

statewatch

monitoring the state and civil liberties in Europe

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FOI back on the EU agenda:

Statewatch lodges two complaints against the European Commission

Statewatch has lodged two complaints against the European Commission with the European Ombudsman. The first concerns the Commission's failure to maintain a proper public register of documents as it is obliged to do under the Regulation on access to EU documents (1049/2001). The second concerns the Commission's failure to produce its annual report on access to documents for 2005 in the year 2006. *Statewatch* says both are breaches of the Regulation and therefore cases of maladministration. In a press release Tony Bunyan, Director of *Statewatch*, commented:

The European Commission is not above the law it is the custodian of EU law, responsible for ensuring it is properly implemented. This makes it all the more reprehensible that under the Regulation on access to documents the Commission has failed to maintain a proper register of documents and failed to publish an annual report for 2005.

Open, transparent and accountable decision-making is the essence of any democratic system. Secrecy is its enemy and produces distrust, cynicism and apathy among citizens and closed minds among policy makers.

The European Commission must be called to account for its actions or rather its failures to act

Commission's failure to provide a proper public register of documents

One of the prerequisites of informed debate in a democracy is access to the documents on which adopted measures are based. People can then see what influences are at work and which ideas were accepted or rejected and why.

The primary source of EU documents is the public registers of documents set up under the 2001 Regulation (1049/2001). The Regulation applies to the three main institutions: the Council of the European Union (the 27 governments), the European Commission and the European Parliament. The Council and parliament have public registers that contain references to the majority of their documents and broadly meet the Regulation. The same cannot be said of the European Commission.

The Commission's public register of documents only contains legislative texts and adopted Commission reports (COM and SEC documents). It does not include the vast majority of documents produced or received by the Commission. In its annual reports the Commission has simply spoken of gradually "improving" its register. Whereas Article 11.1 of the Regulation says: "References to documents shall be recorded in the register without delay."

The European Ombudsman accepted *Statewatch*'s complaint on 23 October 2006 and it took the Commission six months to respond. Extraordinarily the reply by President of the Commission contested the provision of Article 11.1 by saying:

It does not stipulate that public registers should include references to all documents

But Article 11.1 is explicit: it does not say some documents or certain documents, it clearly refers to *all* documents.

Equally extraordinarily the Commission seeks to question the definition of a "document" as set out in Article 3.a of the Regulation by saying that a "precise definition" of a document is needed - when Article 3.a is also quite explicit: it is any document produced or received by the Commission whatever its medium.

The Commission then tries to claim that the Regulation: "has a particular focus on the legislative activities of the institutions" which is quite untrue, the focus is on citizen's access to documents in general. Article 12.2 does refer to legislative activities with a "focus" on giving direct access to the content of documents (as distinct from just references). Even here the Commission has failed.

According to a survey by *Statewatch* (April) since the DGJLS (justice and home affairs) register went online in 2002 the full-text has only been provided to:

- 43% of COM documents (*Communications*)
- 21% of SEC documents (*backing up COM documents*) and
- only 0.5% of 599 Commission Decisions in this DG.

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In its response the Commission admitted that each Directorate General had its own register of documents (across 25-plus DGs) held in the "Adonis" system. In its response to the Commission's submission *Statewatch* asked why access could not be given to each DG internal register as an intermediate step to a fully comprehensive register being made available?

The European Ombudsman followed up *Statewatch's* response by seeking further information from the Commission. The Ombudsman asks:

if it considers that its register(s) only need to list documents [the Commission] concerning its involvement in the legislative process of the Communities and, if so, what the reasons for this belief are?

And asks the Commission why it considers:

its present approach to Article 11 of Regulation 1049/2001 is in conformity with the letter and spirit of that Regulation?

The Commission's failure to produce an annual report for 2005 in 2006

The European Commission failed to publish an annual report for 2005 in the year 2006 as specified in Article 17.1:

Each institution shall publish annually a report for the preceding year.

The European Commission's annual reports regarding Regulation have been previously published as follows: for 2002 published in 29 April 2003; for 2003 published in 30 April 2004; for the year 2004 published in 29 July 2005.

Statewatch contends that the failure to publish the 2005 annual report in 2006 as required under Article 17.1 is a clear case of maladministration.

At the end of July the Commission's response was received. It claimed that the "delay" was due to: a) "priority" being given to the Green Paper on the Regulation (see below) and b) a "major turnover of staff".

The "priority" for EU institutions should be to obey Community law. To say it gave the "Green Paper" priority over its legal obligation demonstrates maladministration. To argue there was a "major turnover in staff" demonstrates administrative incompetence.

The Council of the European Union (the 27 governments) produced an annual report on the Regulation for 2005 in 2006 and a report on 2006 in April 2007. The European Parliament produced an annual report for 2005 in 2006 and a report on 2006 in May 2007.

Note: Statewatch has previously won eight cases lodged against the Council of the European Union with the European Ombudsman. One of these led to a Special Report to the European Parliament. All of these successes led to improved rights for everyone in the EU.

The Green Paper and the "Reform Treaty"

In April 2007 the Commission produced a "consultation" Green Paper – which itself was more than six months late. It asked a number of contentious questions, for example, yet again trying to refuse "excessive or improper" requests for access and seeking to set a time limited when documents cannot be released. It also failed to ask a number of crucial questions such as member state and third party (eg USA) vetoes on access to documents, the utter failure of the "overriding public interest" requirement and the release of documents during the "decision-making process" (otherwise access is only given *after* a measure is adopted).

The intention was for the Commission to produce draft amendments to the Regulation in the autumn but this has now been overtaken by the June agreement on the "Reform Treaty". It is to be expected that after the Treaty is agreed in October a quite different set of amendments will emerge.

See: Statewatch's Observatory: "FOI in the EU" with news, cases, analyses and full documentation on: <http://www.statewatch.org/foi.htm>

SWITZERLAND

Whistleblowers cleared by military court

A military court has acquitted three Swiss journalists of "violating military secrecy" for publishing details of secret prisons run by the CIA in eastern Europe and elsewhere. Christopher Grenacher, editor of the Zurich-based *SonntagsBlick*, and two journalists on the paper, Sandro Brotz and Beat Jost, were charged after publishing a leaked fax "dealing with supposed places of detention and interrogation methods used by the US foreign intelligence service (CIA)." The newspaper published details of the fax, sent from the Egyptian foreign ministry to Cairo's embassy in London and intercepted by Swiss military intelligence, in January 2006. In the fax the Egyptian Foreign minister, Ahmed About Gheit, is said to have confirmed the presence of a US "interrogation" centre in Romania and to have suggested that other illegal sites existed in Bulgaria, Kosovo, Macedonia and the Ukraine. Last June a European parliamentary committee headed by Dick Marty found that more than a dozen European countries had colluded in a "global spider's web" of secret CIA interrogation centres and the abduction of terrorist suspects. It is perhaps germane to note that the European Federation of Journalists (EFJ) has condemned the Swiss military for using legal proceedings to intimidate journalists.

The case raised other relevant issues. Switzerland is the only European country where civilians are expected to appear in front of a military tribunal if they are summoned to do so and the appearance of the journalists had serious implications for press freedom. Several Swiss journalists have been fined by military courts in recent years after publishing critical articles and in 2006 a journalist was sentenced to 20 days imprisonment after reporting on a bunker's construction faults. Before the *SonntagsBlick* journalist's appearance politicians, trades unions, journalists and other civil libertarians had demanded a "free media instead of military courts". The president of the Swiss Press Council, Peter Studer, argued that military courts were not "in keeping with the times" while Reporters Without Borders questioned the legitimacy of the decision to try the journalists before a military tribunal.

See Statewatch Observatory on rendition

<http://www.statewatch.org/rendition/rendition.html>

Reporters Without Borders website:

http://www.rsf.org/rubrique/.php?id_rubrique=20

European Federation of Journalists website: <http://www.iff-europe.org/>

Free Press no 157 (March-April) 2007; Swiss Info 17.4.07

UK

"Talking" CCTV expanded

In April 2007 the Home Office announced the extension of "talking" CCTV cameras to 20 "communities" across England at a cost of over £500,000. The scheme was piloted in Middlesbrough and involves a relatively small number of an area's surveillance cameras being fitted with twin loudspeakers from which council workers in a command centre can confront those guilty of anti-social behaviour such as vandalism, littering and drunkenness. Voice recordings of children from local schools will sometimes be played in the hope that they will shame offenders into complying. Louise Casey, head of the government's "Respect" task force, said that "we are

encouraging children to send this clear message to grown ups - act anti-socially and face the shame of being publicly embarrassed." In December 2006 *The Observer* reported that Westminster council was trialing a similarly principled system in which high-powered microphones were attached to cameras to monitor conversations and alert police when aggressive noises that may preempt a violent encounter were detected (see *Statewatch* Vol 17 no 1).

Both schemes reflect the government's unerring belief in the extension of CCTV cameras as a crime prevention tool despite limited evidence of their effectiveness. And in May 2007 the new national advisory body for the industry, CameraWatch, suggested that as many as 90% of Britain's 4.2 million cameras are operated illegally and don't comply with the UK CCTV code of practice. Speaking at its launch, the organisation's founding chairman, Gordon Ferrie, claimed that most cameras in public places breach the Data Protection Act and that many are also in conflict with the EU Human Rights Act. The former is frequently breached because its stipulation that images of people should be treated with the same degree of confidentiality as names, addresses and phone numbers, is not being adhered to. Further, a significant number of cameras are not registered under the Data Protection Act as required, and many of those that are being used for a purpose other than that for which they were registered; another violation. Viewing monitors are often fitted in public areas from which access is not suitably restricted and many new digital cameras now transmit images across insecure internet connections. Ferrie argues that operational flaws such as these mean "clever legal counsel could drive a horse and cart through most CCTV evidence..."

Companies breaching peoples' privacy

At the launch of his office's annual report, the UK Information Commissioner, Richard Thomas, revealed that private companies and public bodies are breaching peoples' privacy on a regular basis. Investigations undertaken by his Office over the past year found that large high-street banks, such as Barclays and Natwest, have been throwing documents containing customer names and addresses out on the street with their rubbish. The former also faces sanctions for misusing personal data to make sales calls, while the Nationwide bank took three weeks to realise that a laptop stolen from an employee contained the account details of thousands of customers. As a result of another high profile investigation in December 2006, Liverpool City Council was fined for failing to comply with the Data Protection Act. In response to this "frankly horrifying... roll call of organisations that have admitted serious security lapses", Thomas has called for an extension of his Office's powers to be able to freely conduct inspections and audit companies without having to seek permission (as is currently the case). This, he believes, would "force the pace", providing a greater incentive for companies to acquaint themselves with the security issues surrounding data protection and improve their operational practices.

Independent 11/7/07, *The Times* 5/4/07, 31/5/07, *Guardian* 11/7/07; *Information Commissioner's Office Annual Report 2006/07*; www.camerawatch.org.uk

Civil Liberties - new material

What to do about torture? Manfred Nowak interviewed, Kanishk Tharoor, *Open Democracy*. 15.01.07. UN special rapporteur Manfred Nowak critically assesses the post-9/11 era and western governments' complicity in secret detention and torture. Nowak starts his interview with the observation that "The Bush administration has done quite a lot to undermine the absolute prohibition of torture, for instance by interpreting torture in a very restrictive manner and claiming they are not really torturing," before going on to condemn the rendition system and pointing out the illogical nature of the claim that undermining

fundamental human rights would create more security for western democracies: "The prohibition of torture is an "absolute right", which means that there is no proportionality to be applied. A little bit of torture doesn't make us safer, it's the opposite. As soon as you undermine the prohibition of torture, and you start in the "ticking bomb scenario" to apply torture, it very quickly spreads and creates new terrorism. We now have more terrorists since we are fighting terrorism by violating our own standards and the international rule of law." Nowak has also visited or is planning to visit Georgia, China, Nepal, Sri Lanka, Togo, Nigeria, Indonesia Zimbabwe, Jordan, Egypt, Syria, Saudi Arabia, Iraq, Afghanistan, India, the north Caucasus Republics and Russia, to name but a few. Most countries fail to comply with UN regulations; Nowak recently found Nigeria to engage in systematic torture, and Russia has failed to invite him. However, he has not given up hope: "I am still confident that I will be allowed to visit Guantánamo and other places of detention where US officials hold suspected terrorists."

http://www.opendemocracy.net/conflict-terrorism/nowak_4249.jsp

From Avoidance to Acceptance: mental health and the role of human rights in Europe, Jill Stavert. *SCOLAG Journal*, June 2007, pp. 119-125. This paper considers mental health in light of the EU Green Paper *Improving the mental health of the population: towards a strategy on mental health for the European Union* and the European Court of Human Rights.

Civilians Without Protection: the ever worsening crisis in Iraq. International Committee of the Red Cross, 11.4.07, pp. 14. This report documents the "steadily worsening" crisis in Iraq since the US-UK invasion in 2003 to rid the country of its non-existent weapons of mass destruction and install democracy, freedom and prosperity. It says that four years on the invasion is still causing "immense suffering" and calls for greater protection of civilians, noting that the violence is "affecting, directly or indirectly, all Iraqis". The relief agency says i. that medical care in the country is under threat because medical professionals are fleeing following the murder or abduction of colleagues; ii. that much of Iraq's water supply, sewage and electricity is in a critical condition - a water crisis has been caused by contamination due to the discharge of untreated sewage into rivers that are the main source of drinking water, and iii. that families are being torn apart because of "tens of thousands of people are currently being detained by the Iraqi authorities and the multinational forces." The ICRC report is available at:

<http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/iraq-report-110407?opendocument>

Guidelines for reporting HIV. *National Union of Journalists*, April 2007, pp 18. "Accurate reporting about HIV is necessary not only to meet journalistic standards but because individual health and public health may benefit too: myths are dispelled, prejudice is undermined and understanding increased." These Guidelines provide a balanced and accurate picture on HIV/Aids and presents this complex medical field in an easy accessible format. Contains a suggestion of descriptions and words to use for objective reporting to uphold journalistic standards. Available from NUJ, Headland House, 308 Gray's Inn Road, London WC1X 8DP, +44 20 7278 7916

Ghost Plane: the inside story of the CIA's secret rendition programme. Stephen Grey *Hurst & Co*, £16.95. Grey's volume is the most comprehensive account to date of the CIA's secret and criminal international abduction policy, a key plank of the so-called war on terror that has come to be known by the euphemism "extraordinary rendition". By tracking the flight paths of certain CIA - and asset company - planes and correlating them to the country and dates in which victims were kidnapped Grey has amassed a wealth of data on this obscene, Kafkaesque world. Grey describes the experiences of men like Maher Arar who was abused for over a year by the Syrian secret police. He also places the rendition programme within a broader historical context of illegal CIA flights, from Air America in Vietnam to their involvement with the Nicaraguan Contra terrorist group. While Grey occasionally equivocates over the moral questions - giving Blair's "the rules have changed" remark an unmerited *gravitas* - he has written an essential volume that exposes the hypocrisy of US attempts at justification (the spread of "democracy") and Blair's unconditional support. Stephen Grey has a website: <http://stephengrey.com/>

SPAIN**Nigerian man dies during forced expulsion**

A 23-year-old Nigerian man, Osamuyia Aikpitanhi, died in mid-flight on 9 June 2007 from cardio-respiratory failure caused by asphyxia during a deportation on an Iberia flight from Madrid's Barajas airport to Lagos, according to medical reports. Aikpitanhi had refused to embark on the flight and was restrained by officers who struggled with him before carrying him onto the aircraft. His hands and feet were tied and he was gagged with tape because he had bitten an officer, according to police sources. The autopsy also recorded slight injuries to his back and left hand. It was the third attempt to carry out an expulsion that was ordered on 2 May 2007 and had been suspended twice before due to Aikpitanhi's resistance.

An early claim by police that it was a sudden death was contradicted by relatives. They said that the police "mistreated him and placed tape in his mouth to stop him shouting" and "sent four strong policemen to beat and mistreat him to be able to take him away". Chester Aikpithani, Osamuyia's brother, claimed that the coroner told him that his lungs were full of blood, and their lawyer is looking to bring a private prosecution. He has asked the competent court in Elche (Alicante), close to where the Iberia aircraft landed, to open investigations into allegations of ill-treatment and of causing Aikpithani's death against the officers executing the expulsion. They claimed that witnesses confirm their claims. A video recording by one of the passengers was also reported to exist. The judge has taken statements from two Nigerian witnesses who were also set to be deported on the flight. However, the two officers escorting Aikpitanhi were heard as witnesses in the Madrid provincial court, rather than as suspects, as the prosecution had requested.

Aikpitanhi's death confirms the deadly effects of expulsion policy and practices. He joins a list of deaths of third-country migrants deported in flights out of the EU, including a number of cases in which covering deportees' mouths and obstructing their breathing led to their deaths by asphyxia, as occurred in the case of Khaled Abuzarifeh, a Palestinian being expelled from Switzerland to Egypt in March 1999, of Marcus Omofuma, a Nigerian man on a flight from Austria to Sofia in May 1999, and of Aamir Mohamed Ageeb, a Sudanese asylum seeker on a flight from Germany to Cairo on which he was forced to embark wearing a helmet. Council of Europe guidelines concerning deportation flights recommend that "the ability of the repatriated person to breathe normally must not be impeded or put at risk".

