News
24 July 2017 (09/17)

Home page: **http://www.statewatch.org/**
e-mail: **office@statewatch.org**

ANALYSES

1. The EU goes to war with African "elite": by Tony Bunyan
2. Policing the internet: how Europol takes action against undesirable content online

NEWS

1. USA: GAO: Aviation Security: Behavioural Indicators
2. No One Is Counting Europe's Missing Refugee Children
3. UK: Durham Police unveils 'bodycam intelligence database
4. FRANCE: Calais after the jungle: migrant dispersal and the expulsion of humanitarianism
5. POLAND: Street protests and EU warnings over attempt to bring judiciary under political control
6. MEDITERRANEAN: Defend Europe/Identitarian Briefing
7. UK-JAMAICA: Inhumane deportation
8. Teenage refugees in Greece are being labelled 'adults' if they have wisdom teeth
9. Police clash with migrants at Lesvos camp for second time in a week
10. CJEU: Commission cannot refuse access to written submissions of the Member States held by it
11. Database on "European extremists": How is the plan pursued since 2001 supposed to function?
12. MED: Guidance on rescue operations in the Mediterranean: Know Your
13. EU research policy for peace, people and planet: A Civil Society perspective
14. EU: Frontex cooperation with non-EU states: information from the agency
15. GREECE: Serious gaps in the care of refugees in Greek hotspots
16. EU: Parliamentary Tracker: "qualification" Directive of the Common European Asylum System
17. EU: Counter-terrorism recommendations from 2006 declassified
18. Italy's Smuggling Prosecutions Ruin Lives While Real Criminals Go Free
19. Polish TV denounces pro-democracy 'putsch'
20. EU to scale back Greek asylum aid
21. Serious problems regarding family reunification for asylum-seekers in Germany under Dublin III
22. UK: Government criticised for refusing to publish report into funding of extremist groups
23. Dutch Senate votes in favor of dragnet surveillance powers
24. Exposing hate crimes of successfully prosecuted beyond borders
25. European Commission: Infringement proceeding: Hungary & Spain
26. GREECE: NGOs fearful of handing island camps to state
27. EP: Smart Borders Entry/Exit System is unproven, expensive and violates right to privacy
28. UK: New criminal tagging system scaled back after ministry failings
29. ITALY: Interior ministry statistics on migrant arrivals, January-July 2017.
30. EU: UK parliamentary report: "failed" Operation Sophia has caused more deaths
31. EU: Open NGO Letter to EU Member States: Regarding the Export of Surveillance Equipment
32. EU: Impact on fundamental rights - European Travel Information and Authorisation System

33. EU: Data retention discussions continue at informal JHA Council meeting
34. GERMANY: Politicians want EU-wide "extremist" database after arrests, injuries, protests
35. EU-USA Justice and Home Affairs meeting
36. War and violence drive 80% of people fleeing to Europe by sea, not economics
37. European Parliament: Special committee to tackle deficiencies in the fight against terrorism
38. UK: From Hillsborough to Grenfell
39. EU: Informal meeting of Justice and Home Affairs ministers: Discussions on Central Med
40. EU: Frontex in the Balkans: Serbian government rejects EU's criminal immunity proposals
41. RACE & CLASS: Prison resistance and black self-defence
42. EU: Centralised biometric database for convicted non-EU nationals also part of "interoperability"

DOCUMENTATION

1. EU: Italy: Proposed code of conduct for Mediterranean NGOs "threatens life-saving operations"
2. EU: Action Plan for Central Med: mandatory code of conduct for NGOs, expansion of detention
3. European Border and Coast Guard report
4. EU: Total information awareness for law enforcement: "turning point" reached
5. European Parliament: legitimate measures to protect whistle-blowers acting in the public interest
6. EU: Restricted document highlights plans for ongoing EU interventions in Libya
7. EU: Entry-Exit system (EES): Nearing agreement - some "technical" issues still outstanding
8. EU: Council of the European Union: Manual on Law Enforcement Information Exchange
9. EU: Qualifications Directive: Council of the European Union

- UK-EU: BREXIT

10. BREXIT: Ongoing Union judicial and administrative proceedings Position paper
11. UK-EU: BREXIT: The joint technical note including Citizens' Rights:
12. UK-EU-BREXIT: House of Lords Select Committee report: Brexit: the EU data protection package
13. UK-EU: Brexit: European Commission publishes Position Papers: Justice and Home Affairs
14. UK-BREXIT: Repeal Bill: Summary "factsheet" are here

ANAYLSES

1. Statewatch Analysis: **The EU goes to war with African "elite"** (pdf): by Tony Bunyan

EU to target African governments, officials and others with the threat to refuse or delay visas to enforce its returns and readmission policies

EU starts setting out the "consequences" of non-cooperation by agreeing "Measures targeting the "elite" of third countries"

See: Council of the European Union: "**Link between return/readmission and visa policies**" (RESTRICTED, EU doc no: 9097-REV-1-17)

2. Statewatch Analysis: **Policing the internet: how Europol takes action against undesirable content online** (pdf) by Kilian Vieth (Translation by Viktoria Langer):

Europol removes content from the internet. This approach goes beyond regular measures in the fight against terrorism propaganda and mixes police work and media regulation. Should a police agency be responsible for the surveillance and control of Facebook posts and tweets?

NEWS

1, USA: Government Accountability Office (GAO): **Aviation Security: TSA Does Not Have Valid Evidence Supporting Most of the Revised Behavioral Indicators Used in Its Behavior Detection Activities** (pdf):

"According to TSA, certain verbal and nonverbal cues and behaviors—TSA's behavioral indicators— may indicate mal-intent, such as the intent to carry out a terrorist attack. These behavioral indicators include, for example, assessing the way an individual swallows or the degree to which an individual's eyes are open. According to TSA, such indicators provide a means for identifying passengers who may pose a risk to aviation security and referring them for additional screening...

TSA does not have valid evidence that most of the indicators in its revised list of behavioral indicators can be used to identify individuals who may pose a threat to aviation security. In our review of all 178 sources TSA cited in support of its revised list, we found that 98 percent (175 of 178) of the sources do not provide valid evidence applicable to the specific indicators that TSA identified them as supporting. In total, we found that TSA does not have valid evidence to support 28 of its 36 revised behavioral indicators, has one source of valid evidence to support each of 7 indicators, and has 2 sources of valid evidence to support 1 indicator."

