



Bulletin of Legal Developments

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European Countries

BOSNIA HERZEGOVINA

Dayton Peace Agreement - Brcko - proclamation of multi-ethnic administration:

The last territorial issue in the 1995 Dayton Peace Agreement has now been resolved by the proclamation of a new multi-ethnic administration for the disputed Bosnian town of Brcko. The town and the surrounding region will now be a neutral demilitarised district under the sovereignty of the Bosnian State.

The region forms a narrow corridor between Serb-held parts of Bosnia. Before the war it was a predominantly Muslim and Croat area. However, Serbs took control of the area during the war and prevented many of the original inhabitants from returning. It remained under Serb control until 1999, when Roberts Owen, the international arbitrator, issued his final ruling on the territory's status.

BBC News Online: World: Europe, 8.3.00.

GERMANY

Federal Labour Court: compensation claims for forced labour during the Second World War not to be considered labour law disputes:

The Federal Labour Court has ruled whether German labour courts had jurisdiction to examine compensation claims for forced labour during the Second World War. The question arose from a compensation claim by Polish and Ukrainian citizens against German enterprises.

During the Second World War the plaintiffs had been brought to Germany and forced to work in German undertakings.

They were forced to work 12 hour shifts six days a week and were mainly accommodated in guarded camps. None were paid in return for their work.

The Federal Labour Court decided that the claims would have to be decided by the ordinary courts, as they could not be considered labour law disputes. The plaintiffs had not worked as employees and the relationship between the plaintiffs and the undertakings they had been working for could not be treated as an employment relationship as it had not been entered upon by mutual consent. The regulations in force at that time did not treat the foreign workers as ordinary employees but considered their working relationship to be a special situation.

The court therefore ruled that the disputes should be heard by the regional courts vested with local jurisdiction.

Federal Labour Court, *Press Release No.17/2000*, 16.2.00.

ITALY

Obscenity - public acts:

The Court of Cassation has ruled that couples do not act illegally by having sexual relations in a car provided that they choose “an isolated place” and the “cover of night time” to make love.

A man from Milan had been sentenced to 40 days imprisonment by a local court for a “public act of obscenity” after he was found by police having sex with a transvestite in a car in a suburban car park. The case was later reviewed by a Milan appeal court which annulled the prison sentence and imposed a small fine.

On further appeal to the Court of Cassation, the court stated that its ruling applied whether the act was private or for commercial purposes. The Italian police are concerned that this judgment will hinder its work in limiting street prostitution.

The Times, 9.3.00.

KOSOVO

Criminal law - publication of compilation:

The Organization for Security and Co-operation in Europe has published a compilation of Primary Criminal Laws applicable in Kosovo on 22.3.89. This document is being distributed to judges, prosecutors, defence counsel and other legal professionals throughout the province in order to provide a basis for the administration of criminal law.

A new Kosovo criminal code, criminal procedure code and other legislation is to be prepared under the guidance of the UN Special Representative, Dr. Bernard Kouchner, and will eventually replace the compilation of 1989 law.

OSCE, *Press Release*, 3.3.00.

POLAND

Criminal law - anti-pornography legislation:

The Polish Parliament has approved legislation banning all pornography, whether soft or hardcore. Under the legislation, offenders may be sentenced to fines or imprisonment of up to two years (five years for offences involving child pornography).

Although the legislation has been approved by Parliament it has to be signed by the President before it becomes law.

BBC News Online: World: Europe, 3.3.00.

United Kingdom

Betting - off-shore credit betting business - teletext broadcasting - whether advertising:

The Court of Appeal has held that an advertisement that was stored electronically and transmitted to television screens constituted “an advertisement or other document” that was “issued circulated or distributed” for the purposes of the Betting and Gaming Duties Act 1981 s.9(1)(b). In this case a bookmaker, located outside the UK, who obtained business within the UK by advertising on Teletext, had committed an offence.

The Court of Appeal allowed the appeal of Customs of Excise against the judgment of the Chancery Division of the High Court (*see* BLD 16/99) that the advertisement did not breach the 1981 Act. *Victor Chandler International v. Commissioners of Customs and Excise and Another*, CA, 29.2.00. ICLR, *Daily Law Notes*, 29.2.00.

