where legislation on work and the promotion of work covers all illegal employment practices and not only the employment of foreigners without permits. The same is true of France where the Labour Inspectorate is backed up by other supervisory services (gendarmerie, police, tax authorities, customs and others) authorised to make charges in respect some or all of the offences constituting illegal employment. Governmental action is coordinated by an inter-ministerial team which, unlike the Federal Office in Germany, does not have operational powers; its priority is to streamline coordination of the above departments' activities.

This practise of pooling powers and specific skills has the twin advantage of making checks more effective and, above all, making the accumulated penalties incurred by the offender a greater deterrent. The benefits to be reaped from such coordination are starting to be seen elsewhere such as in Luxembourg with concerted action by labour inspectorates, officials from the ministries of the middle classes, mines, police or gendarmes under the umbrella of the working party against social dumping¹⁰⁴ Provincial working parties have also been formed in Spain made up of the police, the Guardia Civil and labour inspectorates¹⁰⁵.

The same approach is being taken in Belgium (though it has been more recent and more limited in scope) with a special group being set up¹⁰⁶ which is responsible for research in this field at the office for foreign nationals¹⁰⁷ and the gendarmerie. Finally, in the United Kingdom the Home Office has announced that measures were being devised to promote cooperation and the exchange of information between all the authorities whose responsibilities included clandestine immigration (police, social security, health and housing).

As pointed out above, the majority of the provisions adopted or drafted in the course of the year covered conditions of employment of foreigners. In Germany two amendments were made to the orders on residence permits and exemptions from the recruitment ban. The first of these listed the jobs for which special authorisations were not required (for example professional sports and professional coaches) and the second made it possible for the Federal Ministry of Labour to relate the number of "contract of labour" work permits to the total number of workers on the payrolls of the Germany company concerned. This measure is intended to protect the interests of SMEs in the building industry. Other amendments were made to the rules based on the law of the development of employment, the law on temporary work and the law on services rendered to seekers of asylum. Steps were also taken to stop bands

¹⁰⁴ This group was formed in 1989 and has been taking more forceful action for several months. It is made up of representatives of all the departments involved (gendarmerie, labour inspectorate, mining authorities, police and social security) and meets regularly under the auspices of the Ministry for the Middle Classes, the aim being to draw up a programme of coordinated action and improving inspection procedures.

¹⁰⁵ The undersecretaries of the Minister of the Interior and the Minister of Labour and Social Affairs were involved in this decision to pool the resources of the administrations in the fight against the black economy and illegal employment of Spanish and foreign workers.

¹⁰⁶ This group is made up of twenty people with considerable experience in this area, divided into four teams of five to provide a service throughout the day (from 6.30 a.m. to 9.30 p.m.), holidays and weekends included.

¹⁰⁷ This authority has just been reorganised and it has recruited 100 additional officials on contract from 1 July 1993. Its tasks have been redefined, a new schedule of priorities has been established, which is weighted in favour of interviews of applicants for refugee status (which have been increased to 150 a day). Since 20 September 1993, the office has been equipped to enable finger-prints to be compared in order to trace multiple applications: 93 cases of abuse have since been detected from 1 029 applications processed.

organising the illegal entry of foreigners (Schlepperunwesen). Finally, the exemptions to the recruitment ban on foreign workers are to be revised firstly to prevent entry permits for the purposes of training and vocational training being used to bypass legislation and secondly to monitor the employment of frontier workers more effectively. There were two reasons for doing so. First to prevent full time jobs in border areas from being converted to part-time jobs and thus being lost to the German labour market and offered virtually exclusively to frontier workers and second to prevent unemployed foreigners who were already on the dole in their own countries from being recruited cheaply to these jobs in frontier areas.

In the Netherlands the new aliens employment act (Wet Tewerkstelling Vreemdelingen) presented in early 1994 introduced a form of Community preference, giving first priority to job applicants living in the Netherlands and second priority to other EEC nationals. It said that the illegal employment of aliens was an offence and laid down penalties for employers infringing the rules and forced them to offer vacant posts to unemployed Dutch people or to properly registered aliens. Furthermore, to prevent illegal employees from being expelled without receiving the money they were owed the employers were obliged to pay them at least six months wages unless they could prove that the employee concerned had been employed for a shorter period. Finally the act redefined conditions under which the CBA issued work permits to third country nationals. Three types now exist: limited permits (for between a few days and three years), conditional permits (for one year or more) and short term permits (up to 24 weeks) for temporary and seasonal work with no possibility of extension. The application for the work permit can be turned down if the pay is lower than the minimum legal wage and/or of the conditions of employment are patently unsuitable.

In Belgium the law of 1 June 1993 greatly increased the penalties for employment of foreigners without a work permit along roughly the same lines as in the Netherlands. The fines were increased and the costs of repatriation, accommodation and health were to be paid by the offender who also had to pay any wages due to the recruits. Lastly the object of the offence could be confiscated and the employer banned from further professional activity by the commercial tribunal. The penalties are harsher in the event of an offence being repeated within three years. Moreover checks have been stepped up and the coordination and exchange of information between departments have been increased and the categories of officials authorised to make charges extended. The public prosecutor is told the facts immediately and has to decide whether to pursue the matter or not¹⁰⁸.

In the United Kingdom a large-scale operation called Boxer was conducted by 49 immigration officials and 80 police officers to identify immigrants working illegally in local authorities and 30 people were arrested in Lambeth an area in south London where there is a large black immigrant population.

In France in application of the law of 31 December 1991, the interministerial liaison team fighting against trafficking in labour drew up a new form of statistics to provide a more accurate picture of the phenomenon and the problems in getting to grips with it encountered by the inspectorates. The first figures are for 1992 and confirm the increase in charges made in respect of illegal employment: 5 133 official reports were drawn up in 1992 and 11 232 offences were recorded. More than 5 700 people in positions of responsibility at companies

¹⁰⁸ It is for the regions to decide how alien employment standards were to be applied and the advisory council on foreign labour is to ensure that the law is enforced as uniformly as possible.

(most of whom were French nationals) were charged with having illegally employed almost 16 000 workers. Slightly over half the workers were foreigners, two-thirds of whom were residing legally in France and had a work permit.

At the same time the existing legislation was supplemented by two series of measures: one (which was part of the five-year law of 20 December 1993) extending it and the other completing the entry into force of the law of 31 December 1991¹⁰⁹. The penalties for this type of offence were stepped up and it was pointed out that any foreign entrepreneur guilty of "clandestine work" within the meaning of the labour code could be banned from the country. On the specific subject of the employment of foreign labour, Articles 34 and 35-I of the five-year law increased the penalties for bringing in and hiring illegal foreign workers. A ruling by the Court of Appeal (first civil chamber) of 18 July 1992 stated that the special contribution which the IOM (International Organisation of Migration) took from employers of aliens without papers was an administrative fine and was in no way connected with any legal proceedings. Criminal judges could discharge employers on criminal charges but they were not competent to rule on the existence of the debt.

In the southern states of Europe (Italy, Spain and Portugal) the legislation is less sophisticated and it is only lately that a closer watch is being kept on illegal employment. In Spain the number of proceedings instituted in 1992 were down on the previous year (10 098 compared with 10 381) and there was a still more significant fall in the number of penalties imposed on companies and the amount of the fines.

In Italy, however, more stringent checks were imposed on specific sectors (small companies, the building industry, agriculture and tourism). Over 23 800 companies were inspected in 1992, the most frequent offences being non-possession of work permits, non-payment of social contributions and non-respect of conditions of employment. During the first half of 1993 10 731 companies were inspected, one of ten of which were in breach of regulations. A decree-law was published in June 1993 dealing with the illegal organisation of seasonal work from outside the Community and the month before, the Ministry of Labour targeted a particular form of trafficking involving Vietnamese workers coming in to do domestic work.

In Portugal the authorities were least concerned at illegal employment. Despite the decree-law of 26 November 1985 laying down fines for the illegal employment of foreigners, few checks were made last year. But tighter surveillance of immigration since the law on regularisation, combined with mounting unemployment is likely to change this. In addition a quota system provides that companies with more than five staff are to have no more than 10% of foreign employees (decree-law of 17 March 1977), which does not apply to Cape Verdeans, Ghanians or Brazilians although they count as foreigners for the purpose of recruiting workers of another nationality. The system turned out to be punitive at the time of regularisation as many people who were working illegally in companies also employing workers belonging to one of the nationalities mentioned above were deprived of the benefits of the amnesty. The immigrants' associations therefore called for the provision to be repealed. There was even a suggestion that it might not be in conformity with the Constitution under which foreigners and nationals were equal.

¹⁰⁹ Two decrees of 29 March 1993 one of which (Decree No 93-754) authorising some social security organisations to consult the national register of physical persons and the other (Decree No 93-755) on arrangements for the pre-recruitment declaration (DPAE).

The second package of measures adopted during the year dealt with irregularities associated with increased subcontracting. The most interesting move is the Dutch government's plan to extend the Chain Responsibility Act, which hitherto only covered the building sector, to the ready-made clothing sector. The law submitted to parliament obliges clothing workshops placing orders to state the full amount of the bill (including tax and other contributions) to a recognised clearing house and the system was to be extended to professional orderers and buyers in the big stores¹¹⁰.

In view of the foreseeable consequences on illegal workers some organisations called for an exceptional amnesty and the issue of work permits for all those involved. In the city of Amsterdam alone their number was estimated at 5 000 and a Dutch economic institute (NEI) survey put the share of work carried out by illegal aliens in horticulture at 20%, the equivalent of 8 500 man-years.

This desire to place the responsibility more squarely on givers of orders in cases when a co-contractor proves to have committed an offence, was behind the amendments to French legislation and the introduction to the French labour code of the concepts of "*financial solidarity*" and clandestine work (or employment of a foreigner without a work permit) "*by an intermediary*". The same concern is at the root of a proposal for a law on the drawing board in Germany which would force the giver of an order to ensure that his subcontractor's workers are employed legally in order to make the fight against the illegal employment of foreigners more effective.

We should bear in mind that this notion of joint responsibility has been a part of Belgian legislation since 1979 but specifically for the building industry. A second law adopted in 1989 supplemented the first one and forced the main contractor to declare all the subcontractors for the contracts relating to certain types of work (demolition, earth works, reinforcement, concreting and formwork). A deposit of 50% of the sums for the work in hand must be paid to the ONSS and the tax authorities to cover social contributions and tax payable by the subcontractors. Moreover, the main contractor must be able to submit a complete list of the employees present on the building site at any time when an inspection is carried out. This assumes that each of the subcontractors provides a list of employees working on the site every day.

The last set of new measures relating to the functioning of the labour market and conditions of employment affects the transnational forms of illegal employment. As mentioned above, the increase in these practices require stricter and more detailed scrutiny of the legality of services rendered by foreign companies, whether based in another Member State or not.

A new regulation thus entered into force on 1 October 1993 in Germany to clamp down on attempts to bypass national legislation through this type of practice on two fronts. The regulation introduces a type of quota applicable to "workers under contract" geared to the size of the firms and also bans companies from introducing staff cuts or shorter hours by subcontracting to foreign partners¹¹¹.

¹¹⁰ Other additional restrictive measures (compulsory identification, exchange of data and more stringent checks) are being devised.

¹¹¹ A new directive from the Board of the Federation Employment Office laid down the terms on which employers paid dues for the recruitment of foreign labour pursuant to paragraph 19 of the law on the development of employment, the implementing provisions of which were published on 27 May 1993.

In France Article 36 of the five-year law of December 1993 now makes it mandatory for French social law and measures under collective agreements to be applied to workers of a company established outside France but providing a service on national territory. A decree-law of 5 March 1993 introduces the same obligation in Portugal and sets out the rules which apply to workers seconded to Portugal or abroad.

A regulation of this type has been in force in Belgium since 1978. It requires any foreign company working in the building industry or public works to register at the commercial tribunal of the place where its services are to be provided¹¹². However, this is insufficient for services in the context of a public contract. In this case a foreign company wishing to be admitted must submit an application for registration in Belgium which will be examined by a committee made up of representatives of the state and the two sides of industry.

Everywhere where these provisions have been introduced the departments responsible for supervision are plagued by problems involved in implementing them. The main obstacle is obviously verifying in a very short time the information on the situation of the foreign company and of its workers vis-à-vis the social and tax authorities of the country of origin. The problems are all the greater when the duration of the services provided is short. This handicap accounts for the lively interest evinced in France, Luxembourg, Germany, the Netherlands and Belgium (to name only these) by the supervisory departments in increased cooperation between states. The transnational development in offences relating to illegal employment practices must be dealt with by a **transnational organisation to counter such practices**.

This now seems vital as a complement to coordination between national authorities. The Belgian Ministry of Labour regards it as indispensable, at least between the labour inspectorates of the Member States of the Union. This is an aim which is shared by the Ministry for the Middle Classes in Luxembourg and the first step towards achieving it has been taken in the form of the cross-border cooperation being fostered between the French authorities of the Lower Rhine (in particular the labour inspectorate) and the federal labour office of the Saar region in Germany.

Trade in women: illegal work and prostitution

On the dividing line between illegal labour and a serious attack on the rights and integrity of the individual, we have the trade in young women, mainly a problem in Germany and Belgium. Germany has seen an alarming increase in this sort of traffic, in which young women – sex slaves¹¹³, as *Der Spiegel* calls them – are brought in illegally for the purposes of marriage and prostitution. The first proposals on combating and preventing this trade are set out in a study of prostitution and arranged marriages entitled “*Internationaler Frauenhandel*” (The international trade in women), published by the Equal Opportunities Ministry in July 1993.

¹¹² Apart from details of the company's title, conditions of registration, activity, scale and duration of the planned work, it must also provide an exhaustive list of the workers who will be employed and their situation vis-à-vis the social protection authorities.

¹¹³ “Immer mehr “Sex-Sklaven”, *Der Spiegel* No 7/1993. See also “Rasierklinge am Hals: Frauenhandel und Zwangsprostitution” (Razor at the throat - the trade in women and prostitution networks), *Der Spiegel* No 34/1993 and Adrienne Borger, “Die Hinterbeine des Elefanten (The revolt of the elephants), *Mehrheiten/Minderheiten* 3/1993. Dagmar Heine-Wiedenmann (Umfeld & Ausmass des Menschenhandels mit ausländischen Mädchen und Frauen, Schriftenreihe des Bundesministers für Frauen und Jugend).

In Belgium, the trade in women, which is being developed through misuse of the status of "artiste", is run through organised networks, apparently involving Romania, and the authorities have been amazingly tolerant about it. Paula d'Hondt, former Royal Commissioner for immigration policy, attacked the relaxed attitude to procurement, claiming that the rules were applied in an ambiguous and manner which invited criticism. Women who reported their employers were expelled when they should have had the benefit of legalised status normally granted to anyone collaborating with the authorities. When the Minister of the Interior was given responsibility for the immigration policy, he presented the campaign against the trade in women as one of his priorities. So the mayors were given fresh instructions (11 May 1993) and the aliens in question are to be expelled within 45 days unless they register a complaint against whomever is exploiting them. Upon confirmation from the public prosecutor, the local authorities have to issue a temporary residence permit, but a specialised reception organisation has first to make a declaration to the Aliens Office, stating that it will look after the person in question, with a view to preventing abuse and not providing legal cover for further prostitution¹¹⁴.

A proposal for collaboration between the Ministry of Justice and the Ministry of the Interior was approved on 29 June 1993, so the Aliens Office can now go direct to the prosecutor handling affairs of this sort and get details of any complaints or even decisions in cases which have been closed.

It was also decided to tighten the controls on the issue of work permits by bringing in special rules for the employment of cabaret performers and increasing the penalties for people who employed illegal aliens¹¹⁵. The so-called "carousel" practice, involving making the women work for three months in Flanders, three months in Wallonia and then three months in Brussels, was to be countered by consultation and cooperation between the three regions¹¹⁶, to take place in the Advisory Council on foreign labour and the interministerial conference on migration policy.

A study group was to give an opinion on the legal status of prostitutes, as part of the emergency programme which was scheduled to combat the trade in women and enforced prostitution. Lastly, the Foreign Minister gave instructions to diplomatic and consular offices to put them in the picture and to direct them to check on the purpose of journeys to Belgium when they issued the visas. But abuse has already occurred here and officials in some consulates have refused to scrutinise applications and accused the applicants of being prostitutes.

¹¹⁴ Female aliens who did not meet the necessary conditions to be eligible for this arrangement would lose their residence permits and be forced to leave the country.

¹¹⁵ Royal decrees of 22 February and 18 March 1993 amending the Royal decree of 6 November 1967 on the issue and withdrawal of authorisations and work permits for aliens, plus the ministerial decrees of 19 March 1993 implementing these provisions.

¹¹⁶ As it is the responsibility of the regions.

CONTROLLING THE FLOWS

Legislative activity on immigration has never been so intense throughout the Union. Never has there been such a consistent approach to revising the regulations, and never before have the restrictions been so severe. Much of the revision entailed giving full legal force to existing regulatory provisions (decrees and circulars). In some cases, it required changes to the Constitution. By the end of 1993, a wealth of legislation had been passed, more was still under discussion or at the draft stage, but all the texts had in common as their primary objective restricting the number of migrants of various categories entering and settling in the Member States.

Most of the amendments focused on the right to political asylum, the main points of common concern being speeding up the processing of applications and the selection procedure, reducing the possibilities for appeal and restricting, or even removing the suspensory effect of the appeal channels still open. Germany, France and the Netherlands were the most active in this respect. The need for more coordination between Member States in this matter was reflected by the adoption, at the Copenhagen meeting of 1 and 2 June 1993, of a resolution "on guidelines concerning the admission of groups of persons at risk and considered to be particularly vulnerable originating from the former Yugoslavia," for whom temporary protection could be provided.

Legislators and governments were no less vigilant where illegal immigration was concerned. Everywhere, visa restrictions have been tightened, more severe penalties introduced for helping foreign nationals enter the country illegally, and the liability of transport operators has been increased considerably. The possibilities for detaining and expelling those whose papers are not in order have also been extended, while provision has been made for tougher action against employers taking on foreign nationals without a valid permit. In addition, the Schengen Agreements of 19 June 1990 have been ratified. On 30 June 1993, the competent ministers meeting in Madrid agreed on bringing these agreements into force as from 1 December 1993, but the decision was postponed because of implementation difficulties. The group of Member States is also taking a very careful look at the frontier posts at risk. Particular attention has been paid here to the port of Trapani with a view to cutting down illegal immigration on the coasts of Sicily and Pantelleria¹¹⁷.

Further restriction of the right to asylum

In the Netherlands, despite strong resistance, the new Aliens Act was adopted in September 1993. The new act, which took effect on 1 January 1994, includes most of the changes affecting asylum rights made by circulars to the previous legislation. It speeds up the procedures, limits the possibilities for appeal against the decisions of the Foreign Chamber and does away with the suspension of proceedings granted under the old law. The new act also lists the circumstances in which asylum cannot be accorded and makes it possible to refuse an applicant staying in a country which could have accepted him. The General Administration Act was revised at the same time.

¹¹⁷ The only Italian vessel linking Italy with North Africa docks at Trapani. An average 1000 persons per week arrive from Tunis, but passengers also come from Morocco, Algeria, Egypt, Togo and the Sudan.

The Minister of Justice justified his plans by pointing to the threat of increasing numbers of asylum seekers – 40 000 were expected in 1994. A large number of proposals on the management of asylum applicants came from MPs, government and ministers pending discussion by the Senate. One suggested keeping undesirable applicants outside the borders, another refusing people from what were considered to be "safe" countries, with immediate deportation unless the candidate could prove the risk of persecution at home. The Council of State was asked for its opinion on this last point and the Minister of Justice was to come up with appropriate proposals.

Refugees from the former Yugoslavia who managed to get to the Netherlands on their own were accorded special status and benefitted from temporary measures (TROO) which expressly disregarded any application for asylum. They were brought under the displaced persons act (Ontheemdenregeling) based on the idea of "a temporary stay" to cover the duration of the conflict. This arrangement stopped on 1 January 1994 and the people concerned were issued with conditional residence permits, which in fact brought them back under the reception arrangements for asylum seekers.

The special legislation on "tolerated aliens" passed in early 1992 has, with hindsight, been deemed a failure. The intention had been to reduce the pressure on the legal system by giving a conditional one-year residence permit (VTV) to applicants who had not been accepted but who, for humanitarian reasons, could not be sent home, provided they renounced all other legal procedures. But by the time the law had been in force for 18 months, only 209 asylum applicants had availed themselves of it. The new Aliens Act has reintroduced the conditional permit in a slightly different guise¹¹⁸.

In Germany, the three reference texts (the Basic Law, Aliens Act and Asylum Procedures Act) on the entry and residence of foreign nationals underwent major changes, in which the asylum policy was very much to the fore. The biggest change, to Article 16 of the Basic Law – paragraph 2(2) was repealed and a new Article 16a) was inserted – had the twofold aim of preventing abuse of the right to asylum and complying with the Schengen Agreements¹¹⁹. In future, people arriving from another Member State of the European Union or other country party to the Geneva Convention on Refugees and the European Convention on Human Rights will not be able to claim asylum¹²⁰.

Furthermore, Article 16a(3)(1) of the Basic Law empowers the legislature to establish the countries in which the law and general political context are such as to rule out political persecution and inhuman or degrading treatment or punishment¹²¹. However, as in the past,

¹¹⁸ The permit can be extended for a maximum of two years. In the third year of residence, the holder is accepted on to the labour market and, after three years, the conditional permit is exchanged for a normal, unconditional permit. If the circumstances preventing the holder's return home have disappeared in the intervening period, the conditional permit lapses.

¹¹⁹ This amendment to the constitution opened the way for the agreement of December 1992 between the SPD and the coalition parties. The Federal Constitutional Court expressed reservations on the text when the initial decisions were taken.

¹²⁰ The list of third countries considered to be safe was to be put to the Bundesrat for approval. In accordance with paragraph 26a and Annex 1 of the Asylum Procedures Act, these countries were Finland, Norway; Austria, Poland, Sweden, Switzerland and the Czech Republic. Under Article 16a(1) of the Basic Law, refugees arriving from these non Member States are not entitled to have their basic rights protected.

¹²¹ In accordance with Annex 2 to paragraph 29 of the Asylum Procedures Act, these countries are Bulgaria, Gambia, Ghana, Poland, Rumania, Senegal, the Czech and Slovak Republics and Hungary.

asylum seekers can avoid expulsion on statutory grounds if they can point to persecution or circumstances which encroach on human rights without constituting persecution proper.

The same concern with preventing abuse and keeping down the number of applicants was behind the amendments to the Asylum Procedures act and the Asylum Seeker's Allowance Act. Special provisions were adopted on "manifestly unfounded" applications for asylum (within the meaning of paragraph 30 of the Asylum Procedures Act), arrivals from "third countries" and "countries considered to be safe", the time within which applicants who had been refused or were unable to produce valid arguments for staying had to leave, and asylum procedures for people arriving by air. The parts of the Aliens Act dealing with residence permits for war and civil war refugees were also amended.

The Länder carried on the legal process by making provision to apply the asylum procedures devised at Federal level. Those in the north and east also adopted provisions to prevent the deportation of former East German contract workers and make it possible to issue them with refugee residence permits.

In Belgium, the Law of 6 May 1993 (revising the law of 15 December 1980, on the entry, residence, establishment and expulsion of foreign nationals) was passed for much the same reasons. In both spirit and letter, it reflected a concern – shared by all the Member States – with approximating or even standardising the laws, usually to the detriment of applicants, and thus echoed many recent measures across the European Union. A particular case in point is the notion of "manifestly unfounded applications"¹²² still very much designed to speed up procedures. Furthermore, the "urgent request for re-examination" was replaced by an "urgent appeal" with suspensory effect¹²³, which gives considerable decision-making power to the CGRA concerning the admissibility of the request, but in fact makes no addition to its power of first instance.

A further factor is that the HCR representative no longer sits on the CPRR¹²⁴ and the possibilities of appeal have been severely limited¹²⁵. The law also now empowers the authorities to decide where asylum applicants should reside¹²⁶. A "distribution plan" for the various populations has been produced, but is not yet in force. The number of asylum seekers each local authority can receive is fixed according to the number of foreigners already on its register, how many people it has on welfare benefits and its financial resources¹²⁷. A system of penalties and

¹²² This is a way of throwing out an estimated 80% of even 90% of all applications. Those who manage to get over this first hurdle then have to cope with the law's new and very stringent demands about notification and keeping appointments, designed to speed things up and weed out applicants.

¹²³ This appeal suspends the disputed decision of the minister, but it must be made on the first working day following the notification of refusal (for people kept at a particular location) or within three days of notification (for the others). Under another article of the law, the minister may determine the place at which illegal immigrants are registered, until a final decision is taken on their situation.

¹²⁴ However, he can still look at the papers and give an opinion at any time during the processing of the application, except at the Council of State stage.

¹²⁵ Accordingly, the possibility of appeal to the Council of State with suspensory effect in the event of decisions of inadmissibility has been abolished when the CGRA itself decides that its decisions are "enforceable, notwithstanding any appeal". This aspect of the new legislation, together with the concept of "manifestly unfounded applications", was one of the most controversial. In recent years, the number of appeals had increased considerably (from 634 in 1991 to 2 019 in 1992).

¹²⁶ See the chapter on reception.

¹²⁷ Calculated on the basis of individual income tax.

premiums was also devised to ensure the success of the operation¹²⁸. The Labour Minister decided to withhold provisional work permits from asylum seekers whose applications had been turned down, even in the case of appeal during which continuing residence was temporarily authorised¹²⁹. Lastly, access to the special temporary status for people from the former Yugoslavia who could prove that they came from a war zone has been restricted, Serbs and Croats no longer having automatic entitlement.

