



## NEWS AT A GLANCE

■ **Jordan is holding two Israeli intelligence agents, and at least four others found refuge in the Israeli Embassy in Amman, after the failed attempt to assassinate a Hamas leader in the Jordanian capital, according to news reports. Israel refuses to deny or confirm its involvement in the incident. [Page 3]**

■ **Canada recalled its ambassador to Israel after determining that the two men arrested in Jordan for the assassination attempt on a Hamas leader were not Canadian, though they had Canadian passports. Canadian officials said they wanted a full explanation of the incident. [Page 3]**

■ **Hamas co-founder Sheik Ahmed Yassin, who was released from an Israeli prison last week, may soon return from Jordan to his home in the Gaza Strip. Meanwhile, a Jordanian official was quoted as saying Israel would release "dozens" of other Palestinians, including some members of Hamas, in exchange for the two Israeli agents held in Jordan in connection with the attempt to kill a Hamas official.**

■ **Switzerland may have failed to return Nazi-looted gold now valued at \$3 billion after World War II, according to a report soon to be released by the World Jewish Congress. According to the report, this represented 85 percent of gold sent abroad by the Nazis. In 1946, Switzerland returned gold valued today at about \$580 million to the Allies.**

■ **A Roman Catholic Church dedicated to the memory of concentration camp victims opened in the town near the Nazi death camp of Auschwitz. The church is located several miles from the camp and has not aroused any opposition from Jewish groups.**

■ **French Prime Minister Lionel Jospin ordered his country's archives to open their files more widely to historians studying the Holocaust. Jospin made his comments days after French bishops apologized for the Catholic Church's silence during World War II and days before former Vichy official Maurice Papon is scheduled to go on trial for war crimes.**

## BEHIND THE HEADLINES

### **New Supreme Court session includes case involving AIPAC**

*By Daniel Kurtzman*

WASHINGTON (JTA) — After a tumultuous end to the Supreme Court's last term, the next session could again mean trying times for the Jewish community.

In June, the court dealt the Jewish community its most stunning legal blow in recent years when it invalidated the Religious Freedom Restoration Act, a law that made it harder for the government to interfere with the free practice of religion.

While the church-state front appears quiet as the court prepares to begin its 1997-1998 term Monday, an affirmative-action case that could dramatically alter the civil rights landscape is garnering Jewish attention.

But hitting closest to home is a case involving the legal status of the American Israel Public Affairs Committee.

Shortly before adjourning in June, the court announced that it would hear oral arguments in an eight-year-old battle involving allegations of improper political activity by the pre-eminent pro-Israel lobby.

A group of former government officials, all known as staunch opponents of Israel, have battled in vain since 1989 to convince the Federal Election Commission to regulate AIPAC as a political action committee and thereby subject it to restrictive federal campaign finance laws.

The plaintiffs in the case include James Akins, a former U.S. ambassador to Saudi Arabia, former U.S. Rep. Paul Findley (R-Ill.) and Richard Curtiss, a former official at the U.S. Information Agency and the current editor of the Washington Report on Middle East Affairs.

Such a designation would limit contributions to — and expenditures by — AIPAC, which in spite of its name is not a political action committee.

Political action committees, commonly known as PACs, raise funds to support political candidates.

AIPAC, for its part, says it makes no such expenditures. It defines itself as a registered lobby on behalf of legislation affecting U.S.-Israel relations.

In 1992, the FEC found that AIPAC spent money in an effort to influence congressional elections.

But the FEC, which monitors compliance with campaign laws, also ruled that this was not AIPAC's "major purpose" and determined that the pro-Israel lobby did not have to register as a PAC.

A lower court and a three-judge panel of the U.S. Court of Appeals for the District of Columbia initially upheld the FEC's decision.

### **Appeals court overturns decision**

But last December, the full U.S. Court of Appeals for the District of Columbia, in *FEC vs. Akins*, ruled that the FEC misapplied the law.

The court, ruling 9-2, said the percentage of an organization's work that is campaign-related should not determine the definition of a PAC.

If the Supreme Court overturns the lower court's ruling and allows a group's "major purpose" to determine if it is a PAC, then the case against AIPAC would end.

But if the court upholds the appeals court and strikes down the major purpose test, AIPAC's fate would once again lie with the FEC, which, some legal observers say, could restrict the organization's ability to raise and spend money and force the lobby to open its books for public disclosure.