Data Protection Act - entry into force:

The Data Protection Act 1998, which received Royal Assent on 16.7.98, came into force on 1.3.00. All the required subordinate legislation has now been passed. It replaces the Data Protection Act 1984 and strengthens and extends its data protection regime. The main provisions of the new Act are:

- a restatement of data protection principles;
- application of the Act to some manual records as well as computerised data;
- New conditions to be satisfied for personal data to be computerised including conditions for sensitive data (e.g. on health or ethnic origin);
- strengthening and increase of rights of individual including express rights to prevent personal data being used for direct marketing and the right to be informed of who is processing your data and why;
- Data Protection Registrar renamed as Data Protection Commissioner with increased powers;
- replacement of registration with new arrangements for notification of Commissioner;
- rules concerning transfer of personal data to countries outside the EU.

Home Office, 1.3.00.

www.homeoffice.gov.uk

Trademarks - parallel imports - EC law:

The Chancery Division has held that, within the EC, a trade mark proprietor cannot use national trade mark law to interfere with the use, by an importer, of that trade mark unless substantial damage was caused to the mark by such use.

In the six cases being heard, the defendants had imported drugs into the

UK market having obtained a product licence (parallel import) and sometimes “over-stickering” or “reboxing” the product.

Under EC law (Art.30 (now Art.28) EC Treaty), a trade mark proprietor would be guilty of creating a disguised restriction of trade if he attempted to prevent the use of his trade mark on parallel imported goods in order to interfere with the importer’s activities unless these activities threatened the interests protected by the trade marks.

On the facts of the cases, the court held that the defendants’ actions had not caused nor were likely to cause damage to the claimants’ trade marks. The claimants’ efforts to interfere with the rights of the defendants were a disguised restriction on trade, contrary to Art.30 (now Art.28) of the EC Treaty.

Glaxo Group Ltd and Another v. Dowelhurst Ltd; Boehringer Ingelheim KG and Another v. Same; SmithKline Beecham plc and Others v. Same; Eli Lilly and Co. v. Same; Boehringer Ingelheim KG and Another v. Swingward Ltd.; Glaxo Group Ltd. v. Same, Chancery Division, 28.2.00.

Times, 14.3.00.

Indecent photographs - possession - storage in computer caches:

The Court of Appeal has attempted to clarify the law relating to the possession of indecent photographs in two cases.

In the first case, the defendant, a university lecturer had browsed the internet for indecent photographs of children, apparently for academic research purposes. He saved some photographs onto a directory on his computer. However, the computer automatically stored other photographs in a temporary file. At first instance he was acquitted of “making” any of the photographs contrary to the Protection of Children Act 1978 s.1(1)(a) but convicted of possessing the photographs in the temporary file contrary to the Criminal Justice Act 1988 s.160(1).

The Court of Appeal held that three questions arose from the appeal: whether there was a legitimate reason for possessing indecent photographs, whether the automatic downloading of images constituted “making” them and whether

the defendant had knowledge of possessing the photographs.

What constituted a legitimate reason for possessing an indecent photograph of a child was a question of fact in each case. Unintentional copying could not be construed as "making" and a defendant could not be convicted of possession where he had no knowledge of the existence of the temporary file of photographs.

In the second appeal, the defendant had been convicted of possessing an indecent pseudo photograph contrary to the Protection of Children Act 1978 s.7(7). The item consisted of a photograph of a woman which had been fixed by tape to a photograph of a child. The Court of Appeal held that an image made up of parts of different photographs did not constitute a pseudo-photograph unless it was photocopied.

Atkins v. DPP;

Goodland v. DPP, CA, 8.3.00.

ICLR, Daily Law Notes, 10.3.00.

Jurisdiction - transnational commercial disputes - declaration of non-liability:

The Court of Appeal has held that it has jurisdiction to grant a declaration of non-liability in a case which was a transnational commercial dispute and that it should not be reluctant to do so if it would help to achieve the aims of justice.

The case concerned an aircraft parts manufacturer that denied liability in respect of loss, expenditure, liability or damage resulting from an air accident in Belgium involving a plane owned by the defendant Belgian airline and constructed by a French registered consortium.