2. **No One Is Counting Europe's Missing Refugee Children** (Refugees Deeply, link):

"Where are the 10,000 child migrants who went missing in Europe last year? Europol says it has no idea how many have actually disappeared as a result of Europe's chaotic migrant calculations, Mario Vidal reports for porCausa and Vózpopuli."

3. UK: **Durham Police unveils 'bodycam intelligence database'** (Netpol, link):

"One of the UK's smallest police forces, Durham Police, is reportedly gathering video captured by officers' body worn cameras to create a 'troublemakers' database – contravening national guidance that officers should not use the technology as an 'intelligence-gathering tool'.

Body Worn Video cameras, or 'bodycams' as they are more usually known, are now a global phenomenon. Most UK police forces use them routinely, as do forces in the US, Australia and Europe. Nor is it just the police that is using this technology: bodycams are routinely worn by bailiffs, security guards, even traffic wardens and council workers.

This is arguably one of the biggest single expansions of surveillance capacity since the introduction of CCTV, and one that is highly profitable for bodycam manufacturers such as Axon (formerly Taser International)."

4. FRANCE: **Calais after the jungle: migrant dispersal and the expulsion of humanitarianism** (OpenDemocracy, link):

"Eight months after their eviction from the Calais jungle, migrants are still a substantial presence in the city of Calais. What has happened to them over the course of those months, however, has been largely unexplored (by those in the UK at least). To gain a better sense of what has been happening on the ground, we set up the project "Mapping the dispersal of refugees evicted from Calais" at Swansea University with funding from cherish-de.uk. Our aim is to investigate how migrants' lives – both on and off the move – are controlled and governed away from the 'border spectacle' and declared 'humanitarian emergencies' that receive so much attention in the press.

During his official visit to Calais in early June, the French minister of the interior Gerard Collomb announced that 150 additional policemen will be sent there, in order to avoid that "Calais and Dunkerque become places of fixation for the migrants and that other jungles could multiply" on the territory. His words suggest that informal migrant encampments are growing, or have the potential to do so, and that the French authorities are pursuing a strategy of dispersal and division to prevent such camps from coalescing into autonomous spaces like the Calais Jungle. The European context is characterised by a widespread criminalisation of migrant intra-European movements on the one hand, and refugee support activities on the other."

5. POLAND: **Street protests and EU warnings over attempt to bring judiciary under political control**

The latest set of measures going through the Polish legislature that would undermine the independence of the judiciary and seperation of powers have led to protests across Poland and warnings from the EU that it will invoke the 'Article 7' procedure, which could ultimately see Polish voting rights in the Council suspended.

6. MEDITERRANEAN: **Defend Europe/Identitarian Briefing** (Hope Not Hate, pdf):

"Defend Europe is an attempt by far-right activists to confront and block humanitarian rescue ships operating in the Mediterranean.

It is being led by key members of the European 'Identitarian' movement, a collection of far-right activists operating in France, Germany, Austria and Italy.

They aim to disrupt and inhibit the vital efforts of NGOs saving the lives of migrants and refugees - many of whom are children - crossing the Mediterranean this summer.

More than 2,000 people have died on the Mediterranean already this year, and over 5,000 last year.

This confrontational and dangerous project is organised by far-right activists with a long track record of anti-Muslim and anti-immigrant activism and while organised by Europeans it is being supported, funded and promoted by the extreme far-right around the world.

So far the Identitarians have only launched one operation on a small boat, but they have now raised the funds to charter a sea-going vessel with space for a crew of 25."

7. UK-JAMAICA: **Inhumane deportation** (The Gleaner, link) by Luke de Noronha:

"*Just over a week ago, two reports were published in Britain that might interest the Jamaican readership. They both concerned mass-deportation charter flights from London to Kingston. (...)*

The first report was an annual review by the Independent Monitoring Board (IMB) regarding several charter flights from Britain in 2016 - to Albania, Pakistan, Nigeria, and Jamaica. I have met a few people who were on that charter flight to Jamaica in September 2016, and the majority of them left children behind in Britain. Theirs were stories of banishment from home, rather than a return to home. People had been away so long that they had few memories of the island, and no close family members to turn to. This is a familiar story.

What was significant about the report was the use of waist-restraint belts on the flight. Far more than any other nationality, Jamaicans were restrained in these belts, which act like straitjackets to prevent people moving their arms - often for hours at a time. On other chartered flights, only a few deportees are restrained in this way; it's the exception rather than the rule.(...)

The second report, conducted by Her Majesty's Inspectorate of Prisons, covered the last deportation flight from the UK to Jamaica in March 2017. Again, the independent inspectors found that force was used far too often."

See the reports: **Annual Report of the Independent Monitoring Boards Charter Flight Monitoring Team for the calenday year 2016** (pdf) and: HM Chief Inspector of Prisons: **Detainees under escort: Inspection of escort and removals to Jamaica** (pdf)

8. **Teenage refugees in Greece are being labelled 'adults' if they have wisdom teeth** (International Business Times, link):

"*Children as young as 14 arriving on the Greek island of Lesbos are being identified as over-18s and forced to live with unrelated adults, without access to education and protective services, a shocking new report has revealed.*

Greek authorities are quick to register teenagers as adults, without conducting a proper assessment, according to the Human Rights Watch report 'Lone Migrant Children Left Unprotected' published today.

If an assessment is carried out, it is often during a hasty visit to a dentist where any children whose wisdom teeth have come through are registered as adults. This was how 17-year-old Akash from Bangladesh ended up in the adult section of Moria refugee camp, where more than 3,000 people are living in "inexcusable" and "inhumane" conditions."

And see: **Greece: Lone Migrant Children Left Unprotected** (Human Rights Watch, link): "*Unaccompanied migrant children on the Greek island of Lesbos are being incorrectly identified as adults and housed with unrelated adults, leaving them vulnerable to abuse and unable to access the specific care they need, Human Rights Watch said today.*"

9. **Police clash with migrants at Lesvos camp for second time in a week** (ekathimerini.com, link):

"Police were dispatched to the Moria reception center on Lesvos on Tuesday afternoon following clashes between groups of migrants in the camp while the local fire service tried to put out blazes that broke out in nearby olive groves.