In late May 2006, President Abdullah Wade of Senegal temporarily suspended the country's agreement to receive people expelled from Spain in protest after a group of nearly 100 of his fellow countrymen had been expelled in flights, handcuffed and without knowing where they were going, in conditions that he claimed contravened human rights. An earlier and more alarming incident involved the expulsion of scores of Nigerians who were sedated on a flight to Lagos in 1999.

The Federation of Spanish SOS Racismo associations issued a statement calling for a transparent and effective investigation into the causes of Osamuyia Aikpitanhi's death, for its findings to be made public, and for adequate measures to be adopted if any responsibility for the death was ascertained. They also called on the ombudsman to investigate the case and noted that there have been precedents for bad practices while carrying out expulsions. A spokesperson for the Federation of Nigerian Communities was quoted as claiming that the "police treated him

like an animal", and called for the "officers to be tried and have the law applied to them". The spokesperson added that ill-treatment of deportees on airplanes by officers is frequent. *El Pais* newspaper also reported that an investigating commission composed of Nigerian MPs will investigate the circumstances surrounding the death and has called for a passenger who is believed to have recorded the incident to testify.

*SOS Racismo statement, 11.6.06; Letter of protest to Spanish authorities (from Nigerian Village Square, <http://www.nigeriavillagesquare.com>, open for signing); Concerned Nigerians Worldwide Protest Against Death, 28.6.07, <http://no-racism.net/article/2169/>; *El Pais*, 12, 26.6.07, 11.7.07; *El Mundo*, 26.6.07, *La Verdad de Murcia*, 12.6.07; *Daily News* 15.9.06.*

FRANCE**Air France KLM employees demand an end to deportations**

On 5 July, representatives of Air France's central trade union committee (*comité d'entreprise*, CCE) passed a motion demanding that Air France KLM Group shareholders "stop the use of aircraft of the Group Air France KLM for the deportation of foreigners". Representatives of the CFDT, CGT, FO and CGC trade unions specify in the motion, which was passed a few days before the shareholders meeting of 12 July in Paris, that deportations damage the image of the company and endanger flight safety.

Philippe Decrulle, CFDT representative in the CCE, said that through the motion employees want to warn shareholders that the reputation Air France is gaining especially, in Africa, is bad for business: "It is increasingly evident that the employees are fed up [with deportations]", he said. "[Shareholders] have to be aware that the deportations can damage the image of the Air France brand. They will most probably lose money. We are defending our means of work. We believe the deportations should be stopped and a memorandum should be passed immediately", Decrulle said.

The move comes after a series of violent deportations on Air France flights. In May this year, a flight from Paris to Bamako (Mali) was cancelled when passengers intervened in a deportation. It was one of many incidents in the past few years where forced deportations have upset staff and passengers who helped the deportee to resist. Film maker Laurent Cantet was on board the aircraft with his film crew when the deportation of a 50-year-old Malian citizen escalated. Cantet said that he initially thought a fight had broken out between passengers, until two plainclothes police officers identified themselves after starting to restrain the victim by sitting on him. One officer hit him in the stomach, the other appeared to strangle him as his screams subsided and he lost consciousness. Passengers, many of whom were black, got very upset and one began filming the scene with his mobile phone, upon which an officer threatened to arrest him.

Police then took the deportee off the plane, leaving a stewardess and several passengers in tears. Police then tried to locate the film of the incident, accusing another passenger, Michel Dubois, of initiating the conflict. In an extraordinary abuse of police powers Dubois was actually arrested and, to their credit, passengers began to protest and refused to obey orders to sit down. The police officers then attempted to strike a deal, saying that they would allow Dubois on board again if the passengers would allow the deportation to go ahead. The flight was eventually cancelled by the pilot. The 50-year old Malian citizen was charged and convicted of refusing to cooperate with his deportation and resisting police officers. Dubois was released and the group "Education without borders", which defends undocumented parents of school children, announced the formation of a solidarity committee supporting victims of criminalisation.

The French newspaper *Libération* (11.7.07) asked how the motion came about, the CFDT representative, Philippe Decrulle revealed that the intensification of deportations and restrictive immigration policy under the then interior minister, Nicolas Sarkozy, had led to daily deportations on Air France KLM flights to Bamako. This fact, together with ongoing campaigns by anti-deportation groups and the "Education without Borders" network, had mobilised passengers and the workforce to resist the violent and abusive deportations:

There is a real, increasing consciousness amongst passengers who can no longer endure flying in a sort of deportation cell with shackled deportees, who are sometimes drugged like zombies. The personnel no longer accept working in a climate of violence and tension. And the Education without Borders network which has been mobilising against depositions for some years now, has contributed a lot to raising consciousness.

When asked about the staff's relationship to law enforcement agencies during the deportations, Decrulle said that relationships are not bad *per se*, however:

The uniformed CRS [special forces] boarding the aircraft are often aggressive. It becomes very tense when the person being deported starts panicking, screaming and resists because he is shackled at hand and feet. Moreover, I don't know how one should take care of these people in case of an emergency, when we have only 90 seconds to evacuate 200-300 passengers.

Liberation, 28.5.07, 11.7.07

NIGERIA/EUROPE

UN rapporteur finds systematic torture

Nigerian asylum seekers are routinely depicted as undesired illegal immigrants in the western press, and criminalised by accusations ranging from internet fraud to mafia activities. Sometimes the racist media slur, supported by government claims of "bogus" asylum seekers, erupts in racist attacks, such as in Ireland in 2000 (see *Statewatch* Vol. 10 no 2). In Austria police launched a series of raids against Africans in "Operation Spring", which used aggressive racist stereotyping depicting Nigerians, in particular, as drug dealers (*Statewatch* Vol. 12 no 2). The claim that Nigerians run e-mail spam operations was used in Amsterdam in July as a justification to raid a concert, arresting 110 undocumented migrants, many of them Nigerians whose asylum application had been rejected. Manfred Nowak, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, reminds Western governments in his latest report that Nigeria engages in systematic torture. On conclusion of his visit 4-10 March this year, where he carried out unannounced checks of prisons and detention facilities, Nowak said that more than half of Nigeria's prison population has never been convicted of any crime and that it is common for prisoners to wait five to 10 years to come to trial. Further, torture is being used for the purpose of extracting confessions or to obtain further information in relation to alleged crimes. The UN press release (HR/07/35, 12 March 2007) says:

"Methods of torture included: flogging with whips; beating with batons and machetes; shooting suspects in the foot; threatening a suspect with death and then shooting him with powder cartridges; suspension from the ceiling or metal rods in various positions; and being denied food, water and medical treatment. [...] the Special Rapporteur concludes that torture and ill-treatment is widespread in police custody; particularly systemic in the Criminal Investigation Departments. Torture is an intrinsic part of how law enforcement services operate within the country.

The Niger Delta conflict, one reason for many Nigerians to seek political asylum, merits special attention:

The increasing violence in the Niger Delta, with its roots in the Federal Government's decades-long neglect and marginalisation of people in the region, and the desperate poverty they face despite the enormous oil revenues emanating from there impacts upon the practice of torture and ill-treatment. The rise of serious violent crime and attacks by vigilante and criminal gangs against the local population and the oil companies operating there, and the resultant heavy response from security forces, as well as police paid by oil companies, invite allegations of torture and ill-treatment.

When questioned by the Austrian asylum rights group *Asylkoordination Österreich*, if his recent report implied that forced deportation to Nigeria would constitute *refoulement*, Nowak replied that even though most Nigerian asylum applications that were not related to the Niger Delta conflict might not constitute political asylum as defined under the Geneva Refugee Convention, forced returns of Nigerians who were convicted of drugs offenses, for example, would certainly have to be assessed individually for high risk of *refoulement*, (i.e. that the person deported is in risk of being tortured in prison in Nigeria). Forced returns alert authorities in Nigeria to the deportee and put him in danger, according to *Asylkoordination*.

*The reports by the Special Rapporteur to the UN Human Rights council: <http://www.ohchr.org/english/issues/torture/rapporteur/index.htm>. The interview with Nowak appeared in *Asyl Aktuell*, issue 1/2007, *Asylkoordination Österreich*, Laudongasse 52/9, A-10180 Vienna.*

Immigration - new material

Moving On - from destitution to contribution. *Joseph Rowntree Charitable Trust*, 28.3.07, pp 22. This is the report of an independent inquiry into people refused asylum that exposes the "inhumane" conditions created by the government that leaves an "invisible population of destitute people who can neither go home nor contribute to British society." It is based on a survey of failed asylum seekers in Leeds that "found that one in four (including women) had slept rough and a third had been destitute for a year or more. Many were suffering grave social and health problems and some with thoughts of suicide." See: <http://www.jrct.org.uk/text.asp?section=0001000200030006>

"Mamadou va a morire. La strage di clandestini nel Mediterraneo", Gabriele Del Grande, *Infinito Edizioni*, May 2007, ISBN 978-88-89602-14-0, pp 160, 14 euros. A fascinating journey by Del Grande, founder of *Fortress Europe*, a media observatory documenting the tragedies and deaths during "illegal" immigration attempts, who travels in the opposite direction to migrants, from Italy to the places from where the victims set off and key points along their journeys. He visits the villages where the victims of well-documented shipwrecks came from, describing the colours, fragrances and glimpses of everyday life, as well as talking to families of the deceased (who often continue to hope their relatives are alive, in the absence of a body of the "disappeared"). He talks to others who are not dissuaded from their plans to emigrate by the tragic news from the seas and offers a wealth of details to the researcher. In-depth information concerning a number of incidents, shipwrecks, failed immigration attempts and policies and practices to combat immigration is included. Incidents such as shipwrecks during interception attempts, abuses in operations against illegal immigration, and practices such as collusion and corruption between border guards and members of people smuggling networks are detailed. Notorious among migrants they are seldom referred to in the debate in immigration at an official and media level. He provides insights that paint a far more comprehensive picture of the migrants' experience: from institutions such as detention centres or prisons to life in make-shift communities among which they hide and await their chance, along the African coast in villages where migrants embark, or in large cities in countries of origin. The accounts from protagonists of this phenomenon are used to provide an account of the different stages in their journey, and to cover as wide a region as possible - all the way from Turkey to Senegal, passing through countries including Morocco, Algeria, Senegal, Mauritania and the Western Sahara - from all of which he offers vivid snapshots. Available from: *Infinito Edizioni*, <http://www.infinitoedizioni.it>

Sergey Baranyuk forgotten at Harmondsworth. *Race Files* Issue 36 (January) 2007, p 3. Article on the death of Ukrainian asylum seeker, Sergey Baranyuk, who was "detained, forgotten and slowly driven to despair" until he was found hanged in a shower room at Harmondsworth removal centre in July 2004. Available from Greenwich Council for Racial Equality, 1-4 Beresford Square, Woolwich, London SE18 6BB, email: gcre@supanet.com

Aspects of contempt for Humanity in Europe, Deportation Centre Motardstraße. *Bündnis gegen Lager Berlin/Brandenburg (Alliance Against Camps)*, February 2007, pp 48. This brochure describes the internal and external situation of Fortress Europe and, in particular, the detention and racist exclusion of refugees and migrants in Germany. It provides a history of migration policy, and outlines and analyses the situation of refugees in Brandenburg, 'departure centres' and the 'Motardstraße' detention camp in Berlin. It also points the finger at profiteers from the camp system and suggests possibilities for political intervention against the detention system within an anti-racist framework. There is an interview with a Motardstraße resident and it provides a detailed list of anti-racist and migrant campaigns and support organisations as well as a helpful glossary. Available from: buendnis_gegen_lager@riseup.net or download from [http://www.chipkartenini.squat.net/Archiv/aktionen/berichte/Motardstr](http://www.chipkartenini.squat.net/Archiv/aktionen/berichte/Motardstra%dfefe%20-%20Materialien/Motardstrasse-Materialien.html)

UK Borders Bill. *House of Commons* 25.1.07, pp 26. The UK Borders Bill was presented to the House of Commons by the Home Secretary in January. The bill has been described by leading immigration lawyer, Frances Webber, who says that it "continues the trend of previous legislation, giving immigration officers further powers, decreasing the rights of those subject to immigration control and creating further duties and penalties for them. Its effect is bound to be to reinforce xenophobia and popular racism - unless the draconian nature of some of its provisions lead to a groundswell of anti-racist protest."

Reporting Asylum: the UK press and the effectiveness of PCC guidelines, Kate Smart, Roger Grimshaw, Christopher McDowell & Beth Crossland. *The Information Centre about Asylum and Refugees in the UK (ICAR)*, January 2007, pp 22.

Undocumented Migrant Workers Have Rights! An Overview of the International Human Rights Framework. PICUM, March 2007, pp 52, free PDF download. A growing number of NGOs, local authorities, professionals from diverse fields, as well as undocumented migrants themselves strive to defend undocumented migrants' human rights, including the right to health care, education and training, fair working conditions, and housing. Yet they are confronted on a daily basis with situations in which they witness that irregular status is an obstacle and a way of discriminating against sizeable part of the population in accessing basic social services and in upholding their human rights. The human rights of undocumented migrants are articulated within a variety of instruments and treaties on both the international and regional levels. This publication provides a clear picture of the different instruments and specific Articles that specifically relate to undocumented migrants, within the international human rights framework as well as those on the European level and clarifies why and how these instruments uphold their human rights. Also contains a useful link collection. Available from: info@picum.org, Gaucheretstraat 164, 1030 Brussels, Belgium, +32 2 274 1439

The New Londoners. *Refugee Media Action Group/Migrants Resource Centre* [This review is by the IRR News Team, see www.irr.org.uk], June 2007, pp24, free. A new paper circulating in London, *The New Londoners*, produced by refugees and asylum seekers, provides a strong, alternative voice for these marginalised and often vilified communities. The tabloid-size 24-page newspaper, produced by the Refugee Media Action Group at the Migrants Resource Centre for Refugee Week, is slickly produced with quality pictures and interesting articles which provide information and analysis about issues that affect refugees and asylum seekers in London. The *New Londoners* contains articles on the Strangers into Citizens campaign, media coverage/hysteria on asylum issues, party political differences on asylum, the housing crisis and destitution as well as personal accounts of the process of seeing asylum in the UK, a worldwide map of global

human displacement, stories of refugee achievements, political interviews with Tony Benn and Ken Livingstone and much, much more. Refugees and asylum seekers spent months researching and writing for the paper which will turn into a web-based paper and blog. It is hoped to produce the papers on a quarterly basis. Nazek Ramadan, Migrant & Refugee Empowerment Worker at the Migrant Resource Centre told IRR News: 'Our project is unique in that it gives a voice to those who have, over recent years, been subject to increasing hostility from the media. MPs and Peers have addressed the issue of negative media coverage in the recent Joint Committee on Human Rights report. In particular the effects it can have on individual asylum seekers and the potential it has to influence the decision making of officials and Government policy. We are also concerned about the possibility of a link between hostile reporting by the media and physical attacks on asylum seekers.' Copies of *The New Londoners* are being given out at central London stations, alternatively you can email Nazek Ramadan for a copy at: Nazek@migrants.org.uk or pick up a copy at the MRC office: 24 Churton Street, London SW1V 2LP.

Recent developments in Immigration law, Jawaid Luqmani & Ranjiv Khubber. *Legal Action* June 2007, pp.10-16. Latest update on developments in immigration legislation, practice and case law.

Prisoners of Terrorism? The impact of anti-terrorism measures on refugees and asylum seekers in Britain, Anja Rudiger. *Refugee Council*, pp 46. This study is based on the results of ten focus groups that were held across Britain, with a total of 67 participants from refugee and asylum seeking communities. It explores the impact of anti-terrorist measures on refugees and asylum seekers, finding it to be "primarily negative, without yielding security benefits in return." http://www.refugeecouncil.org.uk/policy/position/2007/prisoners_terrorism.htm

Support for asylum-seekers and other migrants update, Sue Willman. *Legal Action* June 2007, pp. 17-20. This update on welfare provision for asylum seekers and other migrants examines a "new" Home Office strategy entitled *Enforcing the Rules* and a JCHR report that points to a number of human rights violations and demands changes in the treatment of asylum seekers. The article also covers the new "shadow agency", the Border and Immigration Agency, that has replaced the Immigration and Nationality Directorate.