In the United Kingdom, the new law in force since 1 July 1993 is in a similar vein, stepping up the control of applications, limiting the right to housing and, above all, clamping down on the possibility of appeal to an independent judge against administrative decisions (Article 10 and 11). Although, in theory, any unsuccessful applicant is entitled to appeal before being deported, in practice this right is considerably limited by all the red tape involved, particularly where applications are deemed to be manifestly unfounded or not covered by any of the United Kingdom's obligations under the Geneva Convention.

Two kinds of accelerated procedure are offered – appeal within either two or ten days of the decision, according to the case – and the judge has ten days in which to reach a decision. Anyone applying for asylum who already has the right of abode in the United Kingdom might prejudice that right if asylum is refused. The new law brought in on 1 July 1993 also excludes asylum applicants and their families from the right to housing under the Housing Act if they already have some form of accommodation, however temporary (e.g. sleeping in a church). This step, in principle only intended to apply while the application is being processed, also, because of the complexity of British legislation on housing, affects their future claim to housing once their refugee status has been officially recognised.

Portugal brought in similarly amended legislation on 29 September 1993¹³⁰, containing more specific restrictions concerning "activities considered prejudicial to the State" which could constitute grounds for refusing refugee status. Under the previous law, this was restricted to acts affecting Portugal's interests and sovereignty committed after 25 April 1974, to avoid including activities during the anti-colonial struggle. Now included in the list are considerations of "internal security" and "protection of the population" – including the notion of "the country's social and economic situation" which is ambiguous to say the least.

The same move towards restriction is apparent in the arrangements for persons sharing the applicant's entitlement, which now cover only the spouse and children (or, if the applicant is a minor, the parents), while the previous legislation extended the right to other members of the family. Lastly, the right to asylum on humanitarian grounds granted under the 1980 law has been abolished, but applicants who have been refused but would be at risk if they were sent home can be granted a residence permit instead. Such persons are covered by the excep-

¹²⁸ There is as yet no royal decree enabling this provision to be applied. One is in fact planned for the summer of 1994, but many communes are expected to oppose application in view of the principle of commune autonomy, which precludes state interference of this sort.

¹²⁹ This decision was taken following the racist disturbances in St-Trond last summer, with the idea of stemming the flow of refugees seeking seasonal fruit picking jobs. In June 1992, an agreement was signed authorising asylum applicants to pick fruit to make up for the shortage of labour in this area. This is a classic example of management based on the vagaries of public opinion rather than on a clear policy.

¹³⁰ The vote was the culmination of a process which began with a veto by the president of a government proposal for a decree law, forcing the government to go through parliamentary channels. As a result, the original decree law was changed into a bill, which was amended prior to the vote of 29 September.

tional arrangements laid down in the Aliens Act, but cannot claim refugee status. Officially recognised refugees are subject to the obligation of non-involvement in political activities, or in any activity which might interfere with internal state security or public order, or harm Portugal's relations with other states.

At the same time, two new application assessment procedures were brought in, one "accelerated" and the other "standard." The "accelerated procedure" applies to applicants from "safe" countries or third host countries, to those suspected of threatening internal or external state security and to applications deemed unfounded. These applications are examined by the Aliens Department and assessed by the Commissioner for Refugees as quickly as possible. Where an unfavourable opinion is issued, the case is referred to the Interior Affairs Minister for a final decision and, if the refusal is maintained, the applicant has a fortnight in which to leave the country, after which time he is liable to deportation. The second, so-called standard procedure, is contentious, the case being referred to the HCR representative for an opinion which, if unfavourable, is open to appeal by the applicant (without suspension of the procedure) to the Supreme Administrative Court.

In Italy, a new decree was adopted in 1993 authorising the Ministry for the Interior to issue residence permits on humanitarian grounds, renewable annually until the cessation of hostilities. These permits, also acting as work permits are reserved for citizens of the former Yugoslavia who came in after 1 June 1991, including recognised deserters who have not applied for refugee status. A memo from the Ministry for the Interior on 7 June 1993 laid down the conditions of access and a second memo, of 24 April 1993, said that all refugees who applied for protection from their countries of origin would have their refugee status suspended.

In Luxembourg, "realism" on the part of the government triggered a series of demonstrations, which escalated with the 15 July announcement that humanitarian status was to be suspended and those who would not be at risk if they went home were to be deported. As a result, the government extended the validity of humanitarian status to 15 July 1994, but only for nationals of Bosnia-Herzegovina, who would be granted a provisional residence permit as migrant workers after that date, provided they had a job and a work permit. Individual decisions would be taken on the others, humanitarian status only being granted to those who could prove that they could not go home. A new bill on the assessment of asylum applicants was tabled on 16 June 1993 which, while reaffirming the intention to give applicants the protection due to them under the Geneva Convention, also espoused the defensive and restrictive approach observed elsewhere, in the interests of heading off abuse of the right to asylum. Those whose applications were refused would not now be eligible for welfare benefits and would lose their identity papers (Articles 5 and 6). This meant in effect that applications would be examined immediately and, if refused, followed by equally rapid deportation. It could almost be interpreted as a deliberate move to put such people in a highly precarious position administratively and socially.

The fact that the Advisory Committee on Refugees is to lose its right to decide on the eligibility of applications and will only receive for in-depth examination those which have already provisionally been deemed eligible is evidence of this concern with speeding up the processing of applications. The Diocesan Committee for Intercommunity Pastoral Care fears that "strict application of these apparently objective and logical criteria will prevent the full complexity of situations being taken into proper consideration and lead to applications being considered well-founded only if they are presented clearly and unambiguously". This filtering and selection system ought to be particularly efficient given that Luxembourg, because of its geographical

position, is not in the first line of fire and much of the sorting will already have been carried out by other parties to the Schengen Agreement.

Bills and amendments currently pending in Ireland and Denmark point to an apparently more open approach. In Dublin, a prospective law on individuals, designed to codify the refugee and asylum seeker handling procedures, failed to get the agreement of the government. The Justice Minister, having subsequently undertaken to reconsider the question and come up with a new bill, announced the creation, in May 1993, of a new interministerial committee of top civil servants from the three ministries responsible for policy on aliens and asylum seekers.

The task of this committee was to make state policy and practice on the entry, residence and employment of foreigners (nationals of the EEC and third countries) more transparent, more consistent and more efficient and to revise the appeal machinery. Special attention was to be given to asylum seekers and refugees, and to foreign nationals who had been living illegally in Ireland for a long time. The committee's first report recommended passing a new law on asylum, setting up a refugees' tribunal to vet applications and make recommendations on each case to the Justice Minister, and improving the guarantees offered to applicants, in the spirit of the UN Convention of 1951 and the Protocol of 1967¹³¹.

In Denmark, the case of unaccompanied children was discussed with a view to faster and more humane handling. The under-fifteens were to be given automatic right of abode on humanitarian grounds, but anyone over this age limit would be treated in the same way as all other asylum seekers. The same benevolent approach is apparent in the way the law of November 1992 establishing a provisional two-year right of abode for asylum seekers from Bosnia-Herzegovina who arrived before 1 December 1992 was applied, a benefit which was extended to other categories in June 1993¹³². However, after 26 June 1993, Denmark tightened the conditions of entry for asylum seekers from the former Yugoslavia, who now had to present a visa authorising residence issued by a special office in Zagreb (opened on 1 September 1993). The Justice Ministry is also investigating ways of speeding up the processing of asylum applications, and entry conditions are also expected to be tightened up.

Stricter controls on the entry and residence of foreign nationals

Although the problem of asylum seekers somewhat diverted attention away from other aspects of immigration in the two preceding years, they came back to the fore with a vengeance in 1993. New measures have been brought in which all tend to increase the authorities' powers

¹³¹ All asylum seekers should be informed of their right to refer to the UN Convention of 1951, consult a lawyer, ask for an interpreter and contact the UNHCR. They should also be told of procedures related to their application, of their right to stay in the country while their application is being processed and the possibility of appealing in writing to the Refugees' Tribunal. They should also be informed that it is their duty to cooperate with the tribunal. All applicants were to receive the Refugees' tribunal's recommendations in writing so as to be able to exercise the right of appeal, if necessary, before a refugee court of appeal. Those recognised as having refugee status were to have right of abode, freedom of movement, unimpeded access to the employment market and to the social and education systems. The text was also to lay down lines of conduct for the immigration officers in charge of their cases and specific procedures for manifestly unfounded applications and, of course, cater for the relevant staff training.

¹³² A total of 14 000 people benefitted from this arrangement. The situation of each individual will be examined again when the two years are up to decide who should be given refugee status.

of control over the entry, residence and employment of foreign nationals. They include more identity checks (Netherlands, France), more drastic conditions for entitlement to residence and work permits (Greece, France), cutting down the categories not liable to deportation (France), revising the conditions for issuing visas (Belgium, Luxembourg), more severe penalties for helping immigrants enter the country illegally and employing foreign nationals without permits, stricter controls on accommodation for foreign visitors (France, Belgium, Portugal), restricting rights of appeal (United Kingdom) and extending the possibilities for detaining foreigners liable to deportation (Netherlands) or the maximum duration of detention (Belgium).

In Greece, which currently seems to be the Member State of the Union most seriously concerned about the increase in illegal immigration, the authorities have concentrated on restricting the issue of permits, and in February 1993 passed a decision opting for a policy of selection, combining quotas (a limited number of permits per month and per department), a selective nationality ban (no permits for Asians, Africans or Latin Americans) and a selective sector ban (no permits in the building trade). Seasonal permits for Albanians were also envisaged, with the agreement of all parties, but this measure has so far not been applied. A programme of cooperation with Albania (we shall return to this later) was set up in an attempt to settle people there and prevent them from emigrating.

The Italian decree-law of 22 June 1993 reflected a similar concern by the authorities with stopping the illegal organisation of seasonal labour from outside the Community. The following month, a series of circulars from the Interior Affairs Ministry (co-signed by the Ministers of Justice, Labour and Foreign Affairs) on alien minors abandoned by their parents and in irregular situations were also distributed. They said that such cases tended to be matters for the legal authorities (children's court or judge) rather than the police and that magistrates could issue the relevant residence permit.

Shortly prior to this, on 21 April 1993, the Home Affairs Ministry issued a memorandum listing the formalities for foreign students wishing to enrol in Italian universities for the 1993-1994 academic year, who now had to obtain a student residence permit within a week of arrival from one of the police stations in the city in which they hoped to study. EC nationals were issued with temporary residence permits to cover the pre-enrolment period and, once their place was confirmed, they had to apply for a "*residence permit as citizens of Member States of the European Community*". Any temporary change of address had to be notified to the police, who would issue a similar residence card accordingly. Students from outside the Community were to be admitted according to the places available. The residence permits of those who failed to pass at least three examinations at the end of the year were to be neither renewed nor converted into, say, work permits.

In Germany, legislation on asylum having been tightened up, illegal immigration was again at the centre of debate. The media gave extensive coverage to the illegal migration conference in Budapest (February 1993) and there were plenty of reports on the subject, particularly on the networks of refugee smugglers on the east German frontier¹³³. Under the Aliens Act,

¹³³ "Mit dem Schlauchboot über die Oder" (Crossing the Oder in a rubber dinghy), *Weser-Kurier* of 10 February 1993; "An der Grenze nach Deutschland werden die Gauner immer dreister" (Bandits on the German frontier increasingly audacious), *FAZ* of 24 July 1993; "An der Grenze zwischen Bayern/ Böhmen hat die Nacht viele Augen" (The all-seeing night on the Bayern and Bohemia frontier), *FAZ* of 1 June 1993; "Schleuser mit Funktelefonen und Nachtsichtgeräten" (Refugee smuggling with mobile telephones and night vision devices), *FAZ* of 24 July 1993.

airports must now provide facilities to house persons without passport or visas awaiting a final decision from the frontier police¹³⁴. Not everybody shared the government's optimism about the efficiency of the new law on asylum. Some people felt that the results were modest and there was nothing to prove that the reduction would be sustained over the next few months, while others feared that the people concerned would filter back to swell the ranks of illegal immigrants. In 1992, almost 1 400 000 visas were applied for and a large number of the "tourists" in question apparently tried – legally or illegally – to get jobs.

In the Netherlands, the main concern was with the detention of people without residence permits awaiting deportation, and the practical problems that arose with deportation. On the former point, the Aliens Act has been tightened up to allow detention for an unlimited period, and the solution found to the second problem has been to increase liability on the transport companies who now, to preclude the above problems, have to take a copy of passengers' identity papers before embarkation¹³⁵.

The rules on the movement of migrants now lay down new penalties for anyone assisting or employing them, and it has become an offence to employ a foreigner whose papers are not in order. The Senate has also adopted another fully complementary, and equally important text in the form of the new duty to provide identification.

Under this new legislation, scheduled to take effect on 1 June 1994, every citizen has to provide proof of identity¹³⁶ in certain places and at certain times¹³⁷. Anyone refusing an identity check is subject to thorough vetting at the police station and, if necessary, legal proceedings. This was a very popular move. A survey run before the Senate's decision showed more than eight Dutch citizens in ten to be in favour of it, expecting it to have a positive effect on transport fraud and undeclared work, while fewer than one in five saw it as yet another step towards a police state and many had no idea what it was about at all.

A circular letter from the Secretary of State for Justice, giving new directives to the departments in question, was a half-way house between these two texts and reflected the increasing tendency to be suspicious about the authenticity of foreigners' documents. Any non-Community national wishing to enter the Netherlands now has to apply to the local authorities in his country of origin to have his identity papers checked by the local Netherlands representative prior to departure. This is, however, no guarantee of acceptability, and the registrar is entitled to ask the Ministry of Justice to check them again.

¹³⁴ Since this airport regulation came out, the airport in Hesse, where would-be refugees may be held for up to 23 days, has thrown out (as unfounded) 14 applications for asylum using the simplified procedure.

¹³⁵ This does not apply to "real refugees" who flee their country to escape death, provided their story is credible.

¹³⁶ Identity cards, passports, driving licences and the national identity cards due to be introduced and used as travel documents in Europe are acceptable identification.

¹³⁷ On public transport, at professional football matches, for some financial transactions, on recruitment to a job, on applying for a SOFI number (see previous reports), for social security organisations, at the demand of civil servants responsible for preventing illegal employment, for registrars or aliens registration offices investigating irregular residence, and when having documents certified by a notary.

In France¹³⁸, three new provisions boosted official control of entry, visiting rights and provisional residence. Official decisions to refuse entry are now enforceable immediately (Article 1). All foreign nationals (other than Algerians) entering France on private trips have to produce an "*accommodation certificate*" by which the host authorises the visit to his home. Refusal to produce such a certificate may lead to refusal of the application because it suggests that normal visiting conditions are not being met (Article 3). Lastly, other than for refugees, neither a provisional residence permit nor a receipt for application for a permanent residence permit constitute regularisation of the conditions of entry into France (Article 4).

Alongside this, the issue of residence permits is now more tightly controlled¹³⁹ and the categories of persons qualifying have been redefined. A new category, reflecting the reform of nationality rights, has been introduced covering 18-year-olds who meet the requirements of the civil code but have not applied for French citizenship. However, it is no longer sufficient to have resided regularly in France for more than 15 years or to have resided legally as a student for more than 10 to attain a permanent residence permit.

The categories of foreigner protected from being escorted to the frontier or deported have also been revised¹⁴⁰ (Article 17). Only those below the age of majority have full protection against administrative expulsion measures and a legal ban on returning in case of conviction (Article 13). The minimum age from which regular residence in France ensures entitlement to such protection has been lowered from 10 to 6, and foreign spouses of French nationals now have to have been married for a year, rather than six months, to benefit. In addition, foreign students no longer have the protection that used to go with regular residence over a period of ten years.

A foreigner living in France with his wives, polygamously, is no longer entitled to obtain or renew a resident's card, which is now withdrawn if issued since the law took effect (Articles 9 and 10). Identity controls have also been tightened. Having been authorised to stay or to travel within France, a foreigner must now produce the authorisation papers at all identity checks and if required to do so by the police (Article 5).

In Belgium, most of the changes have been to the visa policy. While the Ministry for the Interior (Foreign Nationals Department) has sole jurisdiction in this area, the Foreign Affairs Ministry is also involved through the country's diplomatic representations abroad, which provide any information required for the processing of applications and constitute some sort of control policy outpost. Consulates have therefore been asked to be very strict in their approach to visas.

¹³⁸ Law 93-1029 of 24 August 1993 on immigration control and the conditions of entry, reception and residence of aliens in France, and Law 93-1417 of 30 December 1993 making provision for immigration control and changes to the civil code. Both of these amended and supplemented Order 45-2658 of 2 November 1945 on various points.

¹³⁹ The minimum demand is that the stay should conform to the regulations and pose no threat to public order.

¹⁴⁰ People escorted to the frontier may also be banned from returning to France for up to a year and the duration of administrative and legal detention may be extended, but solely in the cases laid down by law. Administrative detention is under the control of the legal authorities and legal detention is covered by the same guarantees as provisional detention.

However, the Foreign Nationals Department has sole jurisdiction over access to the territory¹⁴¹, and has been formally instructed not to issue travel or transit visas without thorough investigation of the purpose of the journey and the applicants' means of support. Applicants without the means of subsistence can back their applications with a declaration of support from a solvent person lawfully resident in Belgium.¹⁴² Before issuing a visa, the Foreign Nationals Department can, as in France, ask the commune to check on the solvency of the persons signing the declaration. The nature of the resources is less important than their extent and continued availability. The family situation of the guarantor can also be taken into account. The point of the investigation is to avoid the state having to support the applicant once his stay, however short, has been authorised. If everything is apparently in order, the visa has to be authorised, and any discrepancy between the declared and the actual purpose of the journey will not come to light until afterwards, in the course of the stay in Belgium. The Council of Ministers of 5 November 1992 ruled that tourist visas had to be issued more quickly¹⁴³, so staffing of the department was increased, ten new telephone lines were laid on, a Schengen handbook was produced and common consular instructions on visa issue were distributed.

The Schengen Agreement was also behind the draft law presented by the Luxembourg government in December on the penalties for transporters bringing foreigners without the relevant authorisations onto Schengen territory. Grounds for refusing entry to the Grand Duchy have been extended beyond the fact of being on the Community or national lists of persons previously deported from another country to include persons who have received a prison sentence of a year or more or who pose a threat to public order, national security or the international relations of a Member State of the Community. These offences now also constitute reasons for cancelling a residence permit¹⁴⁴.

Visa application arrangements have also been altered, issuing of a residence permit now being subject to declaration of the purpose of the stay and proof of adequate means of support and proper accommodation. The visa must now be obtained **abroad** before a residence permit can be issued and the permit is no longer renewed tacitly but is subject to proof of accommodation and means of support each time it falls due. The Aliens' Registration Office must be notified immediately of any change in the applicant's circumstances (change of address, absence from the country, change in marital status, change of job). Work permits are now only issued after the Labour Inspectorate has given an opinion on the employment situation in the applicant's sector and on the firm likely to hire him. Applicants also have to produce a medical certificate and the permit is subject to a guarantee that the applicant will subsequently return to his country of origin.

In the United Kingdom, the most far-reaching change has been to the right of appeal, which is now more or less non-existent for all foreign visitors, students and their families who have been refused admission, on the grounds that the possibility should be reserved for important cases (of asylum and family reunification). The right has also been withdrawn in all cases of refusal provided for in the immigration rules. Previously, judges could decide against the

¹⁴¹ In Benelux, border control officers are empowered to cancel visas if they establish that the holder does not fulfil or no longer fulfils the other requirements for entry as laid down in Article 3 of the Law of 15 December 1980. Border control authorities have been instructed to be particularly careful about entry control.

¹⁴² Visas are only issued at border control posts in exceptional and urgent cases.

¹⁴³ The average wait of between three days and three months can extend to over five months in Rumania, Syria and Turkey because of the vast increase in applications (currently 200 000 per year with facilities for handling 15 000).

¹⁴⁴ In which case the interested party is informed of the reasons for the decision.

immigration rules on the basis of proof supplied by the plaintiff, which was particularly important in the case of reuniting family members, since Article 8 of the European Convention on Human Rights cannot be invoked in the British courts because British law has not been amended to take it into account¹⁴⁵. The law does, however, explicitly state that applicants cannot be deported before their case has been properly investigated.

In Portugal there has been a different emphasis, criticism having been levelled rather at the authorities' lackadaisical approach to regularisation, which has meant unresolved situations being allowed to drag on indefinitely. Organisation of the procedure (over-tight deadlines and lack of information) have come in for as much criticism as the follow-up, both having failed to inspire confidence in their ability to make any impression on the numbers of foreign nationals still in an irregular situation either because of administrative bungling or because the conditions for renewal of permits put many applicants back on the wrong side of the regulations.

Such criticism did not prevent a new amendment being made to the law on the entry and residence of foreign nationals (decree-law of 3 March 1993) tightening up the conditions of admission and control¹⁴⁶. Under the new arrangements, any person hosting a foreigner has to notify the Foreign Nationals Department and the accommodation conditions are taken account in the visa application¹⁴⁷. A further change is that procedures are not now suspended while appeals against deportation decisions are being heard and transport companies are obliged to pay for the return journeys of foreigners who are refused entry. Furthermore, it is now a criminal offence to provide (even free) assistance or to associate to provide assistance for illegal immigrants¹⁴⁸ and, with this in mind, the Foreign Nationals Department now has policing powers of its own.

Family reunification

Being right at the crux of all immigration policy (linking the two main concerns of controlling migratory flows and integration), the approach to family reunification¹⁴⁸ is the touchstone of government policy, and here again, the balance has come down overwhelmingly on the side of restriction. There was less sign of an integration policy via this route in 1993, the only real objective being to prevent a new influx at any price. Prominent among the barriers to the movement of third country nationals are the measures designed to restrict family grouping and prevent the constitution of new families with one of the spouses living in the country of origin. In the hope of improving policy coordination between Member States, a resolution on harmonising national policy in this area was adopted at the Copenhagen meeting on 1 and 2 June 1993.

¹⁴⁵ The government has always claimed that the fact that judges could decide against British law amply compensated for this. This explanation obviously no longer holds good, but the law now provides for refusals to be studied and an annual report on the subject to go before Parliament.

¹⁴⁶ However, the conditions for family reunification have been relaxed. Whereas only the spouse and children of minor age used to be allowed entry with the applicant, this entitlement now extends to the dependent parents of both applicant and spouse.

¹⁴⁷ This applies to both private individuals and professionals in the accommodation trade. Foreign nationals who own their own accommodation must also inform the Foreign Nationals Department of this fact.

¹⁴⁸ Until the regularisation law, the concept of reuniting families did not exist in Portuguese legislation on immigration, the nearest equivalent being the notion of "family ties" with national or foreign residents of Portugal referred to in applications for residence permits.

In Belgium, there have been two significant legislative developments. The first is a new measure under which uninterrupted cohabitation up to the time when the authorities make a decision is obligatory for obtaining a residence permit, even in the case of reuniting nationals of the country or Community nationals. The second is a change in the reunification procedure for non-Community nationals intended to protect young girls who are forced to get married only in order to obtain the right of residence for their future husbands¹⁴⁹ and to reduce the numbers facing long-term instability in respect of their legal situation¹⁵⁰. Under the new arrangements, the authorities have a maximum of one year to reach a decision on the applicant's right of residence but also have a free hand to apply more stringent requirements for documents in support of the application. In this respect, there has been a clear shift towards more power being delegated to the local authorities.

In the Netherlands, new requirements for family reunification were brought in with the regulations passed in February 1993 which came into force in September 1993. Anyone (Dutch or not) with a residence permit applying for an authorisation to bring in a partner he/she intended to marry (founding a family) or had already married (reuniting the family) now had to have adequate housing and sufficient means from a sustainable job¹⁵¹. Unemployment benefits were considered adequate provided the recipient was guaranteed entitlement to them for at least three years¹⁵². Family members theoretically had to join the applicant within three years of his arrival, after which period the automatic entitlement lapsed. When it presented its policy for 1994, the Dutch Government said it hoped to help the children of immigrants to join their parents in the Netherlands at as young an age as possible, to help them settle into Dutch society.

During the discussions, the Labour Party, which was against the bill to begin with, managed to get some amendments through in the shape of exceptions for some categories (holders of Dutch residence permits or passports, refugees and people asking for asylum¹⁵³). Derogations could also be granted on humanitarian grounds. The government is also planning to restrict the right of residence of foreign partners and children, refugees and holders of permanent residence permits. Rather than the current five-year permit, people in these categories would receive semi-permanent residence permits, renewable annually. The Council of State has been asked to approve the plan, but organisations defending the rights of foreign nationals have objected on the grounds of the highly precarious situation in which it could put the people concerned¹⁵⁴.

¹⁴⁹ In order to combat this type of practice, it was decided that a family may no longer be reunited unless the two spouses are over the age of eighteen.

¹⁵⁰ The most pernicious effect of the previous measure was that it put the people concerned in a precarious situation vis-à-vis the law and forced many couples to stay together because they feared that separation would mean deportation.

¹⁵¹ This means that the applicant has to provide evidence of an income at least equal to the basic minimum wage (currently NF1 1800 per month for a couple) guaranteed for at least a year. The income requirements are more flexible for those already holding a residence permit.

¹⁵² Under the previous rules, the partner of a jobless applicant dependent on welfare benefits was not admitted unless the applicant could prove he was not responsible for his precarious situation. This, however, proved to be unworkable.

¹⁵³ Special treatment may be given to heads of single parent families with very young children, unemployed persons aged at least 57½, the disabled and pensioners in a receipt of an additional allowance.