In his judgment, Lord Woolf M.R. stated the current legal position relating to negative declaratory relief both in relation to transnational disputes and domestic litigation. In his judgment, such relief should not be restrained by artificial limits wrongly related to jurisdiction but should be kept within proper bounds by the exercise of the court's discretion.

The court dismissed the appeal of the claimants against the setting aside, by the Commercial Court, of service of the claim form on the first defendant on the ground that the court had no jurisdiction

concerning the subject matter of the action.

Messier-Dowty Ltd and Another v. Sabena SA and Others, CA, 21.2.00.

Times, 14.3.00.

Legal Services Commission - membership:

The Lord Chancellor has announced the full membership of the Legal Services Commission. The Commission is to be established on 1.4.00 under the provisions of the Access to Justice Act. It will be a non-departmental public body responsible for establishing, maintaining and developing the Community Legal Service and the Criminal Defence Service. It will replace the Legal Aid Board and take over its functions.

The Community Legal Service has been created to improve access to legal help and information. It will provide the framework for local networks of legal and advice services. The Legal Services Commission will have the statutory duty to establish, maintain and develop the CLS and inform itself of the need for and quality of services. The existing civil legal aid scheme will be replaced by the CLS Fund.

Regional Legal Services Committees, which were introduced in 1997, will carry out the information gathering and consultation process for the Community Legal Service. They will advise on the nature and extent of need for legal services in their geographical areas and devise and monitor the implementation of regional strategies.

The Criminal Defence Service will replace the criminal legal aid scheme. It will provide criminal defence services through contracts with private practice lawyers and salaried defenders.

Lord Chancellor's Department, *Press Notice 62-00, 9.3.00.*

Trademarks - concurrent use:

The Court of Appeal has given judgment in a case where two rival brewers, each using the same name for their product, sought registration of the name as a trademark. The American brewer Anheuser-Busch and the Czech brewer Budejovicky Budvar had used the name "Budweiser" for their products marketed

in the UK for many years. Each sought to register the name under the Trade Marks Act 1938.

The Court held that to grant identical trademarks to each brewer would not entitle the name to legal protection under the Trade Marks Act s.11 as such a grant would lead to confusion or deception. However, as there had been honest concurrent use within s.12(2) of the Act, this overrode the objection and justified such registration.

Anheuser-Busch Inc. v. Budejovicky Budvar Narodni Podnik; Budejovicky Budvar Narodni Podnik v. Anheuser Busch, CA, 7.2.00.
Times, 14.3.00.

The Commonwealth

BANGLADESH

Comprehensive Nuclear Test Ban Treaty - ratification:

Bangladesh has signed the Comprehensive Nuclear Test Ban Treaty and is the 28th country to do so. The country has natural uranium resources, which could be used to produce nuclear weapons. Its near neighbours, India and Pakistan, have carried out nuclear tests and have not ratified the treaty.

BBC News Online: World: South Asia, 7.3.00.

Prostitution - legality:

The Bangladeshi High Court has held that prostitution as a livelihood is not illegal. The case concerned over 100 prostitutes whose brothels were closed by the authorities in 1999. Prostitution had been previously permitted by the Bangladeshi authorities, under licence, only where the prostitutes have convinced the authorities that they have no other way of supporting themselves.

The court held that the government had acted illegally in closing down the brothels and accused the police of acting on behalf of the landlords of the properties.

The ruling may be challenged as the Bangladeshi constitution states that gambling and prostitution should not be encouraged. Bangladesh is one of very few Islamic countries where prostitution is not expressly prohibited.

BBC News Online: World: South Asia, 14.3.00.

Africa and the Middle East

EGYPT

Divorce - legislation widening grounds under which women may initiate proceedings:

Egypt passed legislation in January 2000 permitting women to file for divorce. It permits women to initiate divorce proceedings on the grounds of incompatibility. Previously, a woman could only obtain a divorce on grounds of her partner's drug addiction, sterility or refusal to support his family.

Under the new law women initiating proceedings face financial difficulties and they must forego alimony rights and return the dowry paid at the time of marriage. When proceedings have started, the parties must appoint a mediator to attempt to reconcile them. If mediation is unsuccessful a judge must declare the parties divorced after three months have elapsed.