AIPAC, however, maintains that the outcome of the case would not have any impact on its operation because "the FEC will recognize that AIPAC is a membership organization and is permitted to engage in the political process in the same way we always have," according to AIPAC spokeswoman Toby Dershowitz.

AIPAC filed a brief with the court, saying that as "the organization whose alleged conduct is at issue in these proceedings, AIPAC has a direct interest in ensuring that a complete and accurate portrayal of the facts and issues is presented."

In the brief written by Ted Olson, considered one of the top campaign finance attorneys in the country, AIPAC said that regardless of the validity

or invalidity of the major purpose test, AIPAC's conduct is permissible because it "consists entirely of communications by AIPAC to its own members."

The brief points out that campaign finance law expressly states that "any communication by any membership organization or corporation to its members" cannot qualify as an expenditure by the organization.

Although the FEC previously determined that AIPAC's members were not "members" within the meaning of the law, AIPAC maintains in its brief that "developments in the law since the issuance of that decision confirm the incorrectness of the Commission's ruling."

Therefore, AIPAC says the issue is moot and is asking the court to dismiss the complaint.

"We want the court to dismiss the complaint and send it back to the commission to say, 'We goofed and we're dismissing the entire complaint against AIPAC,'" said Philip Friedman, general counsel for AIPAC.

Marc Stern, co-director of the American Jewish Congress' legal department, said it is hard to know with certainty what the court will do, given these "highly technical regulatory statutes."

To say that the case would absolutely have no impact on AIPAC, he added, "is to anticipate a series of events that I don't think can be anticipated."

A spokesman for the FEC said it was too early to say what the FEC might do if the case came back to the commission.

Beyond any potential ramifications for the pro-Israel lobby, legal observers say the case could have important implications for a wide range of advocacy organizations that could become subject to regulation or a substantial restructuring of their operations.

The case, moreover, comes at a time when campaign finance practices are coming under increasing scrutiny. Some observers fear the atmosphere might adversely affect the pro-Israel lobby as the case comes before the court.

"It would be very unfortunate if in the current climate, people misunderstood a highly technical question of campaign finance law as a judgment about AIPAC's morality," Stern said.

"Unfortunately, the nasty people who are bringing this lawsuit are attempting to cast it in that light," he added.

A decision is expected by the end of the court's term next June.

#### **Affirmative-action case in front of court**

On the affirmative-action front, the high court has agreed to review a potential landmark case involving a white teacher in Piscataway, N.J., who lost her job to an African American.

The case, *Piscataway Board of Education vs. Taxman*, dates back to 1989, when the school board was faced with having to cut one teaching position in a 10-member department.

Sharon Taxman, a white teacher, was laid off, while a black teacher was retained in order to maintain department diversity under the school board's affirmative-action plan. Both were hired on the same day and had essentially identical qualifications.

The Supreme Court has held that affirmative-action programs used to remedy the effects of past discrimination are constitutional. But the *Piscataway* case raises the question of whether promoting racial diversity is justifiable as a public policy goal.

The Jewish community, for its part, remains split on affirmative action, although informal surveys showed that a majority of Jewish voters in California last year

rejected a landmark ballot initiative barring affirmative-action programs in the state. The measure passed with the support of 55 percent of the voters.

The AJCongress and the Anti-Defamation League are both planning to file briefs supporting the fired white teacher in the *Piscataway* case.

ADL maintains that Taxman was wrongly discharged. Although the group is still discussing exactly what position to take, Steve Freeman, ADL's director of legal affairs, said, "The bottom line is obvious. We have a long-standing policy opposing race-based decision-making and that will be the core of what we say to the court."

The court could arrive at a narrow ruling upholding previous law stating that firing for reasons of race is discriminatory. Or it could issue a broad ruling against affirmative action.

Stern, for his part, hopes that the court does not use this case to make a definitive ruling on affirmative action. □

#### **French bishops apologize for silence during Holocaust**

*By Lee Yanowitch*

PARIS (JTA) — Jewish leaders have welcomed an apology from the clergy of the French Catholic Church for its silence as the country's Jews were being deported to Nazi death camps during World War II.