¹⁵⁴ Before the vote, 23 organisations including refugees' associations, organisations representing ethnic minorities, trade union confederations and youth sections of political parties, sent an open letter asking Parliament for the new measures to be suspended forthwith and the matter to be discussed further. Various organisations wondered

In Denmark, the Aliens Act, passed in June 1992, seems to have had an effect very quickly. Figures available for the first six months of 1993 show a large reduction in both applications made and authorisations issued. Although the "self-supporting" and "five and 18 year rule", the main innovations, were clearly dissuasive and selective, there was still a broad consensus in favour of even tighter restrictions here. In 1993, the government proposed applying the self-supporting clause even more evenly¹⁵⁵, which would automatically lead to even fewer permits because of the large number of third country nationals who rely on welfare benefits and are therefore not in a position to meet this requirement. The terms of international agreements tend to lead to a more generalised and stringent application of this system.

In Spain, the Council of Ministers agreed, in November 1993, to a revision of the criteria (status, length of stay, income and housing conditions) for the issue of visas for the purpose of reuniting families. Applicants must now have a residence permit which has already been renewed, have been legally resident in Spain for over a year¹⁵⁶, provide evidence of a regular and adequate income and supply a notarial act certifying that their accommodation is up to standard (i.e. of the same sort of size and facilities as the housing of Spanish people in the same area). The family member must provide evidence of his or her relationship with the applicant, legal and economic dependence and age¹⁵⁷. The NGOs consider this to be completely at odds with a proper family reunification policy, which should be planned as part of a general integration programme, taking in everyone concerned by family reunification and stating their rights, rather than just laying down (vague) instructions for the visa departments.

In France, families' right to reunification was reaffirmed in a recent vote in Parliament, but, as elsewhere, it was made more difficult to enjoy. Article 23 of the text gave force of law to the existing conditions which had so far only had the force of regulations (decree of 1976). In addition, the minimum period of residence of the applicant was increased from one year to two and the local mayor must now provide a reasoned opinion before the prefect takes a decision. Once authorisation has been granted, the family now has to be reunited in one go and not in stages unless this happens to be in the interests of the children, and even then the process has to be completed within six months of the prefect's decision.

There is a new specific restriction on polygamous foreign nationals who can now bring in only one family, which means that the children of a second wife cannot come into France unless that wife has died or been deprived of her parental rights (Article 30). A final and important point is that family reunification can now be under threat if the grounds on which it was authorised no longer exist on arrival in France.

Two circulars on the same subject appeared in 1993, one before and one after the new law on immigration control. The first¹⁵⁸ set up a departmental system under the control of the prefect,

what the government's real intentions were in its resolute drive for restrictive measures, because immigration from the "traditional" countries had apparently fallen off considerably since the second half of 1992. The majority of those applying to bring their partners into the country were in fact Dutch citizens, and there was no evidence that the new measures would be effective – a prior study had shown that the existence of international agreements considerably impeded the possibility of restricting family immigration.

¹⁵⁵ This currently only applies to immigrants, not refugees.

¹⁵⁶ The procedure does not cover members of the families of foreigners studying in Spain.

¹⁵⁷ Those above the age of majority must produce a copy of their police record (if any) and a medical certificate stating they have no transmissible or mental diseases constituting a risk to public safety.

¹⁵⁸ Interministry (Social Affairs – Education – Interior – Equipment and Housing) circular 93–10 of 12 March 1993.

to coordinate the activities of the various services involved in receiving and settling families in the process of reunification (reception and social monitoring of first arrivals, search for housing and schools for the children). The second¹⁵⁹, which explains the provisions of the law of 24 August 1993, with particular reference to family access to social rights, defines what is meant by reuniting families in the light of the changes made by the new law, and explains how the various services handle it. It lists the consequences of the social security changes (brought in by the same law), whereby foreign nationals can only belong to and benefit from social security schemes if their residence papers are in order, and outlines the welfare services provided in the interests of public health and humanitarian considerations even in cases of irregularity. It also mentions the now legal obligation to check on the validity of a foreign national's residence and work permits before registering him as a job seeker.

Bad press for mixed marriages

Only recently, members of immigrant communities who married outside it were assumed to be integrating, but now they are subject to close scrutiny and there is an increasing suspicion that the prime aim of such marriages (see previous reports on the UK) is to get round the immigration regulations. This is the thinking behind the new powers mayors have been given to refuse permission for what they suspect to be marriages of convenience.

The Netherlands are another case in point. An amendment to the Civil Code against marriages of convenience¹⁶⁰, passed by Parliament and under discussion in the Senate, makes registrars crucial to the process by giving them the power to refuse marriages between Dutch people (or foreign nationals with residence permits) and aliens. They are to be provided with a list of indicators of marriages of convenience¹⁶¹, and the Attorney General even has the power to annul marriages already contracted. It is also now a crime to help arrange a marriage of convenience¹⁶².

Foreign nationals wishing to marry in the Netherlands or register a marriage contracted abroad now have to provide a written statement from the aliens' registration office giving personal particulars concerning them and details of their residence permits.

Very similar provisions have been passed in France. The mayor now has the power to inform the Attorney General if he has any doubts about the marriage he is due to celebrate. The Attorney General can then postpone the marriage for a month, and if the circumstances dictate, oppose it, although the future spouses are entitled to go to court to try to get the decision reversed¹⁶³. Once the marriage has taken place, the foreign spouse must wait a year before being issued with a residence permit, which is conditional on the couple living together. In the case of the spouse and children (below the age of majority) of a refugee, the marriage must have

This has been set up in 12 departments.

¹⁵⁹ Interministry (Social Affairs – Interior – Labour) Circular 93-26 of 24 September 1993

¹⁶⁰ According to the Justice Ministry, there are 10 000 marriages of convenience in the Netherlands every year.

¹⁶¹ For example, partners who barely know each other and Dutch nationals who have already had several short marriages to foreign nationals.

¹⁶² The Dutch Centre for Immigrants (NBC) has criticised the idea of using the marriage laws to regulate the entry of foreign nationals. According to the NBC, this is the job of the Aliens Act, which already has plenty of ways of heading off marriages of convenience.

¹⁶³ The text passed by Parliament (Law of 30 December 1993) reflects the Constitutional Council's decision of 13 August 1993.

taken place prior to acquisition of refugee status or at least a year prior to application, and the couple must be living together.

The Judgment in the Abihilali case (9 October 1992) is worth quoting as an example of the tighter control of mixed marriages. The judgment ruled that, if there is no doubt that a mixed marriage has been contracted with the sole aim of obtaining a residence permit, the prefect is entitled to refuse to issue the permit (as provided for in Article 15(1) of the Order of 1945), even if the marriage has every appearance of regularity.

Internment of foreign nationals – political stringency and legal practice

The question of foreign detainees, frequently at the centre of heated debate, again took centre stage during the year. In Germany, for example, the Federal Minister for the Interior said that foreign nationals, particularly asylum seekers¹⁶⁴, were over-represented in the crime figures in comparison with the population as a whole. This phenomenon raises numerous questions as to how foreign nationals relate to the law and vice versa, and whether they in fact represent a threat to society or whether the law is applied more strictly in their case.

In Italy, criminologists are looking at the changing behaviour of groups from the third world¹⁶⁵. Some studies even go as far as pointing to a specific criminal tendency in some ethnic groups (gypsies from the former Yugoslavia, Iranians, Sri Lankans, Indians, Pakistanis, Brazilians and Argentinians). Magistrates in Turin and Milan, however, have questioned the constitutional legitimacy of court cases involving foreign nationals who do not speak any Italian and have received no written information in their own language¹⁶⁶. Judges are increasingly faced with defendants who have major problems of communication and are completely ignorant of the basic rules of the judicial machinery. When approached on this subject, however, the Constitutional Court ruled (January 1993) that this complaint was without foundation.

Tied in with the question of how the law relates to foreign nationals is the effect of tighter control policies on the internment of foreign nationals. The increasing number of deportation decisions has raised a whole series of questions as to whether people need to be detained while awaiting a decision and, if so, where they should be held. In many cases (Belgium, Germany, Luxembourg), limited accommodation in special reception centres has resulted in people being detained in prisons. In the Federal Republic of Germany, for example, the lack of sufficient provisional accommodation centres for applicants who had been refused entry resulted in the Länder accommodating them in Federal detention centres. The Federal Government realises that application of the new law amending the asylum application procedures is having serious repercussions on federal prisons.

This naturally leads on to the problem of deporting foreign nationals with no residence permits and foreign prisoners who have served their sentences. Overcrowding in prisons and detention

¹⁶⁴ They were responsible for 33% of crimes committed by foreign nationals, while representing only 10% of the foreign population. In 1992, crimes committed by non-Germans rose by 32% and their participation in organised crime by 50%.

¹⁶⁵ In Italy, 37 111 foreign nationals (5.5% of the total 680 851) came into contact with the law in 1992, mainly to do with the falsification of documents, illegal residence, driving without a licence and the illegal sale of cigarettes. The highest number of offences and prison sentences was in the north.

¹⁶⁶ A group of criminologists from the Milan Magistrate's Court has since produced a paper, translated into several languages, to be given to defendants when they enter court.

centres is such that the German authorities have felt forced to tackle the problem with means other than those used for nationals, and deportation seemed the most appropriate. This view is not, however, universally shared, there being considerable doubt as to the justification for penalising such people twice over and the value of detaining those whose only offence is not to have their papers in order. In a report on the imprisonment of foreign nationals in the Netherlands, the Coornhert Liga doubted that there was any point in imprisoning those awaiting deportation. In 1992, of 6 000–8 000 of these people detained pending a decision, less than a third were actually deported, most being released unconditionally because the Foreign Nationals Department was unable to establish their identity or country of origin.

Despite such criticisms, all Member States are maintaining a hard line on this question. The Italian Government has produced further legislation in this area¹⁶⁷. A first decree law suggested imprisonment for anyone arrested without valid papers and immediate deportation for those convicted of first degree offences and, in some cases, those arrested for serious crimes. But it met with serious opposition, firstly because it was in breach of the principle of presumption of innocence in criminal cases (Article 25 of the Constitution), and secondly because the automatic imprisonment of people without papers soon emerged as a typical case of a good idea that went wrong, with the dual disadvantage of increasing overcrowding in prisons to intolerable levels and criminalising immigration. A new decree law was therefore published on 14 June 1993 and brought into force on 12 August providing for the arrest of and criminal proceedings against anyone destroying their passport or refusing to cooperate in obtaining authorisation to return from their consular authorities. It also brought in a new kind of what might be termed "participatory" deportation, through which, at his own request, a foreign national in custody awaiting trial or in prison for a crime can be made the subject of a court order to be escorted to the frontier and his return authorised once the relevant procedure has been set in motion.

In Portugal, deportation can now be through a simple administrative decision or can be added to a criminal sentence in the case of imprisonment of at least six months for non-residents, at least a year for persons resident for up to five years, and at least three years for those resident for over five years. Judges can decide to intern foreign nationals under deportation orders in one of the new special detention centres.

In Luxembourg, an amendment made on 3 March 1993 to the law on entry and residence of 28 March 1972 (Article 15) empowers the Minister of Justice to order foreigners whose papers are not in order to be kept in custody. Custody must be in an appropriate establishment and is restricted to one month - as opposed to six months previously - extendable twice in exceptional circumstances. The detainee is entitled to the help of a lawyer and an interpreter and has the right of appeal to the Council of State, who must reach a decision within ten days (as opposed to two to three months under the previous legislation) and whose decision is final.

New international cooperation: take-back agreements

Along with restriction of entry to Community territory, more frequent refusal of applications for asylum, more drastic control of the right to residence and tighter checks on the legality of marriages, the concern common to all governments has, then, been to set up an effective

¹⁶⁷ The reason given being precisely the increase in foreign detainees and the difficulty of deporting those whose papers were not in order. Such cases account for an average 13% of detainees nationwide and up to 33% of the prison population in big cities.

deportation policy. Their concern is to overcome countries' reluctance to accept the "enforced" return of their own nationals, particularly those who do not have papers or who have destroyed them to avoid decisions being put into effect. Belgium's appointment of an "immigration policy ambassador" is here highly symbolic. Thirty years ago, it was a question of combing the countries in question for candidates for emigration, and today the problem is persuading those same countries to take back their own nationals, including those who have sought asylum in vain.

This "lack of cooperation" on the part of the countries of origin is cited as one of the main obstacles to the deportation of people without papers. This was the case, for example, with the Netherlands and Morocco until the two countries signed an agreement in mid-1993. The situation now is that the Moroccan authorities interview the detainee in the Netherlands, and, if it is established that he is Moroccan, he is sent home. If there is any doubt, the Netherlands supply data as the basis for an enquiry in Morocco, the results of which must be supplied within ten days.

It seems there can no longer be any doubt as to Morocco's good faith, as evidenced by the decline in the flow of "pateras"¹⁶⁸ (which the authorities have taken as a sign of the effectiveness of the agreement signed with Spain in February 1992) and the reorganisation since May 1992 of the arrangements for issuing joint visas for the Netherlands and Belgium. For travel visas, the Benelux visa office in Rabat, run by the Dutch Embassy, covers northern Morocco, and the Casablanca office, run by the Belgian Consulate-General there, covers the whole of the south. Each country has, however, retained full individual control over the issue of visas for families being reunited and of temporary residence permits. The Benelux visa office in Rabat has already been linked to the computer system used by the Netherlands in most of its diplomatic and consular posts abroad, and the Casablanca office is to have a similar system (currently on the drawing board) soon.

Germany is way ahead when it comes to the shared management of returnees, and the Germany-Poland agreement is seen by the Schengen and Dublin signatories as a model for all the neighbouring countries¹⁶⁹. A new agreement signed with Rumania in September 1992 enabled 6 000 Rumanians to be deported via Berlin airport just in the first half of 1993. An inter-government agreement has also been signed with Switzerland.

Other agreements have been established with the Czech and Slovak Republics, which are considered as transit countries, with the aim of bolstering their finances to enable them to cope with the refugee problem themselves. There is increasing concern in both states, however, at the apparent increase in crime and disorder in some border areas as a result of the law on asylum. Belgium and Rumania have a similar type of bilateral agreement¹⁷⁰. Talks are under way with Russia, which supports the idea of regulating legal migration and labour and is keen to see the principle secured in bilateral agreements. All these initiatives further the agreement between Poland and the Schengen group. Portugal and Spain have also reached agreement on arrangements for the readmission of illegal immigrants and cooperation on cross-border tax arrangements¹⁷¹.

¹⁶⁸ cf. 92 Rimet Report, Brussels, May 1993.

¹⁶⁹ G. Erpenbeck outlines the problems encountered by the Polish side in *Glatte Überforderung, Betrifft: Mehrheiten/Minderheiten* 2/1993, pages 18 ff.

¹⁷⁰ Talks are under way with Morocco, contact has been established with the Indian Embassy, and there are plans to contact the authorities of Pakistan, Ghana and Nigeria.

¹⁷¹ Portugal has also settled its differences with Brazil over the issue of visas and the conditions for Brazilians

Deportation measures increasingly common

With or without new repatriation agreements, the increase in deportation orders over the past few years reflects the direction of government policy and is likely to reach greater proportions in the future. This, in any case, is what the Belgian Minister for the Interior hoped when publicly announcing his intention of boosting an active policy of expulsion¹⁷². The Dutch Minister of Justice reported over 21 000 deportation orders in 1992, representing an increase of 47% in one year. There was a similarly sharp rise in Belgium, although the numbers involved were lower (372 in 1991 and 1 126 for the period 1 July 1992 to 30 June 1993, half of them Poles).

Greece, however, was the most radical - and sometimes brutal - with its deportations. According to the Ministry for Public Order, some 550 000 foreigners in the country illegally were sent home between May 1991 and October 1993. In 1992 alone, more than 379 000 Albanians were deported, most returning very quickly¹⁷³. Public opinion is still very divided on this issue. Many people objected to these deportations and the way in which they were carried out, but more still claimed that the large numbers of foreigners illegally in the country were the main cause of mounting racism and xenophobia in a traditionally tolerant society. The mass expulsion of some 13 000 Albanians in five days in the summer of 1993 approved by the then leader of the opposition, Andreas Papandreou (now Prime Minister), sparked off more argument, particularly on the brutality of the methods used. The international press gave wide coverage to these events, sometimes presenting them as a violation of human rights. The left-wing coalition (voted out in the October general election) added its voice to the criticisms, claiming that these mass expulsions were worsening relations between Greece and Albania. A movement against the expulsion of Albanian refugees organised a demonstration in Athens under the slogan "all right-thinking human beings should denounce pogroms, resist xenophobia and racism and uphold the values of hospitality and solidarity", in which various pacifists, political and social organisations participated.

Increasing problems for the rights of the individual

The plethora of new provisions adopted over the past three years to restrict the movement, entry, residence, family reunification, marriage and right of asylum of foreign nationals has inevitably had an effect on the basic rights of the individual. Among the main risks are those attendant on the sophistication of methods of recording, storing and cross-checking data on identity.

In Germany, for example, since the law on asylum procedures was passed in 1992, the police and the departments dealing with asylum applicants have had a fingerprint classification system called AFIS which enables the police in the Länder to record information on asylum applicants (other than small children) and enter them in an international police register (INPOL). Under the law's provisions, the authorities dealing with applicants and collecting this data have no direct access to the information but must apply to the police to establish the identity of asylum applicants.

entering Portugal.

¹⁷² There are more and more incidents at the airport because people are refusing to embark, and the press has reported a new practice consisting of taking children on board first in case the parents refuse to leave.

¹⁷³ Deportation operations for that year cost Greece a billion drachma (ECU 3.6 million).

Yet there is still a risk of disclosure. The question was raised by the Commissioner responsible for data protection in Bremen in his 15th annual report of 31 March 1993, in which a case is cited of heads of department passing on information on an asylum applicant to a car hire firm. Although no actual damage was done in this particular case, it illustrates the increasing need for better protection of privacy, particularly of foreign nationals.

A similar system is operated in the United Kingdom. In order to head off the possibility of multiple applications and thus prevent social security fraud, asylum applicants now have to agree to their fingerprints being taken¹⁷⁴. In view of the fact that hitherto, fingerprinting was only for suspected criminals and was exclusively the preserve of the legal authorities, this move has been widely criticised as a backward step in terms of public freedom. Particular criticism has been levelled at the tendency it will obviously create to lump together asylum seekers with fraud and crime in the minds of the general public.

In addition to these systems, a bill tabled in Germany proposed amending the social security provisions in such a way as to force the social security department to pass on its information to the aliens' registration office (in certain unspecified circumstances). In a similar move, the Belgian government planned a "pending register", approved by the Council of Ministers of 29 July 1993, plus a new computerised system in which to record data on asylum applicants not listed in any other population register while their case was being heard. Inclusion on this register, which would be decided by the state rather than the commune, fits in with the "distribution plan" mentioned earlier, and was intended to make provision for increased control of people's whereabouts¹⁷⁵. It would also make the policy on expulsion of foreign nationals brought in with the Law of 15 December 1980 more effective, whether applied to asylum applicants or other categories.

Another cause of concern to non-governmental organisations, lawyers, and above all the applicants themselves is the drastic reduction in the possibility of appeal against administrative decisions on entry and residence, visiting rights, the right to family reunification and, most importantly, the right to asylum. In the United Kingdom, for instance, recent attempts to undermine the right of appeal were severely criticised and particular emphasis put on the greater risk of deportation on grounds of suspicion alone, with no tangible justification. One example was a case where the Court of Appeal authorised parents wanting to visit their son and his family to appeal against the refusal of their visa on the grounds that the refusal was based on "pure suspicion"¹⁷⁶.

What makes this even more unacceptable, according to the observers, is that, even if it is without foundation, the initial refusal will be even more prejudicial to the applicant when the agreement on the control of external borders takes effect, through which a refusal by one country of the European Union will be sufficient justification for refusal by them all.

¹⁷⁴ A similar system was set up in Belgium in October 1993.

¹⁷⁵ Foreigners refused entry to the territory (Article 52 of the law) may be kept in a given place for up to two months, if the Minister believes that this is necessary to ensure their actual departure. The increase in the authorised period of detention from one month to two is more or less general.

¹⁷⁶ The Supreme Court, on the other hand, threw out an appeal against a deportation decision from someone who had entered the UK illegally and spent five of the preceding six years there, married and cared normally for his family (children and parents-in-law) in the country. The judge ruled that this did not constitute "exceptional circumstances" justifying non-application of the regulations on aliens, even though he accepted that deportation would be prejudicial to the applicant.

With regard to asylum our first examples come from Germany¹⁷⁷. Since the Basic Law was revised, there have been many orders defining the spirit and letter of the law and how it should be applied. Two of these, from the Federal Constitutional Court, warrant particular attention because of their importance in German law and because of the example they set outside Germany.

The first, of 11 May 1993, concerns the situation of the Kurds in Turkey and recognition of the political nature of the persecution suffered at the hands of the Turkish state. The Federal Constitutional Court found that state repression of acts which were themselves an expression of political conviction (separatist activities, for example) could, in principle, constitute political persecution, particularly if the state used terror to control terrorist activity. So, as far as the right of asylum was concerned, the Turkish army attacks on the Kurds should not be discounted simply because the state action was not aimed at the systematic destruction of the ethnic and cultural identity of the Kurds¹⁷⁸.

A second order, of 22 July 1993, dealt with the general presumption of non-persecution, or, to be precise, of the possibility the Basic Law offered all foreign nationals of overturning to their advantage the general presumption of non-persecution. The Federal Constitutional Court found that a legal analysis should do more than respond to the applicants' practical arguments simply by pointing to the situation in his country of origin, since that yielded no indication as to the existence of political persecution.

Still on the subject of asylum, the Dutch ethnic minority and refugee defence organisations, lawyers and magistrates (Dutch Society of the Judiciary) severely criticised the new law passed by Parliament as being inadequately prepared¹⁷⁹. Their main complaint was about the distinction (which they deemed unacceptable, but which is nevertheless in the law) made between a Dutch national and an asylum applicant when it came to the right of appeal. Whereas Dutch nationals were able to appeal in virtually all cases, even very minor ones, asylum applicants had no such right, even in circumstances which may put them in danger.

The Council of Judges echoed these objections and expressed serious reservations about the new law, deeming it irresponsible to reject all possibility of appeal in the case of asylum when lives could be at stake. The Dutch Immigrants' Centre (NCB), pointing out that the coalition agreement of 1989 included improvements to the status of foreign nationals, produced a counter project in June, establishing the principle of equal treatment for foreigners, except where the law expressly provided otherwise. This principle, which it felt should be a compulsory element of legislation, would have the practical effect of making it easier to apply rules and regulations relating to foreigners, because all the exception clauses could be cut out. The idea was to give foreign nationals a comparable status to Dutch nationals after five years of legal residence.

¹⁷⁷ The new law on asylum in Germany has had unexpected repercussions on the situation of artistes from the Eastern European countries, who not only find it difficult to get travel documents in their countries (and have to bribe the local Mafia), but now have to cope with complex new procedures, finicky controls and, most importantly, the systematic suspicion that they are out to abuse the right of asylum.

¹⁷⁸ A few months earlier (4 March 1993) this court gave another ruling based on the same principle on the situation of the Jezides, recognising that the threats to them clearly stemmed from their Jezide faith, and that they were therefore covered by the right to asylum.

¹⁷⁹ They also said it was contrary to the General Administration Act, which lays down all the Netherlands' administrative rules, on a number of essential points.

The Dutch Refugee Organisation (Vluchtelingen Werk) was also highly critical of the processing of applications and the Justice Minister's decisions. It objections were based on a study of a hundred or so Iranians whose applications for asylum were refused, around 40 of which, the organisation maintained, had been badly vetted by the Ministry.¹⁸⁰ The other complaint was that no reason was given for favourable decisions, so the criteria for acceptance/refusal were not known.

On the subject of conditions of entry and residence, two judgments from the French Council of State (one favourable and the other unfavourable to the plaintiff) confirmed, if indeed any confirmation were called for, the need for a means of appeal against the authorities, without this systematically working in favour of the plaintiff. Both referred to Article 8 of the European Convention on Human Rights in respect of the legitimacy of measures involving escorting individuals to the border.

The first of these (the Loxo judgment of 31 July 1992) recognised that the provisions of Article 8 of the European Convention on Human Rights had been flouted in the case of a foreign national ordered to be escorted to the border seven years after the final rejection of his asylum application who had, during that period, lived in a regular marital relationship with a Zairian woman, by whom he had three children, in whose upbringing and education he had been actively involved. The second (the Tartbane judgment of 23 September 1992), however, denied the plaintiff the right to invoke Article 8, since he had not cohabited with his wife and child, who were resident in France, and therefore could not claim that his family life would be undermined by the expulsion order in question.

The rules on reuniting family members are also a source of increasing difficulty. In Belgium, the authorities force spouses whose papers are not in order at the time of marriage to leave the country and apply for visas to reunite the family. Once in Belgium, such persons must wait for a very long period, sometimes several years, before the situation is regularised, which adds significantly to the couple's problems. The new procedure due to come into force in 1994 should improve the situation by setting a maximum period of one year for the case to be investigated.

On a different note, the joint Bundestag and Bundesrat Constitutional Committee held a public debate on the rights of ethnic minorities in May 1993, at which discussion focused on the degree to which these rights had been incorporated into the German legal system. The spokesmen of the groups (Sinti, Romanies, Sorbs, Frisians and Danes) claimed that the constitutions of the Länder did not offer adequate protection of these rights, which could only really be guaranteed at the highest constitutional level. They also argued that protection of these ethnic groups under the Basic Law would be a new stimulus for Europe.

This sentiment was echoed by the Constitutional Committee's recommendation at the end of September 1993 to incorporate a new Article 20b into the Basic Law imposing an obligation on the state to respect the identity of ethnic, cultural and linguistic minorities¹⁸¹.

¹⁸⁰ The procedures for Ethiopian and Iraqi applications for asylum had been covered in a previous survey (cf. 1992 report).

¹⁸¹ An SPD proposal to give non-citizens of the European Union the right to vote in local elections on exactly the same terms as European nationals was thrown out during the debate which preceded the recommendation.

