



## Statewatch

### Response to the House of Lords Select Committee inquiry

#### *The meeting of the Ministers of the Interior of the G6 countries at Heilgendamm on 22-23 March 2006*

1. Statewatch welcomes this chance to respond to the Committee as regards the meeting of the G6 ministers of the interior in March 2006. The questions raised by the committee will be addressed in turn.
  - *To what extent do the G6 proposals on intensified police cooperation for the prevention of crime and illegal immigration go beyond current EU policy? To the extent that the G6 proposals do go further, in what way do they depart from some important measures currently being negotiated in the field of exchange of law enforcement information and data protection?*
2. The reference to linking national centres and the call for experts from different agencies to work together are ambiguous, but appear to go beyond any legally binding measures already agreed at EU level. The extent to which these proposals go beyond measures being negotiated is unclear, but the wide scope of the conclusions appear to go beyond access to information on specific items (as provided for in the proposed Framework Decision on the principle of availability) and there is no specific reference to data protection rights.
3. The call for joint investigation teams reflects existing EU policies, but Europol cannot participate in such teams without the entry into force of a Protocol to the Europol Convention (which is still being ratified).
4. Police access to Eurodac is entirely new; there is no such access at present as the Eurodac database was established solely to assist the determination of the country responsible for considering asylum applications. Nor there is any legislative proposal on the table considering the extension of access to Eurodac.

5. A proposal for internal security authorities' access to the VIS is already under discussion. However, the idea of a 'sponsor's database' in the VIS probably goes beyond the Commission's proposal to include the sponsor's name and address in connection with a visa application (or the name of a corporate sponsor with a contact's name: see Art. 6(4)(f), COM (2004) 835, 28 Dec. 2004).
  6. The counter-terrorism measures referred to appear to be new.
  7. The idea of renegotiating the Schengen Convention provisions on police cooperation in the manner referred to in the conclusions is new.
  8. We would also like to draw the Committee's attention to the idea of "rapidly introducing the Visa Information System (VIS)" in the light of the French BLODEV test (EU doc no 7791/06) and confusion how the checks are going to be made when visa-holders enter and travel around the EU.
- *The Conclusions refer to a number of EU bodies such as FRONTEX and Europol. There are suggestions that they should have additional duties and priorities. Do their existing constitutions allow for such an expansion of their mandate?*
9. As noted above, Europol cannot presently participate in the operations of joint investigation teams. The other measures referred to in the conclusions appear to fall within the scope of Europol's tasks as described in Art. 3 of the Europol Convention.
  10. Frontex can already participate in 'joint operations' (Art. 3 of Reg. 2007/2004 establishing the agency, OJ 2004 L 349/1). It also has the power to assist joint expulsion flights (Art. 9 of the Regulation). The agency can conduct 'risk analysis' (Art. 4 of the Regulation), although it is not clear whether the G6 conclusions restrict themselves to this form of analysis by Frontex. Also, there is nothing in the Regulation that permits the Agency to draw up 'situation reports'. The agency can cooperate with Europol in accordance with the EC Treaty and the Europol Convention (Art. 13 of the Regulation). This would seem to require some sort of formal agreement between the two bodies, but no such agreement exists.
- *Lastly, the conclusions state that rapid implementation of the principle of availability should not depend on the adoption of a third pillar Data Protection Framework Decision (DPFD). Since the Commission proposal for the DPFD is also under consideration, and the two issues were initially linked, is it sensible for the two proposals to be considered independently?*

11. It is clearly entirely unjustifiable to consider these two issues separately. Since the purpose of the Framework Decision on availability is to make available to other Member States' police forces the entirety of personal data regarding certain categories of data which is stored by each Member State's law enforcement authorities, there needs to be a comprehensive instrument regulating the processing of personal data falling within the scope of the principle of availability in parallel with the application of that principle in practice.

#### Additional points

12. We would draw attention to the implications of a) tackling the use of the Internet by terrorist organisations (Check the Web", EU doc no 9496/06); b) systematically "exchanging information on people expelled by G6 countries for preaching racial or religious hatred or related activity"; c) the reference to biometrics in national identity cards.

#### Accountability of G6 meetings

13 As a further point, Statewatch wishes to raise the question of the accountability of G6 ministers' meetings. The ministers themselves point out that at their initiative, the EU decided to require all Member States' citizens to be fingerprinted if they wished to obtain a passport. It could be added that other measures (the idea of a common list of 'safe countries of origin', for instance) can be traced back to agreement of the G6 (formerly the G5) ministers.

14 This obviously raises fundamental questions about the accountability of these ministers' meetings, as there is no formal requirement to publish an agenda or minutes, there is no system for access to documents, there is no process of public consultation or impact assessment, and the existence and activity of any working groups, et al, is unclear. There is no system of control by national parliaments and/or the European Parliament.

15 In short, the G6 ministers' meetings are utterly lacking in the rudiments of accountability as understood at national or EU level, and should be terminated forthwith unless the issue of accountability is immediately and fully addressed.

Statewatch

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