"Your words of repentance constitute a major turning point," Henri Hajdenberg, president of CRIF, the umbrella group of secular French Jewish organizations, said during a ceremony last Tuesday evening at the site of the former internment camp at Drancy, near Paris.

"Your request for forgiveness is so intense, so powerful, so poignant, that it can't but be heard by the surviving victims and their children," he said.

Hajdenberg spoke after a statement of apology for the church's silence was read on behalf of the bishops of France.

"We confess our fault. We implore the pardon of God and ask the Jewish people to hear our words of repentance," the statement said.

"By their silence, the bishops of France acquiesced to flagrant violations of human rights and allowed the machine of death to be set in motion."

The statement also acknowledged the role of the Catholic Church's traditional anti-Semitic teachings in laying the groundwork for the Holocaust.

Approximately 76,000 Jews, including 12,000 children, were arrested and deported from France to Nazi death camps between 1941 and 1944.

Only about 2,500 survived. □

#### **Mahane Yehuda attack toll up to 16**

JERUSALEM (JTA) — An 84-year-old Israeli has died of wounds sustained in the July 30 twin suicide bombing in Jerusalem's Mahane Yehuda open-air market.

Baruch Ostrovsky, a resident of Jerusalem, was burned severely in the blast. Hospital officials said he never regained consciousness before dying last Friday.

Ostrovsky, who immigrated from Russia seven years ago, was the 16th Israeli to be killed as a result of the attack, which wounded at least 170 others.

Thirteen Israelis died in the immediate aftermath of the blast. The remaining three, including Ostrovsky, died from their injuries in subsequent weeks.

The Mahane Yehuda attack was followed by a triple suicide bombing Sept. 4 at the Ben Yehuda pedestrian mall in downtown Jerusalem, which killed five Israelis and wounded more than 190. □

**Israel implicated in attempt to kill Hamas leader in Jordan***By Michele Chabin*

JERUSALEM (JTA) — Israel has implied that it was behind a botched assassination attempt on a Hamas leader in Jordan.

Prime Minister Benjamin Netanyahu refused Sunday to confirm or deny whether Israel played a role in the failed Sept. 25 attempt.

But Cabinet Secretary Danny Naveh, in an apparent effort to explain the motivation behind the incident, said Israel has an obligation "to defend the rights of its citizens and to fight terror without compromise."

Naveh, who read from a statement after an emergency meeting Sunday of the Security Cabinet, did not explicitly say Mossad agents had tried to murder Khaled Mashaal, director of Hamas's political wing in Jordan. But Naveh's assertion that Mashaal is "responsible for the murder of many Israeli citizens" was widely viewed by Israelis as an admission by the government.

Allegations that Mossad agents entered Jordan with phony Canadian passports and injected Mashaal with a lethal substance have severely strained Israel's relations with both Canada and Jordan.

On Oct. 2, Canadian officials, accusing Israel of endangering Canadians traveling in the Middle East, announced that they were recalling their ambassador to Israel, David Berger. Berger left Israel on Saturday for consultations with his government.

Jordan's King Hussein, Israel's closest Arab ally, was reported to be furious at Israel's attempt to carry out an assassination on Jordanian soil.

According to Jordanian media reports, two of the Israeli agents who gave Mashaal a potentially lethal injection were apprehended by Jordanian police and are now in custody. At least four other agents reportedly found refuge at the Israeli Embassy in Amman.

Hussein made an angry phone call to Netanyahu to protest the attack on Mashaal, the Israeli daily Yediot Achronot reported last week. In an attempt to contain the diplomatic fallout, a high-level delegation of Israel officials — including Defense Minister Yitzhak Mordechai, National Infrastructure Minister Ariel Sharon and Naveh — flew on Sept. 28 to Jordan to meet with Hussein.

**Hussein voices displeasure with Netanyahu**

On Oct. 1, Hamas founder Sheik Ahmed Yassin was released from an Israeli prison and flown by helicopter to Jordan.

It is widely believed that Israel's decision to free Yassin, who is in failing health, was part of a deal for the future release of the two Israeli agents who reportedly carried out the attack against Mashaal.

Hussein, who made peace with Israel despite opposition from other Arab leaders and many of his own citizens, showed his displeasure with Netanyahu during a newspaper interview published Sunday.

"I personally just can't figure out what the Israeli prime minister thinks, and this worries me a lot," Hussein said.

