

'Fig leaf' laws won't stop money-laundering

by George Gregory

German Interior Ministry Ministerial Director Dr. Günther Krause, speaking at a private seminar titled "In the Sights of the Mafia," in Celle, Germany at the end of 1995, provided a review of the effects of Germany's October 1993 law against drug-money laundering. The seminar was one of a series, sponsored by the editor of the German police journal *Magazin für die Polizei*, Robert Harnischmacher, together with the Association of Federal Border Police. The seminars are a gathering place for top law enforcement officials, police practitioners, and politicians, to discuss the hard facts of life in combatting organized crime.

Dr. Krause insisted, that he did not want to sow pessimism, but his report was "sobering," as the Germans say. In 1994, banks in Germany reported 4,700 cases of "suspicious transactions"—large cash deposits in which a bank employee thought he had reason to suspect that the money derived from drug trafficking. Of these 4,700 cases, 4% ultimately resulted in concrete police investigations and/or indictments. A fraction of that 4% resulted in convictions. Dr. Krause argued that more experience in applying the law would improve the results.

Immediately after Dr. Krause finished speaking, a police organized-crime investigator rose to his feet: "Dr. Krause, I would like you to bear a message back to Bonn, to the people who told you to tell us these things about our law: 'You can take your law, and shove it!'" The police officer had the unanimous support of the specialized audience—no abstentions.

The political battle

The only note of optimism on the organized-crime front in Germany is President Bill Clinton's Executive Order 12987, "Blocking Assets and Prohibiting Transactions with Significant Narcotics Traffickers," issued Oct. 22, 1995, and the accompanying Presidential Decision Directive 42, with the prospect for targetting the "offshore" money-laundering centers, located mostly in areas of the British Commonwealth or former Dutch colonies. A high German government official, in an off-the-record discussion, was pleased with the U.S. actions: "If we are left to stew in our own juices, we will continue to cook up British-model fig-leaf law. But if the U.S. really wants to get serious, we will work overtime to make sure it works."

The heated background discussions and debates among law enforcement officials runs directly counter to the official

German government adherence to the Maastricht Treaty and "free market economics." In fact, the debate about how to effectively fight organized crime, is an economic policy debate at the same time.

One State Attorney, who specializes in drug cases, stated point blank: "The people who framed our current law knew it would be a flop, and they wanted it that way. Behind the scenes, but explicitly, the argument was, that, for the sake of 'social peace,' we had to permit illicit funds—and the lion's share of that is drug funds—to flow into the legal economy. Money laundering?—Take the supermarket chains in the eastern states of Germany: I'll tell you where the money came from to build *some of them* up, and I'll tell you what they are used for. But, under the current law, I can't prove it, not to speak of prosecuting it." Now, however, "this process is destroying the democratic fabric of our society."

The government official cited before "on background" insisted that "the time is actually more than ripe to return to List's economics," referring to the German "American System" economist Friedrich List. "But if Friedrich von Hayek were to stroll through this town [Bonn] today, he would be denounced as a dirigist." As far as current German anti-money-laundering law is concerned, this official said the real policy is quite simple: "No honorable tax-evader should lose sleep over our laws." Under the Maastricht Treaty, there is practically nothing left of German's economic or financial sovereignty: Despite the appeasement of drug-money launderers in the 1993 law, there is a pattern of capital flight from Germany into Switzerland.

'No' to the British model

Germany is more successful than the British, at least, in applying British-modelled law. According to a review by Michael Levi from the University of Wales "White Collar and Organized Crime Unit," only 4 out of every 1,000 reported "suspicious transactions" in Britain "have triggered new investigations or have made a major impact on existing investigations." That is only 0.4%, in comparison to the German "hit rate" of 4%. Levi's review, published in the No. 2/1995 edition of the Swiss *Criminology Bulletin*, touted Britain as the "most advanced European country in implementing formal anti-laundering measures." Like British law itself, Levi's review was based on a presupposition: "One of the first points to emphasize is our conclusion, based not only on interviews but also on a priori reasoning, that there is a tendency to overestimate the amount of money that is laundered." Of course, British law only considers "suspicious" funds which are brought in a suitcase, for example, to a bank. Real money-laundering through front companies, drug money hidden in the cash flow of "legitimate" enterprises, or hidden in the capital flight and other illicit transactions from Russia, is not touched.

That is why British law is called an "alibi," a "flop," and a "fig-leaf" in Germany.