INTEGRATION

A crisis of integration

"Over the past 10 years little or no progress has been made towards equality with young French people". This feeling expressed in a recent survey by a large majority (59%) of young foreigners or young nationals of foreign origin resident in France is a fairly accurate reflection of the actual situation and the state of mind of many young immigrants or children of immigrants in the European Union. Their assessment carries all the more weight since it is accompanied by other very instructive replies concerning their experience, daily lives and aspirations. The vast majority of these young people say, first, that they are happy to be living in France (86% are very or fairly happy) and that they would like to become more integrated into French society. However, this integration is not the rather vague concept to be found in politicians' speeches. Rather, it takes the form of specific demands: not living in a ghetto (91%) and the right to vote in local elections (68%).

A second survey conducted mainly among teenagers and young adults of North African origin born in France shows more clearly still the extent to which they have put down roots: more than 70% of them speak French at home, identify more with French people than with their parents in the areas of culture and lifestyle and would consider marrying a French man/woman who was not of North African origin; even more telling is the fact that nearly two-thirds of them say that they are prepared to take up arms to defend France. Nonetheless, they are under no illusions about their daily lives and do not fudge the difficulties they have to face. The specific risks are delinquency and drugs (for 55% and 43% of them respectively) and a certain persistent racism when they go looking for a job, go for a night out or when they are stopped by the police in the street. All in all, there is a gulf between their hopes and their everyday lives, between the hassle and the dream.

And it is true that there is not really anything new to report in France this year in any of the areas concerning integration: housing, civic and political rights, personal status. There is a growing feeling of considerable uncertainty as to what action should be taken, and certain of the showpiece instruments set up by the State itself - the Secretariat-General for Integration and the Supreme Council for Integration¹⁸² - did little of note in 1993. The first person to reach the age limit in the first half of the year has not been replaced. The term of office of the members of the second body was completed at the end of February 1993 and the new members were appointed nearly one year later (decree of 7 June 1994). Only the former National Council for Immigrant Populations (CNPI), which had been set up in 1984, was replaced by a National Council for the Integration of Immigrant Populations (CNIPI) by Decree 93-290 of 5 March 1993¹⁸³.

There was therefore a particularly marked contrast between the immediate fulfilment of election promises on curbing immigration (entry, residence, work) and the - at least perceived - inactivity in the area of integration. Admittedly, as soon as the Prime Minister entered office

¹⁸² The two decrees of December 1989 establishing these bodies placed them directly under the Prime Minister, after which, in 1992, the Secretariat-General for Integration became a service of the Ministry of Social Affairs.

¹⁸³ Its membership was broadened to include people involved in local measures to promote integration and representatives of ministries working on these questions which had previously not been represented in the Council (e.g. urban affairs and women's rights). Its areas of activity remain unchanged (living conditions, housing, work etc.), and it is stated that the main aims of its work are the reception and integration of immigrants.

he also committed himself to taking prompt and determined action in this area, and as proof thereof, he even opened the first session of Parliament after the elections with a debate on urban policy¹⁸⁴. He took the equally symbolic step of giving the responsibility for this work to Mrs Simone Veil, whose strengths lie in the sense of moderation she conveys and in her presumed skill in handling delicate matters. His choice also seemed to form an acceptable counterbalance to the power and the strong personality of the Minister for the Interior.

However, in everyone's eyes, government policy is the policy applied by the Minister of the Interior, who is quite happy for people to refer to him as the "Minister for Immigration". That said, the strict policy which he is supposed to represent does not appear to be making much difference on the ground. This, in any event, is the experience of many members of Parliament – including those of the governing majority – who no longer hold back from stressing the growing risks that a social explosion could be sparked off "*by the slightest incident*". The problems and difficulties reported in previous years (marginalisation, unemployment, violence at school and drugs) are increasing, and the measures taken – or rather "taken over" from the previous period¹⁸⁵ – are, more than ever, far from being up to scratch. It is true that you cannot legislate for integration. Nevertheless, people are increasingly raising the question of the need for a legislative act (law, framework law) in this area, if only to indicate the strength of political will. Nothing specific has been decided so far.

Greece, Italy and Portugal do not appear to have made much progress in the area of immigration policy either. No significant specific measures were taken by the Greek authorities in 1993. A rumour that the situation of the Albanians would be regularised in an agreement between Greece and Albania was quickly denied. The spokesman for the Greek government said that there had only been an exchange of ideas on seasonal workers.

The figures available for Italy are no more encouraging, even though, in accordance with Article 2 of Law 39, there was an increase of LIT 30 billion in the funding granted for integration in 1993, and it was agreed that the sums which had not been disbursed in 1992 would also be added to this figure. The slowdown in the national economy clearly had a negative effect on the efforts made in the late 80s and early 90s. Everything points to a worsening of the living conditions of foreigners, and it has to be said that, unlike other countries (Germany, for example), Italy has no general programme or policy for the integration of young people into the world of work, which naturally penalises young people of foreign origin even more.

Little information is available on vocational training for foreign workers, but it is clearly fairly undeveloped, with the exception of several types of training provided by voluntary organisations with apparently very modest results¹⁸⁶. Nevertheless, mention should be made of the measures taken in the north of Italy to promote the integration of foreigners into the labour market or to support projects to encourage foreigners to return to their country of origin.

¹⁸⁴ While urban policy has not been made explicitly or solely responsible for solving the problem of the integration of foreigners, it is considered, rightly or wrongly, to be the main instrument of State intervention in this area.

¹⁸⁵ Formally announced on 29 July following the meeting of the Council of Ministers on urban matters, not one town contract was signed by the planned date of 31 December.

¹⁸⁶ Examples are the course organised in Milan for a group of 15 immigrants with an above-average level of education, who have been trained to provide assistance in the placement and employment offices of the province of Lombardy; in another case, a group of some 100 immigrants has been trained in the management of cooperatives or small industries.

Integration has therefore been one of the main casualties of the indecision of the Italian Government. While a minority has seen a relative improvement in their employment, the marginalisation of the vast majority has been heightened: their working conditions have deteriorated as illegal activities and organised crime have increased. The State institutions appear to be increasingly resigned to this situation. They are transferring their legal, medical and social responsibilities to the private sector: this means that the most pressing needs are being met by Catholic organisations in both the north and the south of the country¹⁸⁷. The delay in tackling major reforms (such as citizenship) so as to promote integration may well fuel antagonistic attitudes and behaviour, all the more so since the immigrant communities themselves are expected to consolidate their social, cultural and religious networks.

Nonetheless, a welcome development has been the establishment by the Ministry for Social Affairs of a committee on the legal position of foreign nationals in Italy. The committee, made up of 12 experts (from the areas of law, sociology, economics, demography, philosophy and politics) and representatives of 14 ministries, has been given the brief of providing the material for a new draft law. It was expected to have completed its work by the beginning of 1994.

In Portugal, integration was the subject of a resolution of the Council of Ministers of 15 May 1993. Rather than setting up a new administrative body, the Government has decided to extend the powers of the Ministry of Labour and Social Security, which has been given the task of coordinating at national and local level the potentially very wide range of measures in the areas of employment, vocational training, social action and culture¹⁸⁸. Its powers range from the improvement of the legislative framework to the further development of programmes of cooperation with the Portuguese-speaking African countries, and include support for local initiatives in areas with a high percentage of immigrants. It was also decided to involve the social partners and the representative organisations of the populations concerned¹⁸⁹ in the development and implementation of this programme. No specific action has yet been taken following these announcements.

The Spanish Government, for its part, appears to be continuing to limit its integration policy to the mere renewal of permits for those immigrants whose papers are already in order. To this end, it has not hesitated to relax the formalities and to remove restrictions to geographical and sectoral mobility, to extend the duration of permits¹⁹⁰ and, above all, to ask the trade unions and non-governmental organisations to become involved. The figures available in September 1993 (80 162) indicated that 80% of those whose papers were in order would renew their permits. The main beneficiaries are Filipinos, nationals of the Dominican Republic, Peruvians and Moroccans, followed, in smaller numbers, by the workers from Senegal, Argentina and

¹⁸⁷ Caritas and various religious orders gave shelter and food to several thousand immigrants in Rome in 1992 alone. In the same year, the Caritas social and medical centre in Rome provided medical care 25 000 times to foreigners from non-Community countries who also received a further 12 681 medical visits from the centre in the same year.

¹⁸⁸ The resolution maintains the powers of the Minister for Foreign Affairs in the area of cooperation.

¹⁸⁹ In response to this proposal of dialogue, the coordinating secretariat of the associations in the area of legislation, which groups together a large number of associations of various nationalities, presented the Minister with a report on the regularisation situation, as well as proposals for the major legislative and social difficulties remaining.

¹⁹⁰ While, in order to achieve this objective, the renewed permits offer greater access to the labour market, it is hard to understand why at the same time new obstacles have been created by granting permits whose duration of validity varies depending on the nationality in question: for certain nationalities (notably the Latin-Americans, Filipinos, Equatorians etc) they are valid for five years, while for other nationalities (in particular Moroccans) they have to be renewed every year.

Algeria. In addition, the Directorate-General for Migration has put forward a plan for setting up an Immigration Forum, an advisory body that would be responsible for ensuring that all the bodies concerned with matters of immigration are involved in drawing up integration policy¹⁹¹.

In any event, there is a considerable gap between reality and the promises made during the election campaign. The United Left Party was the party to make the most commitments concerning the rights to be guaranteed to foreigners. In contrast to the Popular Party, it considers that there has been a serious escalation in racist attitudes and that racism must be combated via the NGOs. It sees the right to vote in local elections as flowing naturally from successful integration. This party, which is the only party to campaign for an extension of freedom of movement to include nationals of third countries, also supports multicultural education and the promotion of immigrants' associations. It seeks to facilitate family reunification, to establish a reception service at the borders, to grant immigrants the right to vote in local and European elections and to remove statutory forms of discrimination affecting access to work, housing and training. It shares with the Basque Nationalist Party the idea of an active policy to assist all those affected by exclusion, including foreigners. These two political groupings have shown the most concern for the interests of migrant populations, at least as far as the contents of their election manifestos are concerned. They are joined by "Convergencia y Union", which proposes that laws be enacted to guarantee the rights of migrant populations, to combat racism and xenophobia more effectively and to promote the development of foreigners' associations and their full participation in social and cultural life.

A reception which is too often poor, and administrative failings

It is all too often overlooked that integration starts at the beginning, with the reception of the new arrivals. This is not just rare, but most often completely absent. However, worse than neglect and worse than reluctance are all the manifestations of hostility, which is more and more common nowadays. It may be a case of spontaneous reactions on the part of the locals, but all too often it is deliberate moves by public or private institutions.

The most striking example is that of the Public Welfare Centres (CPAS) in Belgium, which openly refuse to perform their duties vis-à-vis asylum seekers¹⁹². Using the independence of their organisation as an excuse, they have made these people's lives more difficult in many ways – forcing them to report daily or weekly, illegally refusing to pay them the aid to which they are entitled, cutting that aid, equally illegally, etc. – and the affair came to a head when they totally refused to look after any new applicants after 30 September 1993. The complaint which the Movement against Racism and Xenophobia made to the public prosecutor is unlikely to dampen the ardour with which the heads of these institutions denounce what they call "α

¹⁹¹ This body would comprise 47 members: 15 members for the institutions: State (7), autonomous communities (4), municipalities (4); 15 members for the NGOs (trade unions, employers associations and NGOs working with immigrants); and 15 members representing associations of immigrants and refugees. The Forum would also have a president and a secretary. Operating expenses would be covered by the general budget of the State.

¹⁹² In Belgium, asylum seekers are first looked after by four centres under State authority, one of which (known as the transit centre) is located at the national airport; if they cannot find a place there, they remain in the transit zone, sometimes for several months. A second centre, known as the "Fort de Walem", is for those who have little chance of obtaining refugee status; this is a "closed centre", which is treated as though it were located at the border. The other asylum seekers are looked after by the Red Cross, which has 14 hostels, and additional housing capacity for emergencies. Asylum seekers who are not looked after by a centre receive financial assistance, which must be distributed by the CPAS.

state of emergency". It was not long before the effects were felt. In St Trond (Belgium), which actually has a lower-than-average percentage of foreign inhabitants (1.5%) for the Flemish community, racist attacks have been made on a refugee hostel¹⁹³ after which Mrs D'hondt, the former Royal Commissioner for immigrant policy, declared that "*certain ambiguous statements, such as those made by the President of the St Trond CPAS, are unacceptable*".

Increasingly numerous cases of administrative shortcomings in all matters relating to foreigners and minorities also give a reliable indication of the state of integration policy. They occur in the central administration, social assistance bodies and the police. Local authorities, which are closer to those concerned, have recently not been lagging behind in terms of incompetence or, worse still, bad will.

On countless occasions children have been refused enrolment for school, and parents for registers granting them rights; there have been countless cases of delaying procedures, failure to comply with official procedures, the establishment of *ad hoc* and completely illegal rules (such as the requirement of documents for marriage and to obtain social assistance) or cases of contempt for foreigners. All these things only worsen the already tense situation. Naturally it is the asylum seekers themselves who have suffered the most from the poor reception and the mounting intolerance of recent years.

The increase in the number of complaints made and judicial procedures initiated for these reasons is indicative of these serious administrative dysfunctions. The Office for Foreign Nationals in Belgium is a good example of this. Its telephone switchboard is always engaged or quite simply unmanned (no reply), its offices inaccessible (visas), its case processing time far too long (one year or more for a family reunification visa for citizens of North African countries) – these are a few telling examples of the nature of its relations with "its public". The Minister for the Interior himself admitted this serious disorganisation and the arbitrariness it represents. The Office in question, which applies "*its own law*" and is not afraid of cutting corners, sometimes seems to resemble the mafia, in the words of the Minister¹⁹⁴. However, in the current ambiguity cultivated by many politicians of all levels and political persuasions, some people are asking themselves in Belgium whether this disorganisation, which sometimes "*suits*" current policy, has come about merely by chance. Can nothing be done about the disorganisation or is it deliberate?

But major efforts as well

On the other hand, the situation appears to be slightly more favourable in the Netherlands and Denmark. Since 1990, the Netherlands has had an initial, Government-financed reception programme considered to be a vital component of its policy towards minorities. It is currently running in 20 municipalities, and a quarter of all new arrivals who came to join their relatives or spouses have benefited from it. The objective is to reach, by 1996, all new immigrants who might be in difficulties, to help them move into local integration schemes. The three-stage programme starts with the registration of new arrivals at the "aliens office" and the "records office". They are then taken over by the "reception office", which organises their entry into

¹⁹³ The pretext for this was that the municipality was "invaded" 25 days a year by hundreds of asylum applicants who came to pick fruit, the speciality of the region.

¹⁹⁴ He has established the priority of restoring order to this Office and considers that he is well on the way to achieving the objective. The office has recently been given new staff (more than 100 new contract workers) and infrastructure (move to the buildings of the Ministry for the Interior, purchase of fingerprinting equipment).

Dutch society and determines how they should be monitored: language classes, classes on Dutch society, vocational monitoring and assistance with job seeking. The system is now a victim of its own success¹⁹⁵. The language classes, in particular, are oversubscribed. The Ministry of Welfare, Health and Culture has made an extra HFL 32 million available to the local authorities for 1994, and this amount will be increased to HFL 36 million in 1995.

Nonetheless, the system for the reception of asylum seekers which has been in force since 1 January 1992 is also showing its limitations¹⁹⁶, accommodation has run out, the authorities responsible for processing applications have been swamped, and the backlog of cases is increasing. As there has not been enough housing for successful applicants, they have been kept in national and regional centres for longer than planned, which has meant that there has been no room for new arrivals.

By July, makeshift emergency solutions were needed: some people camped out in cornfields and cars, the army set up provisional camp sites, and three floating hotels and some empty barracks were made available to 4 000 asylum seekers. The public has therefore concluded that the Government has lost control of the situation – at least this is the view of three out of four Dutch people – and central and local authorities have blamed each other for the situation which is perceived to be a failure.

An agreement signed in the spring of 1993 obliges the local authorities to house 30 000 more asylum seekers over the following year. In October, the Minister of Welfare, Health and Culture, who is responsible for this matter, proposed to Parliament that people who had already been granted residence should be transferred to the local authorities, since this would reduce the financial burden and make it a great deal easier to get them to look after themselves. Central Government would continue to provide the initial reception facilities and to finance the regions¹⁹⁷.

In Denmark, the authorities have made considerable efforts to create a favourable climate for the reception of refugees, and many municipalities are involved in this work, although some continue to refuse to do so. The number of welcome centres has doubled in a year (from 74 to 134), and they have been so successful that they have already reached capacity because of the rising number of applicants they house and, above all, because of the increase in the number of refugees from former Yugoslavia who have provisional refugee status. The Government and

¹⁹⁵ Nevertheless, some MPs have expressed their dissatisfaction with the attitude of certain local authorities, which have not been doing all they can in this area. The MPs have also suggested – and the Government has agreed – that first-time immigrants should have to follow adaptation classes or lose some of their allowances.

¹⁹⁶ The theory was that new arrivals would report to a reception centre (OC), where they would be interviewed by representatives of the Ministry of Justice. Those allowed to stay for a given period would be transferred to a centre for asylum seekers (AZC), where they would be given assistance to help them fit into Dutch society. Six months later, they were to be allocated temporary housing (the ROA houses) and, once their residence permit had been granted, they were to find stable housing. The system has never worked.

¹⁹⁷ The idea is also to make the local authorities feel more responsible for looking after asylum seekers. Under this new plan, applicants (including those arriving from former Yugoslavia who have been granted provisional status) would stay no more than seven months in the reception centres, before leaving for decentralised centres. A specific training programme was launched at the same time in 13 local authorities for 3 500 recognised asylum seekers, who were to be given a crash course in Dutch so that they could look for work, in the hope that this would make it easier for them to find housing later. The idea is to speed up their move through the reception centres. Refugees who are accepted under the Geneva Convention or on humanitarian grounds are provided with standard housing and an 18-month integration programme and are given full civic rights.

the municipalities are planning to open more¹⁹⁸, to increase the amount of funding available¹⁹⁹ and to improve the geographical distribution of the refugees. One of their concerns is to counter the tendency of refugees to regroup by leaving the small towns where they have been placed for the cities in search of better opportunities and more contact with their fellow countrymen²⁰⁰. Many refugees have also been leaving the centres before their cases have been completely processed, which can take a very long time. This happened in 2 479 cases in 1992 and in 3 191 cases in the first nine months of 1993. In the view of the Danish Red Cross, many of these refugees think that their applications will be turned down or that they will be unable to find work and so leave the country in the hope of finding greener grass in Germany or elsewhere.

Whatever the results of previous efforts, the plan presented during the debate on integration policy in the summer of 1992 was not followed by a coherent overall policy involving employment, social and cultural measures for new arrivals. Action has been limited to several minor measures such as the establishment of an ethnic equality committee, more Danish language courses and labour market measures. The urban commission of the Government, for its part, has drawn up a plan of action containing 30 proposals, including notably the idea of systematic Danish language courses and personalised follow-up for everyone. The support that new arrivals can expect (employment subsidies, social and cultural measures) mainly depend on the attitude of the municipalities, and not many of them are committed to this work.

Racism is still with us!

Intolerance is mounting in all countries and all sections of the population. In the Netherlands, racist attacks and other acts of xenophobia (racist graffiti, threatening letters, arson attacks on cafes, shops and homes) against foreigners and ethnic minorities increased alarmingly in 1993. The information service of the criminal investigation bureau recorded 337 cases in the first half of 1993, which is generally considered to be well below the real figure²⁰¹.

In Germany, acts of hostility and offences against foreigners continue, and the attempted killing of a Turkish family in Solingen at the end of May 1993 has caused great concern. Subsequently, the Minister of the Interior of North Rhine-Westphalia spoke openly of his pessimism and said that he did not expect the violence to abate. Indeed, the data supplied by the federal criminal research office point to a sharp increase in acts of xenophobia and racism in the following month.

Things have not been any better in the United Kingdom. The most dangerous places in 1993 in terms of recorded racist attacks were London²⁰² followed – with considerably fewer attacks

¹⁹⁸ Provisional refugees are housed, like the others, in village-type centres which are specially developed and run under the responsibility of the Danish Red Cross. The Refugee Relief Association runs the corresponding programmes.

¹⁹⁹ The direct effect of the influx of asylum seekers has been a considerable increase in reception costs. The Ministry of Labour estimated that this spending would reach a total of DKR 6.2 billion in 1993, as against DKR 4 billion in 1992.

²⁰⁰ The Danish Refugee Relief Association is improving its programme nationwide in an attempt to put a brake on these moves.

²⁰¹ The National Office for Combating Racism (LBR) hoped to stop the confusion associated with the different investigation methods of the various bodies involved (local anti-racism offices and police stations) by having racist acts recorded by just one department.

²⁰² According to the Metropolitan Police, racist attacks rose by 15% in one year in London (3 373 in 1991, compared with 2 908 in 1990) and, in 1992, doubled in the London borough of Newham and increased by 110% in Southall.

– by Greater Manchester, the West Midlands, Northumberland, Leicestershire and Wales. However, there has also been concern about the rising fortunes of extreme right-wing groups and the influence exerted by the British National Party (BNP) and the National Front (NF). The United Kingdom also saw its biggest anti-racism demonstration of recent years in Bexley, near the headquarters of the extreme rightwing British National Party, on 16 October 1993, which ended in clashes between the anti-racism demonstrators and the police. The link between mounting intolerance and the increased activity of extreme right-wing and neo-fascist groups seems obvious. In Tower Hamlets, a very poor area of east London, a BNP candidate was returned to the local council in September 1993 to become the only elected representative of an extreme right-wing group in the whole of Great Britain. There were also numerous incidents during the election campaign.

In Greece, racism, still latent the year before, is gradually becoming a reality. The press, reporting the treatment received by Albanians, used the headline: "*the spectre of racism is hanging over our country*"²⁰³. However, there are still those who accuse the media of "exaggerating" and of fuelling racism, and blame the violence on the economic situation. Others say that the deteriorating social climate is due to the illegal situation of the foreigners, which they claim triggers xenophobia and racism in a traditionally tolerant society. A European Union study (Philip Morris Institute) on how people in the Member States view foreigners puts Greece third in the list of countries which dislike them most, behind Italy and Germany. 57% of the Greeks interviewed said that there were too many foreigners in Greece, a negative attitude which is clearly spreading, since only 45% of the sample gave this answer the year before.

Xenophobia is also on the increase in Danish and Spanish society, although it has not reached the same levels as elsewhere. A brochure published by Mellemlfolkeligt Samvirke bears witness to the phenomenon with accounts of foreigners' everyday experiences, showing such things as a cooling of their relations with Danish nationals and an increase in discrimination. Racist attitudes are still rare in Spain, although there is growing concern about immigration and its effects, which was borne out by the two main surveys conducted on this matter in 1993²⁰⁴. Six out of every ten people interviewed said that immigrants brought Spain more disadvantages than advantages, and fewer than two out of ten believed the opposite. Two thirds thought that the foreigners were taking work away from the Spaniards and 44% that they had something to do with the rise in delinquency. Almost eight out of ten thought it was necessary to bring back quotas, and six out of ten thought that only those with work contracts should be allowed in. There is a similar desire to restrict applicants for political asylum – a majority think that they should be allowed in only if there is proof of persecution and only a third said that they should come in on any terms.

²⁰³ Explicit reference was made to reports of incidents in the village of Kriekouki, in Attica, where, on two occasions, Albanians were taken by armed villagers and beaten up so severely that they needed hospital treatment. The incidents were apparently due to the increase in the number of Albanians in the village in 1993. There were said to be 400 of them in all (only four of whom were legally employed), who were working for a pittance in vineyards or on building sites, and who were therefore accused of taking work away from the villagers. There is no question of the attack being a reprisal for delinquency, robbery or break-ins, which had already increased substantially in the village before the Albanians arrived.

²⁰⁴ These surveys were conducted by the social reality research centre (CIRES) and the sociological research centre (CIS) in March 1993.

But greater mobilisation

In Solingen, as elsewhere in Germany, all the institutions are seeking ways of re-establishing a climate of trust and returning to normal life. The phenomenon is so serious that Parliament has amended the law on damages for victims of violent crime (21 July 1993), by adjusting the principle of "reciprocity of relations with nationals of non-member countries".

The new text places foreigners legally established in Germany for more than three years, Germans and EEC nationals on an equal footing. It also provides for limited financial assistance for aliens legally established for less than three years. Lastly, a clause entitled "ordeals" was incorporated under which tourists and visitors staying legally in Germany for short periods are also entitled to the allowances provided for by the Law in the case of serious injuries. Under the terms of the law, they will receive a lump sum, scaled to reflect the length of their stay in the country, when they finally leave Germany. The Law was backdated to 1 July 1990 in order to cover the tragic events of the past.

The Federal Minister of the Interior hopes to see more active cooperation between Germans and foreigners and plans to recruit more foreigners into the police. Baden-Württemberg has put the proposal into practice, but has reserved access to people with more than ten years' legal residence and a good command of both their mother tongue and German (written and spoken). Bremen has embarked upon a similar process, and the Land law on the civil service has to be amended as a result. In Saxony, a special permanent unit of 50 police officers, the Soko Rex, has been formed to deal with violence against foreigners.

The Federal Government, with the assistance of the Ministers of the Interior of the Länder, has launched a "Fair-Ständnis" (tolerance) campaign to encourage young people to behave fairly with foreigners and to accept their differences. Certain Bundestag committees are also considering the need for anti-discriminatory legislation, focusing more specifically on protecting minorities using the Basic Law. Studies are also being conducted on ways of improving foreigners' rights of residence.

Nonetheless, the position of the Federal Government is not always clear. It responded to a question from the left-wing PDS group by repeating its condemnation of xenophobia and right-wing extremism, but then went on to say that attitudes that were "critical of foreigners" did not conflict with the Constitution, even though it combats them politically through democratic debate.