BBC News Online: World: Middle East, 14.3.00.

The Americas

HONDURAS/NICARAGUA

Peace keeping measures - memorandum of understanding:

The Foreign Ministers of Honduras and Nicaragua signed a memorandum of understanding, on 8.3.00, on the implementation of measures to prevent actions that could affect peace in the Central American/Caribbean region. This memorandum is the third agreement signed by the parties in the last three months and the first to establish detailed mechanisms for reducing tensions.

The Caribbean Sea boundary issue which led to recent tension is now before the International Court of Justice and the peace keeping measures are necessary for the maintenance of peaceful relations until the ICJ delivers its judgment.

Organization of American States, *March Press Release E-045/00, 7.3.00.*

Asia and the Pacific

BURMA

Human rights - UN report:

A UN report on human rights in Burma has stated that there has been no concrete progress towards improving the country's human rights record. The report was written by Rajsoomer Lallah, the UN human rights expert on Burma who has not been permitted to enter the country since his appointment in 1996. Evidence was drawn from interviews with refugees and information from other organisations and governments.

The report states that repression of both civil and political rights has continued and points to the imposition of oppressive measures against ethnic and religious minorities and the abuse of women and children by the military.

BBC News Online: World: Asia-Pacific, 14.3.00.

European Union

COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES

A Member State cannot automatically expel a Turkish Worker convicted of a criminal offence:

The Court of Justice has held that a Turkish worker who had been detained pending trial and given a suspended prison sentence but had not ceased to belong to the lawful labour force would, in certain circumstances, have the right to renew his residence permit.

A Turkish national was permitted to enter Germany in 1978 and worked from 1979 to 1989, holding appropriate work and residence permits, for the same employer. From 1989 he held an unconditional work permit of unlimited duration.

He was implicated in a drug trafficking case and detained, pending trial, from December 1992 to January 1994. In 1994 he was convicted of being an accomplice to the trafficking of heroin and given a suspended prison sentence of 21 months. Following this he again found a permanent job in Germany.

Subsequently, he applied to extend his residence permit. His application was

rejected by the Stadt Nürnberg (municipality of Nuremberg) which ordered his expulsion under the Law on Foreign Nationals. He challenged that decision before the Bayerisches Verwaltungsgericht (Bavarian Administrative Court), Ansbach.

The Court asked the Court of Justice of the European Communities whether the measures adopted by the German authorities were compatible with a decision of the Association Council set up by the Association Agreement between the European Economic Community and Turkey).

The Court held that a Turkish national who has been in legal employment in a Member State for an uninterrupted period of more than four years and is then detained pending trial for more than a year and sentenced to a term of imprisonment suspended in full, does not cease, because he was not in employment while detained pending trial, to belong to the lawful labour force of the host Member State if he finds a job again within a reasonable period after his release.

Thus, the Turkish national concerned could claim an extension of his residence permit for the purpose of continuing to exercise his right of free access to any paid employment of his choice, a right granted to him by a decision of the Association Council. As the purpose of suspending a sentence was to reintegrate the convicted person into society, it would be contradictory to exclude him from the labour force on the basis of his conviction.

The Court also considered whether the public policy exception, laid down in the Association Council decision, relied upon by the German authorities, providing grounds for the expulsion of a Turkish national in some circumstances, applied in this particular case.

The Court drew an analogy with the principles laid down in the field of freedom of movement for workers who are nationals of a Member State. It concluded that the expulsion, following a criminal conviction, of a Turkish national who enjoys a right granted by the decision of the Association Council could be justified only where his personal conduct is liable to be prejudicial to the public interest in

the future. Community law precluded the expulsion of a Turkish national based exclusively on general preventive grounds or automatically following criminal conviction.

Nazli, Case C-340/97

Press Release No. 6/2000, 10.2.00.

