

Statewatch bulletin

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IN THIS ISSUE: * France: new penal code * Europol HQ opened * Operation Jackpot * TUC march against racism * Justice & Interior Ministers meeting * New UK secrecy definitions * Germany: 'Internal security' laws

IMMIGRATION

Wave of hunger strikes

A wave of hunger strikes has swept through prisons and detention centres across Britain as asylum seekers protest against their detention, their inhuman treatment and deportations which have resulted in death.

Since the end of February, when ten north Africans were released from Pentonville after ten days of an indefinite hunger strike, the number of asylum seekers on hunger strike grew to over 200 in mid-March. Over 100 were held in Campsfield, the new immigration detention centre at Kidlington, outside Oxford, which opened in November and holds 200 detainees. There were hunger strikers too at other dedicated immigration detention centres at Haslar, near Portsmouth, and Harmondsworth, near Heathrow, as well as in prisons such as Pentonville. They included people from Asia, Africa and South America, who had transcended linguistic and political differences to take common action against their racist treatment.

The hunger strike has become a classic weapon of asylum-seekers protesting their detention - usually it is the only weapon they have. Most weeks in the year, any year, there will be a few isolated asylum seekers on hunger strike, or simply refusing food. The line between protest and despair is a fine one.

The recent strikes took place against the background of a threefold increase in the rate of detentions in the past six months, from 200 to over 700. Many detainees are held for months; one 19-year old has been detained at Feltham Young Offenders' Institution for over a year, and was recently refused bail despite support from prison officers, sureties who included a prison visitor, his mother's hospitalisation, and recognition by an immigration Tribunal that he and his family have suffered persecution in the country from which they came.

Parallel to the increase in the detention and refusal of asylum, the grant of exceptional leave to remain has been dramatically reduced since the Asylum and Immigration Appeals Act came into force in August 1993, from 86% to 28% of those claiming asylum. As a result of these changes, far more asylum seekers are being expelled from Britain.

There is no monitoring of what happens to rejected asylum-seekers who are returned home. But recent reports from Zaire, Turkey and Algeria, from organisations such as UNHCR and Amnesty International, show that asylum-seekers from these countries at any rate cannot safely be returned there - yet the Home Office continues to return them. Four Algerian hunger-strikers were returned to Algeria in February - only to be returned to Britain when Algeria refused to accept them as they lacked identity papers.

The conditions of detention are grim, too. Judge Stephen Tumin, Chief Inspector of Prisons, confessed to 'grave reservations about

the appropriateness' of holding 'distressed, despondent and in some cases desperate' asylum seekers in Pentonville prison. Up to 65 immigration prisoners are held in Pentonville at any one time. In a report released on 22 March he condemned Pentonville's health care centre as rundown, cramped, dirty and unfit for patients.

In the face of the recent wave of protests, the Home Office has resorted to its usual strategy of dispersal, and of punishing detainees in detention centres by moving them to prison. However, this time the strategy seems to have had the opposite effect to that intended, by fanning the flames of protest and spreading the strike to hitherto unaffected prisons. Thus it was reported towards the end of March that several of the prisoners at Winson Green had joined the asylum seekers sent from Campsfield in their hunger strike. Other solidarity actions included an open letter from 86 senior dons at Oxford University to the Prime Minister protesting that the detention of asylum-seekers is contrary to the spirit of the UN convention, and pickets at Campsfield, Pentonville and outside the Home Office.

By Easter, however, the dispersal strategy, combined with simple exhaustion, took their toll and the hunger strikes were over. Their legacy is an increased sense of unity and solidarity among asylum-seekers from very different backgrounds, and an increasing number of supporters who are prepared to fight against the imprisonment of asylum-seekers.

Independent 12, 15, 17, 18, 22.3.94.; *Guardian* 16, 17, 22.3.94. *Campaign to close down Campsfield*, 111 Magdalen Road, Oxford.

Denmark: Border controls

Denmark is the only non-Schengen country in the EU with an immediate border to the Schengen area (the Schengen countries are 9 of the 12 EU states excluding Denmark, the UK and Ireland). The Danish/German border is seen by the Schengen countries as an external border. Denmark is a member of the Nordic passport-union which means that there are no checks at the border on travellers from the other Nordic countries (Sweden, Norway, Finland, Iceland and Denmark). The control of citizens from other countries arriving from Nordic countries has, up till recently, been quite sporadic.

This situation has led to a demand from Germany that carrier sanctions of DM2,000-5,000 per person will be levied for people arriving in Germany via Denmark who do not have legal entry papers. At a meeting in Bonn on 9 December 1993 the Danish Minister of Justice, Erling Olsen, persuaded his German counterpart, Manfred Kanther, to postpone carrier sanctions from the 17 December deadline to 24 January. The negotiations also resulted in a slight modification on who would be held responsible and who would be sanctioned. Bus drivers transporting passengers on boats, railways transporting train passengers (including across the land border) will be exempt.