However, it is precisely these "*attitudes critical of foreigners*" which legitimise the countless cases of harassment they face. An example is the discrimination practised by certain car insurance companies refusing to renew the policies of foreign clients²⁰⁵. It is also the exploitation of foreign seamen, and not just under flags of convenience either. It is also the unequal treatment meted out to foreign youngsters seeking vocational training, as described in the Federal Labour Office's handbook on young foreigners faced with the choice of an occupation ("*Jugendliche ausländischer Herkunft vor der Berufswahl*"). And it was also the tensions between German and foreign workers in certain firms, which had reached such a level that one magazine on labour law in businesses ("*Arbeitsrecht im Betrieb*") published a major report on

²⁰⁵ Turkish workers whose policies expired after they had been with the company for years were struck off as soon as they made their first claim.

foreign workers and works councils ("Ausländische Arbeitnehmer und Betriebsrat") including a special chapter on discrimination against foreigners.

Germany was not the only one. In the Netherlands, the trades union confederation (FNV) saw what was happening and embarked on a similar process, adopting a code of non-discrimination for its members and setting out what precautions to take to avoid discrimination in the confederation and in unions with foreign membership. The code, designed as a working document, insists on the need to remove all the obstacles to equality. It ranges from the establishment of a positive action programme to the adaptation of recruitment and selection methods, and includes education and training for the ethnic minorities.

An inquiry conducted in the Netherlands revealed that foreigners' complaints of discrimination to the police are ineffective²⁰⁶, which prompted the authorities to issue the civil service with new instructions on the police and the public prosecutor, setting out how to handle complaints of discrimination²⁰⁷. At the same time, the police has appointed "coordinators of the anti-discrimination campaign" in various places in order to improve the attitude of officials in the field and encourage them to show more determination in fighting the phenomenon.

The 21 March Committee ran an action week, ending with a ten thousand-strong demonstration in Amsterdam under the banner of "*Solidarity in a multi-coloured Holland*"²⁰⁸. The mayor of Amsterdam took the opportunity to point to the dangers of the idea of a national preference and to denounce slogans like "Our people first", which he said sounded like a call for ethnic cleansing.

In February 1993, the Dutch Parliament passed a general law on equal treatment, banning all direct or indirect discrimination on the basis of race, sex, creed, philosophy of life, sexual persuasion or marital status, and an amendment provided for penalties for discrimination on the basis of nationality. The Government said that this law gives foreigners greater scope for defending themselves. They will be able to appeal to a new Equal Opportunities Commission and bring proceedings before a court.

Denmark has drawn its conclusions from the situation in neighbouring countries and decided to develop prevention. Tolerance campaigns, which are to run for two years (1993-1995), have been launched by the unions of workers, and an ethnic equality commission has been set up to promote the integration of foreigners and to campaign against racism, not by handling individual cases, but by advising Parliament, the Government and other institutions on all legal, cultural and socio-judicial matters.

Belgium has acted in a similar way by setting up a new equality opportunities and anti-racism centre (Law of 15 February 1993) to take over from the Royal commission for immigrant policy and with the task of promoting equal opportunities. The body, which comprises 21 members, including nine foreigners, is concerned with preventing abuses and taking firm action when they occur²⁰⁹. It is empowered to coordinate the immigrant policy impetus fund, takes

²⁰⁶ Either they do not reach the courts or, if they do, no criminal proceedings are initiated.

²⁰⁷ They stipulate that the public prosecutor must, "in principle", pursue the offender and that the police must take genuine action.

²⁰⁸ A three-week campaign against racism in sport began in October. It opened under the slogan: "*If racism wins, sport will lose*" and continued with poster campaigns, radio and television advertisements and other measures during the competitions.

²⁰⁹ All political parties other than the Vlaams Blok and the Flemish Liberal Party are represented, but the Centre's

part in interministerial conferences on migrants, encourages studies and research and may take judicial action under the 1981 Racism Act. It is also responsible for monitoring party propaganda during elections. A reform of the 1981 Racism Act is also being considered, with harsher penalties and greater protection against racial discrimination in housing and employment.

In Italy, the escalation of violence against racial and religious minorities, and especially against immigrants from non-Member countries, led the Government to issue a decree-law (26 April 1993) referring to the New York Convention of 7 March 1966 on the Elimination of All Forms of Racial Discrimination. This new text introduced harsher penalties and also provided for community service, including community service to assist the victims of acts of violence. The punishments for fascist ideology and all its racial implications were also increased. Under the Act, the Minister of the Interior may order the conditional suspension or dismantling of prohibited racist groups.

In France, as well, a Justice Ministry circular (December 1992) reminds public prosecutors that the country's "*anti-racist legislation, without equal in the world*" (*sic*) has to be stringently applied. The circular outlines the various provisions of the penal code and the code of penal procedure dealing with this subject and calls on public prosecution departments to consult more widely with anti-racism associations. Lastly, it calls on them to initiate proceedings themselves and to use the shortest judicial procedures.

For a European law against racial discrimination

However, it is in the United Kingdom that the campaign against racial discrimination and for equal rights seems to have made the most headway. In any even, it is there that organisations defending the rights of minorities seem to be the most combative and to make the best use of the corresponding legislation²¹⁰. A look at the cases involved suggests that they have been concentrating on employment.

This is not really a preference at all, but is quite simply due to the fact that the people concerned are better informed about their rights in this area, than in the areas of education, services and housing. Numerous cases have therefore been brought on the basis of the Race Relations Act of 1976 and the judgments show that judges are keen to eliminate all discrimination from the workplace. However, they do not always rule in the plaintiff's favour, for they are also concerned with preventing what they see as abuse. The difficulty lies in defining the dividing line between rights and abuse, as was shown by the Court of Appeal's refusal to recognise the Rastas (Rastafarians) as an ethnic group and especially not as a racial group within the meaning of Article 3(1) of the Race Relations Act. The Court ruled that, although the Rastas do indeed form a distinct group with identifiable characteristics, they do not have their own ethnic identity and there is nothing to distinguish them from other Jamaicans and West Indians. They do not have any history of their own either and have only existed for some sixty years. The case in question was of a Rastafarian who had been turned down for a job because he refused to cut his dreadlocks on religious grounds. The Court concluded that the plaintiff, Mr Dawkins, had not been the victim of racial discrimination. There is a possibility

initial statements left people unsure as to its leanings, particularly as far as combating truancy is concerned, when it suggested **cancelling the family allowances of parents whose children play truant and taking criminal proceedings against them** (see Netherlands).

²¹⁰ Under the pressure of public opinion, the various anti-discrimination laws are to be extended to Northern Ireland.

that, leaving aside Mr Dawkins himself, this ruling may have convinced the whole Rastafarian community that it is indeed the victim of discrimination by British society and its institutions.

The United Kingdom's very active commitment to fighting discrimination explains why the Commission for Racial Equality has been quick to defend the freedom of movement in the Community of British nationals from ethnic minorities. It fears that their rights may be restricted by various forms of discrimination discouraging them from visiting countries where there would be very little likelihood of protection. The Commission therefore suggests that a new directive be drawn up to prevent this. It believes that Articles 118 and 235 of the Treaty of Rome give the Community full powers to legislate in this field.

It therefore took an active part (alongside other major institutions in the other Member States) in producing a draft directive, which is called "The Starting Line" and aims to prohibit all direct or indirect discrimination based on race, colour, family, nationality or ethnic or national origin in economic, social and cultural matters in the Community. It would provide victims with the possibility of taking legal proceedings. Even though the plaintiff were to demonstrate "presumption of discrimination", each Member State would have to put the burden of proof on the defendant.

Associations progress

This idea of using a community approach for a better defence of minority rights naturally means that these minorities have to be in a position to defend their rights themselves. This is where associations come in and the fact is that they are making progress by and large, although there are still significant differences in development from one Member State to another and from one group to another.

Luxembourg seems to have the most thriving associations, as is amply proven by the Government's interest in the CLAE, which is its leading discussion partner, and confirmed by the 3rd Congress of Foreign Associations in November 1993, which was attended by more than 130 groups and welcomed a large number of leading personalities from economic, political and social life. This success followed that of the 2nd Congress of Portuguese Associations (on 15 & 16 May). This prompted the FAPL (the oldest of the federations of Portuguese associations) and the CAPL (a more recent confederation) to set up a broader confederative organisation combining almost all the Portuguese associations in Luxembourg. The dual aim is to combine integration with the defence of the community's interests. They want to support and even speed up the process of integration into Luxembourg society and, at the same time, come to grips with the realities of the community and boost the potential for intervening with the institutions.

Associations of foreigners have also gained such ground in Greece. The law still stipulates that foreigners may not run such associations, but case law is tending to reverse this on the grounds that the national law departs from the Rome Convention on Human Rights (1950). The Filipinos are the best organised, with 16 associations in Athens alone, their main concern being to defend the interests of their community on the labour market, a move dictated by the large numbers of unregistered Filipino employees who earn less than the legal minimum wage²¹¹.

²¹¹ The President of one of these associations said that 90% of the 30 000 Filipinos currently living in Greece were in domestic service and 10% worked in bars, hotels and restaurants.

The Egyptians have a similar outlook²¹². Only those who draw wages from the race track (a very small percentage) are covered by a bilateral agreement, but the Egyptian association, set up in 1984, is now fighting for an extension of the agreement and the regularisation of those without papers. The Egyptian community also has good relations with the Greek trade unions, particularly the builders' union of which they are members and in which they are entitled to vote. The 50 000 Poles are more culturally active. They have their own bars, clubs and libraries and even a Jesuit Catholic church. They bring out two weekly journals in Athens, covering Polish, Greek and international current affairs, plus job adverts and articles on social and cultural events. The Albanians, currently the biggest foreign group, are the worst organised and display remarkably little solidarity, as is apparent from the extent of delinquency in their community.

Associations are showing signs of development in Italy as well, which can be explained partly by the provisions of Law No 67/10 February 1992²¹³. A UPLMC survey listed more than 600 in 1992 (as against 380 in 1990), 150 of them in the Rome area.

Their priorities are the protection of the culture of origin, followed by social integration and a variety of political programmes. Few details are currently available on the way they work, who runs them, what their aims are and what activities they share with Italian organisations of the same type. Alongside the associations proper, there is also considerable religious activity. In January 1993, Italy had between 100 and 120 religious centres, including 59 multi-ethnic mosques²¹⁴, most of which had been built since 1986, thanks to the first major Immigration Act. The Union of Moslem Students in Italy (USMI) and the Union of Islamic Communities and Organisations in Italy (UCOII) have often joined forces to set them up.

UCOII has presented the preliminary draft of an accord with the Italian Government, providing, *inter alia*, for women to be allowed to wear the chador on their identity card photographs, for marriage to be celebrated according to Moslem rites and for the right to organise Islamic schools and celebrate Moslem festivals. It also suggests that the ICOII might benefit from 8/1000 of the annual tax returns which have so far gone only to the Catholic church, the Seventh Day Adventists and one or two others.

In the Netherlands, all the biggest ethnic groups have their own regional and national organisations, which have been under the responsibility of the provincial authorities since 1 January 1994. Things are very different in Denmark. Although the country has a long tradition of firm commitment to the service of others, Danish associations are not much concerned with immigration and the foreign population does not devote much energy to it either. The only thing is a little local activity, with the same cultural activities repeated year after year, with official funding and possibly some local subsidies. This lack of enthusiasm explains the failure of the attempts which one or two immigrant/refugee associations have made at setting up ethnic centres as relays for fellow countrymen looking for work.

²¹² There are an estimated 35 000 of them, some of whom came over in the mid-1960s, along with the Greeks deported by Nasser. They tend to work in the (building and textile) sectors which employ a lot of seasonal workers.

²¹³ Under regional laws, associations on the list of associations receive grants for their plans and schemes (after the executive committee of the Regional Council has granted approval).

²¹⁴ So there is one place of worship for every 3 300-4 000 Moslems, for an Islamic population of about 400 000.

Housing: shortages and disputes

Housing is without doubt one of the most sensitive issues in integration. While there was certainly an improvement in housing conditions during the 1980s, the problems are far from being solved. The urgent need for accommodation is still a constant worry for foreigners and people from ethnic minorities. They always have to wait longer than nationals to be allocated accommodation and the accommodation tends not to be as good when they get it. The situation is not expected to improve in the coming years. What is more, local authorities, housing associations and the general public are now more critical of the way in which foreigners tend to converge on a limited number of neighbourhoods in the big cities. Tensions have been exacerbated by the genuine shortage in recent times. As a result, more and more people are now openly against equal treatment for nationals and foreigners.

More than a third of people interviewed in the Netherlands said that Dutch families should have priority over foreign families when it comes to housing. In 1989, 25% were of this opinion, but the figure had gone up to 28% by 1991, showing a clear decline in levels of tolerance. In 1993, foreign families in towns across the Netherlands were prevented from moving into the houses allocated to them and several of those already occupied were dirtied. People living in one of the streets of Tilburg prevented a West Indian family from moving into its house on the grounds that there were already a lot of West Indians in the street. In Germany, the mayor of the Land of Hamburg wanted to invite foreigners to come and live in certain neighbourhoods of Germany's big cities, but the plan met with firm opposition from members of the CDU and the SPD²¹⁵. The same kind of hostility in Portugal, in this case from the inhabitants of neighbourhoods which local mayors had targeted as suitable for the rehousing of foreigners, should also be condemned.

In Italy, housing policies have long been the subject of Government indifference, and this has naturally adversely affected the most vulnerable sections of the population, starting with the foreigners. Even though the data are incomplete, they show that foreigners have the most dilapidated housing and live in the most insanitary conditions.

There is clearly a risk of heightened social conflict because of housing. A typical example of this is the old Pantanella pasta factory, which was turned into makeshift dormitories for hundreds of immigrants from non-Member countries. They lived in extremely insanitary conditions and had no access to water or electricity. After more than six months of media attention and controversy over the inability of the State and its institutions to act, police armoured vehicles cleared the site. All the mayor's attempts to set up provisional accommodation centres in empty buildings or premises failed because of the considerable hostility of the inhabitants of the prospective neighbourhoods. There were similar reactions to the one or two regional programmes (in Lombardy and Veneto) for improving the worst housing situations by providing more decent alternative accommodation. All these programmes immediately angered the lowest classes of the local population, who are in a similar situation themselves²¹⁶.

²¹⁵ The proportion of foreigners varies considerably from one Land to another. It is highest in Hamburg (12.8%), followed by Hesse (11.6%), Baden-Württemberg (10.9%), Berlin (10.3%), Bremen (10.1%) and North Rhine-Westphalia (9.6%). The new Länder are far behind. Other than Saxony, none of them has more than 1% of foreigners in its population.

²¹⁶ Certain towns have seen the establishment of vigilante groups which have hunted down foreigners. The most serious incidents of this nature took place in Genova in July 1993 in the old town where several thousand foreigners live in extremely dilapidated housing. The troubles, which lasted for three nights, were portrayed by

It is clear that institutional shortcomings cannot really be offset by emergency charity programmes. Various voluntary organisations, which are particularly active in northern Italy, have nevertheless been trying to help by setting up housing cooperatives, some of which are run entirely by foreigners.

The policy of "dispersal"

However it is described, there is talk of the "dispersal" of foreigners or ethnic minorities in almost all Member States in order to avoid the tensions resulting from their concentration in particular neighbourhoods or from the presence of "too many" of their children in certain schools. This is the reason given by a growing number of Dutch local authorities and housing bodies for developing a policy of dispersal. At the end of October Parliament unanimously condemned this practice, which the State Secretary for Housing said would only increase the difficulties of old neighbourhoods and heighten tension between populations. The local authorities, which do not openly defend this policy for fear of being accused of racism, blame the Government for not assuming its responsibilities and for "passing the buck".

In Denmark, housing policy and the plan of action of the Government's urban Commission largely follow this principle. High on the list of the five main areas for consideration are the improvement of living conditions in poor neighbourhoods and a redistribution of immigrants and refugees²¹⁷. In order to justify this approach, it is often said that the immigrant populations themselves are "in agreement" and that they are "concerned" to integrate into Danish society²¹⁸. The plan adopted aims to promote good relations between Danes and foreigners, but also to give foreigners new opportunities for creating their own activities²¹⁹; its recommendations include the strengthening of social action, improved use of the experience gained by social advisers in the area of living conditions and the revival of the tradition of neighbourhood-based measures.²²⁰

In Belgium, too, a "distribution plan" has been drawn up, setting out the reception capacity of municipalities on the basis of the number of foreigners already registered, the number of people on social assistance and the wealth of the municipalities²²¹. Provision has also been made for sanctions and bonuses to ensure that the operation is a success²²². It has to be said that the

the police as blood-letting by rival Italian and African drug dealers, but the local priest called it "a protest by desperate people who refuse to continue living in such conditions". At the same time, a 60-year-old woman from Genova has become a local hero after she went on hunger strike for seven days to campaign for "the restoration of [her] neighbourhood and the removal of the foreigners".

²¹⁷ In order to stop them from regrouping, a law adopted in the summer authorises local authorities to purchase or rent flats so as to be able to offer them to people on waiting lists for housing in exchange for the flat for which they have registered.

²¹⁸ Accordingly, many municipalities have established a 20 or 30% limit on the number of foreign pupils per class.

²¹⁹ The estimated cost of the plan is DKR 400 million per annum over four years: DKR 200 million for renovation of housing and the lowering of rents; DKR 150 million for the environment and Community action in the quarter; DKR 50 million for integration measures. Joint funding by municipalities is planned, with the gradual transfer of the financial burden to the budgets of municipalities.

²²⁰ The proposals made concern areas as diverse as the renovation of neighbourhoods, the development of cooperation between housing companies and local authorities, crime prevention, the recruitment of community social workers and the involvement of the churches.

²²¹ Calculated on the basis of personal income tax.

²²² The Royal Decree providing for the application of this measure has yet to be issued. It was due by the summer of 1994. However, it is to be expected that many municipalities will refuse to apply this measure by invoking

explosion of property speculation in Belgium, and in Brussels in particular, has compounded the relegation of foreigners to the poorest neighbourhoods and the most dilapidated housing²²³.

The situation has been made worse by the increasing competition for subsidised housing. Accordingly, only 35% of families in the capital own their dwelling and over half of the people in the city are entitled to subsidised housing. The Region of Brussels has adopted two decrees in an attempt to reduce the resulting risks of social conflict. The first provides for subsidies to be granted to associations working on the integrated development of neighbourhoods as part of urban renovation programmes. The second decree authorises borrowing of BFR 660 million for the family housing Fund of the region for the improvement of housing conditions and to prevent the dwellings in the most dilapidated neighbourhoods from becoming slums. Lastly, the Law of 12 January 1993 authorises the mayor to requisition any building that has been unoccupied for more than six years in order to use it to house the homeless.

Schooling: Still making up for lost time

The rejection suffered by migrant populations and the very sub-standard conditions of their housing naturally have an adverse effect on the scholastic performance of their offspring, and the schooling of migrant children is still a delicate matter in all the Member States. Despite considerable improvements, these youngsters never do as well as national youngsters.

In the Netherlands, it is the Turks and the Moroccans who are the worst off, with the Moluccans and the southern Europeans doing better and those from the Netherlands Antilles and Surinam somewhere in between (report from the Social and Cultural Plan Office). The difficulties of learning Dutch are decisive here, since they come to compound the families' poor level of education and the children's late start at school. But the influence of the school itself and the branch of studies should not be forgotten. The teachers themselves play a key role: their attitude is of fundamental importance and the attention which they give pupils has a decisive influence on their success. Conversely, the report states that there is no proof of any negative consequences of a heavy concentration of minorities in particular schools or classes.

In France, there have been more than one million foreign children in public and private schools for about a decade now, although a decline (of about 10 000 pupils per year) started in the mid-1980s and has brought the percentage down from around 9% in 1986 to 8.5% now.²²⁴ This has been caused by the failure to renew the lowest age groups and it has occurred solely in primary schools. The picture is different in the secondary schools, where the percentage of foreigners increases as the pupils get older. The rate is also always higher in special secondary education, being upwards of 18%, which is twice the figure for primary schools (8.2%) and three times the figure for upper secondary schools.

However, some programmes for minorities have had good results, and OETC (Education in one's own language and culture) is one of them. This Netherlands scheme, started in 1984, is used as such by ethnic minorities as by pupils from Member States of the European Union,

the principle of municipal autonomy which forbids such interference by the State.

²²³ One in five Belgians live in housing built before 1919, and the proportion is one in two for Moroccans, Spaniards and Turks.

²²⁴ The breakdown by nationality obviously reflects previous descriptions of migratory movements and alien births in France. The most significant result is the constant increase in the proportion of African children (from north and south of the Sahara), currently almost 63%, as against no more than 20% for EEC nationals.

all of whom are entitled to 2.5 hours of education during school time and 2.5 hours on an extra-mural basis. It mainly operates at primary level and, in 1991, more than 68 000 children (90% of them Turks and Moroccans) were involved. There was considerably less interest at secondary level, where only 8 000 pupils benefited, again primarily Turks and Moroccans - two nationalities which represented only 20-25% of the whole secondary population, as against three quarters of the primary.

Measures designed to increase the proportion of children from minorities in the apprenticeship system have also achieved their aims. There is a particularly strong demand for training for the clothing trade and, in 1992, more than half the new intake here was foreign. Courses on security, economics and administration are also popular (a third of the students are foreign), as are those leading to jobs in the printing and textile trades and medical assistance.

New laws on education

The one or two successes should not mask the fact that scholastic failure is a real and sometimes even growing threat for young people from immigrant communities. All countries suggest that these pupils are two or three times more likely than nationals to complete their schooling without obtaining any qualifications. The hopes which the Netherlands set on the OVB policy²²⁵ have not been fully realised.

The most tangible result has been smaller classes in the schools concerned, which, however, have failed to provide the projected extra courses and so, despite the allocation of funds, the pupils' results have not improved. Following the work of the Commission of Pupils from Minorities in Education, the Government decided to stop distributing OVB policy funds on the basis of the number of pupils and their ethnic origin, but rather to allocate them according to the economic and social situation of the parents instead²²⁶. But it refused to release the extra funds which the Commission claimed were needed²²⁷ and rejected the idea of external financing. Schools and local authorities will have to agree on the special education programme; otherwise funding will be withheld.

The Dutch Education Ministry expressed its concern with heading off failure in a note called "Off to a good start."²²⁸ Two pilot schemes involving all the secondary school authorities were run to locate the pupils concerned and try to bring them back into the education system or guide them towards an employment agency, which, in turn, would try to provide training or a job. The Government submitted to Parliament a proposal for a new law on compulsory schooling in order to cope with youngsters who deliberately drop out of their education

²²⁵ This was set up in 1985 with the idea of helping children who were behind in their schooling for social and cultural reasons to catch up. It covered Dutch pupils whose parents had only minimal education or training and pupils from minorities. The extra staff needed was calculated in proportion to the number of pupils concerned. The other part of the programme involved cooperation between schools and social systems in so-called priority education areas. See previous reports.

²²⁶ Using this last criterion, only 20-25% of pupils would get scholastic support, as compared to 50% previously.

²²⁷ The Government felt that the funds released by the change in the criteria of calculation would be adequate to raise the standard of the teaching of Dutch both as a second language (a programme for all pupils who had not been through Dutch schools from the very beginning) and as a mother tongue.

²²⁸ The main areas for attention are as follows: regional cooperation between schools, institutions and local authorities; greater responsibility for each institution; a better approach to assessment of dropouts; creation of regional meeting and coordination points (RMCs) to create the right climate for this policy; promotion of cooperation between the institutions.

(October 1993). It contained a number of innovations, *inter alia*, the idea of taking problem children to court²²⁹, withdrawing family allowances from families whose children fail to attend school and offering children of 14 and over the opportunity of working half time if they are no longer deriving any benefit from their schooling.

Still in the Netherlands, a law on priority education was passed in 1993, giving a new legal basis (including the OVB aims) to priority education areas and providing them with funding over a period of four years. This legal framework means that cooperation between the social and education systems can be revived at both national and regional level. The Minister of Welfare, Health and Culture is to help by increasing the means available to weak pupils. Finance is also provided for pre-school projects.

There is a different philosophy behind the Danish and Belgian measures to promote the dispersal of foreign pupils within the education system. In the Flemish community of Belgium a political agreement has been reached providing for experimentation with a plan for the distribution/dispersion of the children of migrants throughout the school system in order to avoid high proportions considered to be undesirable. If it is successful, this plan will be put into general use and will be accompanied by a non-discrimination code in schools and a system of priority teaching for migrants, the latter so as to help them to make up lost ground at school.

This desire to see a balanced distribution of the children of foreigners in the school system is also found in Denmark, where for several years now foreign children have tended to be concentrated in only a few schools near their homes, the result being that Danish parents move their children to other schools. To stop this concentration of foreigners and to keep the native Danes, a grant of DKR 25 million per annum (renewable for four years) has been granted in order to increase the equipment available at these schools.

The Danish Teachers' association, for its part, decided at its congress in November 1993 to draw up an action plan on the education problems of young foreigners, and a report from the Ministry of Education recommended improving the monitoring of pupils through closer cooperation between the different levels of education (primary, secondary and higher). This is needed because, in comparison with young Danes, foreign pupils obtain fewer qualifications and leave school earlier, notwithstanding the progress made by young Turks and Moroccans (more and more of whom are attending higher education) and the undeniable success of Pakistani and Vietnamese children. In this regard, the new law on primary schools, which was passed last summer, has been much criticised by those working this field who are disappointed to see no mention of the bicultural realities of the classroom in spite of the fact that the education problems of the 28 000 young foreigners in state primary schools (5.2% of the corresponding school population) and the 3 000 others in private primary schools (5.5% of the corresponding total) are as acute as elsewhere.