Although he was angry, Hussein accepted the credentials of Israel's new ambassador to Jordan, Oded Eran, in a ceremony Sunday that had been scheduled before the Sept. 25 attack.

In Israel, members of the opposition called an emergency Knesset session for next week to discuss the affair. The Knesset had been scheduled to be in recess until November, after this month's series of Jewish holidays.

Opposition leaders placed the blame for the entire affair squarely on Netanyahu.

Labor Party leader Ehud Barak said the country "was stuck in a quagmire."

Former Prime Minister Shimon Peres, Barak's predecessor at Labor's helm, said "a mess like this would never have happened during my term as prime minister."

Former Likud Prime Minister Yitzhak Shamir also lashed out at Netanyahu, saying, "Nothing was achieved and only damage was caused to our relations with Canada and Jordan, and I ask why and what for." □

**White House agrees to restore 5,000 slots for Jewish refugees***By Daniel Kurtzman*

WASHINGTON (JTA) — The number of refugees from the former Soviet Union allowed to enter the United States has been cut, but not as drastically as originally sought by the Clinton administration.

Out of 83,000 admissions authorized for refugees worldwide, 26,000 will be allotted to refugees from the former Soviet Union — 4,000 fewer than were authorized this past year.

The administration had proposed to reduce the numbers by nearly a third for the fiscal year that began Oct. 1, but agreed to add an additional 5,000 slots last week.

Refugees from the former Soviet Union include Jews and persecuted Christian minorities, both of whom are allowed to immigrate to the United States under eased criteria.

Jewish refugee advocates, who were greatly disturbed by the administration's original proposal, hailed the decision to boost the numbers.

"It's closer to the reality of the total flow" of refugees from the former Soviet Union, said Martin Wenick, executive vice president of the Hebrew Immigrant Aid Society. The 26,000 slots, he added, are a "workable number."

Jewish leaders believe that the extra slots will better assure that some 12,000 Jews projected to arrive in the current fiscal year from the former Soviet Union are guaranteed entry. The other slots are expected to be filled by evangelical Christians.

The Clinton administration had originally proposed cutting the number of slots for refugees from the former Soviet Union to 21,000, while Jewish groups had sought to maintain last year's figures of 30,000 from the former Soviet Union and 83,000 overall.

HIAS and the Council of Jewish Federations pressed the issue with the administration and Congress and successfully convinced officials to increase the overall cap to the same number as last year.

The administration's decision to increase the overall number of slots marks the first time that the White House arrived at a ceiling higher than its initial recommendation, Wenick said. The 5,000 extra slots will remain unfunded pending a mid-year review to determine how many are actually needed.

Each year the White House sets the annual refugee numbers in consultation with Congress. The annual ceiling has been steadily reduced from 132,000 in 1993.

U.S. law guarantees refugee status to those who have a well-founded fear of persecution in their country of origin for political or ethnic reasons.

Once here, refugees are entitled to certain economic benefits not available to other legal immigrants.

Under legislation known as the Lautenberg Amendment, Jews and evangelical Christians from the former Soviet Union only have to show a "credible basis for concern" about the possibility of persecution to be granted refugee status. □

**BEHIND THE HEADLINES**

**Russian Jews oppose new law restricting religious freedom**

*By Lev Krichevsky*

MOSCOW (JTA) — Jews in Russia have learned, through centuries of experience, that government interference in their lives rarely bodes well.

So it was not surprising that many were not happy when Russian President Boris Yeltsin recently signed a bill limiting religious freedom in Russia.

“Our constitution guarantees freedom of conscience,” said Diana Neisner, a 22-year-old Moscow law student. “I disagree with the president.”

Isabella Sterlina, a 67-year-old retired nurse who attended services at the Moscow Choral Synagogue a day after Yeltsin signed the bill into law, recalled how Jewish life was under Soviet rule. “If the state begins to meddle too much in religious affairs, we can get what we had under the communists.”

But at least one Jewish worshiper spoke approvingly of the law.

“We need to protect our youth from cults and missionaries,” said Alexander Abramovich, a 65-year-old Muscovite. “The law doesn’t hurt anyone who seeks to preserve one’s own tradition.”

Many Jews here seemed to be unaware of the law, perhaps because of scant Russian news coverage of the bill. The law places restrictions on religions that cannot prove they have existed officially in Russia for at least 15 years.