The Danish government has now intensified spot checks at all

ferry ports receiving passengers from the Nordic countries. Although no accurate figures have yet been published it is reported that substantial numbers are being affected. The border controllers have detained people without papers, held them for up to 10 hours, and sent them back by ship to the port they entered from. The new policy is to be 'evaluated' after three months.

The administrative director of SAS (Scandinavian Airline System), P Højland, has protested about the German imposition of carrier sanctions and that every passenger has to have legal entry papers will be very costly for the airline.

The Danish Minister of Justice said that this demand from Germany had accelerated consideration of Danish membership of the Schengen Agreement. The Minister is now discussing the possibility of observer status for Denmark in the Schengen meetings with the political parties.

Germany: Yugoslavs to be deported

A plan by Germany to deport tens of thousands of people back to Serbia via Romania has been put on hold after protests and the reservations of the Romanian government. Germany announced that from 10 March it intended to begin expelling refugees from Serbia, Kosovo and Montenegro. The first of those to be expelled, from the North Rhine-Westphalia Lande, were to be flown to Timisoara in Romania where they were to be put on buses and driven to Serbia. The Lande Interior Ministry made an agreement with the Romanian airline TAROM to transport deportees on flights of four Boeing planes on 17, 21, 24 March. This indirect route via Romania by-passes the UN ban on international flights to Serbia, and the normal obligation to return refugees directly to their country of origin. It was also being planned without the agreement of the Yugoslav authorities in Belgrade.

This programme of repatriation of refugees considered 'illegal' involved ethnic Albanians from Kosovo, Serbs, Montenegrins, and people of mixed nationality. The Serbs to be returned included those from Bosnian Serbia and the Republic of Serbian Krajini who still have Yugoslav passports because they could not accept new ones from the Bosnian Muslim government in Sarajevo. It did not affect refugees from Croatia or Bosnia-Herzegovina. Some of the refugees from Serbia and Montenegro fled to Germany to avoid military service. Yugoslav officials say that planned deportations could involve between 200,000 and 300,000 refugees.

This move appears to be part of a much larger scale repatriation plan for refugees from the former Yugoslavia involving a number of West European governments. These governments are keen to deport refugees defined as 'illegal' as soon as they can declare 'safe' areas for them to be returned to.

Reuters, 7 & 8.3.94; *Tanjung news agency*, 8.3.94.

Switzerland: contract on 'illegals'

On 4 February the Swiss authorities signed a transit-contract with Hungary to allow the return of 'illegal' entrants. This follows the signing of a similar contract with Germany on 23 December (see *Statewatch* vol 4, no 1). This is the first contract between Switzerland and Hungary and will allow the Swiss government to deport refugees, especially from the former Yugoslavia, back to their 'home country' via Hungary as a transit country. As there is no common border between these two countries the 'illegal' entry of refugees is not the point of the contract. It allows Swiss authorities to deport any person who stayed for any period of time in Hungary and can therefore be sent back to or through Hungary to a third country. This will directly affect asylum seekers from Kosovo who are not recognised by Switzerland as refugees. Kosovons were

being deported through Macedonia but they have recently cancelled the transit contract with Switzerland.

Komitee Schluss mit dem Schnuffelstaat, Bern, Switzerland.

Europe: in brief

* **Romanian survivor rebuffed:** The sole survivor of the five asylum-seekers who hid in a container from Lyons to Felixstowe lost his attempt to judicially review the Home Office's decision to return him to France, despite the likelihood that the French authorities would return him to Romania. The man was detained on arrival after being discovered in the sealed container with his four companions, who had died by inhaling residues of the chemical with which the interior of the container had been cleaned. He has remained in detention ever since, and the Home Office have remained adamant in their intention to deport him despite his going on hunger strike, and then attempting suicide by swallowing razor blades. The Court of Appeal found nothing wrong with the Home Office action and gave the green light for the man's deportation. *Independent*, 16.2.94.

* **High Court puts brake on quick expulsions:** A High court judge has tried to stop the fast turn-round of refugees who have transited via Europe and the rubber-stamping of Home Office decisions by special adjudicators appointed under the 1993 Asylum Act. Mr Justice Sedley stopped the deportation of a Somali refugee back to Spain, on the grounds that the Home Office had failed to justify such actions fully and clearly by showing that the refugee was in no danger of being returned to Somalia from Spain. The decision stands as a welcome attempt to re-inject some standards of decency and fairness into refugee determination procedures in so-called 'third-country cases', where, at present, refugees are processed on a two-week production line of detention, decision, appeal and expulsion to Europe. *R v Abdi*, *Times*, 10.3.94.