Portugal's new system of compulsory schooling has not been greeted with any more enthusiasm by teachers, who doubt that it will have any great effect on the attendance or success of children from immigrant families and think that the specific support plans for the underprivileged, who suffer more than others from the lack of pre-school facilities, are inadequate. In Italy, a CSER survey commissioned by the Education Ministry puts the foreign primary and

²²⁹ Under the law as it stood, parents alone could be held responsible if their children were bad attenders or dropped out, and staff could only use persuasion to try to get them back.

secondary school population at some 27 000, 80% of whom attend State schools²³⁰. It also shows that those in secondary schools are often in classes which do not correspond to their age or their previous level of attainment.

This is a particular problem with Bosnians, whose previous schooling cannot be verified and who are thus enrolled in the light of what their parents or they themselves (in the case of majors) said, subject to verification later. These pupils were allowed to sit the end-of-year examinations in the same way as other students, although their special situation was taken into account. The Italian Education Minister set up a study committee (decree of 8 April 1993) on the dual theme of the integration of foreign pupils into Italian schools and inter-cultural education²³¹. It is to suggest common guidelines for the various levels of education, in the light of an analysis of ongoing schemes and projects. There are three main avenues of thought - first, organising re-training and refresher courses and schemes to encourage intercultural education and the integration of foreign students; second, pinpointing models which could be put into general use; and third, defining the best way of teaching Italian as a second language.

Continuing pre-school and extra-mural programmes

The most interesting examples in this area are, once again, to be found in the Netherlands. The potential demand is estimated to be 40 000 families, which means that the size of the schemes will have to be increased tenfold over the next four years by combining State aid with assistance from the European Social Fund.

This means taking on some 5 000 "neighbourhood mothers" for the OPSTAP programme alone²³² to help with the cognitive development of children, whatever their origin. Along similar lines, the OPSTAPJE programme is run for 2-4 year olds, with the idea of helping parents bring them up, and OVERSTAP is run for primary school children. A scheme similar to OPSTAP is operating in Denmark, involving language and social training for mothers of small children, with a view to helping them to do better at school, the dominant idea being that it is vital to make the effort to fit into Danish society as well as possible and not to forge a bi-cultural identity.

Two French extra-mural schemes are worth mentioning²³³. The first is the "open school" operation, providing educational, cultural and sporting activities in schools which stay open in the summer for youngsters who do not go away on holiday, and the second is the experimental "School schooling network," which is directly linked to scholastic activity and provides personalised, targeted back-up for the syllabus to help (especially foreign) children from

²³⁰ 6 419 (24%) are at kindergarten, 14 366 (54%) at primary school and 5 839 (22%) at secondary school. The geographical breakdown obviously echoes that of their parents, with heavy concentration in the north and centre, where the integration process is further advanced than in the south.

²³¹ The course on multiculturalism promoted by Caritas in Rome in 1993 and followed by over 350 teachers was a real success. The organisers said that the time was ripe to learn to take a world view of understanding immigrants.

²³² OPSTAP projects, launched in 50 municipalities for Dutch people and foreigners alike, give two years' instruction at home to pre-school children and their mothers. The mothers learn to teach their children through games, drawings and reading, with the help of mothers who have already been trained (the "neighbourhood mothers") and who are usually of the same ethnic origin. See the report for 1992.

²³³ The first of these was extended and expanded, particularly in rural areas, by an interministerial circular (Social Affairs and Education) of 19 July 1993 (DPM 93-19). The second was extended into 1993/94 by a second circular (DPM 93-18 of 26 July 1993).

underprivileged backgrounds. This scheme, which has been set up in four regions (Ile de France, Nord-Pas de Calais, Provence-Alpes-Côte d'Azur and Rhône-Alpes) and is run by competent volunteers, is aimed at pupils in years three, four, five and over of colleges of secondary education who have difficulty with certain subjects.

These measures to help adolescents are also found in the Netherlands, where there has been a real delinquency problem with youngsters from the Netherlands Antilles and Aruba for several years now, particularly in Amsterdam. They apparently account for a large proportion of crime. The two communities have launched a special programme to cope with this, involving five tutors, who are to act as intermediaries between the young people and the social workers, hold an initial discussion with the youngsters, produce an individual programme for them and then steer them through it.

Schooling for "clandestine" children

The Italian Education Minister raised one particularly delicate problem which all the Member States share - the schooling of children whose parents are not in order with the authorities. Their situation points up the contradiction between checking on the legality of residence and ensuring the fundamental right to education as laid down in the Constitution (Article 34) and various international conventions. Forcing people to have a residence permit before they can enrol in a school is bound to prevent them from benefiting from the principle of compulsory education. The other immediate consequence is the greater risk of juvenile delinquency which goes with scholastic exclusion. So the Minister prefers these alien minors to be enrolled "with reservations" and to be reported to the Aliens Office at the relevant police station, which is a step towards prevention, but certainly not a real solution.

More modifications to the provisions on nationality

As shown above, naturalisation results have varied considerably from one country to another. National factors, past history and recent changes in the various national laws all play an important part in this. There have also been further reforms in the past year, mainly in Belgium and France.

This aspect of integration, the last to be dealt with here but not the least important, is perhaps even more essential for young people than for their parents. The changes to the legal provisions on nationality will be interpreted, depending on whether they are liberal or strict, as a sign of openness and a positive reception, or, on the contrary, as a sign of rejection. The two extremes are illustrated by the cases of France and Germany: the former has made its provisions stricter, while the latter has liberalised its legislation.

In France, the nationality law in force for 20 years (Law of 9 January 1973) was repealed in July 1993 and - most important - the new law was symbolically reintroduced into the civil code (Title I(a) on French nationality)²³⁴. This reform affected three ways of obtaining nationality - with no formalities, by declaration and by application of the dual *jus soli*. The most symbolic decision is the obligation for young people born in France of foreign parents to express their

²³⁴ This constitutes a return to the situation prior to 1927 when the legislation on nationality was removed from the civil code to become an autonomous set of legislation.

desire to become French citizens between the ages of 16 and 21, as and where specified by decree of the Council of State²³⁵.

Two aspects of the arrangements for obtaining nationality by application of the dual *jus soli* were radically changed. Since 31 December 1993, young people born in France to parents born in the OT prior to independence are no longer eligible, nor are those born in France of parents born in Algeria prior to independence if the parent justifying the application cannot prove regular residence in France over the previous five years²³⁶.

In Belgium, the dual aim has been to unify status and consolidate the conditions of admission after marriage, with a view to cutting down on marriages of convenience. The minimum period of cohabitation after marriage to a Belgian²³⁷ before a foreigner may opt for Belgian nationality has gone up from six months to three years. This is aimed not so much at foreigners whose papers are not in order, as at those who are properly registered and increasingly aware that a European nationality is the only effective form of protection against discrimination.

In Italy²³⁸, Law 91, which took effect on 5 February 1992, provides for Italian nationality to be granted to foreigners born of an Italian father or mother or of a naturalised parent (this right being acquired on attaining majority), to those who have lived in Italy for at least two years and given sterling service and, lastly, to spouses of Italian nationals six months after issue of the residence permit and three years after the marriage.

Nationality, or, more precisely, dual nationality, is a subject of vital importance in Luxembourg too. The Confederation of Portuguese Associations believes that agreeing to the principle would be a positive sign of the Government's keenness to integrate the foreign populations, with due respect for their identity, and the idea has been taken up by the movement of foreigners' associations and the Congress of Associations of Foreigners, which put more emphasis on the situation of the non-EEC nationals who are not eligible for European citizenship. Improving their status is a way of preventing a new split between the populations.

The question of nationality still under discussion in Germany

It is in Germany that the discussion on the acquisition of nationality as a key element of integration policy has been the most lively, but also the most far-reaching. Over the past year it even seems to have benefitted from the shockwave which is still revolutionising the founding principles of the Nation, the People and the State and is forcing a (re)definition of the rights and responsibilities of the populations which make up the "new" German society, and hence of the relationship between the State and each of them²³⁹. Reflection on this matter is now

²³⁵ This statement is received by either a judge, a prefect, a mayor or a brigadier in the police. Abroad, it may be lodged with a French diplomatic or consular official (decree No 93-1362 of 30 December 1993, Article 1).

²³⁶ And the possibility for alien minors born in France of claiming French nationality while still minors, either personally (if aged 16-18) or via the parents (under 16) has also been removed. Foreigners marrying French spouses can no longer take French nationality within two years of the marriage (instead of the previous six months), unless there is a child (born in or out of wedlock).

²³⁷ Unless the foreigner lived regularly in Belgium for three years before marrying.

²³⁸ 4 695 people (1 741 men and 2 954 women) obtained Italian nationality in 1991.

²³⁹ This is supplemented by what we have called the "Europeanisation" of the stakes, a factor which is not unique to Germany. The main argument in this case is that the European dimension has become central to any consideration of the place, rights and responsibilities of foreigners in society.

focusing on three types of legislation, the first real (the law on foreigners), the second potential (the law on nationality) and the third still hypothetical (the law on immigration). There is also, for good measure, a fourth – which is interfering with the previous three – namely the return of "Germans by origin". Whereas this return was previously governed by the Law of 21 December 1992 on the consequences of war, the amendments to the Federal Law on Refugees seem to have changed the way in which it is organised by placing these people under a legal framework which could form the basis of a *law on immigration*.

Indeed, the current debate in Germany appears to be focusing on whether or not such a law is appropriate. More and more people are declaring their views on the subject, and the number of people expressing opposition is rising. Its supporters include Prime Minister Schröder, and the deputy leader of the CDU parliamentary party in the Bundestag, Mr Geissler, who support the draft law of this type drawn up by the Federal Minister of Foreign Affairs, Klaus Kinkel, and the German Trades Unions Congress. Its opponents include the deputy leader of the CDU/CSU parliamentary party in the Bundestag, Mr Gerster, and the Bavarian Minister of the Interior Stoiber (CSU). The parliamentary majority in the Bundestag has rejected the idea of such a law, opting instead for measures to promote the naturalisation of foreigners who have lived in Germany for a sufficient period, but without granting them dual nationality. The proposal has provoked much controversy in intellectual circles and there is no consensus within the Federal government either. The former Minister of the Interior, Mr Seiters, and his successor, Mr Kanther, are not in favour. They do not consider it to be the best way of preventing abuses of the legislation on asylum, while the Minister of Foreign Affairs, Klaus Kinkel (FDP), is very much in favour, supported in his view by the executive committee of the FDP.

The legislative process has not yet been initiated for any of the three subjects mentioned, even though it seems imminent in the case of the law on nationality²⁴⁰. In any event, it is strongly supported by the Foreigners Delegate of the Federal Government, who considers it to be the linchpin of a new policy on foreign nationals. The two subjects which are most often discussed are increasing flexibility of conditions of access and the principle of dual nationality²⁴¹. A Bundestag parliamentary committee has been given the task of conducting further study into this matter. Submissions have been received from many experts, including the lawyer Heilbronner, appointed by the parliamentary majority, and the Commissioner on immigration matters of the Land of Berlin, Mrs John, a member of the CDU. Both of them are in favour. The most recent attacks against foreigners have finally convinced the Bundesrat that this reform is the best way of preventing xenophobia and racism.

The vote taken on 18 June on a proposal from the Land of Lower Saxony was also in favour. A broad consensus is therefore emerging on this point. The huge petition - the largest in the history of the Federal Republic of Germany - which calls for a "referendum on nationality" could well remove the remaining reservations of the Government. More than a million signatures have already been collected²⁴². The Federal Commissioner for immigration affairs

²⁴⁰ Even before the report assessing the new law on strangers ("Erfahrungen mit dem neuen Ausländergesetz") had been published, the executive committee of the CDU called for it to be revised so as to improve the integration of foreigners and to facilitate their naturalisation.

²⁴¹ Mention should be made in this respect of the controversy caused by the social democrats concerning the special rights granted to foreign sportsmen in this area. The SPD considers this "privilege" to be incomprehensible, inconsistent and highly prejudicial to the policy of encouraging the German birthrate.

²⁴² In Belgium, the "objectif 479.917" movement has also set itself the task of collecting a million signatures in favour

has produced a brochure on this subject entitled "Das Einbürgerungs-und Staatsangehörigkeitsrecht der Bundesrepublik Deutschland" (The legal provisions of the Federal Republic of Germany on citizenship and nationality, Bonn, July 1993). She has drawn up an independent proposal for amending the Law on nationality, taking over almost word for word the text of the proposal of the Land of Lower Saxony already adopted by the Upper House of Parliament (Bundesrat).

Moreover, the establishment of an independent commission for migration and integration, responsible for studying the basic concepts involved, confirms that the stakes involved are no longer limited to the conditions governing the granting of nationality, but also touch on the political conditions under which populations which are distinguished as much by their history and culture as by the nation to which they belong could work together to draw up a new plan for society. It is reasonable to think in this respect that the dramatic events which have cast a shroud over Germany in recent years will have the positive effect of forcing Germans to recognise their indifference to these foreigners who have lived in their midst for so long.

To what extent has this indifference helped to establish a climate of legitimacy for the maltreatment meted out? There is no way of knowing. Be that as it may, a plethora of publications on the history of this immigration has appeared since, as if to fill as quickly as possible a gap now considered to be dangerous. In the same way, Turkish and German politicians made many declarations at the ceremonies recalling the Solingen attacks, and the debate on the stance taken by the European Court of Justice in the "Chus" case has given rise to much comment in the press. One question is being raised increasingly frequently and concerns not just the Federal Republic of Germany: How should Germans, and Europeans in general, tolerate and respond to Islam? A case concerning mixed physical education for Turkish girls was brought before the Federal Administrative Court, which ruled that religion was more important than mixed physical education classes even though this education is compulsory in State schools in the Land of North Rhine-Westphalia. In the case in question, the young girl has been excused from physical education classes.

The challenge of political rights

Closely linked to the naturalisation issue is, of course, the idea of non-nationals acceding to political rights. There is still a great deal of reluctance over this and it is seen as an ogre in many countries of the European Union. In France, the State Council decree of 2 April 1993 came down against "associated local councillors" (elected by foreigners) taking part in local council meetings in Longjumeau. The reason given was that, in allowing this to happen, the mayor had changed the terms of reference of the local council and overstepped his powers.

In Italy, the possibility of the "autonomous" acquisition of political rights is still a delicate matter and one rarely brought out into the open²⁴³. For the time being, the only principle to have been adopted is the one whereby advisory bodies guarantee limited participation in the political process. But the very existence of these bodies raises two big questions - their representativeness and their ability to affect the political decision-making processes.

of a law providing for Belgian nationality to be granted automatically after five years' residence.

²⁴³ But a recent agreement between the Italian and Senegalese Governments authorised Senegalese people to take part in political elections in Senegal from Italy. The Senegalese community numbers about 17 000 people.

Traditionally those in favour of access via nationality point to the dangers of the ethnic vote to try to put off the partisans of direct access to political rights. Their big argument is that obtaining nationality encourages the individual to integrate, but simple recognition of political rights does not stop him being conditioned as a subject of his community. But things are changing rapidly and are unlikely to be so clear-cut any longer. In Belgium, in any case, there is a new dimension to the debate (some would call it a new concern), related to the political behaviour of the "new nationals." The first tangible sign of this trend was the creation of a new movement (MERCY), which wants to persuade the "new Belgians" to form a group and to be represented in six municipalities of Brussels. Looking beyond the ethnic vote, there is a risk of a further split here, down community lines, within the political structures themselves, so many view the attempt with misgivings. The Union of Moroccan Associations considers it to be prejudicial to integration, because it thinks that it will only encourage right-wing extremism. Others complain that it involves values which are out of keeping with those of the West.

The question of the political rights of aliens is even more fundamental to the life of the Luxembourg institutions. Initially, the debate was about how foreign workers should be actively and passively involved in elections to professional bodies and it then moved, on a more emotional level, through ratification of the Maastricht Treaty, to the question of their political rights in first European and then local elections. The two big issues in the debate are the extension of the rights of Community nationals to non-Community nationals and the limits to the involvement by aliens in the manifestation of State sovereignty and the exercise of public power.

In the case of elections to professional bodies, the Government felt that there was no justification for excluding any category of worker, Community or otherwise, collectively involved in the creation of the country's wealth. Conversely, the organisation of civil and public servants said it feared that the national identity would gradually be voided of its substance and replaced by an ill-digested kind of supra-nationalism if powers which were clearly those of the public authorities, such as the power of initiative and standardisation, were no longer reserved for nationals. Conversely, and dealing with political life this time, the Economic and Social Council (CES) said that it was in favour of making political rights available to foreigners. It believed that excluding them from the political life of a country whose destiny they share is contrary both to the principles of democracy and to a correct understanding of the national interest, and it wondered whether, on the basis of the principle of the participation of all local inhabitants in political life, it would not be a good idea to look at the possibility of granting this right to nationals of non-member countries of the European Union as well.

It is a burning question, which is why the Government has tried to prevent it being used for demagogic purposes in local and European election campaigns. But it has found itself face to face with the real possibility - reminiscent of the case of Belgium - of "nationals lists" in the European elections, an idea to which the Prime Minister reacted sharply, saying that it did not tally with his understanding of integration. The Democratic Party even called for a nationals quota of at least 50% on all the lists - a wish echoed by the Council meeting of Foreign Ministers of the Community held on 5 October 1993.

Lists of "new nationals" in Belgium, "nationals lists" in Luxembourg - whatever the form and however it is kept down, these examples are proof of a surge in "minority dynamics" throughout the European Union. The existence of the phenomenon and the discussions it triggers are confirmation that one of the inevitable challenges faced by our democratic societies in the

future will be to develop a new model for the representation and expression of immigrant populations.

SUMMARY

The immigration policies of all Member States of the European Union have, for several years now, had the dual objective of ensuring stricter control of flows and promoting improved integration of immigrants who have been granted residence rights. Nonetheless, national governments also agree that priority should be given to the first of these two objectives, namely the control of flows, which many consider to be the prerequisite for any integration policy. There can be no doubt that the measures adopted in 1993 are in line with this approach.

The year was marked by three main developments: the greater importance of immigration issues in political debate, the increasing talk of European partnership for dealing with these issues and the intensification of legislative activity.

1993 saw an unprecedented amount of new legislation and rules in this area, and the regulations adopted in the various Member States have been more convergent and restrictive than ever before. There was also a growing trend towards the (*de jure* or *de facto*) transfer of many powers in this area to the ministries responsible for internal security.

The many reforms initiated have focused in particular on asylum law, but they have also altered the entry and residence conditions for nationals of non-member countries and targeted labour trafficking and illegal economic activities. In some cases, the changes have merely given legal force to regulatory provisions (decrees and circulars) adopted in the past, while in others they have involved more far-reaching changes to existing legislation. There have even been cases in which these changes have required a revision of the constitution.

On the other hand, the determination to bring about progress in integration policy was less marked than in previous years, although this has not stopped initiatives being launched or new measures developed. While more resources have been allocated in the northern Member States, the southern States have shown at least as much interest, as far as the authorities – and even more so, the non-governmental organisations – are concerned.

Overall, flows are increasing, apart from the flow of asylum seekers

In 1993, legal immigration of nationals of non-member countries continued at a more or less high level in almost all Member States. This was true of (permanent, temporary or seasonal) workers, family members and students. The only exceptions to this rule were the United Kingdom and Ireland.

This new immigration was accompanied in certain cases (Spain and Portugal) by the decision to regularise the administrative situation of people who had been resident for some time without authorisation, and, in others (Germany, Greece and Portugal), by "*the return of ethnic nationals*", in other words people who took advantage of their link with one of the Member States to claim a priority right of entry.

The southern Member States, which are very much affected by this whole dynamic process, and more particularly by illegal inward migration, have now definitively acquired the status of countries of immigration. Greece is the most typical case in this respect.

In a break with past trends, there has been a considerable slowdown in the flows of asylum seekers, except in Spain, Portugal and Belgium. Many people see this reversal of the trend as

proof of the effectiveness of the measures adopted in previous years. Governments see it as an encouragement to pursue their reforms, and to do so in three areas: greater harmonisation of national monitoring procedures, strengthening of common provisions and enhanced coordination of the activities of the relevant national departments.

Greater coordination between the Member States

This concern to see greater coordination of the action taken by the Member States, and hence to see European-level handling of immigration, has been one of the most marked features of 1993. Never before have the Member States come as close together on a matter having such bearing on their sovereignty. This was illustrated by the ratification of the Schengen Agreement and the work on the Dublin Convention.

However, not everyone supports this "*European approach*", with some fearing that it might weaken the resolve to introduce strict measures and defer necessary decisions; for this reason they advocate giving priority to national initiatives.

As far as the processing of asylum applications is concerned, the rapprochement between the Member States has led to the adoption of common criteria for distinguishing rapidly between "*economic refugees*" and those considered to be "*genuine political refugees*". There seem to be three objectives behind the changes adopted: to standardise national procedures, to strengthen the decision-making power of Member States and to make appeals more difficult. In a plan adopted in the summer of 1993, the Danish authorities expressed the desire to see further European cooperation in this area.

As far as combating illegal immigration is concerned, most Member States have adopted the same panoply of measures (checks at borders, monitoring within the country, combating the employment of foreigners who have no work permit, detaining and deporting people), and all agree on the need to enhance the monitoring powers of the competent authorities.

In addition, there has been the development of two types of international cooperation with non-member countries. The first and most common type takes the form of "*return*" agreements, which have added a new dimension to the combating of illegal immigration. The second, which is more concerned with discouraging people from leaving their country of origin, takes the form of development aid (Luxembourg) or incentives for job-creating investment in countries of emigration (Greece/Albania).

Priority to controlling the flows

The measures (legislative or regulatory) adopted during the year have been mainly concerned with strengthening identity checks (Netherlands, France), tightening up the conditions for the granting of residence and work permits (Greece, France), reducing the number of categories of foreigners who cannot be deported (France), reviewing the practices for issuing visas (Belgium, Luxembourg), introducing stiffer penalties for those who assist illegal immigration and employ foreigners without papers, monitoring more closely people who lodge foreign visitors (France, Belgium, Portugal), limiting rights of appeal (United Kingdom) and extending the possibilities for detaining foreigners who are subject to a deportation order (Netherlands).

In addition, certain Member States have made it more difficult to tamper with their official documents (Netherlands, France), reformed the method of recording residence status (Nether-

lands) and developed automated systems for recording and searching for information on migrants.

Stricter controls on the reuniting of families and on mixed marriages

An area which is central to the above two factors (integration and controlling flows) is how to deal with family reunification, a question which reflects the main choices of governments. Here too, the pendulum has swung towards restrictive action. Furthermore, a resolution on harmonising national policies in this area was adopted at the Copenhagen European Council of 1 and 2 June 1993 with a view to improving the coordination of Member States' policies. As in the case of family immigration, mixed marriages are now more closely watched by the authorities of many Member States, and new measures have been adopted to limit the number of such marriages. This is what underlies the new powers granted to mayors to refuse to conduct a marriage ceremony if they suspect that it may be a marriage of convenience.

The efforts made by the southern Member States to catch up

While the instruments of control introduced in the northern Member States seem to be more developed, they are matched by the aspirations of their partners in the south, who are endeavouring to meet three requirements: adapt to the transition from being countries of emigration to becoming countries of immigration, confirm their determination not to be the weak links in the chain, and comply with the need currently facing all Member States for a minimum harmonisation of norms and procedures.

The decree-law passed in March 1993 in Portugal amending the law on the entry and residence of foreigners is part of this process. In Spain, the same objective and hence the same needs were behind the major amendments to the law on asylum and refugees. In Greece, the government said it hoped the question of illegal immigration would be dealt with as part of an "integrated Community policy"

Differences in the situation on labour markets

While the continued existence of legal and illegal flows of migrants can certainly be explained by the persistent pressure to leave in the countries of emigration, it is also partly due to the host countries' continued demand for foreign labour. Nowhere has the practice of using such labour been called into question, in spite of the employment difficulties in almost all Member States.

Accordingly, in Germany, the President of the industrialists' federation and the President of the employers' federation have confirmed that businesses are continuing to use foreigners in spite of the difficulties on the employment market, as has the German national labour office, which has said that it is continuing to place foreign workers on the basis of unconditional agreements. There is also a considerable number of "seasonal" workers, more than 90% of whom come from eastern Europe.

This dual tendency on the labour market is also evident in France. While an analysis of unemployment rates confirms that nationals of non-member countries are in a far more precarious position than nationals of the Member States, they do appear to adapt better when there is an economic upturn. This is shown by the fall in the proportion of them among job-seekers in the first nine months of 1993.

Moreover – and this is something that can be seen in several Member States – changes are taking place in the sectors in which foreigners are finding employment (shift to services) and more and more of them are becoming self-employed. These developments confirm this greater degree of flexibility in the face of economic and social change.

In general, although there can be no doubt that workers who are nationals of non-member countries continue to be at considerable risk of unemployment everywhere, this long-standing fact appears to be offset by their greater willingness to adapt to the economic situation and to structural changes in the demand for labour. The continued need to use these workers explains why certain Member States have adopted a policy of quotas. The objective is to regulate systematically the entry of foreigners onto the labour market and to prevent their illegal employment.

A broader view of combating illegal work

The central tenet within the Union, as expressed officially by politicians, is that illegal work must be combated with determination. However, while priority has hitherto been given exclusively to irregularities in the employment of foreigners, for the past two years the authorities have shown increasing concern about irregularities observed in sub-contracting and in the transnational provision of services (from one Member State to another or from a non-member country).

Luxembourg is the country which seems to be most aware of these issues, the central concern being "social dumping", which describes all the practices used by businesses to circumvent labour law and, in particular, the provision of temporary labour. These distortions have led to the demand for clients to be more vigilant over the letting of contracts and subcontracts (Netherlands, France, Germany) and to define more precisely the arrangements for the provision of services with foreign partners (France, Germany, Luxembourg).

