
France

Neo-Cons' 'Perben Law' Is Police-State Step

by Christine Schier

Under the influence of a neo-conservative faction in the government around Interior Minister Nicolas Sarkozy, France has recently adopted a new law on fighting "serious crime" which is in keeping with international moves toward police-state measures, on the background of the worsening financial and monetary crisis and the Synarchist-inspired international terror wave. This new text, baptized Perben Law II—after Justice Minister Dominique Perben—is supposed to be applied only to "*la grande criminalité*," the worst crimes; but that definition remains dangerously vague, while police and prosecutors obtain greatly expanded powers.

The "Perben law" introduces radical changes into the French criminal justice system. It is the result of direct collaboration among the U.S. Attorney General John Ashcroft, Nicolas Sarkozy and Dominique Perben, to lay the basis for allowing the FBI to pursue its investigations on French territory. Those efforts were stepped up after the Sept. 11 attacks. Perben himself was in Washington from November 13-15, 2002 to discuss the provisions of the law. Then on May 5, 2003, Ashcroft came to France, apparently to finalize the project.

The LaRouche movement in France, Solidarité et Progrès, has denounced this abomination in the starkest terms and stirred up a storm in the March 21 regional elections around this theme. In Lyons, the second largest city in France, Laurent Simon of the LaRouche Youth Movement (LYM) ran against Dominique Perben for the post of Regional Councillor, much to the latter's dismay, since his collaboration with the American neo-conservatives is now known to all.

RICO-Style Statute

Opposition to the new measures was very strong both from judges and lawyers' associations, and the opposition parties in the Parliament, who appealed to the Constitutional Council to annul it. In a March 3 ruling, the Council did criticize two provisions: the definition of organized crime, and the American-style plea-bargaining. After the law was passed in February, thousands of lawyers had held an unprecedented one-day strike to protest against the violations of personal freedom and the politicization of the judiciary system.

What does this law change? It introduces a new category of crime and offences, those committed "in an organized

gang," which is similar to the notion in American law of "conspiracy," which has produced notorious injustices under the RICO laws. In fact, one may suppose even two delinquents working together could be considered an "organized gang." In such cases, those suspects are deprived of certain basic liberties. For example, they can be held in police custody for questioning for up to four days, as opposed to the 48-hour limit now imposed, and can be prevented from speaking to a lawyer for 48, or even 72 hours. Police have expanded powers to intercept correspondence, infiltrate informers for investigative purposes, effect night-time searches, and install hidden microphones and cameras in suspects' homes, while the time period of an investigation *in flagrante* is extended from 8 to 15 days.

The big innovation is in allowing "plea bargaining," for "simple" offences of up to 5-year prison sentences, such as stealing in a supermarket, non-payment of family contributions, etc. The idea might seem appealing, since the courts have a tremendous backlog of cases, and if a person does not deny he is guilty, it could save time.

But there is a major problem: the prosecutor is to determine the sentence, which cannot be more than one year in prison, and the judge will only confirm it *a posteriori*, which completely upsets the balance between judge and prosecution. The lawyers' association had suggested that the lawyers of both parties hold a negotiating session with an independent judge to determine the sentence; but their proposal was rejected. The original text provided for the confirmation of the sentence in front of the judge to be closed, but the Constitutional Council required it be public.

The president of Solidarité et Progrès, Jacques Cheminade, asked what prevents these exceptional procedures from being used in cases other than those of organized crime? "Unscrupulous magistrates or obedient policemen could use heavy artillery against any suspected delinquent. Should the investigators discover along the way that they made a mistake, the procedure cannot be annulled," he said. "In a social environment poisoned by the economic crisis, you see how this text could be used against anyone going against the establishment. I am personally well aware of this, given the attitude of the Constitutional Council towards me after the 1995 Presidential elections."

The Perben law, meant to combat organized crime, is surprisingly silent on financial and economic crimes. Sexual offenders will have police records, but economic criminals are spared. Thus it represents a return to the "Bonapartist" legal tradition. As Cheminade declared, it violates the principle of the separation of powers. Judges, not very independent as it is, will be even more influenced by suggestions coming from above. And prosecutors will be under more direct pressure from the Minister of Justice, who can give them particular written instructions. So under the Perben law, the justice branch becomes even more submissive to the political power—the hallmark of all police-state systems.