**‘A fight between two Christian denominations’**

Others, unsure of what the law’s impact would be, are adopting a wait-and-see attitude. Perhaps one of the reasons for the quiet tenor of Jewish protest is that, as critics of the legislation argue, the law is primarily targeted at Christian rivals to the Russian Orthodox Church.

Indeed, Moscow Chief Rabbi Pinchas Goldschmidt described the law as “a fight between two Christian denominations” — a reference to the Russian Orthodox Church, which becomes one of Russia’s four traditional religions under the law, and the Roman Catholic Church, which is denied certain rights accorded to “traditional” Russian faiths.

Most Protestant denominations would also be denied some rights under the law. In addition to the status it gives the Russian Orthodox Church, the law also grants three other religions — Islam, Buddhism and Judaism — the status of traditional religions.

All other faiths will have to prove they have operated in Russia for at least 15 years or lose some rights.

The United States, as well as human rights groups, vigorously opposed the law, urging Yeltsin not to sign it.

The organized Russian Jewish community has been divided on the issue.

Some Jewish leaders have stated that the Jewish community might even benefit from the law since it would restrict groups like Jews for Jesus from operating in Russia.

This week, however, the Va’ad, an umbrella organization for Jewish groups in Russia, denounced the measure in a letter to Yeltsin.

Mikhail Chlenov, president of the Va’ad, said his organization plans to work with other religious minorities who have come out against the law.

However, he said, other Russian Jewish groups are unlikely to join the effort.

Goldschmidt said he had “uneasy feelings” about the law, though the rabbinate had officially backed the measure.

He said that by accepting this measure, “Russia has been weakened as a democracy.”

The mood of cautious pessimism was perhaps best expressed by a member of Hineini, Moscow’s Reform congregation, who gave his name as Semyon: “I know that this law is not against us Jews. But who knows how things will turn out?” □

**Orthodox students pay fees but reserve right to sue Yale**

*By Mara Dresner*

*Connecticut Jewish Ledger*

WEST HARTFORD, Conn. (JTA) — Five Orthodox Jewish students are far from ending their fight against Yale University’s housing policy.

While the students will pay their tuition under protest, they “will not be waiving their rights of potential legal action,” Nathan Lewin, a Washington-based attorney who is representing the students, said recently in a telephone interview.

The students risked expulsion if tuition fees were not received by the end of September.

Lewin said negotiations with Yale were continuing to head off a lawsuit against the school for violating the students’ religious rights.

The dispute arose after the students requested exemptions from Yale’s housing policy, which requires all freshmen and sophomores to live on campus unless they are married or over 21 years old.

They asked for a waiver of the \$7,000 residential fees, which are included in the tuition costs, because they believe that living on campus in dorms where both sexes easily mingle would not conform with their religious convictions.

One of the students, Rachel Wohlgelernter, got married this month in a civil ceremony, three months before her scheduled Jewish wedding ceremony, in an effort to obtain an exemption.

Lewin, who recently visited Yale, has proposed that the students pay the full amount of the residence fee, but that the money be used for alternative housing that Yale deemed suitable for the students.

“The kids don’t want Jewish housing,” said Lewin. “All they want is respect for their religious convictions. That’s a very minimal request.”

Yale maintains that residential living on campus is an “integral and important” part of attending the school.

“We’ve made it clear to the students that we’re ready and willing to talk to them about it,” said Thomas Conroy, a Yale spokesman.

Not all of Yale’s Orthodox students find the housing requirement in conflict with their beliefs and religious practices.

“A point that seems to have been missed is that there is a significant Orthodox community living on campus at Yale and thriving there,” said Evan Farber, a junior, who is president of the Young Israel House at Yale.

Yale officials have been cooperative in accommodating Orthodox students in other ways, such as arranging alternatives for students who cannot use electronic keys on Shabbat and holidays and working with the maintenance department to devise an acceptable way for observant students to use lights in the bathrooms on the Sabbath.

Orthodox Rabbi Michael Whitman, director of the Young Israel House at Yale, believes an Orthodox Jew can live comfortably in Yale dorms.

The threatened “lawsuit is simply about the right to live off-campus,” Whitman said. “This is not about how one can lead a religious life while being a student at Yale.” □

*(JTA managing editor Kenneth Bandler contributed to this report.)*