LAW

Law - new material

"18/98: En justicia, la única solución: Absolución", Amalia Alejandre and José Manuel Hernández, May 2007. Article by two Madrid lawyers and EHwatch (Euskal Herria Watch) observers of the court proceedings of the 18/98 case, one of the most controversial in recent times, in which 52 people and several businesses and civil society organisations face charges of being part of ETA's "infrastructure". Their conclusion is summed up in the title: "18/98, in law the only solution: acquittal". It is also available in English. *EHwatch*, <http://www.ehwatch.org>

Setting the record straight: human rights in an era of international terrorism. Keir Starmer. *Legal Action* February 2007, pp. 6-9. This is the text of Starmer's annual Legal Action Group lecture last December. His starting point is the "claim made by several members of the Cabinet, including the Prime Minister, that there is a conflict between ensuring and protecting human rights on the one hand and ensuring and protecting all of us from terrorism on the other. Often that claim takes the form of an attack on the Human Rights Act (HRA) 1998. But it also takes the form of an attack on the judiciary, with a suggestion deliberately trailed that our judges are wrongly undermining the war on terror by deliberately misrepresenting the law." LAG, 242 Pentonville Road, London N1 9UN, email: legalaction@LAG.ORG.UK

Recent Developments in European Convention Law - part 2, Philip Leach. *Legal Action* June 2007, pp. 30-33. This article examines cases at the European Court of Human Rights with reference to the UK,

focusing on Articles 8 (Right to respect for private and family life), 12 (Right to marry) and 14 (Prohibition of discrimination).

El derecho a elegir y ser elegible. *Mugak*, n.38 (January-March) 2007, Euro 6. This issue focuses on the campaign for migrants to have the right to vote and to run for office, with articles also covering developments in EU policies, the relationship between immigration and remittances, a report on racial profiling by police, conflicts between youths in the Madrid neighbourhood of Alcocon and humanitarian concerns around the case of Marine I. Available from: *Mugak, Centro de Estudios y Documentacion sobre tacismo y xenofobia, Pena y Goni, 13-1-20002, San Sebastian*

MILITARY

EU/TURKEY

Turkey withdraws support for EU military policy

Turkey has decided to withdraw its support for the EU military operations that it delivered since the beginning of the 2000s to achieve the Headline Goals 2010 targets. Sources said that General Yilmaz Oguz, the Turkish military representative to NATO had officially conveyed Turkey's decision to the EU in May.

Turkey had earlier expressed its uneasiness over being excluded from decision-making and command mechanisms in the European military operations. Moreover Turkey's call to the EU to finalize the administrative arrangements for participation in the European Defence Agency was not met. Earlier, Norway signed a document to this end, but the signing of a similar document with Turkey was vetoed by Cyprus.

The Turkish move was confirmed by a representative of the Turkish Foreign Ministry, Tomur Bayer, at a conference on NATO and the European Security and Defence Policy: *Forging New Links*, held in Brussels on 8 June. However Bayer said that Turkey will continue to take part in an EU battlegroup.

Meanwhile, Turkish defence minister Vecdi Gonul has said that the special operations brigade which would join the EU military formations in 2010 was withdrawn after it was placed among the reserve units.

BBC Monitoring Europe - Political, 7.6.07; *The New Anatolian*, 13.6.07; *Jane's defence weekly*, 20.6.07 (*Nicholas Fiorenza*)

EU

MILEX 07 military exercise

From 7-15 June the EU Military Staff held its second military exercise, called MILEX 07. It was a so-called Command Post Exercise (CPX), with no troops involved, only staff. During the exercise, that took place in the framework of the European Security and Defence Policy (ESDP), the EU Operations Center (EU OpsCenter), composed of military and civilian elements, was activated for the first time. Staffed by 76 military and 13 civilian planners, it was declared operational last January, but had not been used in the intervening months to the annoyance of some EU member states like France.

The exercise focused on the interaction between EU OpsCenter in Brussels and an EU Force Headquarters (FHQ) in Enköping in Sweden during a supposedly autonomous EU-led military operation (so no NATO involvement). The Swedish headquarters was run by the commander of the Nordic Battlegroup.

MILEX 07 was based on a newly developed scenario called

ALISIA that is being used for EU exercises during the time frame from 2006 to 2010. In this case the scenario depicted a situation in a fictitious country (Alisia), where friction between the Transitional Government and a rebel group (the National Freedom Movement) had led to a situation in which the deployment of humanitarian aid to camps of internally displaced persons in the North-Western part of the country was significantly hampered. An already present UN mission did not have sufficient capabilities to address the situation. The idea was that the EU, at the request of the UN, would bridge the time needed for the UN to reorganize its personnel. The EU would virtually send 2,000 personnel including an Integrated Police Unit placed under military responsibility.

Some 200 'players' and supporting personnel took part in the exercise under command of Lieutenant-General David Leakey.

Defense News remarked that the used scenario fused some of the recent EU military missions like short-term interventions in Africa, peacekeeping in Bosnia and the stabilization and disarmament mission in Aceh.

China Daily, 5.6.07; *Defense News* 4.6.07 (*Brooks Tigner*); *www.mil.se* 21.6.07

Military - In brief

■ **EU: Billions of Euros more on Galileo:** European transport ministers pressed ahead with plans to develop the Galileo satellite navigation system to provide 'independence' from the US in spite of divisions about how to pay the bill. The ministers agreed unanimously to end talks with a private consortium and spend 2.4 billions euro to build it themselves instead. The private companies could not agree on a division of labour or on whether they should make a profit from their investment. However the UK position was that it would ground the project unless a business case for it could be made and that if it went ahead other EU projects should be scrapped. A detailed funding proposal by the EC will be drawn up by October. One billion euro has already been spent. Earlier, much higher costs had circulated in the financial press. According to the *Financial Times Deutschland* the total system of 30 satellites in orbit will cost 9-12 billion euro between now and 2030. *Forbes* 6.6.07 (*Maria Sheahan*); *Financial Times* 8.6.07 (*Andrew Bounds*)

■ **EU: Intelligence profile builds up:** According to the electronic newsletter *Intelligence Online*, the effective opening of an operational centre for the European Union's general staff in central Brussels in early January went hand in hand with the creation of a Single Intelligence Assessment Capacity (SIAC). The SIAC is meant to harmonize the flow of intelligence from the services of the member countries and make the result available for the stabilisation and security operations of the EU. There seems to be some confusion about the terminology, for the last Presidency Report to the European Council on prevention activities says: "Since the beginning of 2007, the Joint situation Centre and the EUMS Intelligence Division continued to provide crucial assistance to ESDP operations through all phases of planning and conduct under the SIAC aegis." *Intelligence online* 23.02.07; *Presidency Report to the European Council on EU activities in the framework of prevention*, 19.6.07.

■ **UK: MoD apologises to persecuted gays:** In June the Ministry of Defence apologised to servicemen and women who suffered persecution and discrimination before the ban on homosexuality was lifted in 2000. Until 2000 men and women were automatically dismissed from the services if their sexuality was disclosed and around 50 personnel who were sacked are awaiting breach of privacy cases at to be settled. In 2003 a gay RAF sergeant, Christopher Brown, was awarded £50,000 in an

out of court settlement after being discharged because of his sexuality in 1999 after 20 years of service. His case, which had reached the European Court of Human Rights before the settlement, led to a reversal of the armed forces' policy. It also led the Labour government to acknowledge that its policy was "intrusive and indefensible". The officer responsible for armed forces equality training at the joint equality and diversity training centre, Wing Commander Phil Sagar, told the BBC: "We can't change the past and what's happened has happened. But if...you've got testimony from people who feel that their lives have been ruined from this, then clearly it is not a good place to be." During the 1950s through the 1970s special investigation police targeted suspected gay men and women in a policy designed to "clean-out" homosexuals. However, in the 21st century, and in spite of their apologies, the RAF and the Army still ban their personnel from appearing on the London Pride march in uniform. In the build up to this year's march Air Chief Marshall Sir Glenn Torpy, the chief of the air staff, authorised a letter to all air station commanders explaining the while individuals may attend the annual gay celebration they could not wear their uniforms because it was against the Queen's Regulations. The First Sea Lord and Chief of the Naval Staff, Admiral Sir Jonathan Band, seemed to have fewer problems with the Regulations, permitting his service personnel to wear their uniforms. *BBC News*, 28.6.07; *The Times* 25.6.07, 28.6.07

■ **UK/New Zealand: Nuclear tests caused genetic damage:** A new report, published on 15 May to coincide with the fiftieth anniversary of Britain's nuclear tests in the Pacific, has found "long-term genetic damage" to New Zealand sailors who witnessed the tests. Between 1957 and 1958 the UK conducted a series of nine nuclear tests as a part of Operation Grapple on Christmas Island and Malden Island in the Republic of Kiribati. The study documents the long term health effects of New Zealand sailors who monitored the test from frigates finding that the "results are indicative of the 551 veterans having incurred long-term genetic damage as a consequence of performing their duties". The findings support claims by more than 700 veterans, from the UK, New Zealand and Fiji who say that they were exposed to significant amounts of radioactive material that has resulted in cancers and other serious illnesses. The UK Ministry of Defence has always denied that there is any link between the tests and the illnesses but the British family of one nuclear veteran received £40,000 in compensation from the US government when he died last September from cancer. Roy Prescott (66) had witnessed a number of US nuclear tests while serving in the British Army on Christmas Island in 1962. *Times* 15.5.07; *RE (AI) Rowland et al "New Zealand Nuclear Test Veterans' Study: a cytogenetic analysis" Institute of Molecular BioSciences, New Zealand 2007*

Military - new material

The botched US raid that led to the hostage crisis, Patrick Cockburn. *Independent* 3.4.07, pp. 1-2. Cockburn describes how "A failed American attempt to abduct two senior Iranian security officers [Mohammed Jafari, deputy-head of the Iranian National Security Council and General Minojahar Prouzands] who were on an official visit to northern Iraq started the crisis that, 10 weeks later, led to Iranians seizing 15 British sailors and Marines." He continues: "The attempt by the US to seize the two high-ranking Iranian security officers openly meeting with Iraqi leaders is somewhat as if Iran had tried to kidnap the heads of the CIA and MI6 while they were on an official visit to a country neighbouring Iran, such as Pakistan or Afghanistan."

European Space Policy. *Communication from the Commission to the Council and the European parliament*, Brussels, 26.4.07, COM(2007) 212, http://ec.europa.eu/enterprise/space/doc_pdf/com_en.pdf

So, where is Mark Thatcher?, Raymond Whittaker. *Independent on*

Sunday 13.5.07, p. 53. This piece is an update on the Equatorial Guinea coup attempt by a plane full of ex-security guards, led by the Old Etonian mercenary, Simon Mann, who was arrested at Harare airport in 2004 with a shipment of arms destined for the overthrow. It compares the role of Mann, who is facing a life sentence in a notorious prison, with Sir Mark Thatcher, son of the Conservative prime minister and a financier of the operation, who has never spent a day in jail. He is currently to be found "flitting between Gibraltar and London, trying to hang on to as much of his estimated £60m fortune as is possible."

The European Defence Agency two years on http://www.assembly-weu.org/en/documents/sessions_ordinaires/rpt/2007/1965.pdf

POLICING

Policing - in brief

■ **UK: Police use of Taser extended:** In May the then Home Secretary, John Reid, announced plans to extend the number of police officers authorised to use controversial Taser stun guns to the annual Police Federation conference in Blackpool. The move was presented as part of a government package to "rebalance" a criminal justice system that Reid sees as overwhelmingly biased in favour of the criminal at the expense of the victim. While many view Reid's perception of the criminal justice system as idiosyncratic, his decision does overturn the view of a previous Home Secretary, Hazel Blears, who in 2005 described the Taser as "a dangerous weapon" which should not be issued to all front line officers. She added, that the 50,000 volt electric stun gun was unsuitable for use in everyday circumstances and that providing officers with such an "array of weapons" could undermine relations between the police and public. Currently, only trained firearms officers can use the weapon but the new plans would extend this to support units and extend its use on people who are not armed. The Home said that the stun guns would be tested over a year long period in a trial for units that were not authorised firearms officers. While the Taser is widely described as a "non-lethal" weapon numerous deaths have been linked to the it by Amnesty International. The manufacturer of the model used by the UK police, Arizona based Taser International, was forced to correct misleading statements it made about the weapon in 2005, (see *Statewatch* Vol 15 no 5). *Times* 17.5.07; *politics.co.uk* 16.5.07

■ **Italy: Genoa G8 demonstrator wins compensation:** Marina Spacchi, a 50-year-old paediatrician from Trieste who was beaten during police raids in the G8 summit in Genoa on 20 July 2001, has won 5,000 euros compensation at a Genoa tribunal after the interior ministry was found guilty for her material and moral suffering. The charges stated that "it was neither an isolated incident, an instance of individual excesses by a few officers, nor a fatal mishap during a legitimate policing operation seeking to re-establish public order that had been seriously threatened". In reference to the images that were shown to the court, it noted that "We see people who are dressed normally, handcuffed; several policemen striking a person with truncheons who is defenceless on the floor. Spaccini herself is a 50-year-old person whose gentle appearance has been rightly stressed". This, argues Lorenzo Guadagnucci in *Carta* magazine, may be a significant outcome, in view of the fact that it is "the first judicial decision certifying the systematic abuses committed by the police forces in the streets of Genoa". *Carta*, 10.5.07, available at: <http://www.cartamagazine.org/editoriali/2007/070510.htm>

■ **UK: MI6 officer appointed chief constable:** The Civil Nuclear Police Authority appointed a senior Foreign Office diplomat, Richard Thompson (46), as the UK's only civilian Chief Constable it was announced in April. The post became

available following the retirement of Bill Pyke as the Civil Nuclear Constabulary's (CNC) head in 2006. The government proposed allowing individuals to enter the police force at all ranks, not just as a constable, in its 2004 police reform White Paper *Beating crime, building communities*. The new chief constable was described as "a senior MI6 officer" by Stewart Tendler in *The Times* newspaper who added that he worked as "a station chief in Baghdad and worked in Kosovo". Prior to the new chief constable's appointment the Police Federation of England and Wales described the proposal to appoint "a non-sworn officer" as head of the CNC as ludicrous: "Director of Policing - how ludicrous is that? From a police officer's perspective, I would prefer it that the person who was made chief constable had two or three years in a senior rank." Barry Wright, the general secretary of the CNC said the move would be "an abysmal state of affairs." The CNC is an armed force of more than 800 officers and staff. Its function is to protect civil nuclear sites and nuclear materials in England, Scotland and Wales. *Civil Nuclear Police Authority press release "Civil Nuclear Police Authority Appoints New Chief Constable" 3.4.07*, http://www.cnc.police.uk/Appointment_of_New_Chief_Constabl_e.pdf; *Police Review* 2.3.07, 6.4.07

Policing - new material

Softening the blow, Gary Mason. *Police Review* December 2006/January 2007, pp. 14-17. December 2006/January 2007, pp. 14-17. Mason's article on baton rounds notes "the fourteenth death of a person due to his having been shot by an impact round designed to deliver non-lethal use of force" in the United States before moving on to discuss how "police management across the Atlantic are keen to research the experience of other countries to try and reduce the toll of deaths and serious injuries." In the course of his survey he observes that "the record for impact rounds is 135 projectiles on one suspect" before reassuring his reader that "Forces in the US now agree that is unacceptable."

Police station law and practice update, Ed Cape. *Legal Action* February 2007, pp9-13. Cape considers police station practice, with sections on policy and legislation, Legal Aid and contracting and case law.

Prävention und ihre Abgründe [The abysmal depths of preventative policing]. *Bürgerrechte & Polizei/CILIP*, 86 (1/2007), ISSN 0932-5409, pp 112, euro 7.50. This issue of the civil German liberty journal *CILIP* outlines the logic and civil liberties implications of preventative policing. Articles analyse, with examples of legal developments and changing police practices, how the logic of prevention necessarily leads to indiscriminate data collection and control and surveillance in everyday life. Foreigners are targeted as security authorities are ascribing characteristics to certain people and groups on the grounds of their "risk" potential, and anti-terrorist measures are leading to deportations without having established the criminal involvement of those who are accused. The public relations aspect of this shift in policing strategies is also highlighted, and community policing programmes have shown that despite promises for community consultation, a direct participation of affected groups in such councils does not exist. A closer look at the military aspect of preventative policing shows that military and policing tasks are being conflated and the German army is being transformed to engage in "anti-terrorist" and "humanistic" intervention world-wide, and for the deployment of armed forces internally - not only to deal with catastrophic incidents but also to take over policing tasks. Non-thematic articles criticise the German practice of extradition to Turkey, where people are facing possible torture, and informs us of the first and so far only terrorism case brought to trial by the Swiss public prosecution, which ended mainly in acquittals - nothing remained of the allegations of supporting al-Qaeda and forming a criminal organisation. Available from: info@cilip.de, *English summaries*: <http://www.cilip.de/ausgabe/86/summar86.htm>

Police misconduct and the law, Stephen Cragg, Tony Murphy &

Heather Williams. *Legal Action* February 2007, pp13-18. This article reviews developments in police misconduct law.

Suicide after arrest, Graeme McLagan. *Police Review* 30.3.07, pp. 24-25. This article starts from an Independent Police Complaints Commission (IPCC) statistic recording the deaths of 200 people by suicide shortly after they are released from prison. It also notes the 28 deaths in custody recorded by the IPCC for 2005-2006 and observes that "although the number of those committing suicide after police questioning are probably much higher, these cases receive practically no publicity."