* **Illegal collaboration in court:** The Lord Chancellor's Department has begun an inquiry after the discovery that court officials have been illegally supplying the Home Office with information about marriages and judicial separations among non-British spouses of British citizens. The illegal passing of information went on for about two months from November 1993, and apparently covered some 30 cases. *Guardian* 12.2.94.

* **Injustice victim deported:** A man whose conviction for rape has been described as wrongful by groups including Women against Rape was deported to Ghana in March, while he is still fighting to clear his name. Sammy Davis and his wife have been in Britain for 20 years and have three children born here. In 1986 Mr Davis was convicted of the rape of a Swedish tourist on the basis of shaky identification evidence. In 1990 BBC's Rough Justice programme on the conviction led to attempts to get the Home Secretary to refer the case to the Court of Appeal. This has been consistently refused, and instead the Home Office has been trying to deport Mr Davis since that time. He proposes to continue the fight to clear his name, and meanwhile is taking Britain to the European Commission on Human Rights, alleging that his deportation interferes with his and his family's family life. *Independent*, 14.2.94.

* **France introduces exist visas:** from 1 April France is introducing exist visas for nationals and refugees from 13 countries and for Palestinians. The countries are: Afghanistan, Armenia, Azerbaijan, Georgia, Iraq, Iran, Jordan, Lebanon, Libya, North Korea, Syria, Sudan and Yemen. An Interior Ministry statement said that the measure was aimed at curbing illegal entry by

immigrants who have been sent or acquired documents belonging to foreigners who have remained in France. It will mean that on re-entry papers will bear proof that the holder had actually left the country. A previous measure requiring exit visas for people from 49 countries was ruled unconstitutional in 1992. This new system is being introduced through a decree issued by the Interior Ministry under Article 29 of the immigration law passed in August 1993 which says that 'if considered necessary for national security' non-EU residents have to tell the 'administrative authorities [of] their intention to leave French soil'. *International Herald Tribune*, 14.2.94; *ESMV*, February, 1994.

* **Norway: Bosnian refugees protest:** Forty-five Bosnian refugees left the Refugee Reception Centre in Luster (a former sanatorium) and spent the night on the central railway station in Oslo to protest at the conditions in which they were being held. They complained that they had been waiting 16 months to be moved into communities in Norway and the Centre reminded them of the internment camps many of them had been held in. The refugees were offered help by the Psychological Team for Refugees and the doctor in charge said that many were in need of help because of war trauma.

* **Poland: to deport illegal immigrants:** Following talks with the German Interior Minister, Manfred Kanther, the Polish Interior Minister, Andrzej Milczanowski, announced that they would begin flying back 'illegal' immigrants entering the country. This follows the 1993 Polish-German asylum agreement which has led to 2,679 refugees being returned by Germany to Poland. *Balkan News*, 6.2.94.

* **Germany: Kurds protest:** Thousands of Kurds took to the streets in Berlin, Augsburg and Wiesbaden over a two week period to protest against the German government's support for the Turkish government. In Augsburg demonstrators blocked a motorway by commandeering buses after their march was banned. Petrol was poured on the motorway and set alight. Two Kurdish women died after setting themselves on fire and 500 Kurds were arrested. Chancellor Kohl said that those arrested faced deportation and were guilty of 'an intolerable abuse of German hospitality'. The Interior Ministry confirmed that they would be approaching the Turkish government to arrange an 'extradition agreement' to deport Kurds convicted of serious crimes. *Financial Times*, 21.3.94; *International Herald Tribune*, 24.3.94; *European*, 1.4.94.

Immigration - new material

Home Office discretion outside the immigration rules, Frances Webber. *Legal Action*, pp18-20, February 1994.

Row over detention of Jamaican visitors. *Runnymede Bulletin*, p4, February 1994. On the detention of nearly 200 Jamaican visitors to Britain just before Christmas.

Recent developments in immigration law, Rick Scannel, Jawaid Luqmani & Chris Randell. *Legal Action* pp18-21, March 1994.

Policing refugees and asylum-seekers in 'Greater Europe': towards a reconceptualisation of control, Mike King, in 'Policing across national boundaries', eds. M Anderson and M. den Boer, Pinter 1994, pp69-84.

Current and future international migration trends in Europe, John Salt. *Council of Europe [CDMG (93) 28E]*, 1993.

Overview of re-admission agreements in Central Europe, prepared by the Division of International Protection and the Regional Bureau for Europe of the UN High Commissioner for Refugees, September 1993, 18pp.

Parliamentary debates

Immigration practice, *Lords*, 16.2.94. cols. 270-282

Michael Lennon, *Commons*, 15.2.94. cols. 919-926

Immigration, *Commons*, 20.7.93, cols 301-323

Child migrants, *Commons*, 22.11.93, cols 301-308

LAW

France: New penal code

The French penal code has undergone its biggest revision since it was introduced in 1810. The new code, ten years in the making, and agreed by the National Assembly in 1992 came into effect on 1 March. It encompasses modern 'crimes' such as graffiti, sexual harassment, squatting, computer hacking and crimes against humanity.