<http://curia.eu.int/en/cp/aff>

Internal postal charges - bulk mailings - re-mailing - competition law:

The Court has ruled on the imposition of internal postal charges on re-mailing of bulk mail. Where there has been no agreement between the postal services of a Member State concerning fixing “terminal dues” on the basis of the actual costs of processing and delivering incoming trans-border mail, it has held that a Member State may grant its postal services the statutory right to charge internal postage on items of mail where senders resident in that State post bulk mailings which the postal services of another Member State send back to the first Member State. In order not to abuse their dominant position, the postal services may only demand from the senders the difference between the “terminal dues” (paid by the postal services of the Member State from which the mail is sent) and the full internal postage. Otherwise, they would abuse their dominant position.

Citicorp Kartenservice GmbH (“CKG”), whose registered office is in Frankfurt am Main, is a company in the Citibank group which attends to, prepares and dispatches statements, confirmations, bills and payments or billing requests for Visa card holders. In 1993, it set up Citicorp European Service Center BV (“the CESC”), a centralised body to prepare and dispatch statements and other standardised banking statements of account with a registered office in Arnhem, Netherlands.

Until 30.6.95 the data processing was carried out at CKG’s computer centre, in Frankfurt am Main. It received data by electronic transfer, then printed out and prepared and franked the mailings for dispatch. The mail was handed to the Netherlands Post Office (“PIT Post”) in Arnhem for onward carriage. PIT Post passed it to Deutsche Post for delivery to

addressees resident in Germany. Since June 1995 the data has been sent to the Netherlands from the US. The CESC also prints out and sends mail to addressees resident in other Member States of the European Union.

In the case of items of mail to addressees resident in Germany, PIT Post received the normal postal charge for international mail (approximately DM0.55) and paid Deutsche Post the “terminal dues” (from DM0.37 to DM0.40 per letter).

Deutsche Post claimed postage at its internal rate (DM 1 per letter) in respect of the “re-mailing” of each of CKG’s letters delivered in Germany. CKG refused to pay and Deutsche Post brought the case before the Landgericht (Regional Court) Frankfurt am Main.

The second case concerned Gesellschaft für Zahlungssysteme mbH (GZS). GZS operates data processing and mailing operations for Eurocard in Germany. It produces monthly statements. Since 1995 it has transmitted this data to its Danish contractual partner. The statements are sent by the Danish post office which transmits them to Deutsche Post for onward carriage in Germany and delivery there. The Danish postal service receives the postage charged in Denmark for international mail, which is lower than the internal rate in force in Germany. It pays Deutsche Post the “terminal dues” (DM0.36 per letter).

Deutsche Post demanded payment of internal postal charges from GZS. GZS refused to pay this and Deutsche Post brought the case before the Landgericht Frankfurt am Main.

The Landgericht dismissed both of Deutsche Post’s actions. On appeal, the Oberlandesgericht (Higher Regional Court) was uncertain whether the Universal Postal Convention (UPC), which was transposed into German law in 1989 and allows the Contracting States to charge postage at their internal rates on items which are re-mailed, was compatible with Community law. It therefore decided to stay proceedings and refer the question to the Court of Justice.

Bodies such as Deutsche Post, with exclusive rights as regards the collection, carriage and delivery of mail, constitute

undertakings to which the Member State concerned has granted exclusive rights under the EC Treaty. An undertaking having statutory monopoly over a substantial part of the common market holds a dominant position under the EC Treaty.

Under the UPC the postal administration of the Contracting State to which international mail is sent is obliged to forward and deliver it to addresses resident in its territory using the most rapid means of its postal service. Within the EU, performance of obligations under the UPC constitutes a service of general economic interest under the EC Treaty. German legislation assigns the operation of that service to Deutsche Post. The postal services of the Contracting States may charge postage on items of mail at their internal rates in certain circumstances. The monopoly position of Deutsche Post in these circumstances may be to the detriment of users of postal services.

The Court examined the extent to which the exercise of such a right is necessary for the body to operate under economically acceptable conditions. An obligation to forward and deliver bulk mail posted by senders resident in Germany but using postal services of other Member States to addressees in Germany, without provisions allowing financial compensation, would jeopardise performance of that task.

In these cases, it was justified under Community law to treat cross-border mail as internal mail and consequently, to charge internal postage. However, it was not justifiable for Deutsche Post to charge postage at full internal rate on bulk mail as this was an abuse of a dominant position within the meaning of Community competition law.