PRISONS

UK

Prison suicides reach two a week

Suicides in jails in England and Wales have risen to two a week - with 50 deaths so far in 2007, compared with 67 in the whole of 2006. Anne Owers, Chief Inspector of Prisons, told the Constitutional Affairs Committee that the rise in prison suicides was linked directly with the overcrowding crisis. More than 400 prisoners had been held in police cells and 120 in crown and magistrates court cells prior to the introduction of the early-release programme. Owers told the committee that holding prisoners in police and court cells increased their vulnerability and that the surge in prison numbers had undermined the successes of support services for new inmates. The prison population hit a record 81,040 in July 2007, before the early release scheme reduced the prison population by 1,500. By this stage the price had already been paid by 50 vulnerable prisoners.

Ms Owers said the government should use the breathing space offered by the early-release scheme to "get a system which gets people in prison who need to be in prison, but provides the kind of support after prison, before prison and instead of prison that means we are not just revolving people through the system."

Press Association 12.7.07; *The Guardian* 13.6.07

Prisons - in brief

■ **UK: Gareth Myatt inquest criticises Youth Justice Board:** The five week inquest into the death of 15-year old Gareth Myatt at Rainsbrook Secure Training Centre in April 2004, concluded on 29 June 2007 and delivered a verdict of accidental death, with sweeping criticisms about the conduct of the Youth Justice Board (YJB). Gareth died of positional asphyxia while being restrained by custody officers. The jury held that the YJB's failure to undertake a review of Physical Control in Care, despite a call for urgent medical review by the National Children's Bureau, directly contributed to Gareth's death. Not only did no member of the YJB have the dignity to resign, but the YJB proposed an amendment to the rules on physical restraint techniques to facilitate the use of "pain compliant" restraint techniques (punching a child in the nose) not solely in situations of genuine risk to persons or property, but simply to ensure good order and discipline. Pain compliant techniques were utilized 3,036 times on 240 children in STCs between November 2005 and October 2006. Condemned for failing to protect the children in its care, the YJB has moved to further sanction the physical abuse of children. *INQUEST* 29.6.07; *The Guardian* 22.6.07.

■ **UK: "Dilapidated" HMP Maidstone struggling:** An announced inspection of HMP Maidstone, re-enrolled as a category C training prison in 2003, found the jail struggling to cope with ageing accommodation, a serious drug problem and a

lack of purposeful activity. Some 45% of prisoners reported feeling unsafe. The jail is an early nineteenth century building and one wing, Weald House, was unfit for purpose but had been brought back into service because of the population crisis. The prison was failing to provide new prisoners with basic items such as clean bedding and underwear. Resettlement remained underdeveloped, with no functioning offender management unit and a backlog in sentence plans. "HMP Maidstone is an overcrowded, dilapidated Victorian prison, poorly designed and resourced for its role as a 21st century training prison." *Report of an announced inspection of HMP Maidstone February 2007-HM Prisons Inspectorate July 2007*

■ **UK: Concerns at HMP Portland's capacity to support young prisoners:** HMP Portland is a young offenders institution with a population of 18-21 year old young men. The prisons inspectorate had serious concerns about the jail's capacity to properly support its population - the majority from London and the south-east. Bullying and gang affiliation were major issues. Two wings were wholly unfit for purpose. Rodney and Hardy wings lacked integral sanitation. Prisoners were not always able to get out of their cells to use the toilet recesses and resorted to throwing faeces and urine out of the cell windows. The toilet recesses themselves leaked into accommodation below. There were only 70 vocational training places for over 500 young prisoners. There was no regular outdoor exercise, and limited access to inadequate PE facilities. At the time of the inspection, due to population pressure the jail was expecting to increase its numbers, compounding the difficulty in finding appropriate work, training and purposeful activity. *HM Prisons Inspectorate "Report of Unannounced Visit HMYOI Portland January 2007" June 2007*

■ **UK: HMP Acklington - an unsafe environment for prisoners:** HMP Acklington is a large Category C prison in Northumberland, much expanded and struggling to provide sufficient purposeful activity places and safe environment for inmates. Drugs and bullying were rife in the main prison. Accommodation varied from adequate to unacceptable, with some residential areas mouldy, damp and cold. Time out of cell was poor, and there was insufficient purposeful activity for a training prison. Resettlement was weak, with an incoherent approach to sex offenders and inadequate public protection arrangements. Acklington was a training prison in name only and could not provide a sufficiently safe or decent environment for its prisoners. *HM Prisons Inspectorate, "Report of an Announced Inspection of HMP Acklington-December 2006" June 2007.*

■ **UK: Prison Service pays £2.5m compensation to prisoners:** The Prison Service paid £2.5m in compensation to prisoners in England and Wales in 2006. Prisoners in 94 jails were compensated in relation to claims of abuse, assault, unlawful detention and medical negligence. £750,000 was paid to 197 heroin addicts whose treatment was withdrawn or cut short in prison. Wormwood Scrubs settled one claim for £472,000 and Northallerton YOI paid out £575,000 to a young offender who had attempted suicide. *HM Prison Service*

Prisons - new material

Recent developments in prison law - part 2, Hamish Arnott, Nancy Collins & Simon Creighton. *Legal Action* February 2007, pp 17-21. This article continues the updates in the law relating to prisoners and their rights. It covers lifer parole, the Parole Board, minimum terms, determinate parole and compassionate release.

Zahid Mubarek: a legacy for change, Various authors. *The Monitoring Group, The Zahid Mubarek Trust and Garden Court Chambers*, November 2006, pp 20. On 21 March 2000 Zahid Mubarek was beaten to death by Robert Stewart in his cell at Feltham Young

Offenders' Institution. This pamphlet brings together a series of articles by Zahid's family, supporters and legal practitioners that explore the lost lives and squandered opportunities that characterise the case as well as the legal obstacles that the Mubarek family had to overcome. For more information contact Garden Court Chambers, 57-60 Lincoln's Inn Fields, London WC2A 3LS (tel. 0207 993 7600) or The Monitoring Group, 14 Featherstone Road, Southall, Middlesex UB2 5AA (tel. 0208 843 2333).

Prison Factfile. Bromley Briefing May 2007, pp 40. This report contains the most recent facts and figures about the state of the UK's prisons. It acknowledges the 1997 Labour manifesto pledges on prisons and prisoners as "brave words" but concludes that: "the government has gradually ossified into talking tough and tinkering with sentencing policy." Available from the Prison Reform Trust, 15 Northburgh Street, London EC1V 0JR

Barred from Voting: the right to vote for sentenced prisoners. *Prison Reform Trust and Unlock*, March 2005, pp 4. This briefing is calling for sentenced prisoners to be given the right vote in response to the Department of Constitutional Affairs consultation paper *Voting Rights of Convicted Prisoners Detained within the United Kingdom*. It concludes: "The UK ban on prisoners voting is a relic from the nineteenth century, which is neither a deterrent nor an effective punishment. The right to vote poses no risk to public safety...There is widespread support for the removal of the ban, which the European Court has ruled violates human rights law. The Government should act to restore the right to vote to sentenced prisoners without delay." PRT: info@prisonreformtrust.org.uk, Unlock - The National Association of Ex-Offenders: unlock@tinyworld.co.uk

RACISM & FASCISM

UK

Judge discharges BNP bomb plot jury

Two men accused of stockpiling chemical weapons and bomb making equipment for use in an imminent "civil war" have been found not guilty after a jury failed to reach a verdict at their retrial at Manchester crown court in July. British National Party election candidate, Robert Cottage (49), and David Jackson (62), both from Lancashire had denied conspiracy to cause explosions with intent to endanger life. Cottage pleaded guilty to possessing explosives at the pair's first trial in February but the jury was unable to reach a verdict on additional charges leading to the retrial, (see *Statewatch* Vol. 17 no 1).

Cottage, a three times BNP election candidate, was arrested after police searched his home in Colne in September 2006 discovering an enormous stockpile of chemicals, ball bearings, a bomb-making manual, crossbows and airguns. The material was the largest cache of chemical weapons ever recovered from a domestic residence in the UK. Cottage told the court that some of the 21 different types of chemical were for use in an imminent "civil war" to create "thunder flashes" to scare off intruders. Other substances, including nitrates, chlorine, ammonia and acids were to be used for cleaning his false teeth and clearing his drains, he said. His co-defendant, David Jackson, was arrested in possession of rocket launchers, chemicals and two nuclear protection suits as well as BNP propaganda; Jackson was not a BNP member but had attended party meetings.

Cottage, who pleaded guilty to possessing explosives at his original trial, will be sentenced at the end of July. He faces a maximum jail term of 14 years. Superintendent, Mick Gradwell, of Lancashire police told the BBC that he accepted the result of the court process: "We carried out a full and professional investigation and worked closely with our colleagues at the

Crown Prosecution Service" he said.

The BNP claims to be the party of law and order - some recent convictions against BNP members and supporters include the following:

June 2007: Robert Bennett: Bennett, a 64-year old BNP supporter who worked on the organisation's 2002 Oldham election campaign, admitted charges of affray after attacking and beating his next-door neighbour who objected to his son's racist language. Bennett has a previous conviction for his part in the gang rape of two teenage girls for which he got five years in prison.

March 2007 - David Copeland: The London nail bomber and former member of the BNP had his sentence increased to 50 years at the appeal court in March.

February 2007 - John Laidlow: Laidlow went on a shooting spree in May 2006. He shot and wounded Abu Kamara before accidentally shooting Emma Sheridan. Laidlow told police that he was a member of the BNP and that he hated all black people. He was jailed for life in February 2007.

January 2007 - David Enderby: The BNP Redditch councillor was found guilty of assault on his estranged wife's family; she claimed that he had a history of domestic violence. He received a fine.

January 2007 - Mark Bulman: Bulman was jailed for five years after setting fire to a mosque in Swindon, Wiltshire. Bulman used BNP propaganda leaflets to ignite the fire. Jailed for 5 years.

November 2006 - Darren Francis: Francis, a BNP member, was served with a restraining order after harassing Sally Keeble, the MP for Northampton North.

September 2006 - Robert McGlynn: BNP activist, McGlynn, fined after shouting racist abuse at an Asian woman.

July 2006 - Allan Boyce: Boyce, an ex-National Front member who is now a BNP supporter, received a two year suspended sentence for passing bomb-making instructions to BNP member, Terry Collins (Collins was sentenced to five years in 2005 for his involvement in a racist campaign against Asians in Eastbourne).

NorthWest Evening Mail 12, 13.7.07; BBC News 12.17.07; Tameside Advertiser 6.6.07; Hope Not Hate website, <http://hopenotate.org.uk/index.php?getPage=link5g>

UK

Trade Unions expulsion of racist was legal

In February the European Court of Human Rights (ECHR) ruled that the UK was in breach of the ASLEF trade unions fundamental rights when it prevented it from expelling a member of the far-right British National Party (BNP) in 2002. The train driver's union sacked BNP member, Jay Lee, when he was discovered working for Virgin Trains but two employment tribunals held that his expulsion was unlawful. ASLEF had expelled Lee once they became aware that he had been accused of harassing anti-racist campaigners and had written articles for the BNP's now defunct magazine, *Spearhead*. He was also an election candidate in 2002.

After the second tribunal ASLEF had been forced to readmit Lee and, had the decision stood, would have been liable for up to £60,000 in compensation. At the ECHR the union argued that it should be entitled to refuse membership to individuals who expounded views that were diametrically opposed to their values, such as racial discrimination. Balancing the rights of ASLEF and Lee, the court held that the union had the right to choose its own members and that Lee's expulsion had not impinged on his rights in a significant way. All trades unions are now free to expel BNP members and the law in the UK will have to be amended to

incorporate this fact. Eighteen trade unions gave ASLEF financial assistance to take the case to Europe.

Racism and fascism - in brief

■ **UK: BNP backs Labour minister on "indigenous" housing.** The British National Party's (BNP) leader, Nick Griffin, expressed his approval on BBC's *Newsnight* programme for a suggestion made by the Labour Party MP for Dagenham and Barking, Margaret Hodge, that council housing should be "rationalised" to prioritise "indigenous families" over migrants. Hodge, who was the Industry minister until Gordon Brown took over as leader of the Labour Party in June, was defended by the outgoing prime minister but criticised by some activists in the Labour Party. She echoed the well-rehearsed BNP arguments in May, stating that the "legitimate sense of entitlement felt by the indigenous family overrides the legitimate need demonstrated by the new migrants." Bearing in mind that asylum seekers and new economic migrants are not entitled to council housing it is clear that Hodge envisages a two tier system in which, what she described as "my white families", would be catered for on one level with migrant families second in line, behind them. The BNP won 12 council seats in Hodge's constituency last year. Hodges' remarks on housing were quickly followed up by comments by Labour MP, Hazel Blears, who said in early June that she was "very worried" that migrants are "undercutting wages". She claimed that she was only reflecting the view of her constituents when she asserted that migrants were indulging in anti-social behaviour and street drinking. Her stereotypes were dismissed by Simon Woolley, director of Operation Black Vote, who said: "There is absolutely no evidence migrant workers are drinking on the street and most people would accept migrant workers are doing a good job..." *Independent 21.5.07; Independent on Sunday 10.6.07; Operation Black Vote <http://obv.org.uk/>*

Racism & fascism - new material

Eyes to the right, Oscar Reyes. *Red Pepper* February 2007. Useful article on Migration Watch, the right-wing anti-immigration think tank that has moved from untouchable to the standard source for tabloid journalists.

The men who are creating a new BNP ideology. *Searchlight* no 381 (March) 2007, pp 14-15. This article examines the men behind the British National Party (BNP) including their "economics guru", Alan Goodacre, who expounded "the possibility of creating a pan-European network of far-right parties to be called *Patriae Europa*". Another to be considered is Andrew McKillop. The article concludes that the BNP's leader, Nick Griffin: "hopes that the appointment of an unelected intellectual cadre within the BNP will provide the party with an ideological underpinning beyond its crass and opportunistic anti-Muslim racism, gaining the party significant middle-classes support as a result."

Greater Manchester police investigates claim it has BNP member in ranks, Vikram Dodd. *The Guardian* 8.5.07. This article covers allegations that the Greater Manchester police force has British National Party members among its front line officers. An investigation was launched after complaints from its own officers who say that they saw fellow officers at a BNP event to mark St George's Day. The force had pledged to stamp out racism in its ranks after an undercover BBC television documentary, *The Secret Policeman*, exposed trainee officers making racist jibes in October 2003.

Statewatch Observatories
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GERMANY

"New" security strategy - a constant state of war

On 2 July 2007 Chancellor, Angela Merkel (CDU), presented her government coalition's interior security programme. One paragraph of the 94 page-long party programme calls for the abolition of the separation of external security (military) and internal security (policing), thereby paving the way for the deployment of armed forces internally. Interior Minister, Wolfgang Schäuble (CDU), trumped this demand with the announcement that he wants to change the constitution to allow for the targeted killing of terrorists and introduce emergency and war provisions as regular features of the rule of law. He is convinced that "the differentiation between international law at times of peace and international law in times of war no longer fits with the new threats", as Schäuble put it at the fourth *Handelsblatt Conference "Security Policy and the Defence Industry"* on 3 July. The Conference brought together "leading figures" from politics, the armed forces, trade associations and industry "to create an event that is rich in substance, where the views being exchanged are able to transcend conventional boundaries".

The CDU's party programme was published on 7 May this year, but the "new" security strategy it contained was promoted by chancellor Merkel on 2 July, in the immediate aftermath of the failed bomb attacks in London and Glasgow which triggered renewed security debates across the EU. The relevant paragraph indicating the fundamental policy shift towards deploying Germany's armed forces internally as well as pushing for the normalisation of emergency provisions curtailing "out-dated" democratic liberties, appears on page 76 of the document. Point 288 in the section on "Freedom and security in a constitutional state" outlines the shift as follows:

Through these new challenges [i.e. international terrorism and organised crime], interior security has gained a global dimension. Instruments and organs of internal and external security have to be interlocked. In a national security strategy, cooperation between the Federal State, Regional States and local authorities has to be improved. Part of such a plan, for the strengthening of Homeland Security, is the Federal Army. In special threat scenarios, [the army's] deployment inland has to be [made] possible. The armed forces should be able to apply its special abilities in dealing with terrorist threats and with catastrophes within defined remits, complementing the Federal and Regional police forces.

Note the use of the term "Homeland Security" (*Heimatschutz*), which was introduced in the CDU's "security plan" in a position paper on 31 March, entitled *National Defence and Homeland Security as part of the general security concept*. At the presentation of the party programme, Merkel claimed one had to "think in totally new frameworks" as terrorism is threatening "our way of life". "Only if we also apply this new way of thinking, freedom and security will remain in balance in face of this new threat", she said. The demand to do away with the separation of war law and the rule of law was made at the same time by Jörg Zierke, the president of the German Crime Police Authority (*Bundeskriminalamt*), on the occasion of the tenth European Police Congress in February this year: "The separation of internal and external security is obsolete", Zierke declared.

Social Democratic party whip Kurt Beck on the other hand urged that "we should not protect freedom to death". Schäuble's proposals to enshrine in law the possibility of shooting dead "terrorists" or allowing for their detention in Germany in

Guantanamo-type gulags, especially if they "cannot be deported", received much criticism. Schäuble has repeatedly called for unrestricted police and secret service powers but the proposal for targeted killings has led to demands for his resignation by the Left Party (*Die Linke*) and also the Green Party's chair, Claudia Roth. She said in a televised interview that "This no longer has nothing to do with our democracy based on the rule of law [...] I think that Schäuble has totally disqualified himself with these comments and that he should resign". Nevertheless, the proposals will be discussed in Cabinet this month.