The upheaval came a week after riots at the same camp when migrants, frustrated by poor living conditions and delays in processing asylum applications, set fire to tents."

And see: **Asylum seekers clash with police in Moria frustrated about living conditions and asylum delays** (Keep Talking Greece, link)

10. Court of Justice of the European Union (CJEU): **The Commission cannot refuse access to written submissions of the Member States held by it, on the sole ground that they are documents relating to court proceedings** (Press release, pdf):

"The Court of Justice confirms the judgment of the General Court holding that the decision on such an application for access must be made on the basis of the regulation concerning public access to documents held by the European Parliament, the Council and the Commission."

Patrick Breyer writes:

"The European Court of Justice (ECJ) in Luxembourg today ruled in favour of the German civil liberties activist and pirate party member Patrick Breyer (Commission vs. Breyer, C-213/15 P): It ordered the Commission to give the press and the public access to the pleadings exchanged in completed court proceedings. In the present case Breyer successfully demanded the Commission disclose Austrian pleadings concerning the non-transposition of the controversial EU Data Retention Directive. However the Court fined Breyer for publishing the written submissions in his own case on his homepage....

Todays ruling confirms that the EU's judicial system is lacking transparency and in urgent need of reform, comments Breyer. Since EU judges appear to consider transparency in pending proceedings a threat, the EU needs to revise the Court rules in accordance with those applicable to the European Court of Human Rights. Indifferently prohibiting parties from publishing pleadings &SHY; including their oown &SHY; is inacceptable and endangers the freedom of the press."

See: **Judgment: full text** (pdf)

11. **Database on "European extremists": How is the plan pursued since 2001 supposed to function?** (link):

"After each major summit protest, there are calls for a European "troublemakers" database to be established. Centralised data storage at EU level or decentralised networking of national systems

would be conceivable options. For a number of reasons, it has not been possible to set up a database of this kind since the turn of the millennium. The governing coalition in Germany has now announced a new initiative to this end following the G20 Summit in Hamburg."

And see: Protests in the EU: **"Troublemakers" and "travelling violent offenders [undefined] to be recorded on database and targeted** (Statewatch Analysis) and **List of sources**

12. MED: **Guidance on rescue operations in the Mediterranean: Know Your Rights** (CILD, pdf):

"Is there a duty to rescue at sea?

Yes, there is. Maritime law and the Italian Constitution (Article 2) are based on cooperation which is a fundamental obligation. International law (the Montego Bay Treaty and others, see glossary) requires States to require any masters of ships flying their national flag to fulfil their duty to give assistance to anyone found to be in danger at sea, to inform the competent authorities, to provide initial medical assistance to the persons rescued, and to transfer the persons rescued to a place of safety (for a definition of 'place of safety', see question 8)."

13. **EU research policy for peace, people and planet: A Civil Society perspective on the next EU Research Framework Programme (FP9)** (pdf):

"The research that is prioritised and funded today will have a decisive impact on the future of our societies and our planet.

Our societies face immense environmental, social and economic challenges, as exemplified by the ambitious Sustainable Development Goals (SDGs) 2030 agenda.

It is certainly no time for "business as usual", and radical change is needed for the European Union (EU) to address these challenges, such as climate change, food security, antimicrobial resistance, decent jobs for all, rising inequalities, and to mainstream the SDGs into the research agenda of the EU."

See also: Report by the European Parliament Committee on Industry, Research and Energy (ITRE) adopted 13 June 2017: **Assessment of Horizon 2020 implementation in view of its interim evaluation and the Framework Programme 9 proposal** (pdf) including: *"Calls on the Commission to separate defence research from civil research in the next MFF, providing two different programmes with two separate budgets that do not affect the budgetary ambitions of civilian research of FP9; calls on the Commission, therefore, to present to Parliament the possible ways for financing the future defence research programme in accordance with the Treaties, with a dedicated budget with fresh resources and specific rules; highlights the importance of parliamentary oversight in this respect"*

14. EU: **Frontex cooperation with non-EU states: information from the agency**

A November 2016 letter from Frontex provides an overview of the agency's cooperation with third states in the fields of risk analysis, return, research and innovation and joint operations. The information was provided in response to a parliamentary question from Sabine Lösing and Cornelia Ernst, two German MEPs from the GUE/NGL left group in the European Parliament.

15. GREECE: **Serious gaps in the care of refugees in Greek hotspots; Vulnerability assessment system is breaking down** (Refugee Support Aegean, link):

"*Following the departure of Non-governmental organisations (NGOs), medical and social services have seriously been minimised in the Registration and Identification Centres (RIC), the so-called hotspots of the Aegean. Ever since the needs of refugees are not being covered effectively. Huge gaps have been observed concerning psychological aid, and this in a period where the mental health of refugees is deteriorating severely due to being stuck and under constant threat to be readmitted to Turkey. At the same time, the system of vulnerability assessment seems to be breaking down. It is not*

known, how far the state agencies who are planned in to take this job over, will be able to replace the work the NGOs had provided until recently.

The working contracts most of the NGOs had signed with the Ministry of Migration Policy ended end of May. As a result the staff left the RIC and dozens of people lost their jobs. More than that, a huge service gap emerged all of a sudden. Until recently those NGOs had been tasked with a large part of the medical and social services, which are among the responsibilities of the Reception and Identification Service."

And see: **EU to scale back Greek asylum aid** (EUobserver, link)

16. EU: **Parliamentary Tracker: The "qualification" Directive of the Common European Asylum System (CEAS) is moving forward…** (FREE Group, link): A detailed overview of the Commission´s proposal and current positions of the Council and Parliament on the new Qualifications Regulation.

17. EU: **Counter-terrorism recommendations from 2006 declassified**

The Council of the EU has published two declassified versions of a 2006 paper containing a host of recommendations on counter-terrorism policy, covering Islamist extremism in prisons, an assessment of "returning jihadis" on radicalisation and recruitment in Europe, terrorist movments and travel patterns, "what deters terrorists?", and the "terrorist threat to rail and underground systems." The recommendations were drawn up by officials in the Council with a view to including them in the EU's Counter-Terrorism Action Plan, at that time in its infancy.