One major change removes the right of protection against deportation for certain categories of immigrants convicted of drug offences. This includes the children of immigrants born in France, those with French spouses and those resident for more than 10 years in France. Expulsion orders could ban them for life.

Another change recognises that organisations - companies, associations, trade unions, political parties or governments - can be tried for acts committed by their members or representatives. An organisation found guilty of a crime can be fined five times more than an individual and can be dissolved by the court. Other changes increase the discretion of judges in sentencing; allowing people to use violence (short of murder) to defend their property; a new crime of placing others at risk (ie: jumping a red light); and publishing anything violent or pornographic in any place where it might be seen by a minor under 15 (including newspapers).

The 1810 code was revised in 1892, 1934 and 1978. The French penal code contrasts with the criminal justice systems in the UK and the USA which are based on common law and judicial precedent. The French penal code influenced the laws of most countries in Europe and Latin America.

International Herald Tribune, 5.3.94; see also story in Security & Intelligence section.

Holland: Absent witnesses

On February 1, 1994, new legislation came into force under which a witness who has reasonable grounds to feel threatened no longer has to appear in court but can give a statement to the investigating magistrate. The new rules also cover witnesses whose statements might be shocking to the next of kin, for instance in cases of incest, homosexual behaviour or extramarital affairs. The defence can question the witness through telecommunications or in writing as long as their identity is not disclosed. Undercover police officers can appear in court in disguise maintaining their anonymity, or only appear before the investigating magistrate if they received serious threats. Under the new legislation, inducing someone to make false statements under interrogation has become punishable with 4 years imprisonment or a Dfl25,000 penalty.

ECHR: UK vs the rest

After a closed meeting in Strasbourg at the end of January, evidence emerged that UK is obstructing projected reforms which are needed to prevent the European Court of Human Rights from collapsing through overload and inefficiency. A report in the *Observer* claimed that ministers led by Home Secretary Michael Howard are renegeing on agreements made last year to streamline the procedures whereby cases are currently scrutinised by up to three bodies - the Commission, the Committee of Ministers and the European Court on Human Rights. The plans involve replacing this cumbersome system by a single tier system, which would enable cases to be dealt with in under two years, instead of five or more at present.

It was also claimed that, alone of the 32 signatory states of the Human Rights Convention, the UK registered that it might object to an automatic, permanent right for individuals to complain about their governments' behaviour when the treaty establishing the ECHR is revised. Currently, the right of individual petition is renewed every few years, with the UK government due to renew individual petitioning rights in 1996. *Observer* 6.2.94.

Criminal Justice Bill

The Criminal Justice Bill, published in January, did not at first incorporate many of the illiberal proposals of the Royal Commission on Criminal Justice (see *Statewatch* vol 3 no 4). Its proposed abolition of the right to silence was the one proposal not supported by that Commission. But since the Bill was published, the government has announced that it plans to follow the Commission's proposal to abolish the committal stage of criminal cases going to the crown Court (abolishing the automatic right of pre-trial screening for sufficiency of prosecution evidence). Further proposed amendments to the Bill include statutory plea-bargaining, which the Commission supported despite acknowledging that it will result in more innocent people being convicted. At the end of February the government announced its intention to do away with a defendant's right to elect jury trial for petty theft and other minor offences (one of the Commission's most unpopular proposals), and in the pipeline are measures to force advance disclosure of the defence case. It is becoming increasingly clear that the government intends to legislate to bring into force all the harsh measures recommended by the Commission, while ignoring the Commission's (admittedly inadequate) counter-weight measures to protect criminal suspects and defendants.

Guardian 8.2.94; *Independent* 11, 23.2.94.

Disenchantment with Mackay

Lord Chancellor Lord Mackay has come under attack for what some see as the attempted destruction of the legal system by attacks on its independence at all levels as well as attacks on the funding of legal aid. In the House of Lords, Mackay agreed to reconsider the proposal, embodied in the Police and Magistrates' Courts Bill, that justices would be supervised by government-appointed executives. Lord Chief Justice Peter Taylor was at the centre of trenchant criticisms of the plan because of the conflict of interest between administrative and legal goals which it posed for chief clerks, and its potential for undermining judicial independence. He described the proposal as 'dangerous nonsense'.

At the same time, Lord Mackay was being criticised by Lord Woolf and by Law Society President Rodger Pannone of destroying the 'once-proud legal aid service'. Pannone said that access to justice was now available only to the very rich and the very poor, while Lord Woolf, the law lord who produced the Woolf report on the prison service, described as 'deplorable' the inability of large

numbers of people to protect their rights through the court. It left people vulnerable to exploitation, he said.