Deutsche Post AG v. Gesellschaft für Zahlungssysteme mbH (GZS);

Deutsche Post AG v. Citicorp Kartenservice GmbH., 10.2.00.

European Court of Justice, *Press Release No. 5/2000*, 10.2.00.

<http://curia.eu.int/en/cp>

EUROPEAN UNION/UNITED STATES

Data protection - privacy - agreement:

The US and the EU have reached provisional agreement on data protection rules. US companies will be required to match European standards of data protection when dealing with European data.

Directive 97/66/EC of 15.12.97, concerning the processing of personal data and the protection of privacy in the telecommunications sector, came into effect in October 1998 and prohibited the exchange of data with countries which did not offer similar protection to Europe. Under the new agreement US companies will continue to receive data as long as they agree to protect it. The current agreement excludes the financial services sector where negotiations will be conducted separately.

The agreement is expected to be ratified in June or July 2000 but has yet to be approved by Congress.

BBC News Online : Business, 14.3.00.

POLITICAL AND SECURITY COMMITTEE

First meeting:

The EU Political and Security Committee met, for the first time, on 1.3.00. The aim of the Committee is to equip the EU to respond effectively to international crises by way of diplomacy, economic measures, humanitarian assistance and ultimately the use of military force.

The next stage in the development of the European Foreign Common and Security Policy will be the setting up of an interim body consisting of military representatives of Member States accompanied by military experts who will be the forerunners of a future European Military Staff.

Political and Security Committee, *Press Release (Speech by Dr. Javier Solana)*, 1.3.00.

International ASSOCIATION OF SOUTH EAST ASIAN NATIONS (ASEAN)

AFTA-CER free trade zone:

A task force of representatives of ASEAN countries plus Australia and New Zealand have met to discuss the feasibility of

establishing an AFTA-CER free trade area by 2010. The task force was established by ASEAN Economic Ministers and CER (Australia-New Zealand Closer Economic Relations Agreement) Trade Ministers.

A 1997 study established that such an agreement would be beneficial for both parties as regards increased economic activity, exports and consumption. ASEAN, *Press Release*, 10.2.00.

BASEL CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL

Protocol opened for signature:

The Protocol on Liability and Compensation for Damage Resulting from the Transboundary Movement of Hazardous Wastes and their Disposal (*see* BLD 24/99) has been opened for signature. The Protocol was adopted by the Conference of the Parties to the Basel Convention on 10.12.00.

It provides a comprehensive regime for determining liability and ensuring prompt and adequate compensation in the event of damages resulting from the transboundary movements and disposal of hazardous wastes including illegal traffic in those wastes.

UN, *News*, 6.3.00.

COUNCIL OF EUROPE

European Charter for Regional or Minority Languages:

The UK has signed the European Charter for Regional or Minority Languages. The aim of the Charter is to protect and preserve minority and regional languages as an essential part of the European cultural heritage.

The Charter defines regional and minority languages, sets out the aims and principles with which States must comply and sets out measures to promote the use of regional or minority languages in public life. States party to the Charter are requested to submit periodic reports to the Secretary General of the Council of Europe on their policies for implementing the Charter. These reports are examined by a committee of experts.

The Convention is in force in nine Council of Europe Member States and has been signed by a further 13 States, including the UK.

Council of Europe, *Press Release 156a00*, 2.3.00.

White Paper - psychiatry and human rights:

The Committee of Ministers has published a White Paper on the protection of human rights and dignity of people suffering from mental disorders, especially those patients involuntarily placed in psychiatric establishments. It is intended that this will form a basis for an international legal instrument.

The main issues covered by the White Paper include:

- scope of the proposed legal instrument;
- categories included in the concept of “mental disorder”;
- criteria and procedures for involuntary placement and treatment in psychiatric establishments and research on such patients;
- use of special treatment;
- involvement of police, courts and penal system;
- human rights of involuntarily held patients;
- discrimination against persons suffering mental disorders;
- termination of involuntary placement and treatment;
- introduction and monitoring of quality standards for the implementation of mental health legislation.

Comments on the text of the White Paper are sought by October 2000 and a draft recommendation will be submitted to the Committee of Ministers for adoption in 2001.