18. **Italy's Smuggling Prosecutions Ruin Lives While Real Criminals Go Free** (Refugees Deeply, link):

"*This improvised captain – a migrant just like everyone else aboard – had no idea what to do. The overloaded dinghy started spinning uncontrollably and taking on water. Yusuf stepped in and found himself at the helm until the dinghy was found by the Italian coastguard nearly two days after setting sail.*

Upon disembarking, Yusuf was identified by fellow passengers as one of the scafisti, the Italian term for smugglers who pilot boats, and was arrested. (...)

Between August 2015 and the end of July 2016, a total of 793 scafisti were arrested, according to Italy's interior ministry. This is on top of the 1,511 arrested since 2013. Arresting migrant pilots has been central to the approach of the Italian government, with then prime minister Matteo Renzi boasting on Twitter in April 2015: "We have arrested 976 scafisti and rescued thousands of people."

While Italy's popular press paints them as ruthless criminals, the reality of the scafisti is more nuanced. Stories like that of Yusuf are common."

19. **Polish TV denounces pro-democracy 'putsch'** (EUobserver, link):

"*Demonstrators in Polish cities have raised an outcry over judicial reforms amid a toxic media campaign.*

The largest protests were in Warsaw, where 10,000 people, according to city authorities, assembled outside parliament and outside the supreme court on Sunday (16 July).

Thousands of people also assembled in other Polish cities, including Katowice, Krakow, Opole, Poznan, Szczecin, Torun, and Wroclaw.

People lit candles around court buildings in what they called a "Chain of Light". They also carried signs and chanted slogans which accused the ruling party, Law and Justice (PiS), and its leader, Jaroslaw Kaczynski, of turning Poland into a "dictatorship".

The demonstrations came after PiS extended its control over Poland's judiciary by passing two reform bills in the senate on Friday."

See also: **"Very, very dangerous": Thousands protest proposed Supreme Court changes in Poland, fearing creep toward one-party rule** (Krakow Post, link): "*[The bill] would allow MPs and the the Minister of Justice to appoint judges, bypassing the consultation of judicial circles. The bill would also give the judiciary council, a body which will have almost all of its members chosen by parliament, the power to choose future appointees.*"

20. **EU to scale back Greek asylum aid** (euobserver, link):

"Stranded refugees on the Greek islands will soon have to rely on the Greek government for all basic services.

Athens is set to nationalise services over the summer that were previously funded by the EU amid concerns that it won't be able to deliver, as some 60 people continue to arrive from Turkey to the islands on a daily basis.

Greek socialist MEP Miltiadis Kyrkos, at a hearing on the issue at the European Parliament on Wednesday (12 July), said that the transition of aid from EU-funded NGOs to the Greek state will be a "disaster.""

21. **Serious problem regarding family reunification for asylum-seekers in Germany under Dublin III Regulation** (aitima.gr, link):

"n the context of our project on legal assistance to asylum seekers, we deal with hundreds of cases of asylum seekers who are in Greece and have applied for family reunification under the Dublin III Regulation.

During the last months we have noted that there is a serious problem concerning the completion of the family reunification cases in Germany. More specifically we have found that in cases of asylum seekers for which Germany has accepted responsibility, the transfer to Germany has not been carried out despite the fact that the six-month time-limit provided by the Regulation has expired. So far our organization is aware of 21 such cases of asylum seekers, including particularly vulnerable people such as an eight-member family waiting to be reunited with the seriously ill father as well as unaccompanied minors."

22. UK: **Government criticised for refusing to publish report into funding of extremist groups**

The UK government has been criticised for refusing to publish a Home Office report on "the nature, scale and origin of the funding of Islamist extremist activity in the UK, including any overseas sources."

Amber Rudd, the Home Secretary, said in a written statement to parliament that the report would not be published "because of the volume of personal information it contains and for national security reasons."

Certain MPs - members of the Privcy Council, an archaic government body - will be able to view the report in private, but will not be allowed to discuss what they have learnt in public.

23. **Dutch Senate votes in favor of dragnet surveillance powers - GA NAAR DOSSIER / Dragnet surveillance for secret services** (Bits of Freedom, link):

"Late last night the Dutch Senate passed the bill for the new Intelligence and Security Services Act. With the Senate's vote, a years-long political battle has come to an end: the secret services have been afforded dragnet surveillance powers....

We're beyond disappointed that a bill has been passed that faced such overwhelming opposition from experts, civil society and citizens alike. Traditionally, Senate concerns itself with the quality of legislation, compliance with the constitution and international agreements, and the question whether citizens' rights are upheld. The dragnet surveillance bill fails on all counts."

24. **Exposing hate crimes of successfully prosecuted beyond borders** (IRR News, link):

" Eric and Philippa Kempson and their daughter are long-time residents of Lesbos, their home facing across the short stretch of idyllic but deadly water to the Turkish mainland and the first landfall for the many flimsy vessels of refugees seeking rescue and safety. In the months and now years that have passed since the initial arrivals, they helped bring to the world's attention the plight of people arriving, and gave up their 'normal' lives to devote themselves to the needs of the most vulnerable – children, elderly, disabled, bereaved, nursing and pregnant mothers, the war wounded and traumatised...

Some sought to scapegoat the Kempson family and other human rights defenders for 'encouraging' refugees to come to Lesbos, and have continued a campaign of intimidation and threats of violence against them to this day....

As if local animosity were not enough, a regular British tourist to Lesbos, Richard Sturdy, a 'respectable' 72-year-old businessman from North Yorkshire, joined in the abuse, using online social media, Twitter, Facebook and even media interviews to denigrate and abuse the Kempsons. His personalised hate campaign also extended to racially and religiously abusive language against refugees as well as those trying to assist them. ...

At his trial on 25 May, Sturdy changed his plea to guilty on all charges and received a community rehabilitation activity order, was made to pay victim and court costs and subjected to a restraining order not to contact the victim (this non-custodial sentence reflected credit for a guilty plea)."

25. European Commission: **Infringement proceeding: Hungary & Spain**

- **Hungary: Commission launches infringement procedure for law on foreign-funded NGOs** (pdf):

"Infringements - Today, the European Commission decided to send a letter of formal notice to Hungary for its new law on foreign-funded NGOs adopted on 13 June.

The Hungarian law introduces new obligations for certain categories of NGOs receiving annual foreign funding above HUF7.2 million (approx. € 24,000) to register and label themselves in all their publications, websites and press material as "organisations supported from abroad", and to report specific information about the funding they receive from abroad to the Hungarian authorities. These organisations face sanctions if they fail to comply with the new reporting and transparency obligations."