Commentator Klaus Heck (*Telepolis*, 5.7.07) analyses the media spin and the implications of the far-reaching suggestions as follows:

Our first question about Merkel's statement is: what reasons does the chancellor give for abolishing the ancient separation of internal and external security? She says because it is "from yesterday". The old, therefore, has to go because it is old...In order not to appear malicious, we do not want to reject this new fashion [of thinking] and pose the second question straightaway: What is actually at stake, when abolishing the separation of internal and external security? On reading the state theorist Carl Schmitt one finds an answer fairly quickly, namely in his "The Nomos of the Earth" [1950]. In 300 pages this book deals almost exclusively with the separation of internal and external security. By page 16 Schmidt explains that this differentiation is the primordial act of state-building [...]. It "justifies the right to dual direction, inwards and outwards". From this fundamental differentiation therefore, the rule of law differentiates itself, with the - for Schmitt - rather surprising result of internal unity, the end of civil war. This swiftly answers the second question, what is the chancellor actually gambling with if she wants to abolish this separation, which is not only from yesterday, but which is the very source of law itself: She gambles on no less than our state. It suffices to quote one sentence from Schmitt to calm possible heated discussions in this [internet] forum. In the 1963 preface to the new edition of his most famous work, "The Concept of the Political", Schmitt says: "The era of statehood is coming to an end. There is no question about it."

Süddeutsche Zeitung, 9-10.7.07

Telepolis (2.7.07): <http://www.heise.de/tp/r4/artikel/25/25626/1.html>

Telepolis (5.7.07): <http://www.heise.de/tp/r4/artikel/25/25644/1.html>

CDU Party Programme:

<http://www.cdu.de/doc/pdf/070507-grundsatzprogramm-kommission-entwurf-2.pdf>

BKA speech at European Police conference:
http://www.bka.de/pressemitteilungen/hintergrund/vortraege/070213_rede_pr_europ_polizeikongress.pdf

CDU position paper on security policy and : *delta*

http://www.cdu.de/doc/pdf/05_09_05_sicherheitspolitik.pdf

http://www.cdu.de/doc/pdf/28_06_04_gesamtsicherheitskonzept.pdf

http://www.cdu.de/doc/pdf/03_31_04_Heimatschutz.pdf

News sites:

<http://www.netzeitung.de/deutschland/687551.html>

http://www.tagesschau.de/aktuell/meldungen/0,1185,OID7040132_TYP6_THE_NAV_REF1_BAB,00.ht

Security - new material

"CIA in azione, Boeing sotto accusa", Claudio Gatti, *Il Sole 24 ore*, 30.5.07. Article unravelling the investigations leading to the *American Civil Liberties Union* (ACLU) filing a lawsuit for participation in the kidnappings of five people by the CIA: Italian citizen Abou Elkassim Britel, German citizen Khaled El-Masri, two Egyptian asylum seekers abducted in Sweden and an Ethiopian who suffered the same fate in Macedonia (see *Statewatch' Observatory on CIA rendition and detention* for details of these cases). The charges have been brought against two companies, one of them a subsidiary company of Boeing, *Jeppesen Data Planning*, for servicing rendition flights. ACLU lawyer

Steven Watt argues that "The evidence collected leads [one] to believe that Jeppesen played an important role in the entire extraordinary rendition programme". He added that flight data shows that it serviced at least 15 of the flights investigated by the European Parliament's Temporary Committee on the alleged use of European countries by the CIA for the transport and illegal detention of prisoners (TDIP) commission. Britel's lawyer Francesca Longhi claimed that these flight servicing activities constitute illegal acts that contravene international instruments for human rights and prohibiting torture. Details are provided of the nine-hour rendition flight carrying Britel, hooded and handcuffed, from Islamabad to Rabat in May 2002, reconstructing the way in which strings of flight data made it possible to link little-known civil companies used by the CIA to run the flights, with the flight planning and support services provided by *Jeppesen* and Houston-based company *Air Routing International*. Investigations into rendition flights in Spain, Portugal, Italy and Great Britain support these findings, and indicate that the same aircraft were serviced by the same companies. A spokesman for the two companies denied allegations of their knowing involvement in renditions.

Off the Record: US responsibility for enforced disappearances in the "war on terror". *Amnesty International, CagePrisoners, Human Rights Watch, Reprieve, Center for Human Rights and Global Justice and the Centre for Constitutional Rights*, 2007, pp 21. This important briefing paper reveals aspects of the CIA's secret - and illegal - detention programme that the US government, ably assisted by its British and European allies, has attempted to keep secret. Highlighting the locations where prisoners may have been held and the abuse that they have suffered it identifies 39 individuals who have been imprisoned by the United States in secret custody at its black sites and whose current whereabouts are still unknown. The paper also includes details of their relatives, some of them mere children, who were also detained in secret prisons beyond the purview of any legal or social system. The "disappeared" include nationals from countries including Egypt, Kenya, Libya, Morocco, Pakistan and Spain. The former Guantanamo political prisoner and spokesman for the CagePrisoners organisation, Moazzam Begg, has said: "Representing individuals detained by the world's most powerful democracy has become more of an exercise in chasing ghosts than it is about providing justice. Concepts such as *habeas corpus* bear no meaning to those being detained in black sites or even more sinister holes. For many of those detained, simply gaining the right to speak the truth unhindered by the need to escape the signing of a false confession means more than the fact that they have been detained." The full report can be accessed on the Statewatch

website: <http://www.statewatch.org/news/2007/jun/us-disappeared.pdf>

"We come on behalf of the Spanish government", José María Irujo, *El País*, 20.5.07, p 43. Article featuring testimony from Hamed Abderramán, a Spanish citizen from the Spanish north African enclave of Ceuta who was arrested in Kandahar in 2002 and spent two years detained at Guantánamo Bay, where he was tortured and interrogated, until his release in February 2004. Abderramán speaks of five visits paid to the detention camp by Spanish police officers to interrogate him and other prisoners. The first took place in March 2002, in a four-by-four metre wooden room with his head shaved, hands and feet chained and hitched to the floor to stop him standing. After asking him about his identity and documents, taking his fingerprints and video recording him, they questioned him about his stay in Afghanistan, "and I told them the story that I had told the Americans. I told them what they wanted to hear: that I went to participate in the jihad, that I was in a training camp. If I had changed [my story], I knew I would be tortured some more". The Spanish delegation returned to the camp from 22 to 25 July, asking him about whether he knew certain terrorists and about his acquaintances in Ceuta, "They were only interested in the information, not the broken person they had before them". The officers reportedly drew up a 39-page report about the visit, dealing with Abderramán and 12 other Syrian, Moroccan, Tunisian, Algerian, Saudi and Danish prisoners. After his return, he gave details of the threats and ill-treatment to which he was subjected, which led him to depression and to consider suicide "many times", as well as denying the information that he gave both the Americans and Spanish. He also claimed that details of his statement were "changed and invented" by the police, and that his interrogators testified at his trial "without saying a word about his conditions there or state of health", in spite of being witnesses to his torture. Abderramán, who was also questioned by Moroccan officers in Guantánamo, had his six-year sentence passed by the Audiencia Nacional quashed by the Supreme Court because of the self-incriminating declarations used in the trial obtained in Guantanamo from a tortured and defenceless prisoner. Another detainee from Ceuta, the Moroccan Lahcen Ikassrien, also claimed he was interrogated by Spanish police officers, in the autumn of 2002 in 2003.

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UK

Committee condemns deliberately "inhumane" asylum system

The Joint Committee on Human Rights, a committee of MPs and peers, published their report on *The Treatment of Asylum Seekers* at the end of March. The Committee heard from more than 30 experts and received submissions from almost one hundred organisations and individuals. The report says that asylum seekers fleeing persecution in their own countries are being deliberately forced into a "degrading" asylum system that forces them into destitution. Evaluating a decade of the Labour government's asylum policy the report concludes that it is a "confusing mess" that leaves asylum seekers in appalling circumstances. These circumstances, the committee repeatedly emphasises, are inconsistent with the government's commitments under the European Convention of Human Rights (ECHR) crossing the threshold into inhumane and degrading treatment. The committee's chairman, Andrew Dinssdale (Labour), said: "What we have seen and heard provides very hard evidence of appalling treatment that no human being should suffer."

After an introductory chapter, Chapter 2 of the report presents the background "Human Rights Principles" covering asylum seekers, considering the main human rights standards

and obligations which apply to the UK under the ECHR and other international instruments to which it is a party.

The third chapter covers "Access to Financial Support and Accommodation" and here the committee heard persuasive evidence that destitution is used as a deliberate tool in the operation of government immigration policy, leading it to conclude:

that the Government has indeed been practising a deliberate policy of destitution of this highly vulnerable group. We believe that the deliberate use of inhumane treatment is unacceptable. We have seen instances...where the Government's treatment of asylum seekers and refused asylum seekers falls below the requirements of the common law of humanity and of international rights law. (Paragraph 120)

The Committee continues:

the Committee concludes that by refusing permission for asylum seekers to work and operating a system of support which results in widespread destitution, the Government's treatment of asylum seekers in a number of cases reaches the Article 3 ECHR threshold of inhumane and degrading treatment (p. 5, see also Paragraph 120)

Section 4 of the report discusses the "Provision of Healthcare" and the evidence discussed in this section includes case studies. These include the case of "H", a Rwandan with bowel cancer and a colostomy bag who was forced to live on the street, destitute after being refused treatment without payment by a Hospital Trust. The man's local GP had refused to register him. Among the other cases highlighted in the report include that of a pregnant woman who was denied access to proper healthcare and people with HIV/Aids who had been refused hospital treatment (Paragraph 130). The report is critical of the 2004 Charging Regulations which have "caused confusion about entitlement" and the interpretation of which "appears to be inconsistent", (Paragraph 134). It also found that the "arrangements for levying charges on pregnant and nursing mothers lead in many cases to the denial of antenatal care to vulnerable women". The report says:

This is inconsistent with the principles of common humanity and with the UK's obligations under ECHR Articles 2, 3 and 8 ECHR. We recommend that the government suspend all charges for antenatal, maternity and peri-natal care. We recommend that all maternity care should be free to those who have claimed asylum, including those whose claim has failed, until voluntary departure or removal from the UK. (Paragraph 143)

The report also finds that many of these incidents arise because "medical staff are expected to carry out immigration checks" and goes on to criticise the "nationality discrimination" that creates confusion:

The restrictions on access to free healthcare for refused asylum seekers who are unable to leave the UK are examples of nationality discrimination which require justification. No evidence has been provided to us to justify the charging policy, whether on grounds of costs saving or of encouraging asylum seekers to leave the UK. We recommend that free and primary and secondary healthcare be provided for all those who have made a claim for asylum or under the ECHR whilst they are in the UK, in order to comply with laws of common humanity and the UK's international human rights obligations, and to protect the health of the nation. (Paragraph 170)

"The Treatment of Children" is the subject of the fifth chapter and with around 2,000 children detained in immigration centres with their families in 2005, the report says it is an urgent matter. Here the Committee finds the UK's "general reservation" to the application of the Convention of the Rights of the Child (CRC) to be unfounded. The report states:

We do not accept that the CRC undermines effective immigration controls. Our principal concern is that the practical impact of the reservation goes far beyond the determination of immigration status, and leaves children seeking asylum with a lower level of protection in relation to a range of rights which are unrelated to their immigration status. The evidence we have received testifies to the unequal protection of the rights of asylum seeking children under domestic law. (Paragraph 180)

The committee recommends that "the government's reservation to the CRC should be withdrawn" (Paragraph 181) and further recommends that government consider "how Section 11 of the Children Act [which imposes a duty on public bodies to have regard to the need to safeguard and promote the welfare of children] could be extended to include authorities providing support for asylum seekers, the immigration service and the Immigration Removal Centres", (Paragraph 182).

The sixth section of the report considers "Detention and removal". In relation to detention the committee argues that the decision to detain an asylum seeker should not be merely an "administrative" process and recommends that "there should be an automatic, prompt, independent judicial review of the decision to detain in all cases", (Paragraph 274). The Committee also expresses its concern over the length of detention:

We are concerned that there is currently no maximum time limit for which asylum seekers can be detained and that this can - and does -

lead to protracted periods of detention...In the absence of a systematic process for reviewing the decision to detain there is a significant risk that a period of detention which IND initially intended to last for days can turn into weeks, months and even years (Paragraph 275).

The committee recommends that where detention is "unavoidable" it should be subject to "judicial oversight" and for a maximum period of 28 days; "For families with children, the maximum length of detention should be 7 days", (Paragraph 276). Free on-site legal advice should be provided to all detained asylum seekers to ensure that they are able to access a bail hearing (Paragraph 291).

On the treatment of detained asylum seekers the report expresses its dissatisfaction at the quality of the healthcare provided, questioning whether it is: "fully compliant with international human rights obligations, in particular the rights to freedom from inhuman and degrading treatment and to the enjoyment of the highest attainable standard of physical and mental health".

We are particularly concerned about gaps in care for people with HIV and with mental health problems. It is not clear that procedures for identifying and supporting torture victims work in practice. We recommend that the Department of Health establish a policy for supervising the health services that are available in detention centres, and that the standard of services should be monitored. Female GPs and other medical practitioners should be available in detention centres where women are held. (Paragraph 305)

In addition the committee expresses its "disappointment" at the lack of progress of the Home Office's review of the way in which family removals are conducted - with no changes forthcoming more than a year after the Immigration and Nationality Department's (IND) announcement of a review.

We are concerned about the failure of the Home Office to develop alternatives to detention beyond the relatively limited use of voluntary check-in arrangements which are unlikely to be successful without a properly functioning casework model which can support asylum seekers throughout the process and make them aware of the different options available to them at different stages. (Paragraph 329)

On the removal of asylum seekers, the Committee expressed its concern at "the many reports of excessive use of force and, in many cases, the lack [of] access to possessions", (Paragraph 337) and recommended the establishment of "proper procedures" to "ensure that removals can be conducted properly and with dignity" (Paragraph 337). The Report also expresses the committee's belief that "the drive to meet performance targets may be leading to unnecessary or poorly planned removals", (Paragraph 338).

The final chapter of this report deals with the media coverage of asylum seekers and here again the Committee expresses its concern at the "negative" and "hostile" reporting "and the effects that it can have on individual asylum seekers and the potential it has to influence the decision making of officials and Government policy" as well as "links between hostile reporting by the media and physical attacks on asylum seekers" (Paragraph 349). The committee members also finds it necessary to remind government ministers "to use measured language so as not to give ammunition to those who seek to build resentment against asylum seekers, not to give the media the excuse to write inflammatory or misleading articles", the validity of which was recently highlighted by Industry minister, Margaret Hodge's comments on "indigenous" housing priorities.

The Treatment of Asylum Seekers, Volume 1 - Report and formal minutes. Joint Committee on Human Rights (The Stationary Office) 30.3.07: <http://www.parliament.the-stationery-office.com/pa/jt200607/jtrights/81/81.pdf>

Italy

Unlawful SISMI surveillance of judges and NGOs

On 4 July 2007, the *Consiglio Superiore della Magistratura* (CSM, Superior Council of the Judiciary) passed a resolution criticising the surveillance of judges and magistrates from associations such as *Magistratura Democratica* (MD) and the European Network of Democratic Lawyers (MEDEL), that surfaced in papers confiscated from a SISMI (military intelligence service) office in via Nazionale, Rome. The documents, seized after a search in connection with the Abu Omar rendition investigation in July 2006, led to judicial proceedings for violating privacy and carrying out activities that did not fall within SISMI's remit. Nicolò Pollari, the former head of SISMI, and Pio Pompa, another SISMI officer, have been named in relation to the proceedings. The CSM resolution highlights that SISMI itself, rather than "deviant" sectors of the service, conducted the surveillance activities which were intended to intimidate and discredit specific magistrates, condition their judicial activity and prevent their appointment to supranational bodies.

Extracts from documents published in *Repubblica* newspaper on 5 July, including handwritten notes from Pompa to Pollari, revealed a plan to "sanitise" public institutions and the political arena. The intention was to establish a "relationship of trust" with the presidency and to "constitute a mechanism [comprising] trusted people" limited to very few individuals of "airtight reliability". The goals of the surveillance strategy included the neutralisation of "the political enemy" and "monitoring of MEDEL" and initiatives by "non-profit bodies and associations" with whom the network has a relationship. This included the European Civil Liberties Network (ECLN) participants *Progetto Melting Pot* and the *Associazione di Studi Giuridici sull'Immigrazione* (ASGI, Association of Legal Studies on Immigration), and *Gruppo Abele*, *ARCI*, *Associazione di promozione sociale*, *Centro di iniziativa per l'Europa del piemonte*, *Agenzia testimoni di Genova* and *Carta*.