Mackay has also been accused of direct interference with a senior judge. According to the *Observer*, Mr Justice Wood, who was President of the Employment Appeals Tribunal, was pressured by Mackay to change his view that appellants were entitled to have a hearing to ask for leave to appeal against decisions of the Industrial Tribunal. Mackay's view was that hearings were an unnecessary luxury and applications could be decided on paper. When Wood failed to fall in with Mackay's view of the correct procedure, he was served with an ultimatum telling him to 'consider his position'. Wood resigned shortly afterwards.

Mackay has never been popular among barristers and judges, largely because he disturbed vested interests by radical proposals to remove barristers' monopolies in court. But now, all sides of the legal profession seem united against him. Law Lord Ackner summarised the universal concerns that: 'the Treasury is becoming predominant in the administration of justice'. *Independent* 23, 25.2.94; 1.3.94; *Observer* 6.3.94.

Law: in brief

* **Challenge to exclusion:** An Irish man who was excluded under the Prevention of Terrorism Act has succeeded in having his case referred to the European Court of Justice. The Court will be asked to consider whether the PTA's provisions for making and reviewing exclusion orders are compatible with European requirements of due process. *R v Home Secretary ex parte Gallagher*, Court of Appeal 16.2.94.

* **Store detectives and the right to silence:** As the draconian provisions modifying the right to silence (see *Statewatch* vol 3, no 6 & vol 4, no 1) passed the Lords Committee stage, Home Office ministers disclosed that silence in the face of questioning by store detectives and other non-police officers will attract the same adverse judicial comments at trial as silence in police interviews. The admission, in a letter from criminal justice minister David Maclean to Neil Gerrard MP, adds weight to suspicions that the government plans to privatise much of the policing of minor crime, and to concerns that the criminal justice system is being directed by considerations other than the ends of justice. *Independent* 2, 4, 11.2.94; *Guardian* 5.3.94.

* **Journalist's source protected:** A journalist who wrote a critical article about the escape from Broadmoor of two convicted murderers based on a leaked confidential report did not have to reveal his source, the High Court held. The hospital authorities wanted to know who had leaked the report, but had failed to make any inquiries themselves. The judge held that disclosure of a source could only be ordered under the 1981 Contempt of Court Act if the hospital could show that it was necessary in the interests of justice to do so, and they had not made out a case that it was. *Broadmoor Hospital v Hyde*, *Independent* 4.3.94.

* **Judges breakdown:** According to figures from Hansard, as of October/November 1993, there were 95 High Court judges of whom six were women. There were no Black or Asian High Court Judges. There were 279 full-time District Judges (County Court) of whom 22 were women and one was Asian; another five women and one Asian, out of a total of seventeen, were full time District Judges in the Family Division. Of 797 Queen's Counsel in private practice 41 were women. It was believed that there were three Black and five Asian Queen's Counsel. *Hansard* 29.11.93, cols 285, 287-288

* **Spain: deporting foreign prisoners:** the Spanish authorities have announced that all foreign prisoners serving up to six years in jail are to be deported in an attempt to reduce prison overcrowding. Government figures put the number of foreigners held in prison as 6,563 out of a total population of 45,000. Included in this figure are 1,380 prisoners from other EU countries some 900 of whom could be transferred to their country of origin to serve out their sentences. The order for the expulsions has been carried out under the 1985 immigration laws and would affect those waiting trial as well as serving prisoners. A Ministry of Interior spokesman said that it was intended to deter those entering the country illegally from committing petty crimes in order to prolong their stay. *European*, 11.3.94.

***Illegal immigrants to be prosecuted:** the Attorney-General, Sir Nicholas Lyell, has announced that in future the Crown Prosecution Office will not recommend deporting illegal immigrants charged with serious offences but will prosecute them. *Police Review*, 11.3.94.

Law: new material

Racism in the system, Makbool Javaid, *Legal Action*, March 1994 p8. On the Royal Commission on Criminal Justice, and proposals to eliminate racism from the criminal justice system.

Expediency over due process, Dr Michael Bohlander, *Legal Action*, March 1994 p9. On the cost-saving concerns of German state and federal governments, and their effects on the German legal system.

Public order review, Jo Cooper. *Legal Action*, pp10-12, February 1994

Criminal justice and civil and political liberties, National Council for Civil Liberties. *Report 2* 1993, pp47, £3. On the crisis in criminal law and legal institutions.

The Right of silence: Liberty parliamentary briefing. National Council for Civil Liberties, December 1993. On the Criminal Justice and Public Order Bill which proposes to abolish the right to silence.

Monitoring of the Criminal Justice Act 1991 - data from a special data collection exercise. *Home Office Statistical Bulletin* 25/93, 1993.

POLICING

Europol HQ opened

On 16 February the new Europol offices in the Hague were formally opened by Dutch Minister of Justice Mr Ernst Hirsch Ballin, who spoke out in favour of a rapid expansion of Europol.