- **Commission refers SPAIN to the Court of Justice of the EU for failure to implement EU rules on whistle-blowers** (pdf):

"This Directive is part of the Market Abuse rulebook and requires Member States to establish effective mechanisms to enable
the reporting of infringements of the Market Abuse Regulation. It contains provisions to protect those who report such infringements and further specifies procedures to protect whistle-blowers and reported persons, including follow-up arrangements on reports by whistle-blowers and protection of personal data."

See also: **Proposed law on whistleblowing and corruption is "perverse, megalomaniacal and authoritarian"** (Statewatch News)

26. GREECE: **NGOs fearful of handing island camps to state** (ekathimerini.com, link):

"Seven top NGOs aiding refugees in Greece have issued a joint statement expressing their concerns over the handover of responsibilities at migrant camps on the Greek islands to the government as of August 1.

The NGOs say the Greek government has released few details about how it plans to continue providing existing assistance to residents at the camps. A deterioration of living conditions and diminished access to essential services are the main concerns cited if the Greek government does not communicate a plan to the NGOs before the handover."

27. European Parlliament: **Smart Borders Entry/Exit System is unproven, expensive and violates right to privacy** (GUE/NGL, link):

"The European Parliament's LIBE Committee today adopted the first part of the so-called Smart Borders Package; the Entry/Exit System (EES).

"The Entry/Exit System text that was voted on today is the result of negotiations with the European Council. It is complex, costly and dangerous to fundamental rights and freedoms. It conflates irregular immigration, border security and the fight against terrorism, and it's effectiveness has not been proven. This is particularly worrying, considering the huge sums of money that would be invested in it."

"In this text, the European Parliament has retreated on many of its initial positions, notably on the right to respect for privacy and data protection. All biometric and alphanumeric data recorded in the EES will be accessible to the member states, including their immigration authorities, law enforcement authorities and intelligence services.

"Even worse, it allows data sharing and cooperation with third countries without specifying the purposes for this.

"The EES therefore institutionalises the registration of personal details of all third-country nationals on a mass scale in violation of their fundamental rights. This is a big brother-style policy and it would set a dangerous precedent," warns the French MEP."

28. UK: **New criminal tagging system scaled back after ministry failings** (The Guardian, link):

"A new tagging system to monitor criminals has been dramatically scaled back and is running at least five years behind schedule after a series of expensive failings by the Ministry of Justice, the government's spending watchdog has found.

The National Audit Office (NAO) discovered that as attempts to develop bespoke technology failed, civil servants turned to G4S for a new tagging contract even though the outsourcing firm is under investigation by the Serious Fraud Office.

A report released on Wednesday describes a chaotic picture of the department's handling of the project, launched six years ago under the then justice minister Ken Clarke, and supposed to be a cheaper and efficient alternative to prison."

See the full report: **The new generation electronic monitoring programme** (pdf), **summary** (pdf) and the NAO press release: **The new generation electronic monitoring programme** (link)

29. ITALY: **Interior ministry statistics on migrant arrivals, January-July 2017** (Italian, pdf): including overall numbers, comparative statistics with 2016, distribution of migrants within Italy, ports of disembarkation, nationality of persons disembarked, data on relocations, unaccompanied minors.

30. EU: **UK parliamentary report: "failed" Operation Sophia has caused more deaths, EU should "combat irregular migration" in southern Libya**

A UK parliamentary committee has said in a new report that it sees "little reason to renew the mandate of Operation Sophia", the EU's anti-migrant smuggling mission in the Mediterranean, when it comes up for renewal at the end of July.

According to the report by the House of Lords European Union Committee, the operation "has not in any meaningful way deterred the flow of migrants, disrupted the smugglers' networks, or impeded the business of people smuggling on the central Mediterranean route," while an "unintended consequence" of the mission "has been that the smugglers have adapted, sending migrants to sea in unseaworthy vessels, leading to an increase in deaths."

31. EU: **Open NGO Letter to EU Member States and Institutions Regarding the Export of Surveillance Equipment** (Access Now, link):

"*Following the alarming evidence that EU-made electronic surveillance equipment is still being exported to authoritarian countries around the world, we strongly urge all EU member states and institutions to respect their human rights obligations and call on them to prioritise long overdue EU reforms.*

We are extremely concerned that little has changed since civil society first recognised the need to modernise current EU rules governing the export of surveillance equipment as far back as 2011 during the Arab Awakening. As the European Commission has since proposed reforms to the current system specifically aimed "to prevent human rights violations associated with certain cyber-surveillance technologies", we urge member states to refrain from any further delays in the process and to ensure that states throughout the European Union prevent surveillance exports that pose risks to human rights."

See: **Open Letter** (pdf)

32. EU **The impact on fundamental rights of the proposed Regulation on the European Travel Information and Authorisation System** (ETIAS) (FRA, link):

"*The European Parliament requested this FRA Opinion on the fundamental rights and personal data protection implications of the proposed Regulation for the creation of a European Travel Information and Authorisation System (ETIAS), including an assessment of the fundamental rights aspects of the access by law enforcement authorities and Europol.*"

See: **Opinion** (pdf, link)

33. EU: **Data retention discussions continue at informal JHA Council meeting**

"*In a format of joint session between the Ministers of Justice and Home affairs, the issue of data retention was discussed. The ministers exchanged views on possible options for data retention for the purpose of prevention and prosecution of crime, underlining that this does not concern the content of the messages.*

"Communications metadata is a very important element in fight against serious crime, for example to help discover links between possible criminals and locate the victims of crime," minister Reinsalu said.

"Estonia has always considered data retention an important element in fight against serious crime. During the presidency, Estonia will continue the good work of the Maltese and will be looking into different options for addressing the current situation of legal uncertainty," said Mr. Reinsalu."

See: Press release, informal meeting of justice and home affairs ministers, 7 July 2017: **At the informal meeting of EU justice ministers the future of e-Justice was set** (pdf)

34. GERMANY: **Politicians want EU-wide "extremist" database after arrests, injuries, protests and riots at "dystopian" Hamburg G20 summit**

The G20 summit in Hamburg, which was accompanied by "dystopian" security measures including the deployment of Predator drones, robots in the sewers, heavily militarised police and 'no-protest zones', finished on Saturday following days of mass protests that continued over the weekend. Dozens of protesters were injured and hundreds arrested - although there are no official figures on how many exactly - while numbers offered for the number of police officers injured range from 200 to 500. The German justice minister, Heiko Maas, is now leading calls for a "Europe-wide extremist database" - which sounds similar to previous calls for EU-wide databases on "troublemakers".