"Neutralising...carriers of destabilising notions"

The CSM started proceedings on 7 November 2006 to "protect the magistrates" identified in press reports as having been subjected to surveillance by members of the military secret service. The Milan prosecutors' office handed over documentation on 18 December about investigations into the Abu Omar rendition that motivated the search and seizure of SISMI papers dealing with magistrates and magistrates' associations, and the notification of the opening of judicial proceedings against Pollari and Pompa. The "most significant" documents included notes from spring-summer 2001 detailing a plan for observation and intervention activities targeting sectors of the magistrature deemed to be "carriers of destabilising notions and strategies...and close to the past governing majority". The purpose of these operations was "to neutralise political-judicial initiatives directly concerning representatives of the current governing majority and/or their families", creating a team to evaluate and diagnose any "aggressive initiative and study measures to neutralise or deter it", undertaking "dissuasive activities through the adoption of adequate counter measures, in Italy and Europe".

A report on appointments to the OLAF European anti-fraud judicial body stressed the need to replace erstwhile candidates with alternatives who were closer ideologically to the governing majority. This would avert the infiltration of "potentially dangerous" elements prepared to foster initiatives against specific members of the Italian executive into European

institutions. Lists of magistrates and personal files concerning them, described as "sensitive areas" to be subjected to observation, were included. The membership of MD was well represented and biographical files were kept on Armando Spataro, Stefano Dambruoso and Claudio Galli. A 2002 report on MEDEL listed its members and their personal details, analysed its activities and those of MD, the association with which it had the closest links in Italy. In-depth coverage of MEDEL's activities, including internal correspondence, led the authors to describe MEDEL as the "*deus ex machina* of the international network of militant magistrates" that "wields its weight at a national and supranational level" through its pervasive network. Its activity is deemed to fit within an "axis" of opposition to the "western capitalist Empire" that "does not disdain from taking advantage of alliances...also with the world of Islamic fundamentalism".

The French liaison magistrate in the Italian justice ministry, Emmanuel Barbé, is identified as having close relations to the "movement of 'militant magistrates'" and as a friend of opposition politicians who were formerly magistrates, like Antonio Di Pietro and Luciano Violante. Contacts with members of both OLAF and MEDEL are detailed.

The most delicate matter concerning his activity was deemed to be his "propensity to set up and use his own effective 'information' network" to influence the "political and judicial" arena, rather than his possible involvement in this "militant" movement. Several "anti-government initiatives, debates and demonstrations" involving magistrates, both as private individuals and in their professional role, were also monitored and evaluated. The SISMI papers also include reports of the direct control of several magistrates' activities by unspecified people. An exception was the case involving Spataro, who was interviewed at Pompa's behest by *Libero* journalist and paid SISMI informer Renzo Farina on 26 May 2006. Other exceptions were the meetings and communications by magistrates deemed to be "compromising" or proof of their "anti-government strategy".

The CSM resolution concludes that the surveillance began in the summer of 2001, shortly after the Berlusconi government came into office, and "continued in a pervasive and continued manner until September 2003", and less regularly until May 2006. SISMI, and not renegade elements within it, was responsible for the operation, as was confirmed by Pompa himself to the Milan prosecutors' office. Magistrates were not accused of any specific acts (or unlawful acts) to motivate the surveillance, which was intrusive and included the use of informers and monitoring of private communications, other than their political (centre-left) stance, "their judicial activity or views expressed in the political-cultural debate". Finally, specific interventions were carried out to "hinder or counter the professional or political-cultural activity of the magistrates and associations in question". The illegal nature of these practices is detailed, as they are not part of SISMI's mandate, and judicial initiatives and involvement in the public debate are "essential components of democracy" rather than the "attacks or threats requiring defence at a military level" that SISMI is tasked to counter. The actions are described as seeking to intimidate magistrates involved in delicate cases, "obstructing the independent and effective exercise of jurisdiction". The resolution also reiterates the criminality of the use of magistrates [or journalists, religious ministers, MPs or local, regional or municipal councillors] by secret services as sources of

information (in this case concerning their colleagues), which is documented in the SISMI papers.

Reactions

Rita Sanlorenzo, general secretary of MD, described these developments as "truly worrying", and identified attempts to discredit Alberto Perduca, Nicola Piacente and Mario Vaudano, three magistrates selected to participate in OLAF. She also identified campaigns in newspapers, claiming that there was a conspiracy against the government organised at a European level by MEDEL, as typical of the methods surfacing from the documents in via Nazionale. Sanlorenzo says that one of the most serious allegations in the CSM resolution is that SISMI took advantage of the "participation or assistance of people belonging to the judicial order". In fact, the SISMI papers include references to a "reliable person from the same extraction as the subjects identified above as potentially dangerous and currently in a qualified post of governmental support" reporting "elements of danger" in relation to the OLAF case.

The *Melting Pot* project editorial board expressed its concern at reading in the published SISMI extracts that "it could

be interesting to delve into the nature and contents of the Melting Pot project promoted by Sherwood Comunicazione and the Venice city council" before a list naming its participants, contributors and professionals working in the field of immigration. Explaining that its lawyers have already been asked to consider defending their lawful activities and "to get to the bottom of this matter", it notes that the reason for this treatment is that "talking about rights causes concern". Moreover, the editorial board notes how "after their involvement in a series of obscure recent events" the secret services are arbitrarily raising suspicions "about work carried out by public or private professionals involved in social and media work while carrying out their duties".

Consiglio Superiore della Magistratura, Assemblea plenaria, delibera, 4.7.07: <http://www.movimentoperlagiustizia.it/modules.php?name=News&file=article&sid=555> ;

Melting Pot statement, "Melting Pot controllato dal SISMI", 6.7.07; Magistratura Democratica statement 7.07; MEDEL statement, http://www.medelnet.org/pages/115_1.html (in French); Repubblica 4-5.7.07.

Italy

Cracks appear in police silence on Genoa

On 13 June 2007 the former flying squad chief, Michelangelo Fournier, appeared in court and broke the silence that has marked the testimony of police officers appearing on charges resulting from the police raid on the Diaz school on 21 July 2001.

High-ranking officers, such as Francesco Gratteri, subsequently promoted as head of anti-terrorist activity, and Gianni Luperi, chief intelligence analyst with the crime prevention department, are among the defendants. Others include Fabio Ciccimarra, who also faces charges for violence against detainees during an earlier demonstration in Naples (see *Statewatch* Vol. 12 no 2), and Massimo Nucera, for falsely alleging that he had been attacked with a knife in the Diaz school. During the raid on the school, which was serving as a dormitory, activists were beaten and the operation resulted in 93 people being arrested, 63 of whom received injuries (see *Statewatch* Vol. 11 nos 3/4).

Colourfully describing the police operation as "Mexican butchery", Fournier, who was among the first groups to enter the school noted that: "I saw ten or twelve demonstrators massacred [badly beaten] while they lay on the floor, and four or five officers striking them. At first I thought that it was a struggle and I tugged at them and invited them to stop. Two wore a white belt and two wore "stomachers" [ornamental dress], they were not from my unit". Asked by prosecutors as to why he had not reported them, he replied: "I did not do so out of love for my country, to prevent more harm and not to throw any mud". Fournier added that he had taken off his helmet, shouted "enough, enough" and called for medical help to assist a German woman, Melanie Jonasch. He was "disgusted and worried. I was sure that girl was going to die". He also spoke of an undercover officer mimicking a sexual act in front of an activist.

Fournier also described the use of *Tonfa* batons during the operation: "A blow to the head with a *Tonfa* does not leave many chances of survival" he said, adding that he hoped they would be seized and subjected to rigorous testing. These multi-purpose truncheons were to be trialed by officers from the newly-created *nucleo antisommossa* (riot squad), and three officers from the Los Angeles police were flown in to give a weeks training in their use. They are L-shaped and can be used as an offensive weapon (held by the handle) or defensively to block blows (flat

on top of the arm), or to partially immobilise someone who is being detained (using the right angle with the handle). Video footage from Genoa also showed them being misused to strike demonstrators with the (extremely hard) handle.

Police chief under investigation

A further development saw Gianni De Gennaro replaced as head of the police by Antonio Manganelli on 2 June 2006. The change happened only weeks after De Gennaro was notified that he was under investigation for encouraging the head of the Genoa police during the G8, Francesco Colucci, to lie in his testimony. He is being investigated for "persuading Francesco Colucci, through instigation or induction" to submit information that did not "correspond to the truth" when he was questioned on 3 May, retracting earlier statements concerning the "preparation, execution and conclusion of police operations carried out in the Diaz school", particularly the communications and information exchange between himself and De Gennaro. Inducing a subordinate to commit an offence, and abusing his public office, are aggravating circumstances that are being considered by investigating magistrates.

The government stressed that De Gennaro was replaced at the end of a long term (he had been head of the interior ministry's department of security since 2000) and he has gone on to occupy an important post as head of cabinet at the interior ministry. After De Gennaro's transfer, Professor Salvatore Palidda of Genoa University noted that:

The same hierarchy that promoted the police chiefs who were in the street in those days is continuing. There is no democratic country where a public officer who is on trial stays in place. We go so far as to promote them.

Reconstruction examines police role in public order disturbances

Analysing the position of 25 defendants for causing "devastation and looting" in relation to the G8 in Genoa, the Genoa Legal Forum secretariat notes that the allegations of collusion in a single premeditated plan levelled by the prosecution seeks to diminish the importance of individuals' participation in the

"devastation", whereby mere presence during violent incidents would suffice to justify a guilty verdict. This tactic is increasingly employed to secure lengthy prison sentences against demonstrators who are detained during violent incidents, regardless of their involvement (see *Statewatch* Vol. 16 no 3, in relation to the trials for the demonstration in Milan on 11 March 2005). The defence argument is that the breakdown of public order was largely caused by police forces themselves.

Drawing on evidence heard and viewed at the trial, the reconstruction points to random charges by police and *carabinieri* units against demonstrations. For example, two units were deployed (one of *carabinieri* and the other a police mobile unit), at 2.30pm and 3pm, to counter vandalism by the "black block" in Marassi in the northern part of the city. The *carabinieri* inexplicably took a longer route than their colleagues and ended up charging a march on their way, "without any reason" 20 minutes later. The police unit continued towards the bulk of the protests after failing to find those responsible for the vandalism in Marassi, where they arrived in ten minutes, eventually charging pacifists from the *Lilliput* network.

The first charge against the *Tute Bianche* demonstration in via Tolemaide, while it was still on its authorised route, is described as being "out of the blue, without a reason, without a warning and without any dialogue with the contact group", which included MPs and sought to discuss how to manage the demonstrations arrival with the police official in charge. This reconstruction claims that the absence of escape routes in via Tolemaide "forced demonstrators to retreat where retreating was

impossible", thus obliging them to resist. The incident is viewed as a crucial moment in the genesis of three hours of clashes in the vicinity that culminated with the shooting of Carlo Giuliani in Piazza Alimonda.

Some questions raised by this reconstruction include:

- * the fact that the consolidated text of public security legislation establishes that a police official should be directing the *carabinieri*, whereas the initial charge in via Tolemaide was ordered by *carabinieri* captain Antonio Bruno;

- * the reason for the charge by police in Piazza Alimonda when the area was relatively calm and police were, as admitted by two officers, not in a "psycho-physical condition" for further clashes and had run out of teargas, leading them to retreat when they encountered resistance;

- * the presence of two Defender multi-purpose vehicles, which are not suitable for public order operations. They were left behind in the retreat and targeted by demonstrators sparking the incident in which Carlo Giuliani was killed. This was in spite of the presence on board of highly experienced officers who had been in situations of armed conflict.

Corriere della Sera, 21.6.07; *Il manifesto*, 14.6.07, 27.6.2007; *Reuters*, 3.7.07. *Genoa Legal Forum secretariat*, "I 25 manifestanti" http://www.processig8.org/25_Manifestanti.html and the related video "OP-Genova 2001" available at: <http://www.processig8.org/Video.html>. *Supporto Legale newsletter*, print #5, June 2006, available at: www.supportolegale.org *Hearing of the Genoa prefetto, Ansoino Andreassi, during the parliamentary investigation on events in Genoa*, 29.8.01.

UK-Spain

Writ of habeas corpus in Farid Hilali case

On 25 April 2007 the High Court issued a writ of *habeas corpus* in relation to the extradition proceedings against Farid Hilali and ruled that *habeas corpus* was available as a remedy in relation to European Arrest Warrants (EAW) where the continued detention of the applicant pursuant to the extradition process has become unlawful - ie where there has been a fundamental change to the circumstances in which the lawful order of the court to execute the EAW had been made.

Farid's return to Spain was sought in relation to a European Arrest Warrant issued by the Central Criminal Court of Criminal Proceedings No 5 of the National Court, Madrid, Spain, on 29 April 2004. On 1 June 2005, the Senior District Judge at Bow Street Magistrates' Court, Judge Workman, made an extradition order against the Applicant under section 21(3) of the Extradition Act 2003, so that he could be returned to Spain to be tried for the murder of the nearly three thousand victims of the terrorist attacks on New York, Washington DC and Pennsylvania of 11 September 2001, and membership of a terrorist organisation. On 26 September 2005, the Spanish Central Criminal Court of Trial found that Imad Eddin Barakat Yarkas, the principal alleged co-conspirator of Farid in Spain, was not guilty of the murder charges alleged against him and Farid Hilali, but guilty of the lesser charge of conspiracy to murder. On 15 December 2005 the Spanish authorities produced a short note indicating that they wished to maintain the warrant of April 2004.

In March 2006 the Spanish Attorney General supported the submissions made by Barakat Yarkas that his conviction for conspiracy to murder, returned by the Court on 26 September 2005, was unsafe, because the contents of the telephone conversations relied on, which also form the basis of the European Arrest Warrant against Farid Hilali, did not prove the crime alleged. On Friday 21 April 2006, a fresh statement was

submitted on behalf of the Spanish court indicating that the court sought again to maintain the EAW, and suggesting that Hilali might like to plead guilty. On Wednesday 24 April 2006 a further statement was submitted by the Crime Prosecution Service from the Spanish prosecuting lawyer, confirming that the Spanish authorities still wished to try Hilali for the offenses set out in the European extradition warrant.

The Spanish Supreme Court, on 31 May 2006, in relation to the Yarkas appeal found:

(i) that the conversations specifically relied upon against Barakat Yarkas, as and forming the only evidence set out in the European Arrest Warrant, did not show that Barakat Yarkas conspired to commit the 11 September 2001 atrocities (ii) that the tape recordings were illegally obtained and were not admissible in evidence and (iii) that, contrary to the findings of the Administrative Court on 26 May 2006 the tape recordings are "lost".

The basis of the *habeas corpus* application was that the Spanish authorities sought the return of Farid Hilali to try him on evidence which the Spanish Supreme Court has held:

(iv) to have been obtained illegally, and (v) not in any event to prove the conspiracy alleged, as recognised by the Attorney General of Spain and the Supreme Court, still less the allegations of murder contained in the European Arrest Warrant.

In the course of investigating the circumstances of Hilali's case, Muddassar Arani, his solicitor, travelled to Spain to obtain evidence from the parties involved. Among those she interviewed was Jacobo Teijelo Casanova, the lawyer representing Barakat Yarkas (also known as Abu Dahdah) during the criminal proceedings in Spain. Barakat Yarkas was alleged to be the leader in relation to the Spanish conspiracy relating to the 2001 attacks on the USA. Casanova confirmed that the alleged conversation between Abu Dahdah and Shakur (the

purported co-conspirator the Spanish state claimed was in fact Hilali) was never played during any part of the criminal proceedings. As far as he was concerned there only existed transcripts prepared by a translator whose identity remained anonymous. At no stage in the proceedings was the central and only evidence supporting the Prosecution's case (that there existed a conspiracy to take part in the 2001 attacks), relied upon, produced to the court, or even served upon the defence who could then verify its existence. Mr Casanova also stated that the prosecutor admitted that no voice analysis could be carried out on the alleged conversations as the quality of the voice recording was very poor. Therefore the assertion in the European Arrest Warrant suggesting that voice analysis showing that Shakur spoke to Mr Yarkas on a number of occasions was not true. The assertion made before the High Court in the UK by counsel for the Spanish court that the tapes were produced and played in Court was also incorrect.

During the course of the Yarkas trial, when the prosecutor was pressed on the disclosure of the tapes, he stated that the alleged tape recordings had been lost. The prosecutor did not inform anyone of the circumstances of the mysterious disappearance of the tapes save during the course of the trial that such evidence was not available. Not only was there no interpreter who testified that he had in fact listened to the conversations and made an accurate translation of the conversations, but when pressed to produce the alleged recorded conversations, the defence were told the tapes had disappeared. One possible explanation for the mystery about these tapes is that they were recorded by UK agents in the UK, and were recordings to which the Interception of Communications Act 2000 applies. It appears to be alleged that the Applicant was in

England at the time these conversations took place. Mr Casanova confirmed that "Shakur" was not identified during the course of the trial, either by the prosecution or the defence. The reason was not because he remained abroad, or that no reference could be made to him, (the prosecution's case against Mr Yarkas was based on his conversation with Shakur). It was simply that the prosecution had no idea as to who he was. It was Casanova's opinion that the assertion that Shakur is Hilali was no more than an assertion and not based on any evidence. Ms Arani showed a photo of Mr Hilali to Mr Casanova. He told her that no person of that description was referred to during the trial.