This does not mean that less vigilance has been shown over the employment conditions of non-Community nationals. The sanctions faced by employers who do not comply with the rules have been increased (Belgium, Germany, Luxembourg, France), checks on businesses have been stepped up (Belgium, France, Italy), inter-departmental coordination has been encouraged (Belgium, France) and, in some cases, quotas have been fixed (Portugal, Spain, Germany).

Integration is still very much needed

As shown by the policy on the reuniting of families, the measures for restricting flows have taken precedence over integration measures. However, increasing concern is being expressed in all Member States over the issues of housing, schools and the occupational integration of young people. All Member States are faced, albeit in different ways, with the same risks of social breakdown as a result of children's failure to obtain a school-leaving certificate and the occupational marginalisation of young people. Greater attention is being focused on this situation, particularly by non-governmental organisations.

In the area of schooling, certain initiatives deserve to be stressed, encouraged and, where necessary, extended. The Netherlands is an example of this. A law on priority education was passed there in 1993, the aims of which include establishing a legal basis for current measures and giving new impetus to cooperation between the social and educational systems at both national and regional level. School reforms were also implemented in Luxembourg, and

Portugal adopted provisions on special vocational training. The association of Danish teachers decided at its congress to draw up a plan of action to tackle the education problems of young people of foreign origin.

In the area of extra-mural activities, existing measures have been further developed in the Netherlands, and two measures initiated in France in previous years have been continued and extended, the first for young people whose parents cannot give them a holiday (*open schools*), and the second for providing individual educational attention to the most disadvantaged ("*school solidarity network*").

Housing is an issue which is closely linked to the question of schooling and remains one of the most critical areas of integration. One of the most frequently suggested solutions is the "dispersal" of foreign families, and it is in Denmark and Belgium that policies have been based most openly on this approach.

Integration: overall approach or specific treatment?

Lastly, as regards integration into the world of work, various programmes have been tried in many parts of the Community and, in some cases, legislative reforms have been proposed in an attempt to find solutions to the most unstable situations and to prevent people in such situations from being completely marginalised. Most often, the measures adopted are not targeted specifically at foreigners or populations of foreign origin, but rather form part of an overall programme for stimulating recruitment, introducing greater flexibility into employment and modernising the economy, while at the same time providing assistance to those who have been worst affected by the crisis.

The five-year law on employment which was passed in France in December 1993 follows this pattern. Of its 83 articles, only a few measures (those dealing, in particular, with the decentralisation of vocational training and apprenticeships) are of particular interest to young foreigners or to young people of foreign extraction, although they are not targeted specifically at them. A completely different approach is being used in the Netherlands, where provisions specifically designed to promote the employment of ethnic minorities have been incorporated into a law. It will be interesting to compare the results of these two laws, since they are based on two very different philosophies of integration.

The Netherlands, with its evaluation of previous years' measures to assist minorities, and Denmark, with the proposals of the government commission on urban affairs, are the Member States which appear to have done the most this year to encourage public debate on the basic elements of integration policy.

Basically, this debate continues to be between positive discrimination, on the one hand, and equal treatment for all those in the same situation, regardless of ethnic origin, which can take the form of "urban management" or "urban policy", on the other. The former recognises the specific characteristics of groups and tolerates minority forms of organisation. The latter rejects this two-pronged approach and is based more on the principle of the adherence of individuals to the values of the host society and has taken the place of the access to nationality issue at the heart of the debate on integration.

France and Germany are the Member States which have seen the most discussion on nationality law in the past year. In France, these discussions accompanied the adoption of a new, less

liberal law, while in Germany they pointed to the possible adoption of a reform easing the provisions of the current law.

Political rights remain an issue

Whatever the approach to integration, there are still many unresolved questions concerning the ways in which immigrant populations can participate in public life, one of which is of course the question of political rights. This question is not new, but its scope appears to have been expanded by two recent developments, one in Luxembourg and the other in Belgium.

In Luxembourg, this question is at the heart of public life because the vast majority of its foreign residents are nationals of the European Union, and their political rights are derived directly from the ratification of the Maastricht Treaty. As a result, the extension to nationals of non-member countries of the rights granted to citizens of the Union would appear, in the Luxembourg context, to be less important than the general debate on limiting non-nationals' (of whatever origin) rights in matters concerning national sovereignty. The discussion of the draft law on active and passive voting rights for foreigners in elections to the occupational and professional chambers formed a key part of this debate. The matter became increasingly complex because of some people's stated intention to form "nationality-based lists" in the European Parliament elections.

The scope of the debate on this subject in Belgium has been widened by a similar development, namely the intention of a group of "*new nationals*" to set up a new movement (MERCY) which would allow them to be represented as new nationals in six municipalities in the Brussels agglomeration.

The lists of "new nationals" in Belgium and the "nationality-based lists" in Luxembourg are examples of "minority dynamics", which elsewhere tend to take on a religious bias. The existence of the phenomenon and the debate arising from it show that one of the many challenges facing the European Union is its ability to tolerate new forms of expression of immigrant populations and to devise integrational arrangements which give such immigrant groups full rights of citizenship.

APPENDIX: SYNTHESIS OF NATIONAL REPORTS

BELGIUM

Faced with a continuing positive balance of migrants from non-Community countries (25 000 units), a steadily growing number of asylum applicants (approx. 140%, albeit on a downward trend at the end of the year) and against a background (e.g. public opinion, resurgence of right-wing policies in political parties and attitudes to Europe) which is favourable to a tougher attitude on immigration policy, measures taken by the Belgian authorities in 1993 have unquestionably veered towards tighter controls and restrictions on migration flows – in other words, towards giving more effect to the immigration moratorium decided on in 1974, to the detriment of measures to enhance the integration of foreigners lawfully resident in Belgium. On this latter point, there is evidence of certain doubts emerging within public opinion, among political parties which are not necessarily of an extremist persuasion, and more particularly among the authorities themselves, who now have no qualms about making decisions which are quite overtly in contravention of the law (the most obvious example being the deliberate refusal on the part of certain local authorities to register new would-be refugees and give them access to social welfare facilities).

Immigration control policy and the desire to put a stop to immigration

Of the significant measures to restrict inward migration, mention should be made of the following:

* Modified asylum procedure, with a view to speeding up the whole process (by introducing the concept of manifestly unfounded applications, bringing in new formal reasons for deeming an application to be inadmissible, doing away with the appeal procedure and reducing the time lags) and preparing the ground for a tougher policy on ejecting unsuccessful applicants with the possibility of determining applicants' place of registration so as to keep a better check on them, extending the authorised detention period with a view to effective deportation, making use of social welfare facilities in implementing this policy of screening and expulsion, etc.). For the first time, the hitherto absolute principle of the right to social welfare to enable people to live in dignified conditions has been restricted in law (with the exception of urgent medical aid and the requisite departure assistance) for unsuccessful asylum applicants in particular and for illegal foreigners in general, in so far as they have been issued a definitive order to leave Belgium.

* More staff for the Foreigners' Office and for the General Commissariat for Refugees, and provision of new material resources (e.g. more telephone lines, acquisition of fingerprinting equipment, etc.). The number of deportations is well up, although it remains a marginal process compared with the number of illegal foreigners who have been ordered to leave Belgium.

* Withdrawal of the provisional right to work, which has hitherto been granted to refugees whose application has been deemed inadmissible but who have appealed against the decision. This is designed to do away with the evident attraction which the previous system had for seasonal workers exploiting the asylum procedure.

* New measures designed to keep a check on and quell undeclared work and the "slave trade", with special reference to suppliers of illegal labour and pimps (with tougher penalties, special units for detecting networks dealing in illegal immigration and people-trafficking, etc.).

* Restructuring of the right to family reunification, with the stress on three aspects: the requirement, now enshrined in law, that spouses should cohabit even where such unification

concerns a Belgian or Community national and so long as no decision on the right to settlement has been taken by the authorities (within six months) or during the period of appeal against refused settlement; refusal of the right to family reunification for spouses who are non-Community nationals and are younger than 18, with a view to eliminating forced marriages for girls arranged to regularise the position of unauthorised resident foreigners; an enhanced role for local authorities in the procedure for the granting of the right to remain and a general tightening-up on the various documents required (e.g. family reunification visa, authentication, etc.).

* A six-month extension (to a total of three years) of the required period before being able to avail oneself of the nationality option after marriage, the idea being to restrict the practice of nationality-based marriages.

* Appointment of an ambassador for immigration policy, primarily with a view to preparing and concluding agreements on the return of illegally resident foreigners with the countries most closely concerned.

This package of measures is undoubtedly intended to have a disincentive effect and to do away with the image of a receptive country, which was the image that used to be promoted by the authorities in an entirely different context. It is the first manifestation of the transfer of powers recently put into effect by the Belgian authorities regarding policy on foreigners. Making foreigners' policy the responsibility of the Interior Minister, who is also responsible for local authorities, the Gendarmerie and the police, is the straightforward outcome of the desire – one which is emerging at international level too – to use tough measures to control immigration. The words of the Interior Minister himself say it all: *"What I am afraid is that we might move to the opposite extreme. From being incredibly easy-going, we are now becoming incredibly tough"*.

Integration policy

Of the measures taken and the emerging trends, the following are worthy of note:

* The end of the mandate of the Royal Commissariat for Immigration Policy, which devoted a lot of thought to the subject, but which came up with only modest practical results.

* The creation of the centre for equal opportunities and anti-racism, whose remit is connected with this aspect of immigration policy and whose work cannot yet be evaluated.

* The still substantial number of people acquiring Belgian nationality following recent legislative changes (although the integration effect is not always seen in the same light, in that the majority of new Belgian citizens tend to be ex-nationals of another Community Member State), and the total elimination of the final distinctions between "categories" of Belgians according to how they acquired Belgian nationality. It has to be said, though, that the authorities (e.g. local authorities and the state prosecutor's office) have tended to be somewhat reticent, and this has sometimes balked the integration process set up by Parliament. More particularly, the effect has sometimes been to hamper the conditions under which people can opt for Belgian nationality after marriage (see above). Foreign nationals from non-Community countries are fully aware that, eventually, acquiring Belgian nationality will be the only way of avoiding institutionalised differences in treatment vis-à-vis Community nationals. The question of political rights for foreigners remains open, with some groups advocating the

granting of such rights, at local level first of all, for foreigners who can furnish proof of regular residence over a sufficient period.

* Family reunification should take place in optimum conditions, with a one-year period now being mandatory within which the authorities must rule on the applicant's right to remain. The new procedure, which comes into effect in 1994, should greatly improve the unsound earlier situation, whereby with no time-limit imposed on the authorities, applications for family reunification were sometimes left unprocessed for many years.

* As regards financial resources, subsidies continue to be granted by the immigration authorities in response to the events in the early nineties (the Brussels riots and the surge in support for the extreme right in the 1991 local elections). Resources are targeted at two main aspects: (a) the immigration policy fund (concentrating on integration projects); (b) safety and security in the major agglomerations (which tend to be more policing-oriented projects, although there is a preventive aspect by dint of enhanced local integration).

One current trend is to seek integration pathways by the deconcentration and dispersion of foreigners. This is a model which is founded on the concept of capacity and tolerance threshold and has its roots in the fear of ghetto-creation. It is against this background that we have to view the new plan for dispersing asylum applications (a plan which is not yet in effect) on the basis of a new registry system. It is also the background for the deconcentration agreement linked to the non-discrimination pact in Flemish teaching.

Finally, the authorities have no intention of regularising the situation of illegal residents by categories (e.g. on the basis of length of stay), the system being restricted to individual regularisation for humanitarian and exceptional cases at the Minister's discretion. However, one of the main concerns in future years on immigration policy is probably what will finally become of the illegally resident foreigners, whose numbers are evidently on the increase, precisely because of the restrictions on legal immigration and the asylum procedure. The forced deportation policy is now coming into play; the question is: will it be generalised and if so, at what economic and human cost? Are there plans for the gradual regularisation of illegal residents? Or are the authorities content to let the situation deteriorate still further, with more and more people living in Belgium with no right to work, with no right to social assistance and with no means of support whatever other than charity or unauthorised practices?

DENMARK

In 1993, more than ever, the attention of the world of politics and society in general was directed to the pressing question of the arrival of populations of foreign origin, the centre of interest being the asylum seekers from ex-Yugoslavia. There would seem to be a political will to improve the daily lot of asylum seekers. There would also seem to be a willingness to encourage equality between refugees and immigrants on the one hand and Danish natives on the other, and to combat the trend towards social marginalisation.

That being so, it is still quite difficult to get permission to reside in Denmark (this goes for asylum seekers and for persons applying under family reunification rules), and integration requirements on the part of immigrants and refugees have been tightened up (in the sense of wider dispersion and better knowledge of Danish). Political disagreement centres on a review of Danish policy on refugees in the interests of an international effort and on whether or not the requirements imposed on immigrants and refugees should be made tighter still.

1993 saw the creation of a commission for ethnic equality. Calling for the terms "refugees" and "immigrants" to be replaced by the concept of ethnic minorities, spokesmen for immigrant and refugee groups have indicated their wish to be allowed access to economic, social, cultural and judicial justice similar to that enjoyed by Danish nationals. Reports published by the Commission for Social Affairs (1992-93) confirm that immigrants and refugees are socially marginalised, regardless of their age or nationality.

In January 1993, the conservative minority government was replaced by a majority government led by the social-democratic party, with the entire "integration of foreigners" portfolio being handed to the Interior Ministry. This served to give priority to the foreigners' issue in general and to refugees from ex-Yugoslavia in particular. In addition, local authorities have been involved more actively in the job of coping with refugees and asylum seekers. With the matter being taken in hand by the Interior Ministry, various other ministries have tended to adopt a softer tone on treatment of the immigrants/refugees issue.

The summer of 1993 saw the presentation of a 21-point action plan on immigration/asylum. The plan is targeted primarily on refugees and asylum seekers and proposes the creation of a European commissioner for refugees, closer European cooperation on the refugee issue, accelerated processing of refugees' dossiers, different ways of accommodating asylum seekers/refugees from Yugoslavia, more active involvement in asylum issues on the part of local authorities and local populations, improved repatriation aid, etc. However, the plan presents no proposals whatever on how to integrate immigrants.

The 30 proposals made by the government "urban" commission (October 1993), on the other hand, do incorporate integration initiatives following the Parliament decision of 1992, in parallel with a proposed drive on housing in socially deprived areas and changes in the mix of immigrants and refugees in housing zones.

A series of new laws enacted in the summer of 1993 are designed to revamp the immigration legislation, providing for a fair share-out among local authorities with a large/small immigrant population, along with aid for the redistribution of immigrants/refugees between local authorities and housing zones, reception facilities for asylum seekers from ex-Yugoslavia, repatriation arrangements and the creation of a commission for ethnic equality. A bill designed to improve the organisation of teaching for adult immigrants was tabled in December 1993. In addition,

a series of bills designed to revise the procedure for processing applications and to provide repatriation aid for refugees/immigrants are in draft. Finally, the Ministry of Labour is preparing a plan for dismantling barriers on the labour market. This is due to be made public in the wake of a report (May 1993) drawn up by the "obstacles" commission comprising the social partners and ministry representatives. For 1994 and 1995, funding is available in the sum of DKR 15-20 million. The union of local authorities and the union of provincial authorities likewise have a project in hand.

With expenditure on reception facilities for refugees and asylum seekers constantly increasing (from DKR 4 billion in 1992 to DKR 6.2 billion in 1993, according to the finance ministry), the reception system for refugees from ex-Yugoslavia has had to be restructured, with the refugees themselves doing a lot of the work involved in running the reception centres (to save on staff costs).

The role of the voluntary organisations is currently under consideration. A range of subsidies are available for public and private-sector integration projects, but the recognised voluntary organisations are starting to discuss what their input capacity is in this field, in conjunction with anti-racist campaigns. There are, however, other forms of integration activities, and a substantial effort in the inter-cultural field is expected on the occasion of Copenhagen becoming the European city of culture in 1996.

The local elections of November 1993 did not focus on the immigration/refugees issue, as a large number of people had hoped. On the contrary, lists which were openly opposed to any form of immigration or asylum received only very poor popular support, while the number of immigrants elected to local councils has never been so high. The violence which beset Germany in 1992 had very little effect in Denmark.

FEDERAL REPUBLIC OF GERMANY

The outstanding event of the year in terms of immigration policy was without a doubt the abolition of Article 16(2)(2) and the insertion of the new Article 16a in the Basic Law. This constitutional amendment reflected the "asylum compromise" of December 1992 between the SPD and the ruling coalition and represented the national application of the asylum provisions contained in the Schengen and Dublin agreements. The visible consequence of this legislation was the marked fall in the number of asylum seekers at the end of the year.

The Federal Constitutional Court expressed reservations on the above amendment to the Basic Law in its initial decisions, finding that foreigners must have the opportunity to overturn the legal presumption that they are not being persecuted. Amendments were made to the procedural law on asylum, and a special law was enacted on benefits for asylum seekers.

In 1993, fewer people resettled from Eastern Europe to Germany than had been the case in 1992. There were problems concerning reception facilities for refugees from ex-Yugoslavia, housing and supplies for asylum seekers and the repatriation of unsuccessful applicants.

A government agreement was signed with Switzerland on the repatriation of persons without residence permits. A number of amendments to the law on foreigners concern the legal status of war and civil war refugees, regulatory provisions on airports and the creation of a right to facilitate naturalisation (for young people and foreigners of long residence). No improvements were made, on the other hand to the legal status of spouses and family members. The insertion of an article on the protection of minorities into the Basic Law, and a law on anti-racism, remain controversial.

The Federal Interior Minister presented a report on the foreigners' law, according to which the Federal Government thinks it not desirable to make any change to the current text. There are no general administrative rules, but merely "indications for the provisional application" of the law concerning foreigners.

The debate on naturalisation and access to dual nationality continues, with almost all social groupings (including the churches) calling for the nationality law to be reformed.

Other matters which evoked legislative action are undeclared work by foreigners, measures to combat the organised gangs bringing foreigners into the country illegally, and far-right violence. New regulations have been drawn up to facilitate short-term work for foreigners (better access to work for frontier workers, seasonal work and workers with a service contract – although the quota arrangement is still fiercely contested). The employers now have to pay charges in order to employ workers with a service contract.

The Federal and "Land" interior ministers agreed on how to regulate the right of residence and how to deal with the repatriation of workers previously employed on a contract basis in the GDR. The Kurdistan workers' party (PKK) and its sub-organisations were banned.

Problems concerning vocational training for young foreigners and care arrangements for elderly foreign workers are on the increase. The statistics on the crime rate among foreigners are contested. The number of unemployed foreign workers increased by 34%. The proportion of foreigners in receipt of social assistance rose to above the average. The number of adopted foreign children is on the increase.

As far as case law is concerned, priority was given, in addition to the decisions concerning the new law on foreigners, to questions dealing with the right of residence for Turkish nationals. This was concerned primarily with the application of the Council resolution on the association agreement between the EEC and Turkey No 1/80. Increasing credence is now being given to the point of view that Turkish nationals enjoy protection from expulsion comparable to that of other foreign nationals in the EC.

A ruling by the Federal Administrative Court allowing a Muslim girl to absent herself from mixed-sex sports lessons caused a sensation. By dint of the public education remit, the persons concerned must effectively prove why they cannot be expected to take part in mixed-sex sports lessons.

Acts of violence against foreigners evoked various manifestations of solidarity among the population at large. The large number of violent racist incidents throughout 1993 constituted an ongoing challenge to immigration policy.

GREECE

Illegal immigrants are accounting for an ever larger share of the foreign population in Greece, with varying effects on Greek society and the local labour market. This view is shared by the Greek Labour Movement. Faced with this situation, the unions back the principle of regularising the status of illegal immigrants, considering that this would be beneficial to the social equality of migrant workers and to Greek society at large. Regarding the possible displacement effect of illegal immigration on the Greek workforce, there has been some comment (in various studies and in the media) to the effect that there is no serious aggravation of the unemployment situation as Greek employers tend to select Greek workers – apart from in certain industries like construction.

With the Greek government acknowledging that the problem of illegal immigration "is impossible to deal with by policing", still very little has been done to find any alternative solution. Although the question is undoubtedly high on the government agenda, as is evident from certain decisions and official statements, no concrete measures of substance have been taken with a view to regularising or integrating illegal immigrants.

This hesitation on the part of the authorities may be explained by the increasing number of foreign workers, which some commentators put at 20% of all Greeks in employment, and this against a background of rising unemployment. This hypothesis was given official status in February by a joint ministerial decision to limit work permits in general and to impose a total ban on new permits for Asians, Africans and Latin Americans.

To cope with the special problem of immigration from Albania, the government is subsidising Greek investment projects with a view to creating new jobs locally in that country. In 1993, Greek investment in Albania was second only to Italy in terms of volume, amounting to US \$44 million. To promote cooperation and mutual understanding between the two countries, a protocol was signed between the Universities of Athens and Tirana.

The long-latent racism in Greece has started to surface, as evidenced by various recent incidents. However, there are also voices warning against over-exaggeration, with the increasing rate of crime being attributed more than it should be to foreigners. As a recent EU survey has shown, the negative attitude of Greeks towards foreigners has been accentuated.

The mass deportation of Albanians the previous summer, officially presented as retaliation for the expulsion of the Greek Archdeacon from Tirana, was endorsed by the now Prime Minister and attracted the attention of the international press and of the various parties and human rights organisations in Greece. Policy on political refugees has hardened, and the granting of refugee status has been cut to a minimum.

In a joint decision taken by foreign affairs, labour and public order ministers, a selective policy of limiting the number of work permits was adopted in 1993. No work permits are allowed for Asians, Africans and Latin Americans, nor for the construction industry in general.

To stem immigration from Albania, a policy of subsidising Greek investment was adopted to contribute to growth and job creation in Albania. A protocol of cooperation was signed in November between the Universities of Athens and Tirana. Policy on political refugees has hardened, limiting still further the already low rate of refugee-status approvals.

SPAIN

In 1993, the most dramatic movements of illegal immigrants (in small vessels across the Straits of Gibraltar) declined somewhat, due in part at least to the entry into force of the agreement of February 1992 between Spain and Morocco on the readmission of illegal immigrants. Another factor has been the important changes to asylum and refugee arrangements, the agreement on the conditions for the issue of family reunification visas, and the establishment of a quota of work permits for foreign workers. All these aspects taken together turned 1993 into a year of policies geared towards reducing illegal immigration.

All these measures were adopted in the course of a year dominated by the general election, with all the strongest political groupings in Parliament (PSDE, PP, IU-IC, CIU and PNV) recognising in their manifestos the positive aspect of legal and controlled immigration for the development of Spain. The differences between the parties comes to the fore when it comes to deciding what specific measures should be taken to control migration movements and more especially in terms of the social integration and rights of immigrants. Two surveys conducted in March 1993 by the Centro de Investigaciones Sociológicas (CIS) and the Centro de Investigaciones sobre la Realidad Social (CIRES) show that public opinion is very largely in favour of controlling immigration and imposing a ceiling for foreign workers (77%); a majority is also in favour of support for Spaniards in terms of the formulation of common migration policies in the European Union (53%).

The asylum and refugees office logged 12 615 applications in 1993, which means that the situation has stabilised over 1992. In fact, though, if we add telephone applications received up to 30 December 1993 but with interviews scheduled for 1994, the real rate of growth is more likely to be 37%. The lion's share of applications come from nationals of the Dominican Republic (1 809), the Republic of China (1 156), Peru (1 530) and Romania (1 470). The approval rate was 4%, and the number of countries of origin increased to 101, compared with 76 in 1992.

The number of applications for work permits in 1992 was 120 585, and the number granted was 95 276, more often than not to male workers (72%). The distribution of permits by employment sector illustrates the importance of work in the tertiary sector (64%). The most common nationalities are Moroccan (38% of the total) and Argentinian (8%). Finally, it is important to note that 41% of the permits granted in 1992 were for permanent workers.

These impressive statistics should not be confused with the actual number of immigrants who arrived in the course of the year. The 1992 figures reflect permits granted in response to applications which were lodged in the course of the one-off procedure to regularise illegal labour in the second half of 1991. The first round of work permit renewals for regularised immigrants shows how difficult it is to get people to retain their legal status. Of 110 000 workers whose situation was regularised, only 80 000 had renewed their work permits a year later.

In December 1992, the legally admitted foreign population amounted to 393 100 residents, 9 250 university students and 5 109 refugees and persons in exile. By adding the various categories of foreigners without the requisite papers (currently being processed or undergoing renewal (either temporary or permanent), the total comes to a minimum of 450 000 people.

The number of foreigners issued with a resident's permit is 32 000 up on the year before, with Morocco occupying first place, with 54 105. The number of non-Community workers on

31 December 1992 was 139 695, an increase of 15 100 over the previous year. 29% of legalised workers are women. Morocco occupies the top spot, with 50 950 workers, followed by Argentina with 11 587. The total number of refugees and exiles between 1985 and 1993 was 5 109, with 814 from Cuba, 681 from Iran and 583 from Bosnia-Herzegovina.

One vital statistic in monitoring the integration of the foreign population is the number of non-university foreign pupils, the figure for the 1991-92 school year being 39 156, with two-thirds of the total in basic general education. 36% of them were from within the European Union, 28% from Latin America and 13% from the Maghreb countries.

In November 1993, the Council of Ministers adopted measures concerning the arrangements for obtaining family reunification visas. In the view of the most important non-governmental organisations, these measures do not constitute recognition of the right to family reunification.

Finally, in the general context of migration control, the government decided on a quota of 70 000 workers for 1993, half of this quota being reserved for temporary work (particularly in agriculture) and the other half for permanent jobs in the field of personal services.

FRANCE

A quick look at the results of the 1990 census shows how many foreigners there are in France at present, i.e. 3.6 million (making up 6.35% of the total population), of whom 1.62 million are economically active (accounting for 6.4% of the active population). The main nationalities are as follows.