35. **EU-USA Justice and Home Affairs meeting**

Migration, counter-terrorism and transnational crime - Awaiting CJEU opinion on PNR Canada scheduled for 26 July

The first "meeting with the new US Administration at ministerial level": **Outcome of the EU – US Justice and Home Affairs Ministerial Meeting,Valletta, 15-16 June 2017** (LIMITE doc no: 10483-17, pdf):

36. **War and violence drive 80% of people fleeing to Europe by sea, not economics** (Guardian, link):

"*Report challenges economic migrant myth, revealing that most of those making perilous sea crossing were forced from their homes by persecution and fear.*

The vast majority of people arriving in Europe by sea are fleeing persecution, war and famine, while less than a fifth are economic migrants, a report published on Friday reveals.

More than 80% of an estimated 1,008,616 arrivals in 2015 came from refugee-producing countries including Syria, Afghanistan and Iraq, and a quarter of that number were children.

Researchers say the findings challenge the myth that migrants are coming to Europe for economic reasons."

37. **European Parliament: Special committee to tackle deficiencies in the fight against terrorism** (EP News, link): It will:

"*examine counter-terrorism measures, detect shortcomings in cross-border judicial cooperation and information-sharing measure impact on fundamental rights.*

MEPs approved setting up a 12-month special committee to address the practical and legislative deficiencies in the fight against terrorism across the EU."

See: **Decision setting up the Committee** (pdf)

38. UK: **From Hillsborough to Grenfell** (Centre for Crime and Justice Studies, link)

The law rarely holds powerful individuals to account. The Grenfell disaster is unlikely to be different, argue Steve Tombs and David Whyte.

39. EU: **Informal meeting of Justice and Home Affairs ministers: Press statement following discussions on Central Mediterranean** (pdf):

"*In Tallinn, the Ministers of Interior acknowledged that the situation in the Central Mediterranean and the resulting pressure on Italy is of great concern to all Member States. In line with the European Council conclusions of 22-23 June, the Ministers reaffirmed their commitment to take urgent action by stepping up coordination and delivery of all the elements contained in the Malta Declaration, the Partnership Framework and the Joint Valletta Action Plan, as well as the need to continue steps*

towards finding the right balance between the principles of solidarity and responsibility and to provide adequate support to the most affected Member States.

The Ministers of Interior welcomed and based their discussions on the Action Plan presented by the Commission on 4 July 2017, containing immediate measures that can be taken by the Commission, the High Representative, Italy and other Member States."

See also: Presidency of the Council: **Ministers of Interior agree on more robust approach to migration pressure** (press release, pdf)

And: EU: **Action Plan for Central Mediterranean: mandatory code of conduct for NGOs, massive expansion of detention and hotspots in Italy**

40. EU: **Frontex in the Balkans: Serbian government rejects EU's criminal immunity proposals**

The Serbian government is not happy with EU proposals that Frontex teams would be able to operate on its territory with total immunity from Serbian law. After two rounds of talks between the EU and Serbia, the text of a proposed agreement that would govern Frontex teams' joint operations, "rapid border interventions" or return operations in the Western Balkan country shows that the Serbian side rejects the EU's proposal that "members of the team shall enjoy immunity" from the administrative, civil and criminal jurisdiction of the Republic of Serbia.

41. RACE & CLASS: **Prison resistance and black self-defence** (link)

"Read new and re-released material from Race & Class on black prison resistance, the role of the Black Panthers, and the influence of US rebellions on the struggle in the UK.

*As the USA witnesses a resurgence of 'law and order' rhetoric, Toussaint Losier, assistant professor of Afro-American Studies at the University of Massachusetts at Amherst, publishes this month in Race & Class a double-length article based on his original research into the rebellions, which predated Attica, in New York City jails in 1970. These revolts in five facilities, against overcrowding, inhumane conditions and the practice of preventive detention – against political dissidents and those too poor to afford bail were influenced by the politics of the Black Panther Party and Young Lords Party. These radical prison movements drew on discourses of human rights, multiracial unity, national liberation and joined calls for broader social transformation. **Click here***

To coincide with the publication of this new research, Race & Class makes available a series of pieces on resistance to black incarceration in the USA and UK.

*To read interviews carried out in 1992 with key members of the Black Panther Party for Self-Defense –Geronimo ji-jaga Pratt (now deceased) and Mumia Abu-Jamal– **click here***

*To read reflections on the lineage of radical black politics forged in the harsh conditions of the prison industrial complex from former prisoner Stephen Jones, who was politicised from age 13 during many stints in Californian jails – **click here***

*To read the manifesto from Attica during the famous 1971 riot when prisoners seized control of the facility - **click here***

*To read how US Black Power influenced the 1976 Spaghetti House Siege in the UK and later the prison resistance of Shujaa Moshesh, one of the gunmen, **click here***"

42. EU: **Centralised biometric database for convicted non-EU nationals also part of "interoperability" agenda**

Proposals published last week by the European Commission will see the development of a new a

centralised database holding the criminal records of non-EU citizens, alongside their fingerprints and photographs.

"Although it is possible to exchange information on convictions concerning third country nationals and stateless persons (hereinafter: TCN) through ECRIS [the European Criminal Records Information System] today, there is no procedure or mechanism in place to do so efficiently," says the Commission, and thus a new system is required that will simplify the process and leave the door open for future "interoperability" initiatives with other EU databases and information systems.

DOCUMENTATION

1. **SPECIAL:** EU: **Italy's proposed code of conduct for Mediterranean NGOs "threatens life-saving operations"**

The European Commission asked Italy to draw up a "Code of Conduct" for NGOs carrying out search and rescue in the Mediterranean: See full-text of: **Code of Conduct for NGOs involved in migrant's rescue operation at sea** (pdf). The organisation *Human Rights at Sea* has said the proposed code "threatens life-saving search and rescue operations".