The harassment of Hilali - and his legal team-continues. Farid is at present held at HMP Whitemoor on immigration matters while the CPS and the Spanish state seek to challenge the *habeas corpus* writ in the House of Lords. He is repeatedly denied the right to make telephone calls to his family because he wishes to speak in Arabic to them - with "security" used as an excuse - even though he is only held now for alleged immigration matters. Staff at Whitemoor complained to the Law Society that Muddassar Arani had behaved improperly on a visit to Hilali and leaked this allegation to the *News of the World*. The Law Society found that no such impropriety had occurred. Governors at Whitemoor have failed to remedy the slander of Ms Arani in the press and have taken no action against the prison staff allegation. Despite clear evidence of staff hostility to Hilali and his legal team, the Prison Service refuses to transfer Hilali from HMP Whitemoor.

Send letters of support to: Farid Hilali HP8485, HMP Whitemoor, March, Cambs PE15 0PR Hilali v Governor of HMP Whitemoor et al (2007). Thanks to Muddassar Arani for her assistance with this article.

Netherlands:

Police raids on migrant community spark little public outrage

On 16 June 2007, Dutch police raided a concert by a popular West African musician in the migrant neighbourhood in south-east Amsterdam, arresting 111 of the 250 guests. One hundred and three of those arrested, who are all undocumented migrants of West African origin, were detained whilst their legal status was assessed, 70 were then issued with deportation orders two days after their arrest. Ten are awaiting criminal prosecution before being deported for carrying false identity documents. 41 were released because they have legal residency status. The raids were followed by several house raids and a raid on an internet café, all targeting African migrants.

This is one of several immigration raids in the Netherlands this year which are starting to spread unrest in the migrant community for fear of arbitrary arrest operations leading to deportation. Further raids took place early this year in Utrecht and Rotterdam. It is notable that police are targeting the few safe havens that are left for undocumented migrants in the Netherlands, apparently in an attempt to spread fear amongst the community and show them that they can regard no place as safe. On 9 January this year, the IND (immigration services) entered a church in Rotterdam arresting several Brazilian undocumented migrants, saying that they had "received a tip that illegal migrants would be present"; at least one 40-year-old woman was deported to Brazil 10 days after her arrest.

In April this year, immigration police arrested three refugees at their workplace: they were cooking every Tuesday for a living wage in a solidarity café supporting undocumented migrants and run by the refugee charity *Stil*. The project was financially supported by the local municipality. In Amsterdam, police used immigration law powers to raid a music venue

frequented by African migrants. The reasons given for the raid was an alleged hunt for "internet fraud criminals". In the northern city of Leeuwarden, the pretext of a raid earlier this year was alleged criminal activities, even though the raid did not lead to criminal charges.

During the raid in Amsterdam, as one white man present reported, police let the white people go without checking their identity, whilst checking the documents of all black people and detaining all without papers. Rather than causing widespread concern at such racist police operations, so far protest has been limited to the Green and liberal fraction in the local Amsterdam city council, some lawyers and migrant rights organisations. African migrants held a silent picket in the city council but have expressed fear of arrest. In most news discussion forums, the response was supportive of the police action and anti-immigrant sentiments were paramount, all of them conflating immigration and crime.

Although raids criminalising migrants are not new to Holland, with stop and search powers extended in 2002 and a series of police raids against Ukrainian and Bulgarian workers in late 2002 (*Statewatch*, Vol. 13 no 1), immigration raids appear to have gained a new dimension with the last government under late immigration minister Rita Verdonk (*Volkspartij voor Vrijheid en Democratie*, VVD), who actively promoted and was successful in implementing a quota for police to arrest and detain undocumented migrants. The so-called *prestatiecontract* (performance contract), signed between police and the justice ministry, also gives police forces extra "bonuses" if they arrest undocumented migrants. The contract says that police are expected stop and check identity papers of at least 40,000

migrants and arrest 11,883 undocumented migrants in 2007 alone. This target was apparently calculated as being 5%-10% of undocumented migrants estimated (by the government, based on unnamed sources) to live in the Netherlands.

Despite the fact that immigration raids have happened in the past and they have now been made more concrete with a quota, the Amsterdam raid took the local Green Party by surprise, as only in October 2006, when the *prestatiecontract* was signed, the Amsterdam mayor Job Cohen had responded to the growing fear of the migrant community in his constituency by promising that the Amsterdam police, which in criminal prosecution remits operates under his command, would not go on "immigrant hunts", for criminal prosecution purposes.

This promise was made in reply to a question asked in the Amsterdam city council by Green Party council member Judith Sargentini (*GroenLinks*). She asked if, in the search for undocumented criminals, the mayor would use investigative police methods to find criminals or immigration methods to find undocumented migrants, the latter typically being immigration raids by immigration and border police in places where undocumented migrants are typically present, that is at the workplace in building, agricultural and low-wage production sectors, the church, or, as now was the case, a concert of a popular West African musician. Even though the mayor was adamant that the latter method would not be used, it now appears the police had neither his approval nor the approval of a judge, but could raid a café at night using immigration powers.

Moreover, they carried out the raid merely on the grounds that many undocumented West Africans were expected to be there and that some West Africans are known to be involved in internet fraud. Apart from the fact that this police action was directed at a vulnerable social group with a blanket criminal accusation, the criminal act that is used here to create the picture of dangerous illegal immigrants, concerns mass spamming actions enticing recipients to transfer money to accounts abroad. This action can therefore be deemed disproportionate and it is, moreover, a classic case of arbitrary policing that severely infringes on basic democratic rights: raiding and arresting without concrete suspicion or evidence is a characteristic of authoritarian states. The police press release (16.6.07), which asserts that the action took place in the framework of the Immigration Act says:

The control, in which 80 police officers took part, took place during a party at which many illegal (criminals) or people causing disturbances were expected. In the framework of the 419-fraud [i.e. e-mail spam fraud], investigations had shown that many people involved in the same spend their unlawfully gained income in a social venue in south-east Amsterdam.. The action is part of an ongoing series of "immigrant actions" targeting different illegal criminal groups in the region Amsterdam-Amstelland. The aim of the action is to arrest as many immigrants, West Africans, as possible, who cause a nuisance and disturb the public order and/or commit criminal acts. A second aim is to act against the 419-fraud and to deport those responsible, the majority of whom reside illegally in the Netherlands, to their countries of origin. The police team comprised: uniformed personnel from the city district of east (Amsterdam), detectives of the Immigration Police Office, the Office of Financial and Economic Crime Investigation, and the Serious Crime Office/BRT.

It appears, therefore, that not one criminal prosecution on grounds of internet fraud will follow from this action. Anti-racists and defenders of democratic control of the police, however, no longer need to point out to the public that this is arbitrary policing and targets black people and is therefore unlawful and racist. The police and its supporters are a step ahead in openly declaring that the aim of these type of actions (of which, when studying the press release carefully, more can be expected to follow), is firstly, to equate a person's immigration status with a criminal charge, thereby justifying criminal police methods on undocumented migrants. Secondly, it was aimed at

targeting specific nationalities for deportation. In this case, racial groups were clearly targeted, as shown in the different treatment of black and white guests at the party, discrimination on grounds of colour that is unlawful under the EU Racial Equality Directive (2000/43/EC) and surely under international human rights legislation.

The non-discrimination principle is laid down in all major human rights instruments. The *International Covenant on Civil and Political Rights* (ICCPR), which specifies in Article 9 (1) that

Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law

It also clearly requires that states must guarantee the rights recognised in the text to all individuals within their territory and subject to their jurisdiction. Article 2 of the ICCPR states that

The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

An Amsterdam immigration judge recognised the arbitrary nature of the police action in a decision of 3 July, when the migrants' appealed to their detention. The Amsterdam court held that because the police had no concrete evidence to prove that undocumented criminals would be present on that specific evening, they had carried out unlawful arrests and that the 22 migrants detained in Amsterdam should therefore be released.

However, this decision is not yet cause to celebrate for all those detained: firstly, because of the high number of arrests, people were sent to different detention centres in the country and different courts are therefore ruling on their detention, with different outcomes: the Utrecht court ruled the police action and therefore the detention to be lawful. Secondly, the state secretary for the Justice Ministry, Nebahat Albayrak, who is responsible for immigration matters, appealed the Amsterdam decision and requested the Dutch Council of State (*Raad van State*) to stop their release until the appeal by the immigration services (IND) was decided. The Council of State ruled in her favour and the detentions therefore continue.

The consequences of this acceleration in the targeting of undocumented migrants and the conflation of migration with crime in the Netherlands will unfold in the coming months. Immigration secretary Albayrak, however, has already announced which direction she will go in the enforcement of immigration policy: she demanded from all mayors deciding on the general amnesty of 26,000 rejected asylum seekers to pass the lists of those who were rejected on to her office so that they could be deported.

<http://www.at5.nl/nieuwsarchief.asp?newsid=27818&archiefdag=2>

Statement by Judith Sargentini (*GroenLinks*):

<http://www.groenlinks.nl/lokaal/amsterdam/groenlogt/week25judith>

Police Press Release (16.6.07)

<https://www.politie-amsterdam-amstelland.nl/pershoek/enkel-view.cfm?id=4096>

Mainstream news forum outlining public reaction:

<http://www.amsterdamcentraal.nl/archief/2007/6/18/een-razzia-in-zuidoost>

Amsterdam court decision declaring the police action unlawful:

<http://www.rechtspraak.nl/Gerechten/Rechtbanken/Amsterdam/Actualiteiten/Vreemdelingenrechter+acht+staande+houding+vreemdelingen+Amsterdam-Zuidoost+onrechtmatig.htm>

International protection mechanisms for undocumented workers are outlined in the publication:

Undocumented migrant workers have rights! by The Platform for International Cooperation on Undocumented Migrants and can be downloaded from <http://www.picum.org/>

Heiligendamm G8 Summit: a chronology of protest and repression

From 6 to 8 June this year, the annual G8 summit took place in Heiligendamm, a seaside resort near the northern German city of Rostock. Since the WTO meeting in Seattle in 1999, meetings of representatives of industrialised states and businesses promoting and coordinating capitalist globalisation have met with mass resistance, which in turn has been met with heavy-handed policing, some argue, at an unprecedented scale for liberal democratic states. Protests shook Washington and Prague in 2000, Gothenburg and Genoa in 2001, Quito in 2002, Thessalonica, Evian and Cancún in 2003, Gleneagles, Mar del Plata and Hong Kong in 2005 and now Heiligendamm in 2007.

This latest summit also brought with it an unprecedented arsenal and scale of police violence, criminalisation of protest and many infringements of fundamental civil liberties. The scenes unfolding over the week were impressive: roughly 80,000 people demonstrated on 2 June in Rostock against G8's neo-liberal policies, 10,000 demonstrated on 4 June for the rights of migrants and refugees, and around 20,000 people remained for a whole week in three self-organised camps around Heiligendamm in order to block the summit at its main entry and exit roads. 10,000 people took part in peaceful blockades between 6 and 8 June. The protests were policed by a total of 17,800 officers from all over Germany and, according to some reports, 2,000 military personnel. The deployment of the latter, which is now being debated in parliament, was in violation of Germany's constitution. After two years of alter-globalisation activists in Germany and abroad preparing the protests, and the authorities' parallel attempt to criminalise them, protesters and civil liberties groups are drawing preliminary conclusions and preparing for lengthy court cases. Below is an incomplete chronology of the protests and their repression.

Stage 1: preliminary criminalisation

The first public attempt by the German authorities and police to de-legitimise the protests by way of criminalisation took place on 9 May this year in form of large-scale police raids. On the order of the Federal Public Prosecution (*Bundesanwaltschaft*), 1,000 police officers searched around 40 private homes and two social centres in Hamburg, Berlin and other cities in northern Germany. The target: politically active people between the age of 25 and 50, some of whom were involved in organising the protests against the summit. The reason given for the raids and confiscation of personal computers and address books, in some cases even cigarette butts and so-called "scent samples", was the accusation of the "formation of a terrorist organisation" under Article 129a of the German Criminal Code. "Scent sampling" was a technique that many believed had vanished with the Berlin wall, used by the East German Stasi secret police to track down dissidents with dogs. Article 129a is a well-known provision amongst activists as it is regularly applied by police and the public prosecution to legitimise this severe infringement of privacy without the police having any hard evidence that any of the victims took, or were planning to take, part in any criminal act. In this case also, the purpose of its application appeared to be a general information-gathering exercise targeting the political movement: police copied the hard disk of the left-wing server SO36.net, which hosts many mailing lists and websites as well as personal computers of third parties not accused at all. Press releases from the Republican Lawyers Association (*Republikanischer Anwältinnen- und Anwälteverein* - RAV) and groups affected pointed out that the intent of the operation was to disturb the communication structures of G8 critics, which

were in the final stages of preparing the logistics for the camps and demonstrations, all of who had, at that time, the relevant permissions of the authorities.

The suspicion that evidence to justify the police raids was lacking was hardened by the fact that the public prosecution claimed that a criminal procedure that was initiated against a group named *militante gruppe* some years ago in relation to several arson attacks on cars, was somehow related to the G8 protest organisers. There was, however, no indication that those whose homes were raided were under suspicion of being members of this group or in any way connected to arson, or even that the arson attacks had anything to do with the G8 protests. The RAV press release (10.05.07) concludes:

The [judge's] order for the house searches construes a relationship between an old 129a procedure and alleged plans to disturb or stop the G8 summit. As usual, the wide remit of an Article 129a procedure are being used to openly collect data with a great publicity effect. Article 129a procedures regularly lead to the collection of masses of information with a huge mobilisation of investigative forces. Convictions, however, very rarely take place.

But rather than insisting that concrete attacks were to be averted with the raids, the Federal Public Prosecution itself confirmed the indiscriminate nature of the action:

Today's investigations were intended to shed light on the structures and the personal composition of these groups and did not primarily serve the prevention of concrete attacks. There was no evidence for [such attacks]. We shot into the bush and now we will see who and what will come out.

With this rather crude justification, the general assessment of the police operation, not only in left-wing but also mainstream press circles, was that it represented an illegitimate and unfounded attempt by the authorities to criminalise the protest movement. This attempt, however, failed spectacularly in that even conservative newspapers did not take the terrorist allegations seriously and instead gave space to the protest press spokespersons, who used the opportunity to advertise the demonstrations, blockades and conferences during the summit. The liberal daily paper *Süddeutsche Zeitung* even printed a comprehensive chronology of planned demonstrations and action days next to reporting on the house searches. The lawyer's association RAV and the Committee for Fundamental Rights and Democracy (*Komitee für Grundrechte und Demokratie*) used the opportunity to reiterate their call for the abolition of provision 129a, as it was in violation with democratic principles in criminal proceedings and historically had been applied to criminalise political movements and not to avert or solve crimes.

Criminalisation is continuing after the protests, too. Using reports of violence during the G8 summit conservative politicians are now demanding a special police database on "Autonomous" activists and raids have again taken place in Berlin. Again no one was arrested, even though the allegation: formation of a terrorist organisation under Article 129a, was applied also here.

Dutch police arrests 100 cyclists

A similarly disproportionate infringement of civil liberties took place in the Netherlands on 5 May, a few days before the house raids in Germany, when the Dutch authorities decided to take action against a rather unthreatening group of around 100 cyclists from the *Gr8chaoskaravaan*, who were travelling from Belgium via Holland to the protests in Heiligendamm. The

whole group was arrested on its way out of the city, allegedly for not following police orders (that is, not to cycle on a cycle path). The press release (8.5.07) issued by the Caravan organisers describes the incident as follows:

The cyclists were surprised when without prior warning a special unit and police on horseback suddenly charged the bicycle ride with batons drawn, one police van even driving right into the cyclists and hitting a bicycle. The police then proceeded to arrest all members on the pretext of not using the bicycle path. Bicycles were confiscated and removed with many being damaged and locks broken. Demonstrators later reported that the police used disproportional violence during the arrests.

Ill-treatment continued during the arrest. For several hours the demonstrators were detained in overcrowded cells - 25 people in a 4x4 m cell - where they suffered from anoxia caused by lack of ventilation and were deprived of food. When the first demonstrators were released during the night a growing number of reports about police intimidation came in. "They told us that what they had done today was tolerant compared to what they would do if we continued to carry out the actions we had planned" says Antje, a caravan participant.

The arrests were as surprising for the international members of the caravan as they were for the Dutch activists. "It was a very unusual police action for Dutch circumstances" said Antje, Dutch activist and caravan member. "I have been doing bicycle actions for years and can't remember anything like this happening." Andree Narres from the info office of the bicycle caravans is outraged: "I can't find any other plausible explanation than politics and police doing what they can to prevent, harass and criminalise all protests even ahead of the G8 summit." According to him the action may have been planned to make the bicycle caravan's entry into Germany harder. "The police didn't charge the cyclists with the mere regulatory offence of not using the bicycle path but of not obeying police orders, an offence that leads to a court hearing.