Council of Europe, *Press Release 173a00*, 9.3.00.

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

Election of officers:

The Commission has begun its 106th session and has elected its officers.

Comment [EW1]:

Dr Hélio Bicudo of Brazil was elected Chairman, Dr Claudio Grossman of Chile was elected First Vice Chairman and Dr Juan E. Méndez of Argentina was elected Second Vice Chairman. Other members of the Commission are Dr Marta Altoaguirre, Prof. Robert K. Goldman, Dr Peter Laurie and Dr Julio Prado Vallejo. Inter-American Commission on Human Rights, *Press Release No.1/00*, 22.2.00.

INTERNATIONAL COURT OF JUSTICE

Election of Member of Court:

The UN General Assembly and Security Council have elected Thomas Buergenthal of the United States as a Member of the International Court of Justice with immediate effect. Mr Buergenthal replaces Judge Stephen M. Schwebel (United States) who resigned from the Court as of 29.2.00. He will hold office for the remainder of Judge Schwebel's term in 2006.

ICJ, *Press Communiqué 2000/8*, 3.3.00.

INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

Extradition - genocide suspect:

The French government has extradited a former Rwandan minister for higher education to the UN tribunal to face prosecution on genocide related charges. Jean de Dieu Kamuhanda is accused of involvement in the 1994 genocide in Rwanda and specifically of organising killings in the Gikomero commune in April 1994.

The International Criminal Tribunal on Rwanda has detained Kamuhanda at the UN detention facility in Arusha, northern Tanzania and plans to bring him for an initial appearance before a trial chamber as soon as possible.

BBC News Online: World: Africa, 8.3.00.

INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA

Crimes against humanity - violations of laws or customs of war - breaches of Geneva Conventions:

The Trial Chamber of the ICTY has sentenced General Tihomir Blaskic to 45 years imprisonment for involvement in offences against Muslims by members of the armed forces of the Croatian Defence Council of which he was a member.

He was found guilty on the basis of his individual (Art.7(1) of the Statute of the Tribunal) and superior (Art.7(3)) criminal responsibility on all counts, except one, for which he had been indicted. The counts were:

- Breaches of the 1949 Geneva Conventions, Art.2, including wilful killing or causing great suffering or serious injury to body or health; destruction of property; inhuman treatment; taking victims as hostages,
- Violations of the laws or customs of war (Art.3),
- Crimes against humanity (Art.5) including persecutions, murder and inhumane acts.

The Trial Chamber declared that the conflict, during which the war crimes were committed, was international in nature because of the direct involvement of the Croatian Army and because of Croatia's overall control of the Bosnian Croat forces and authorities.

ICTY, *Press Release 474-E*, 3.3.00.

PREPARATORY BODY FOR THE INTERNATIONAL CRIMINAL COURT

New session opens - negotiations on rules and guidelines:

The UN commission preparing the establishment of the International Criminal Court has begun its fourth session to negotiate the rules and guidelines of the court. The session is due to continue until 31.3.00 and will deal specifically with the key texts *Elements of Crimes* and *Rules of Procedure and Evidence* and will also discuss the question of the crime of "aggression".

The commission will finalise the financial rules and regulations of the court and draw up the budget for its first year. It will also draw up the relationship agreement between the UN and the host country (the Netherlands).

United Nations, *Newservice*, 13.3.00.

UNITED NATIONS

UN peace operations - new study:

The Secretary-General of the UN has announced the start of a major review of UN peace-keeping operations as part of his drive to improve efficiency of UN missions and prevent the recurrence of disasters.

The Study on United Nations Peace Operations will consider past failures and successes and provide a set of recommendations for future practice. It is expected to report by July 2000 in preparation for the Millennium Summit in September.

UN, *Newservice*, 7.3.00.

Angola - sanctions against UNITA rebels - report of violations:

A United Nations panel of experts has reported on the violations of Security Council sanctions against the rebel Angolan UNITA army. The report lists violations of sanctions in areas including diamonds, petroleum, arms and military equipment, assets and finance as well as representation and travel.

The panel offers 39 recommendations to improve the sanctions system and requests that sanctions breakers should be dealt with by the international community, United Nations, *Newservice*, 14.3.00.