All NGOs operating in the Med are required to sign and obey the Code: ***"Failure to sign this Code of Conduct or failure to comply with its obligations may result in the refusal by the Italian State to authorize the access to national ports, subject to compliance with the existing international conventions."***

2. EU: **Action Plan for Central Mediterranean: mandatory code of conduct for NGOs, massive expansion of detention and hotspots in Italy**

The European Commission has published an Action Plan containing a swathe of measures "to support Italy, reduce pressure along the Central Mediterranean Route and increase solidarity," in order to try to address the "structural challenge" represented by the "loss of life and continuing migratory flows of primarily economic migrants on the Central Mediterranean route."

This includes a proposal for Italy and the Commission to draw up a code of conduct for NGOs conducting search and rescue missions, and demands for Italy to massively increase the capacity of its hotspots and its detention centres as well as extending the maximum period of detention up to 18 months, the maximum allowed under EU law.

3. **European Border and Coast Guard report**

- 72% of returns inside Europe: 101 return flights to the West Balkans and only 41 outside the EU

- Deploying "assets" to frontline Member States: thermo-vision vehicles, dog teams, CO_2 detectors and smartdeck cameras

The **Commission Press release of 14 June** (pdf) concerning the Fourth report on the European Border and Coast Guard (EBCG) stated on the question of "returns" that:

*"The **pace of return operations** organised by the European Border and Coast Guard has **continued to grow, with 6,799 irregularly staying migrants returned in 2017 so far, representing an increase of over 157%** compared to the same period of last year."* [emphasis added]

However, the **Fourth Report on EBCG** (COM 325-17, pdf) says that:

"Between 1 January and 9 June 2017, the Agency provided support to 144 return operations of third-country nationals during which 6,799 illegally staying third-country nationals were returned, *with further 43 operations under preparation. This represents an increase of over 157%*

compared to the same period of last year. **The majority of these operations (101 out of 144) concerned flights to the Western Balkans**."

Thus **101 return flights concerned returns inside Europe to the West Balkans and only 41 outside the EU**. There were an average of 42 people per flight.

4. EU: **Total information awareness for law enforcement: "turning point" reached, says EU police technology network**

- Police foresee immediate 24/7 access to data/profiles, images, videos, biometrics on everyone stopped, checked or under surveillance with automatic flagging on what action to take

- Mobile technologies to access ID profiles from local, national and international records, gather photos and videos and be used for covert surveillance

The European Network of Law Enforcement Technology Services (ENLETS), an informal group funded currently funded by the European Commission, has produced a report on '**best practices in mobile solutions**' (LIMITE doc no: 10127-17, pdf) which sees developments in mobile technologies, telecoms networks and 'cloud' computing as a "game-changer" for total information awareness for law enforcement authorities. The report foresees police smartphones, smartwatches or other devices having instant, 24/7 access to a complete profile on individuals from data gathered and stored locally, nationally or internationally.

5. European Parliament: **Draft Report on legitimate measures to protect whistle-blowers acting in the public interest when disclosing the confidential information of companies and public bodies** (pdf):

"the Commission has not proposed suitable legislative measures to protect whistleblowers in the EU effectively...

Considers that a breach of the public interest includes, but is not limited to, acts of corruption, conflicts of interest, unlawful use of public funds, threats to the environment, health, public safety, national security and privacy and personal data protection, tax avoidance, attacks on workers' rights and other social rights and attacks on human rights;

Stresses that the role of whistleblowers in revealing serious attacks on the public interest has proved its significance on many occasions over a number of years and that whistleblowers have proved to be a crucial resource for investigative journalism and for an independent press."

6. EU: **Restricted document highlights plans for ongoing EU interventions in Libya**

The EU's plans to re-establish functioning government institutions in Libya and to halt the flow of people across the Mediterranean are outlined in a restricted document currently being discussed by officials in Brussels.

The detailed **Strategic Review on EUBAM Libya, EUNAVFOR MED Op Sophia & EU Liaison and Planning Cell** (9202/17, 15 May 2017, RESTREINT/RESTRICTED, pdf), produced by the European External Action Service, proposes extending until December 2018 the Mediterranean military mission EUNAVFOR MED/Operation, the EU Border Assistance Mission Libya (EUBAM Libya) and the work of the EU Planning and Liaison Cell (EUPLC), based in Brussels.

The report's recommendations were approved by the Council's Committee on Civilian Aspects of Crisis Management (CivCom) and Politico-Military Group (PMG) on 28 June: see **Joint CivCom Advice and PMG Recommendations on Strategic Review on EUBAM Libya, EUNAVFOR MED OP Sophia & EU Liaison and Planning Cell** (10714/17, 29 June 2017, LIMITE, pdf).

They will be discussed by the Council's Political and Security Committee **tomorrow** (link to pdf). The proposals will ultimately need to be approved by the Justice and Home Affairs Council, which is not due to meet again until **September** (Council of the EU, link).

Statewatch has produced summary of some of the key points from the EEAS report. See: **Summary: Restricted document outlines official proposals and recommendations for future EU actions in Libya** (pdf).

7. EU: **Entry-Exit system (EES): Nearing agreement - some "technical" issues still outstanding**

• **Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 2016/399 as regards the use of the Entry/Exit System** (Doc no: 10535-17, pdf):

The last political trilogue under the Maltese Presidency is scheduled for 29 June. A number of outstanding issues remain to be solved on this occasion in order to reach a political agreement and meet the objective set by the European Council:.

*"The interinstitutional negotiations started on 23 March 2017. 15 technical meetings and 5 political trilogues have been held so far..... "Considerable progress has been achieved so far and **the Presidency managed to defend the Council position on crucial issues such as the conditions for law enforcement access, the territorial scope of the Regulation and the data retention period for overstayers."***

• **State of play** (LIMITE doc no: 10823-17,pdf) The outstanding issues on 29 June were:

1. Bilateral agreements (Article 64(5)(h))
2. Schengen Borders Code (Article 8a, 8b, 8d)
3. Calculator (Article 10(4))
4. Access to the EES by asylum authorities (Articles 25a and 25b and related provisions)
5. Enrolment of biometrics in case of refusal of entry (Article 16)
6. Transfer of data to third countries (Article 38)
7. Structure of Article 5
8. Data Retention (Article 31)

• 4-column documents: **ADD - 1** (10545-17, 265 pages, 26 June, pdf) and **ADD - 2** (10545-17, 27 June, 99 pages, pdf)

• **Council press release: 30 June 2017** (pdf):

*"[agreement with] European Parliament representatives on 29 June on the political issues of a proposal for an Entry-Exit System and a proposal amending the Schengen Border Code in relation to the Entry-Exit System, **with a view to an overall agreement once the remaining technical issues are addressed.**"*

8.. EU: Council of the European Union: **Manual on Law Enforcement Information Exchange** (6261-17, pdf): 110 pages:

"The manual contains an overview of all EU systems, legal bases and instruments of information exchange available to the law enforcement authorities of the Member States. This way, the user is fully informed of the available options when it comes to deciding how to seek or provide information across borders."