The bike tour organisers and two victims of the police action have taken legal action on the grounds of indiscriminate use of violence and illegal arrest as well as. As surprising as the police action, however, was the lack of media coverage: the incident received uncritical local media coverage and almost no national media coverage. Only two members of local socialist and green parties criticised the incident and proposed a motion in the Utrecht city council to lodge parliamentary questions, which did not receive sufficient votes. The mayor, who is responsible for the local police force, denied any police wrongdoing before any inquiry into the matter.

"Stasi methods"

The next measure, applied from the prolific German law and order arsenal, was the routine opening of mail in Hamburg and an unorthodox attempt by police to pressurise a university lecturer into denouncing his students.

The investigation into the *militante gruppe* that served as an excuse for the mass house searches of 9 May continued with a comprehensive "snail mail" action by police, according to the daily newspaper *tageszeitung* (25.05.07) and later confirmed by the police. Dozens of officers from the regional Hamburg crime police authority (*Landeskriminalamt*) were opening and confiscating "suspicious looking" mail from specific city districts in the central Hamburg post office. The order was given by the Federal Crime Police Authority (*Bundeskriminalamt*) with the alleged aim of fishing out possible letters to newspapers or television stations claiming responsibility for attacks. Not even the terrorist provision 129a allows for this indiscriminate violation of privacy and interception of communication; the lawyer Sönke Hilbrans reacted with disbelief:

What more are citizens of whole city districts are to endure? Not only by taking scent samples but now also by controlling the post, the security agencies are increasingly and unashamedly resorting to Stasi

methods. It is evident that some ministers and police officers have lost any measure of acting within democratic and proportionate restraints. If the judiciary does not stop them, this country is on its way towards a different Republic.

Another police action denounced as a "scandal" by the lawyer's association RAV was the attempt to get a lecturer at Hamburg University to divulge names of students active in the G8 protest preparations. Two police officers approached the lecturer in the break of his talk entitled, ironically, "Fear as a social-disciplinary instrument". He refused and asked the police leave the premises and later proclaimed: "I believe the attempt to convince lecturers to denounce students who are politically active is a scandal. This massively infringes on the right to freedom of expression as well as scientific freedom." Interception, denunciation and political crimes, together with the erection of a 12 km long fence in eastern Germany to protect leaders from public criticism, have conjured up uneasy images in Germany of old Stasi methods that were thought a thing of the past.

Stage 2: fence off, ban, spin and provoke

Similar to earlier summits, the "red" security zone around the Heiligendamm meeting place was surrounded by a fence (in this case a 12 km long razor-wire "technical barrier") and in the red zone itself, regular civil liberties such as the right to assembly and freedom of expression were restricted. On 10 May, the Kavala police unit, specially set up in 2005 to police the protests, banned the demonstration planned for 7 June outside of the red zone as well: the authorities also issued a general banning order that forbade all assemblies within a second zone 10 km outside of the security fence. The general decree led to much criticism by politicians and civil liberties groups and was contested up to the Federal Constitutional Court. It ruled, one day before the planned demonstration, that the decree generally banning assemblies outside of the security zone was unconstitutional, and even explicitly criticised the police's "security concept" for being directed "against the creation of assemblies" as the "right to freedom of assembly was given no chance to be realised in an adequate manner". It nevertheless accepted the police's claim that the demonstration itself should be banned because of expected violence on part of the demonstrators.

On the general decree, Tobias Pflüger, the MEP for the left faction (GUE/NGL) of the European Parliament said that:

It is unacceptable that now even the fundamental right to assembly is being curtailed. I protest strongly against this decision and demand that those responsible return to the rules of democracy. Those who invite the G8, also invite the legitimate protest. The expression of protest has to be comprehensively protected, at the least to bring the message of the critique of the [political content] of G8 [policies] across [to the general public].

The Committee for Fundamental Rights and Democracy (18.5.07) pointed out that:

Such a precipitated banning order has to be based on current and concrete evidence that a direct threat to legally protected interests exists. There is, however, no sign of any evidence supporting this claim.

The fact that the Federal Constitutional Court used the escalation of violence at the end of the demonstration of 2 June to justify banning the 7 June demonstration has to be considered in light of later revelations of the use of *agent provocateurs* by the police and the claim by demonstration observers that the escalations on 2 June were initiated not only by some 'black block' demonstrators but also by undercover police in the demonstration. Furthermore, the violence appeared to have been hugely exaggerated: an attempt to corroborate the police claim of 200 severely injured police officers would later reveal that only two police officers were hospitalised for two days, one of whom had fallen down some stairs whilst chasing demonstrators. Also

allegations appearing in the mainstream media (such as *FAZ-Online*, *Deutsche Welle* and the *tagesspiegel*) quoting an unnamed "high-level security expert" who said that demonstrators attacked police with knives or were throwing potatoes spiked with nails were denied by police spokesman Manfred Lütjann of the Kavala police unit (see the website *Unspin the G8*, which is dedicated to media spin around the G8 and lists various similar incidents).

"Yesterday was yesterday - and today is today"

The ultimate scandal, however, was the discovery on 6 June that the German police had deployed *agent provocateurs*: it is ironic that on a demonstration that was banned by the police on grounds of expected violence, a group of five undercover police officers inciting stone throwing was identified by peaceful protesters. The five men, dressed as "black block" demonstrators, carried stones towards a group of people blockading the security fence and tried to convince them to start throwing them at the police. Angered by this, as the demonstration organised by the *Block G8* network was explicitly peaceful, (reiterated by the network in its numerous call-outs and on its website) activists started to question the motives of the men in black and asked for their identity and political background. The men refused to identify themselves and ran away. One of them, however, was stopped by demonstrators and challenged. From that moment he started addressing the protesters with the formal address "Sie" and refused to reply to questions. After intervention by the legal team as an angry crowd formed around him, with his agreement he was led to the police lines, which welcomed him amidst their ranks.

Immediately after the incident, police spokesman Manfred Lütjann categorically denied the use of *agents provocateurs*: "As an institution acting in accordance with the rule of law we are not allowed, and do not do, such a thing". Although German law does in principle allow for the use of *agent provocateurs*, Lütjann was adamant the discovered police officer was not sent by Kavala and added: "I do not know what other security agencies might be doing; I cannot represent any internal security service officers here" (*junge Welt*, 8.6.07). The next day, however, the evidence forced Kavala to retract its statement and Ulf Claassen, another Kavala spokesman, admitted to *Spiegel-Online* (8.6.07) that the police had used an undercover agent in the blockade in question, commenting on the embarrassing retraction with: "Yesterday was yesterday - and today is today". Green party MP Christian Ströbele said he would ask a parliamentary question on the incident and found that "if it appears to be true, the evaluation of many incidents of these past days would of course have to be seen in a different light". The Rostock public prosecution is currently assessing possible criminal proceedings against the undercover officer on grounds of incitement to commit crimes.

Stage 3: arrest and attack

This brings us to stage three in the chronology of policing summit protests: the use of disproportionate police violence and mass arrests. Protest groups and media activists have started collating evidence and eye witness reports on the police repression (www.gipfelsoli.de, <http://de.indymedia.org>). The balance drawn so far shows that the security operation entailed massive stop and search operations, mass detention in special cages, filming of arrestees in cages, preventative arrests, accelerated court procedures, use of pepper spray and baton charges on peaceful demonstrators, water canon use against peaceful blockades, confiscation of bicycles and personal belongings and a plethora of violent incidents and sexual assault.

One demonstrator, for example, reported on Bavarian Special Forces brutality during the arrests on 2 June:

As I was pushed into the car, I was told that I should "shut up,

otherwise there would be trouble" and that they were "fed up with stone throwers like me". On the way to the Police base, I was massively pressured to "admit everything" because they were "going to get us all anyway". I was kicked, beaten, shouted at and threatened: "when we get there we will take you off the list and drive with you into the woods, nobody will notice". All in all, the whole incident took 4 and a half hours, until I was released without charge.

The escalation from 2 June, exacerbated by police reports of hundreds of "severely injured" officers, was used by police to legitimise repression during the migration action day on 4 June. In the morning, the opening rally at a block of flats in Rostock-Lichtenhagen, commemorating the racist pogroms against asylum seekers in 1991 which saw hundreds of bystanders cheering on a gang of neo-nazis setting fire to a house full of refugees and foreign workers, was attacked by police without reason. The legal team reported that the police encircled peaceful demonstrators and pepper-sprayed them arbitrarily. Two demonstrators suffered serious eye injuries during a water cannon attack on a peaceful blockade at the West Gate of the security fence.

Further reports about police violence include:

* A number of people were arrested because they were carrying a banner with the slogan, "Free All Prisoners!" as they passed by a prison on their way to a demonstration. The police judged this as incitement to actively help people break out of prison.

* Two people were taken into detention at Kühlungsborn beach as they played in the sand near the fence. Police accused demonstrators of trying to dig a tunnel.

* According to the legal teams, there was an overwhelming use of violence during arrests, particularly by the Berlin police. Lawyers were also pushed around and insulted. One lawyer who had subjected a police officer to a stiff cross-examination in a previous court case was threatened during a demonstration. She was told that they knew her name and where she lived.

* During police transportation there were further abuses, as one victim describes: "The police took off the handcuffs cutting into my hands so that they could take off my rucksack, threatening to beat me if I moved. To underline their point, one of the police officers rammed my head against the cell wall. After the police finally left me and other detainees in the cell, we were told not to speak or else he would ensure that we "would never be able to speak again". "In one case a police unit stormed a tram as it stopped, police beat up everyone dressed in black and then left the tram again immediately", the legal team said on 4 June.

* During a police check one woman was grabbed in the crotch whilst officers made leery noises. Demonstrators were also sexually harassed near Wichmannsdorf camp. On a parking lot near the camp on 5 June, a group of women had to undress in front of all the police officers present.

* At the fifth police check point on the way to the airport a demonstrator's car was tampered with by the police. All of a sudden the fuel injection pump was missing and the vehicle would no longer start as the group of demonstrators was encircled by grinning police officers.

* A media bus from Holland was stopped on its way to a permitted demonstration at the airport and all passengers were detained, including a mother with her 3-year-old child, who was also photographed for the ID-check and put in the prison cages. The media bus was later confiscated for around 24 hours along with all of the journalists' equipment and material in the bus. One journalist and the bus driver were held overnight.

The treatment of prisoners or rather, detainees, during the summit received strong criticism by lawyers and legal teams, culminating in an unusual event on 7 June: the legal team organised a demonstration in front of the Rostock Industriestrasse detention centre to protest against the poor conditions for detainees and the fact that prisoners were denied contact with them. The lawyer's association RAV had issued a

press release a day earlier criticising the police for stopping legal teams from carrying out their tasks during the demonstrations. Two lawyers were pushed by police onto the street, in several cases lawyers were verbally threatened by police that if they would not "shut up" and stop asking arrestees for their names they would be beaten up. When the Kavala police unit announced the closure of the only lawyer's room at the detention centre, which was holding hundreds of detainees in cages (implying that lawyers would have to wait outside on the street until the police called them in to see their clients), the lawyers made their decision hold a demonstration. The law in Germany states that anyone detained by police has to be given a chance to speak to a lawyer and within four hours, he or she has to be presented to a judge who decides on the evidence and on which grounds the detainee will be held for longer. On 7 June, around 100 people were held in the Rostock detention centre, some for up to 12 hours, without access to a lawyer or being told what the charges against them were. Not a single one of them was presented to a lawyer or a judge.

The preliminary balance of arrests and convictions (collated by *Indymedia Germany*) reads as follows: In total, 1,057 persons were detained up to 8 June, in 140 cases, a judge decided on extending detention periods. The interior ministry announced that 850,000 people were checked at Schengen borders, 155 were refused entry and 57 people who had outstanding arrest warrants were arrested. During more intensive checks at the external Schengen borders, 401 people were refused entry into Germany. Rostock police announced it stopped 67 persons from entering the Rostock area. The justice ministry announced that 8 people were sentenced to between 6 and 10 months in prison in fast track procedures. Charges are: attempted and actual assault and severe breach of the peace. Two of these people have been released on parole, although the convictions are final. Two persons were remanded in custody awaiting trial. In 120 cases judges ordered long-term detention on the basis of people being considered 'dangerous'. These people were released at the end of the G8 summit. In the period from 2 to 10 June, a total of 103 persons (90 men and 13 women) were imprisoned, of these, 92 people received security and order rulings and 11 arrest warrants. The youngest person was 16, the oldest 41. Amongst these there were 41 foreigners, 40% of the total. Nationalities were: Belgian 2, British 8, Estonian 2, French 2, Irish 4, Italian 1, Canadian 1, Dutch 1, Polish 1, Russian 1, Swedish 14, Swiss 1, Spanish 2, US American 1, and German 62.

(Source: <http://de.indymedia.org/2007/06/185126.shtml>)

A testing ground for security measures: deploying the army internally

Finally, this summit, like other summits before it, served as a platform for ministers and police to test their toolkit of repressive measures. In addition to reinstating Schengen border controls, Interior Minister Schäuble, pushed for the deployment of armed forces inside of Germany to control protesters and other "security risks". It appears that the army had taken part in policing the protest with over 2,000 personnel, "armoured reconnaissance vehicles" (mobile armoured tanks used for intelligence and communications) and Tornado jets. The latter flew over one of the camp sites above the head of 3,000 activists on 5 June. The web-news service Spiegel-online reported on 16 June that the jet flew lower than the minimum height of 150 metres. The German air force has now started investigations against the two pilots for misconduct, who apparently ignored the warning signals that are automatically generated by undercutting the minimum height. Interior state secretary Peter Altmaier declared during parliamentary question time (13.6.07) that the use of "Tornado jets took place in the framework of mutual assistance [between authorities] in order to gather intelligence on possible interference on roads or the landscape. This is a common and

normal procedure. It has a sound legal basis". Journalists and activists reported military police patrolling the area on motorcycles and it was impossible to ignore dozens of air force helicopters continuously circling over Heiligendamm and particularly over the camp sites.

Far from being a common procedure with a sound legal basis, the deployment of armed forces internally has been debated in the media and by constitutional experts for more than a year. Green Party MP Christian Ströbele called the action a "precipitated praxis of the deployment of armed forces internally which interior minister Schäuble is obviously planning [to go ahead with]." Furthermore, the constitution regulates the deployment of armed forces over and above procedural regulations such as mutual assistance. Even the scientific service of the Lower House of Parliament finds that the constitution only allows for the army to assist the police and emergency services in cases of catastrophe, and then only with non-armed assistance such as emergency accommodation and medical services.

"Technical Mutual assistance" can only be granted with additional support equipment that the police already has at its disposal in its regular arsenal, that excludes Tornado jets and armoured tanks. In light of the jets flying below 150 metres and the threatening effect that would have on the demonstrators, Dieter Wiefelspütz, home affairs spokesman for the social democratic party SPD, said on 16 June that "From a current perspective, the deployment was not only politically insensitive but also unconstitutional".

Rather than representing a technical-legal issue, the use of the army against its own population represents an ideological shift away from democratic fundamental principles that should guide law enforcement and intelligence agencies, towards state of emergency principles. This is reflected in the fact that the government and responsible spokespersons adamantly deny the problematic nature of the conflation of army and police tasks. Franz Josef Jung, member of the conservative Party (CDU) and spokesperson for the ministry of defence argued that Heiligendamm served as a training ground for the army for war zones such as Afghanistan. He emphasized that the army thought it was out of the question that "we have to practise our skills, as you can see in Afghanistan" and claimed that police as well as army would benefit from the deployment of armed forces in Heiligendamm: "it is a win-win situation for the police as well as for us".

RAV press release archive: <http://www.rav.de/news/archive.php>; *Bike Caravan press release (8.5.07):* http://wiki.dissentnetwork.org/wiki/Bicycle-Caravan_%22West%22:press:2007-05-08; *Press release MEP Tobias Pflüger (10.5.07):* <http://tobiaspflueger.twoday.net/stories/3712698/>; *The Media Gets the Message - the uneven battle over the media (Unspin the G8):* <http://www.unspintheg8.org/media-gets-massage-uneven-battle-over-media> *Spiegel-online video report on the successful blockade of 6 June and the discovery of the agent provocateur:* <http://www.spiegel.de/vidoplayer/0,6298,18864,00.html>; *Spiegel-online (8.6.07) on the agent provocateur:* <http://www.spiegel.de/politik/deutschland/0,1518,487554,00.html> *Chronicle (English) of police violence and state repression:* <http://gipfelsoli.org/Multilanguage/English/3033.html>; *Other chronicles of repression (German):* <http://de.indymedia.org/2007/06/184905.shtml> <http://de.indymedia.org/2007/06/183750.shtml> *Parliamentary questions and answers (13.6.2007) on the use of army jets and agent provocateurs:* <http://www.bundestag.de/bic/plenarprotokolle/plenarprotokolle/16102.html>; *Süddeutsche Zeitung (13.6.07) on the use of army jets:* <http://www.sueddeutsche.de/deutschland/artikel/267/118135/>; *Army jets fly lower than legal minimum height:* http://www.tagesschau.de/aktuell/meldungen/0,1185,OID6965730_REF2,0.html; *Assessment of police violence in parliament by Green Party MPs, lawyers and the police trade union:* <http://www.spiegel.de/politik/deutschland/0%2C1518%2C488898%2C00.html>

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