Of the European Drugs Unit (EDU), the first unit to be set up, he said that the Liaison officers of the 12 EU states: 'can request the information which is required for current investigations in their own country. They can consult the national police files in their own National Unit. As long as there is no convention, all of the member states keep control over the information themselves, for assessing the legal requirements for exchanging information with other countries'. The Convention on Europol, which is still being drawn up, would: 'give Europol the authority to set up a central European

intelligence database. Europol could then be considered as a kind of European Criminal Intelligence System', said Dr Ballin.

He went on to advocate establishing 'our own European Law Enforcement Network' in the longer term and 'common investigation teams' in the short term.

However, the deputy director for Police at the Ministry of the Interior, Mr De Graaf, said in a speech at a symposium on Europol on 23 February in Amsterdam that he did not feel Europol should take on a role in coordinating police investigations. Europol, he said, was an information-collecting, processing and distributing body with an acquired expertise on organised crime. Mr De Graaf also said there was still a lot to be arranged in terms of statutory footing and effective parliamentary control, for which he suggested the establishment of an interparliamentary commission. Professor Rüter told the symposium that personal sources had told him that the German police were preparing a detailed proposal for legal and judicial standardisation along the lines of the German model as a basis for establishing a network of Europol branch offices throughout the EU. This goes far beyond the present remit of Europol. Germany takes over the Presidency of the EU in July and therefore the lead role in setting the agenda for initiatives in the field of justice and home affairs.

At the present Europol and the EDU is only authorised by a ministerial agreement (signed in Copenhagen in June 1993) pending the presentation and ratification of a Convention on Europol. The Convention will not be ready for ministerial signature until the autumn (under the Presidency of Germany). Conventions have to be ratified by the parliaments of each member state which is a lengthy process. For example, the Dublin Convention on asylum seekers, agreed by the EU Ministers in 1990, will not be ratified by the 12 parliaments before the end of 1994 (see *Statewatch* vol 3 no 6). No date has yet been given for the presentation of the Convention on Data Protection which will govern the exchange of information between states under the Conventions on Europol, External Borders Controls and the European Information System (EIS). It is therefore hard to see how both of these Conventions are going to be in force before the review of Title VI of the Maastricht Treaty (justice and home affairs) is due to be completed by the end of this year.

EDU

Europol is presently headed by German senior BKA officer Mr Juergen Storbeck, who is considered to be a hardliner. Second-in-command is Belgian Gendarmerie Colonel W Bruggeman, judged to be more moderate. Mr Storbeck is soon to return to the BKA and France has put forward a candidate to take over. Unfortunately, the French candidate appears to speak no English, which could be a handicap. Another French problem is the firm 'Europol', which is in the business of producing and selling polyester and therefore claims the brand name.

The total budget for the EDU is 2 million ECUs, half of which is for personnel and half for equipment and costs. The central staff, excluding the liaison officers from each country (the UK is sending five officers, police and customs), is 18 (including four analysts, five information officers, and nine administration people). The regular intelligence situation reports to be prepared are: 1) general situation; 2) drugs threat from Eastern Europe; 3) organised crime groups in the EU.

Treaty on European Union (Maastricht), Declaration on police cooperation, p 248; *Intelligence Newsletter*, 10.3.94; Speech by Dr Ernst Hirsch Ballin delivered at the opening of the Europol/EDU office on 16.2.94; *Projet de recommandations relatives à la mise en place de l'Unité drogue Europol (UDE) et de l'équipe de projet*, ref: 10363/93, Confidential, 23.11.93.

Holland: Surveillance techniques

A commission on police matters in the Dutch parliament agreed on 7 March, 1994 to approve a bill that would allow the police to bug or otherwise monitor conversations in any location provided there were clear indications that crimes were being planned. At the moment the police are only allowed to monitor telephone conversations. However, last year the police managed to overhear conversations in a room because suspects left the telephone 'accidentally' off the hook in an unusually large number of cases. For political activists the new situation will not make much difference because the security service (BVD) are already allowed to bug any premises.

In a recent case in Haarlem the police traced the movements and activities of a suspected drug dealer by using a 'shadow' beeper that printed out all the messages received. The police technical department had constructed the monitoring equipment, and no permission was requested from the investigating magistrate for its use. The court now has to pass judgment on the legality of this surveillance technique.

PTT Telecom has almost completed a system that will allow the police to monitor separate car and portable telephones by number. The maximum simultaneous monitoring capacity of the system will be 180 telephones, which some sources in the police say is not enough because of the widespread use of car phones by suspected criminals. The new system will do away with the present practice by which the police monitor all car phones in a given area by radio scanners to subsequently identify their targets through voice recognition, a method that has brought many protests from lawyers and the general public because it involves violating the privacy of many citizens.