And see Chart on page 5.

9. EU: Qualifications Directive: Council of the European Union: **Proposal for a Regulation on Standards for the qualification of third-country nationals or stateless persons as beneficiaries**

[of international protection... Mandate for negotiations with the European Parliament](#) (LIMITE EU doc no: 10475-17, pdf): Council's negotiating position with European Parliament in trilogue despite the fact that:

*"**Four main aspects of the proposal could not be agreed upon during the discussions at the preparatory bodies level.** Therefore, the Presidency has prepared draft compromise solutions, which take into account the different positions expressed by delegations during the above discussions and which can be found in the Annex to this Note. The changes in the text of the draft Regulation as compared to the Commission proposal are indicated in bold and deleted text is marked in […]."*

See: **[European Parliament draft orientation position](#)** (pdf)

- UK-EU: BREXIT

10. BREXIT: **[Ongoing Union judicial and administrative proceedings Position paper](#)** (pdf):

"Leaving the EU will end the jurisdiction of the Court of Justice of the European Union (CJEU) in the UK."

11. UK-EU: BREXIT: **[The joint technical note attached summarises the UK and EU positions and compares them following the 2nd round of Art. 50 negotiations](#)** (pdf) Contains 4-column document: Comparison of EU/UK positions on **Citizens' Rights**:

*"This table summarises the UK and EU positions and compares them. **Green** indicates convergence, **red** indicates divergence and **yellow** indicates where further discussion is required to deepen understanding."*

12. UK-EU-BREXIT: House of Lords Select Committee report: **[Brexit: the EU data protection package](#)** (pdf):

*"The Government has said that it wants to maintain unhindered and uninterrupted data flows with the EU post-Brexit. The Government's White Paper on The United Kingdom's exit from and new partnership with the European Union, says, for example, that **the UK "will seek to maintain the stability of data transfers between the EU, Member States and the UK.**"*

*We support this objective, but were **struck by the lack of detail on how the Government plans to deliver this outcome**. Our analysis suggests that the stakes are high, not least because any post-Brexit arrangement that results in greater friction around data transfers between the UK and the EU could present a non-tariff trade barrier, putting the UK at a competitive disadvantage. Any impediments to data flows post-Brexit could also hinder police and security cooperation."* [emphasis added]

13. UK-EU: **[Brexit: European Commission publishes Position Papers: Justice and Home Affairs](#)**

The Commission has published three Position papers on the effect of the UK's withdrawal from the EU - whether or not these will be replaced later is not known at this stage of the negotiations:

• **[Position paper on Ongoing Police and Judicial Cooperation in Criminal matters](#)** (12 July 2017, pdf):

"The following general principles should apply in accordance with Union law, as interpreted by the Court of Justice of the European Union on the date of entry into force of the Withdrawal Agreement."

Thirteen measures including: European Arrest Warrant, European investigation order, ECRIS and Passenger name records.

• **Position paper on Ongoing Union Judicial and Administrative Procedures** (12 July 2017, pdf):

"The Withdrawal Agreement should provide for arrangements relating to proceedings before the Court of Justice involving the United Kingdom, and/or United Kingdom residents/legal persons (I(1)), and administrative procedures before Union institutions, bodies, offices and agencies concerning the United Kingdom, and/or United Kingdom residents/legal persons (II(1)), which are ongoing on the withdrawal date, as well as for arrangements relating to judicial proceedings and administrative procedures initiated after the withdrawal date and relating to facts that occurred before the withdrawal date (I(2); II(2))." A Footnote says:

"The arrangements dealt with in this paper are without prejudice to the possibility, e.g., for the Court of Justice to consider, on a case by case basis, that a preliminary question addressed to it by a court in the United Kingdom can no longer be adjudicated by the Court of Justice for lack of substantive Union law applicable to the case after the United Kingdom's withdrawal."

• **Position paper transmitted to EU27 on Ongoing Police and Judicial Cooperation in Criminal matters** (28 June 2017, pdf) Covers:

"General Data Protection Regulation (EU) 2016/679;
- Directive (EU) 2016/680;
- Sectorial Union legislation in the area of police and judicial cooperation in criminal matters.
- Classified information."

14. UK-BREXIT: Repeal Bill: **Summary "factsheet" are here** (link)

- **Full-text of the Repeal Bill** (pdf)
- **Explanatory Notes: EU withdrawal Bill** (68 pages, pdf)
- **Note on delegated powers** (pdf)

See: **Small print of repeal bill creates unprecedented new powers for Brexit ministers** (Politics.co.uk, link):

"On the face of it, the repeal bill addresses many of the concerns of its critics. But once you dig in a little further, the full scale of the executive power grab becomes clear. There has never been a piece of legislation like this in modern British history. We have never handed the government so much power. "

And; **Small print of repeal bill creates unprecedented new powers for Brexit ministers** (Politics.co.uk, link)

USING THE STATEWATCH WEBSITE

News Online**: http://www.statewatch.org/news/newsfull.htm**
Whats New (all new items): **http://www.statewatch.org/whatsnew.htm**
 Observatories (20): **http://www.statewatch.org/observatories.htm**
Analyses (1999 - ongoing): **http://www.statewatch.org/analyses.htm**
Statewatch Bulletin/Journal: Archive: Since 1991: **http://www.statewatch.org/subscriber/**
Database, over 31,000 items: **http://database.statewatch.org/search.asp**
Statewatch European Monitoring & Documentation Centre on Justice and Home Affairs in the EU: **http://www.statewatch.org/semdoc/**
JHA Archive - EU Justice and Home Affairs documents from 1976 onwards:
http://www.statewatch.org/semdoc/index.php?id=1143
Statewatch services - with links to 11 free resources
About Statewatch: **http://www.statewatch.org/about.htm**