	Portuguese	Algerian	Moroccan	Italian	Spanish	Turkish
Total population	649 714	614 207	572 652	252 759	216 047	197 712
Active population	392 175	275 170	203 514	102 796	95 762	73 084

Entry patterns in 1992

Total permanent immigration, i.e. foreigners receiving for the first time a resident's permit valid for at least one year, can be put at 135 000 persons, with detailed information on 116 500 of them:

In employment	Not in employment	Family reunification	Members of French nationals' families	Refugee status	"Visitors"	Other	Total
42 225	1 282	32 665	23 047	10 819	6 431	89	116 588
Including, where possible by statistical observation, EU nationals, accounting for 25 864 out of a total of 116 588.							

In addition to permanent immigrants, there are also temporary entrants, including 28 873 asylum seekers, 18 585 students and 13 597 seasonal workers (all non-Community nationals).

Demographic situation in 1991

Of a total of 28 175 marriages in metropolitan France, 8 947 (3.2%) involved two foreigners and a further 32 944 (11.8%) one French national and one foreigner. Of the 759 056 births recorded in the same year, 517 428 were legitimate, of which 57 323 children were born of two foreign parents and 24 196 of one foreign parent. Of the other 241 628 births, 14 064 of the children had a foreign mother.

Foreigners in employment or seeking work

In December 1991, the survey of firms employing more than 10 people in the private sector revealed a slight increase in the volume and relative importance of foreign labour compared with 1988. The 1991 result was 7.7% of all employees covered by the survey, compared with 7.3% three years previously.

All economically active persons (French and foreigners)	Foreigners	of whom EEC	Non-EEC
10.1	18.6	9.7	25.7

The fact remains, though, that, whatever the indicator used, foreigners (and more especially women and non-Community nationals) are much more vulnerable to unemployment than the rest of the workforce. The INSEE employment survey of March 1992 revealed the following unemployment rates.

Acquisition of French nationality in 1992

Some 95 300 foreigners acquired French nationality in the course of the year, although this total includes an estimated number of young people born in France of two foreign parents who can obtain French nationality without any formalities (following the recent reform of the nationality code, see below). Of the 71 595 cases requiring registration, the breakdown in terms of procedure and motive is as follows.

Acquisition by decree: 39 346	Acquisition by declaration: 32 249
of whom: naturalisation of adults: 22 792	of whom: by marriage to a French national: 15 601
reintegration of adults: 4 205	while a minor: 14 383
under-age children of the above: 12 349	other causes: 2 265

PRINCIPAL MEASURES ADOPTED

1. Regarding the control of migration flow, two laws (of 24 August 1993 and 30 December 1993) serve to amend and supplement various provisions of the Order of 2 November 1945 concerning the conditions of entry, reception and residence for foreigners in France:

- to qualify for family reunification, a foreigner must be resident for at least two years (rather than one); the mayor of the local authority of the place of residence must give a justified opinion; reunification must involve the entire family, with no exception, and take place within six months of the Prefect's decision;
- as far as residence is concerned, a permit is only issued where there is no risk to public order; the conditions for issue of a resident's card, valid for ten years, are stricter (not until a year after marriage with a French spouse; no further issue to persons who resided habitually in France for more than 15 years nor to students with ten years' residence purely as a student; no issue and no renewal for polygamists and their spouses);
- an asylum seeker can be refused admission to France where scrutiny of the application falls to another Member State in application of the Convention of Dublin or by virtue of the Schengen Agreement.

2. As regards employment, three of the provisions among the 83 Articles of the five-year law of 20 December 1993 particularly concern foreigners: Articles 34 and 35-1 impose harsher penalties on natural or legal persons found guilty of recruiting and introducing illegal foreign workers; Article 36 makes the application of French social law mandatory for workers employed by a company established outside France but providing services on French territory.

3. On the integration front, measures initiated over recent years (e.g. the "open school" operation and the "school solidarity network" project) were continued and extended, and were joined by the following:

- institution in 12 departments of reception facilities for family reunification (circular of 12 March 1993);
- institution of an "urban emergency plan" and of "urban contracts" at a cost of some FF 15 billion; in the latter, special importance attaches to the integration of immigrants;
- reform of the nationality law (law of 22 July 1993), the idea being to ensure that it is no longer possible to acquire French nationality without a positive expression of will by the person concerned (i.e. the formality-free acquisition of French nationality is abandoned and replaced by an expression of willingness and disappearance of the declaration of nationality by minors).

IRELAND

The most interesting feature of recent data on the numbers of non-EU nationals arriving to take up employment in Ireland is that the figures show a slight decline. The figures for 1992 reveal a decrease compared with 1991, as against increases in the immediately preceding years. The pattern of employment undertaken does not reveal any change, however, with most of those entering coming to work in the industrial, catering and education sectors.

As for refugees and asylum seekers, despite the small numbers involved, the question of the procedures for dealing with such persons continues to be a controversial issue. Reference was made in earlier reports to the presentation of a private member's bill in the Dáil in 1993 designed to regularise procedures for dealing with refugees and asylum seekers. While this bill was not accepted by the government, the Minister for Justice did undertake to actively consider the matter further with a view to introducing government-sponsored legislation.

Consequently, the Minister for Justice announced the appointment of a committee of senior officials from relevant government departments, which was directed to examine and make recommendations relating to policy and practices concerning non-nationals who were resident in Ireland and concerning persons who applied for asylum and refugee status. The committee produced an interim report in late 1993, dealing mainly with issues related to refugees and asylum seekers, as these were considered to be the most urgent.

In summary, the report recommended that the position regarding the rights of refugees and asylum seekers be more clearly codified in legislation and that the procedures for dealing with applications be made more open and transparent. It recommended that applicants be made aware of their rights, in particular regarding access to legal advice and interpreters, and the right to contact the UNHCR. A system of tribunals and appeal tribunals for hearing applications was also recommended.

The final report of the Interdepartmental Committee will consider the questions of residence and employment and the wider issue of applications for citizenship.

LUXEMBOURG

Plenty happening on the legislative front

Rarely can so many bills affecting the treatment or status of foreigners have been voted on – or been on the point of being voted on – in Parliament: the law on the active and passive right of vote for foreigners in the occupational and professional chambers; the law on the integration of foreigners; the law amending the article on government care orders, the new bill setting up a procedure for examining asylum applications (the first legislation on this subject), and the bill bringing national law into line with the election of Community nationals to the European Parliament. The most commented-on items are the bills on the active and passive right of vote for foreigners in elections to the occupational and professional chambers, and the policy on refugees from ex-Yugoslavia.

All these draft items of legislation and the ensuing discussions have to be seen against the background of European-level immigration policy characterised on the one hand by a policy of integrating legal residents and, on the other, a policy of controlling inward migration.

Redefining the State's status

All this debate and discussion has engendered a fundamental rethink of the State's role – in the sense of State institutions and the constitution in particular, and the State's duty to ensure respect for individual rights. Opponents of moves to grant new rights to foreigners or access for foreigners to certain public service jobs have consistently cited the constitutional aspect. Ever since the ratification of the Maastricht Treaty in 1992, points like the "suspended constitution", and even "violation of the constitution" have been on the political agenda. The debate surrounding the right of foreign nationals to take part in elections to the occupational and professional chambers was a significant event, although it is worth noting that the right to participate in the exercise of sovereign power has tended to be given a more restrictive or more generous interpretation depending on particular contexts and persons.

However, debate is likely to focus on the content of the constitution itself and particularly on the status of foreigners, given that certain of the articles on public rights and freedoms which are up for review in this session of Parliament are of direct concern to foreigners. The fundamental question of the rule of law and the role of the State came up in connection with debate on whether the laws in question were compatible with the constitution, and the same principle arises in relation to policies on how to regulate the flow of migrants. What kind of guarantees should we be giving to foreign nationals who cannot be deported; and what about asylum seekers whose applications are deemed to be ineligible or manifestly without foundation?

Voting rights for foreigners and integration of foreigners:

The political will is there, but the enthusiasm is somewhat muted.

So far, the right of foreigners to vote in local authority elections has been discussed within the limited framework of members of the government and the various political parties, the idea being to establish a prior consensus on the subject. Unfortunately, it proved impossible to achieve a national consensus, with one of the political groupings (the ADR) refusing to toe the line and seeking to gain electoral advantage out of its opposition to votes for foreigners. Nonetheless, politicians from all points on the political spectrum came out clearly for the first

time in favour of voting rights for foreigners, although rifts remain, even within the parties themselves. The various groupings' strategy of isolating the ADR, whose attitude is seen as populist and xenophobic, would seem so far to have borne fruit, at least in politicians' eyes.

It is evident from discussions on the active and passive right of vote for foreigners in elections to the occupational and professional chambers, the affirmation of a favourable position on the right to vote, and from the various educational reforms that the government and the principal political parties are determined to enhance the status of foreigners, even though the practical implementation of these reforms tends to come up against some opposition from certain social groupings.

The question of voting rights in local elections will be discussed in more depth in the run-up to the next general election in June 1994.

It is important in this context to always bear in mind the integration aspect. The idea of banning nationality-based lists for the European Parliament elections corresponds to a widely held desire – not just within the political groupings, but also within the immigrant movement and the trade unions. It is consistent with a tradition which seeks to establish situations where Luxembourg citizens meet openly with foreign nationals (e.g. in the National Foreigners' Council and the local authority foreigners' consultative committees).

Input by foreigners

The backdrop to the whole question of integration of foreigners and enhanced rights for foreigners is of course what input foreigners are prepared to make and the inevitable question of Luxemburgish identity. For years now, the national authorities have consistently stressed the need for immigration and the contribution that foreigners can make to Luxembourg's economic and demographic situation. For many people, this input has quite simply become a fact of life.

However, there are two sides to the coin, with the one side developing the theme of an open identity for the people of Luxembourg and the need for solidarity between Luxemburgers and foreigners, while the others conjure up the spectre of the loss of national identity and caution against the dangers of an ever-increasing foreign population.

Ambivalent attitudes in various fields

While there is general agreement on the importance of education in terms of teaching people to be tolerant and live together, other attitudes on the racism and xenophobia phenomenon would not always seem to be quite so straightforward, especially as the diagnosis of the situation tends to vary. Some people claim that there is no such thing as racism and xenophobia in Luxembourg, the few incidents being no more than local hiccups whose importance should not be overemphasised. Others, though, feel that racism and xenophobia are indeed a problem and that it is dangerous to play them down. Against this background, the creation of a standing committee on the subject within the National Foreigners' Council is undoubtedly a welcome move.

On the labour market, there are more and more people in employment and looking for work. There has been increasing realisation of the phenomenon of "social dumping" and of the threat this poses to firms which comply with labour law provisions. This phenomenon, which rests

in part on the employment of illegal labour and non-compliance with statutory labour and pay conditions, is nowadays linked directly to the growth in unemployment. There have been calls for something to be done about such activities, more especially by the introduction of really effective clamp-downs. For the first time, the Minister for Labour is now considering imposing more swingeing penalties on employers. What has not been decided is what should be done about people who are in illegal employment. Does something more explicit have to be done, i.e. tightening up the legislation, or should things be dealt with on a case-by-case basis, on a more interpersonal level? On a different level, there is an obvious willingness on the part of the government to regulate the labour market more closely by imposing additional obligations on employers in a bid to counter the high level of unemployment. Some people fear that such measures are likely to have the opposite effect and actually encourage social dumping practices. Against this background, foreign labour remains a useful factor in some sectors in that it is effectively a response to the need for flexibility and business profitability. The most obvious example here is the availability of foreign labour for temporary work in an extremely straightforward situation, e.g. in the grape harvest, with the authorities turning a blind eye to the fact that there is quite clearly widespread abuse of the statutory provisions.

ITALY

The general trend in Italy is stabilisation of the foreign population and reduced migration flows. Following a 10.4% increase in 1991 – due mainly to the regularisation process in the previous year – the rate of increase slowed to 7.2% in 1992 and 6.7% in 1993, with the total number of foreigners in Italy increasing from 862 977 in 1991 to 925 172 in 1992 and 987 405 in 1993. The trend is steady both in terms of numerical growth and distinctive characteristics.

Of the total of 987 405 foreigners, something like half are to be found in the northern regions, i.e. 465 256 (48.1%), with the remainder divided between the centre (360 048, or 36.4%) and the south (152 101, or 15.4%). The cities with the highest foreign populations are Rome (228 136, i.e. 23 831 more than in 1992), Milan (136 839 – 19 814 more than in 1992) and Naples (44 876 – about 1 000 more than in 1992). In other words, the growth in 1993 has been particularly significant in urban centres, with the attraction of urban areas underlining the mobility of immigrants and their quest for jobs in the tertiary sector.

The non-EC component remains high, at 834 451 (84.5%), compared with 152 954 (15.4%) EC nationals, with labour-related immigration still growing: 532 618 persons (54% of the total number of immigrants), of whom 354 927 are in employment and 39 143 are self-employed, leaving 138 548 unemployed (i.e. 14% of the total foreign population), some 10 000 fewer than in 1992. 26 617 immigrants (from the former Yugoslavia and from Somalia) are treated as exceptional cases authorised to work.

Immigration for family reasons accounts for a total of 144 410 persons, with religious motives accounting for a further 52 339 and foreign students for 65 385; all these categories are up on the previous year. On the other hand, there has been a decrease in the number of people wishing to enter (for three months) as tourists: the present figure is 64 358. 8 180 minors are up for adoption and 5 942 people are seeking political asylum.

As far as countries of origin are concerned, 1993 saw a very big change. While the leading source country remains Morocco (97 604), second place is now occupied by the former Yugoslavia (72 377 persons, including the many accepted for humanitarian reasons in 1993). Third spot is held by the USA (63 960), and Tunisia, which occupied that position in 1992 (44 505 in 1993) is now preceded in the ranking by the Philippines (46 332) in fourth position. The other non-EC communities are from Albania (30 317), Senegal (29 368), Egypt (24 555), China (22 875), Poland (21 075) and Brazil (21 073).

The immigrant population is still predominantly male (56.3%), and even more so (58%) in the most productive age brackets (19-40 years). Family reunification increased steadily in the period 1992-93, particularly from the Maghreb countries (39.6% in 1992). More than 20 000 people entered in 1992-93 under family reunification arrangements.

There was a sharp and somewhat worrying leap on the judicial and criminal front. In 1993, 54 274 immigrants were logged on police records (with the highest number being filed in Milan: 6 111) for a variety of offences. 20 497 were arrested and 49 000 were threatened with expulsion (5 551 being actually ejected). By the end of 1993, 8 185 were in custody.

In 1993, integration policies met with mixed fortunes, with health measures, employment incentives, prosecution of criminal activities and social security initiatives all running hot and cold. These uncertainties came out particularly clearly on the legislative front, with Parliament

unable to pass a law regulating seasonal work by foreigners. A study group was set up to review and coordinate all matters regarding immigration.

The Ministry for Immigration, which was only set up in 1992, was dropped in 1993 following the political crisis. Decisions on immigration are now being taken by various branches of the administration, resulting in widely differing situations and attitudes.

Within the most sensitive areas, there has been a worsening in the social status of immigrants, due to unstable forms of employment, their greater degree of exploitability, undeclared activities and criminal operations.

State institutions frequently delegate or relegate their responsibilities to the private sector and particularly to Catholic institutions (in terms of legal, medical and social services, whether the situation is an emergency or not).

So far, activities and initiatives for dealing with the most immediate and pressing needs have tended to be shouldered mostly by Church structures, both in the north and in the south, where State institutions are either lacking or do not function satisfactorily.

NETHERLANDS

If 1992 was the year of illegal immigrants and the integration of ethnic minorities, 1993 was the year of asylum seekers, with public attention directed towards the growing numbers and the problems in dealing with them. The new reception model, dating from 1992, was not up to coping with the growing numbers of people seeking asylum. In addition, the thousands of refugees from the former Yugoslavia, who were considered displaced persons until April 1993, have now been allowed to seek asylum in the Netherlands, and most of them have been issued or will be issued a residence permit.

Public opinion has changed somewhat, undoubtedly fuelled by reception problems and the fact that political leaders appear to have no solution to the problem. The number of racist incidents targeted at asylum seekers and immigrants increased substantially in 1993, although it has to be said that right-minded people increasingly started to take a stand against such activities. It may be that the government's anti-discrimination policy and anti-racist activities organised by various groupings had some effect here. So far, politicians and journalists too have tended to be cautious in their utterances on matters concerning immigration and ethnic minorities. The local, national and European elections due to be held in 1994 do not seem to have had any effect on attitudes so far, although most of the political parties have made an issue of immigration in their manifestos.

With so many asylum seekers arriving in the country, there has been a move to alter the laws so as to close loopholes and plug the leaks at the Dutch frontiers. The new Aliens Act acts as the legal backbone for these measures and provides a legal basis for existing measures. This Act, which was adopted by the Senate last December, was seen as a panacea for reducing the number of asylum seekers. Since then, though, the government has been on the lookout for new ways and means of closing the country off to asylum seekers. It is now considering other ways of restricting immigration, such as adopting the concept of "safe countries" and organising refugee reception facilities in the region of origin.

Other measures taken in 1993 to keep immigration within bounds are tighter rules on family reunification and the immigration of partners, and a more determined effort to deal with illegal aliens. Measures have also been taken to prevent "administrative immigration", viz. measures to combat sham marriages and more rigorous checks on administrative documents. Further measures in this field include the automation of registration by the aliens authorities and facilities for linking various public services' information.

A bill on the employment of foreigners has been drafted, limiting the scope for employing foreign workers. On the labour market, the major legal development in 1993 was the adoption by the lower house of the bill promoting equal labour opportunities for minorities. The bill is due to be discussed in the Senate at the start of 1994 and obliges employers to state explicitly their personnel policy with regard to ethnic minorities and to detail the progress made in this field.

The "Chain Responsibility Act", which received broad majority support in the lower house, is seen as an important step in combating undeclared labour in the clothing industry, which is a major sector of industry in Amsterdam. The law on mandatory identification, which was passed in 1993 and will come into force in July 1994, is a further element in the drive against illegal labour and fraud.

As regards the integration of immigrants, much was achieved in 1993, although there was little progress of note on the legislative front. One exception is anti-discrimination policy: the Equal Treatment Act passed the lower house, and the police and the public prosecutor's department now have new directives on how to deal with complaints. With regard to education, changes have been announced to the education priority policy, the most important of which is that membership of an ethnic minority is no longer a criterion for the allocation of funding.

PORTUGAL

The most important event in 1993 was the start of a political debate on immigration policy, coinciding with the principal measures affecting immigrants which entered into force during the year. The debate could, though, have been more thoroughgoing if the essential aspects of the legislation had been discussed in Parliament rather than being covered by legislative authorisations.

The whole discussion centred on the one-off regularisation of illegal workers, certain aspects of the system covering the entry, residence and deportation of foreigners from non-member countries, and the asylum law. The latter law was discussed in Parliament following the President of the Republic's veto on the government's draft decree-law. These points were covered by the media and evoked reactions from political and social groupings – not just the political parties and immigrants' associations, but also from the Church, groups of leading personalities and non-governmental organisations.

Ratification of the Maastricht Treaty and of the Schengen Agreement brought some media clarification – however superficial – on the question of a People's Europe and the need for immigration controls. On the legal front, questions were raised on the lack of judicial control over the way Schengen is applied. Various reactions were forthcoming on immigration-related matters, such as the housing issue, which has been the cause of a lot of complaint from people living in areas chosen to house immigrants.

The result of the immigration problem becoming politicised has of course been a certain upsurge in racism (hitherto latent) in parts of the population, or at least certain misgivings on this point. According to a survey published in the media, 74% of Portuguese think it necessary to curb the number of immigrants arriving in search of work, but 57% think that asylum should be available for humanitarian reasons, particularly for war-zone refugees. It is worth mentioning that most of the media have taken a very balanced view which is not liable to fuel feelings of xenophobia and racism.

Apart from ratification of the Schengen Agreement, the most important measures adopted in 1993 with regard to foreigners have included the one-off regularisation of illegal immigrants, changes to the system of entry, residence and deportation, and revision of the asylum law, as well as formulation of an integration policy for residents. Certain aspects of these measures have been and still are contested.

As regards the one-off regularisation procedure, criticism has focused on the short timescale, particularly in view of the inadequate amount of information, which has led people to fear that a considerable number of illegal immigrants will remain in Portugal. It remains to be seen which of the beneficiaries of this operation, having obtained a residence permit valid for one year, will apply for an extension, giving that more exacting conditions will then apply.

The new system governing the entry, residence and removal of foreigners from non-member countries already takes into account the Schengen Agreement, although Schengen was in fact not ratified until the new system came into force. While the conditions for the issue of work permits and the definitions of adequate income and housing conditions are being applied restrictively, it is possible to refuse legal entry and renewal of residence permits for a considerable number of people. It is not yet known what strategy will apply to the treatment of illegal immigrants, given that, according to the authorities, they can be expelled as and when detected.

This legislation makes provision for "administrative expulsion" (this having already been provided for in the constitution) and the possibility of housing illegal immigrants or persons liable for expulsion in specially created centres, a measure which the constitutional court has been asked to rule on. It is thought that appeals against deportation orders should have suspensory effect. There are grounds for welcoming the fairly broad definition of family reunification, given that no such definition existed before.

The government's asylum bill has been controversial principally because it made no provision for asylum for humanitarian reasons. The law approved by Parliament (despite the leftist parties voting against) makes provision for the Interior Minister to be able to grant a resident's permit for foreigners and stateless persons who do not meet the conditions for asylum proper, but who are prevented from returning to their country of origin or their country of habitual residence because of armed conflict or violations of human rights. The law also states that the social security should provide support for asylum seekers, according to conditions which have yet to be defined, such support having previously been forthcoming mainly from voluntary organisations, which said they could no longer shoulder the responsibility.

With more rigorous border controls, cases of people being turned back at the border have, according to the press, become very frequent. Applications for asylum and – possibly – sham marriages have increased. The political upheavals in eastern Europe have had definite repercussions, though not on such a large scale in Portugal. This has been reflected in an increase in immigrants from eastern Europe and more asylum applications, particularly from Romanians.

The consequences of the war in Angola, which likewise boosted asylum applications because of the greater difficulty in obtaining residence permits, are not properly quantifiable, as an appreciable number of Angolans may well have dual nationality and arrive in Portugal as Portuguese citizens.

As a counterpoint to the more rigorous controls on entry and residence conditions, the government has formulated a very wide-ranging integration policy, requiring the active participation of other entities, such as local authorities and social solidarity associations. Integration policy must also incorporate special rules on vocational training, with a view to finding jobs for disadvantaged social groups, including ethnic minorities and immigrants.

Policy coordination and development are a matter for the Minister for Employment and Social Security, and not of a specific entity, which might have been more desirable, given the scale and range of the proposed activities. There are also bound to be doubts about whether this policy can be carried through, given the number and – in some cases – fragility of some of the entities needed to put it into practice. Additionally, such measures – even if effectively applied – will only produce visible effects in the medium and long term.

UNITED KINGDOM

Asylum and Immigration Appeals Act 1993 (A&IA Act)

The most important development in 1993 was the coming into force of the A&IA Act (Asylum and Immigration Appeals Act 1993) which introduces a limited right of appeal on the merits before removal for refused asylum seekers but removes appeal rights from other categories such as visitors and students. The new Act also introduces compulsory finger-printing for asylum-seekers. In the U.K. finger-printing had hitherto never been used except for persons arrested for committing criminal offences. The Act also curtails asylum seekers' previous eligibility for public housing.

Concerns that the removal of appeal rights would lead to the arbitrary exclusion of visitors to the UK were reinforced when a large group of Jamaican visitors to the UK were detained and subsequently sent back at the UK's second largest airport, Gatwick, over Christmas 1993. Whilst popular sentiment would not normally have been widely aroused by this event, the fact that it took place a day or two before Christmas when the passengers had been coming to spend Christmas with their families in Britain attracted considerable adverse publicity and more sympathy than they might otherwise have expected.

Violence by immigration authorities

In the summer of 1993 Joyce Gardner, a Jamaican woman, died of asphyxiation being forcibly restrained in the course of her deportation. Joy Gardner's death has highlighted irregularities in Britain during forcible deportations. The officers concerned have been charged with homicide.

Voluntary Repatriation

A London-based black Labour Member of Parliament, Bernie Grant, made an unprecedented move when he suggested that arrangements should be made for black people living in Britain to be "voluntarily repatriated" to their country of origin.

This proposal caused a great deal of media interest and controversy.

Racial Crime

Racist attacks and racially-motivated crimes continued to be a grave problem in Britain. In many areas, racial crimes, particularly racially-motivated attacks, are on the increase. On the other hand, there is growing evidence that in some areas people let racial crime go un-reported because of a lack of confidence in the police.

Political Developments

A member of the extreme far-right organisation, the British National Party, gained a council seat in local government in 1993, and in other places the National Front polled up to 16 % of the vote in local elections though this was not enough to win any seats. Members of the Liberal Party were found to have behaved in a racist manner in their election campaigning and were eventually expelled from the party for this.

Compensation for Racial Discrimination

A Sikh police constable won a record £ 25,000 award for suffering racial abuse from his fellow officers.

Statistical Information

The statistics published in 1993 showed that the numbers of asylum seekers dropped dramatically in 1992 from 44,800 in 1991 to 24,600 in 1992. This was BEFORE the introduction of the new strict measures in the 1993 Act.

Summary

In 1993 Britain often seemed to be retreating into isolationism. New immigration legislation has made it tougher for asylum-seekers and other immigrants hoping to settle here, racist politics gained ground, racial attacks rose in number and a woman was killed during a forced deportation.

It was a year in which some encouraging moves were made for the first time. These include the Home Office's decision to consult a wide range of organisations about changes in immigration rules. It can only be hoped that other developments, such as the British National Party gaining council seats and Joyce Gardner's death, took place for the first and last time.

European Commission

The EC Member States and Immigration in 1993
Synthesis report 1993: Closed borders, stringent attitudes

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