Operation Jackpot

Operation Jackpot, the Police Complaints Authority (PCA) investigation into reports of widespread corruption at Stoke Newington police station, in north London, has been completed. The inquiry, which began in April 1991 and was concluded in February was led by Detective Superintendent Ian Russell and overseen by William MacCall of the PCA.

It is the most extensive inquiry into police corruption since the 1970s and investigated 22 cases, with a total of 134 complaints against 45 uniformed police officers. Sixty-five of the complaints involved the planting of drugs; there were 27 allegations of conspiracy to pervert the course of justice and 27 claims of theft. Nine other complaints involved police assaults.

The Hackney Community Defence Association (HCDA), which has been monitoring events at Stoke Newington, has recorded 90 - 81 drug-related - allegations against Stoke Newington officers. In 77 cases people have been charged with a criminal offence; twenty two of these cases have resulted in acquittals, in 18 cases the prosecution offered no evidence and thirty-five cases resulted in convictions (with two waiting to appear). Of the convictions 11 cases were successfully appealed and 16 cases are outstanding.

On its completion the Jackpot report was passed to the Crown Prosecution Service (CPS), reportedly with the recommendation that ten officers - the ringleaders - face prosecution. The CPS has heavily criticised in the past for its handling of corruption charges against the now disbanded West Midlands Serious Crime Squad, when it failed to bring charges, despite recommendations from the investigating officers.

The HCDA, is also sceptical about the outcome of the inquiry. They expect only a handful of prosecutions of junior officers on

minor charges to result from the investigation. Speaking for the HCDA, Graham Smith said: 'Operation Jackpot has been unsatisfactory on all levels. Its terms of reference were too limited and it has taken far too long...Internal police complaints investigations cannot succeed because the police investigate themselves behind closed doors and the community will not talk to the police.'

The HCDA, supported by Brian Sedgemore, the Labour MP for Hackney, have called for a judicial inquiry into the policing of the borough (See also *Statewatch* vol 2 no 2 & no 5)

A submission by Hackney Community Defence Association to Home Secretary Michael Howard to order a judicial inquiry into policing in the Hackney and Stoke Newington divisions of the Metropolitan Police service, HCDA. 3.2.94. (Available from HCDA, 10A Bradbury Street, Dalston, London N16 7JN); Police Complaints Authority finish supervision of 'Operation Jackpot', PCA press release 3.2.94.

Scotland: Cross-border curbs scrapped

Internal border controls within the UK which prevent police officers from England and Northern Ireland from making arrests in Scotland are to be scrapped. The change has been introduced in an amendment to the Criminal Justice and Public Order Bill, and was accepted without a vote by the all-party House of Commons Committee on 1 March. MPs complained that they had been presented with a whole series of amendments to the Bill, which was introduced in December, with no chance to debate their implications. It also poses a question over suspects' rights because the Scottish legal system is different and quite distinct from that in England and Wales.

At present officers working outside of their usual legal jurisdiction are stripped of their powers of arrest. The proposal will allow Scottish officers to make arrests south of the border, and officers from English and Welsh police forces and the Royal Ulster Constabulary to operate in Scotland. Current cross-border police powers are restricted to a narrow corridor along the Border. This allows officers from Lothian and Borders, Dumfries and Galloway forces and those from Northumbria and Cumbria to follow criminals in 'hot pursuit' into the neighbouring country.

Carole Ewart, director of the Scottish Council for Civil Liberties said that the proposals would sweep away the independence and protection of Scotland's legal system and had been introduced without public debate.

Scotsman, 2.3.94.

Police Bill changes

The government has made further amendments to the Police and Magistrates' Court Bill following continued opposition in the House of Lords (where the Bill was introduced) and from police and local authority organisations (see *Statewatch*, vol 4 no 1).

On 14 February the government withdrew the controversial Clause 45 (affecting police in Scotland) which would have allowed the Secretary of State for Scotland to direct local forces to undertake specific operations. Police organisations had objected to what they saw as the 'political control of operational policing'.

On 15 March the proposal for the Home Secretary to appoint the proposed five 'independent' members of local police authorities from a panel chosen by two Lord Lieutenants and an professional recruitment consultant was dropped. In part because the Lord Lieutenants themselves did not want to become involved in what they saw as political appointments. Instead police authorities will co-opt five 'independent' members from a shortlist agreed by the

Home Secretary. The shortlist will be drawn up by 'local panels' comprising one person appointed by the Home Secretary, one chosen by the combined councillors and magistrates on the authority, and one person chosen jointly by the other two. From the shortlist of 20 they draw up the Home Secretary will choose 10 from which 5 will then be chosen by the police authority. The criteria for selection will be at the Home Secretary's discretion. In another concession the size of police authority is to be increased from 16 to 17 giving one additional local councillor (the proposed composition would thus be: 9 councillors, 3 magistrates, and 5 'independent' members). When the new scheme was announced by the Home Office Minister Lord Ferrers they were greeted with laughter. Lord Jenkins, the Liberal peer said it was a classic case of how not to legislate, it was 'humiliation by instalment', he said. Lord Callaghan, an ex-Home Secretary, said it was an elaborate farce.

These changes will be largely symbolic because the basic decision to cut police authorities off from local councils and make them quangoes still stands as does the power for the Home Secretary to set policing 'objectives'.

Association of Metropolitan Authorities briefing, 15.3.94; *Scottish Office* press release, 14.2.94; *Guardian & Times*, 22.2.94; *Guardian & Independent*, 1.3.94.

Holland

Speculative police raids

Holland's leading quality newspaper NRC Handelsblad has exposed a widespread police practice of regularly breaking into the houses, offices and other premises of suspects in order to check out whether an official house search on a warrant would produce any evidence. On several occasions bugging devices were installed. The newspaper states that public prosecutors and police detectives have confirmed that such clandestine burglaries take place throughout the country. These operations are systematically kept out of all internal and external reporting, but the public prosecutors and all five Procurators-General (who supervise the public prosecutor's offices) are aware of and support these activities. Police officers in black training suits carry out these 'looking operations' as they are called. These police operations are clearly in violation of the penal code and have never been admitted before, although political activists have encountered the 'men in black' in the past and there has been ample indications of burglaries by intelligence services.

This week the five Procurators-General, who have semi-independent policy-making powers, have agreed on broadening the scope of police infiltrations and other undercover activities. A central commission is to be installed to oversee and approve such operations in order to come to a national harmonization. Under certain conditions police undercover agents will be allowed to sell drugs, including hard drugs to a maximum quantity of several kilos, in order to gain the confidence of criminals. The establishment and use of so-called 'front stores', phoney corporations such as transport companies and financial service firms, to do business with criminal organizations will be allowed as well.

NRC Handelsblad, 25.3.94.

Policing - in brief

* **Guildford 4 protest damages:** The City of London police paid the largest damages award in their history when they paid £40,000 to six protesters in March. The six, who took part in a demonstration in support of the Guildford Four in 1989, accused the police of assault, wrongful arrest and false imprisonment after being held for four hours at Bishopsgate police station. They were then released without charge. *Guardian* 12.3.94.

* **Holland: tagging:** Later this year, the justice department will start an experiment whereby prisoners will be restricted to their own homes by electronic monitoring. If they move outside a given perimeter or tamper with the matchbox-sized electronic transmitter around their ankle, an alarm goes off at the police station.

* **Spanish Police on murder charges:** Two policemen have been charged with the murder of four people at Nigran, in north-west Spain. The officers, part of the renamed and reformed *Cuerpo Nacional de Policia*, were Manuel Lorenzo and Jesus Vela. Their victims were a businessman, David Fernandez, his wife, child and home help. All four had been shot dead after being held at gunpoint and Mr Fernandez had been forced to hand over 20 million pesetas (£100,000). *Guardian* 3.2.94.

* **Germany: Amnesty criticises Hamburg police:** Amnesty International has published a 10 page report criticizing the Hamburg authorities for failing to prosecute or discipline police officers responsible for ill-treating detainees in their custody. The officers - members of the E-Schicht, a special police unit based at police station 16 in Hamburg - were the subject of 32 complaints of ill-treatment during the period 1989 to 1993. None of these complaints has resulted in officers being charged or disciplined, even though two of the victims, Lutz Priebe and Frank Fennel, were subsequently awarded compensation by a Hamburg court for the injuries they suffered at the hands of the E-Schicht. In August 1989 Lutz Priebe suffered a broken nose when an officer at station 16 deliberately struck his face against the edge of a table. The Hamburg Regional Court concluded that he had been the victim of deliberate ill-treatment. Frank Fennel was badly beaten by officers from the same station in July 1991. His injuries included concussion, multiple bruising and abrasions, and a bruised kidney, as a result of which he was in hospital for a week. The same court ruled that Fennel had been 'badly and systematically beaten' by officers who had 'taken the law into their own hands'. *Amnesty International*, March, 1994.

* **Teledrug link:** the UK has signed a 'Memorandum of Understanding' with Italy to enable it to join the Teledrug computer network on illicit drug trafficking. The Teledrug system comes out of a Ministerial meeting in Rome in 1990 on the change of information about drugs along the 'Balkan Route' (the UK was not party to this). It came into operation in September 1992 linking terminals in Italy and Turkey to a mainframe computer in Rome. The UK announced its intention to join the network at the Ministerial Conference on Drug Trafficking Routes in Rome in May 1993. Greece signed a similar agreement with Italy last year. In the UK Teledrug will be used by HM Customs and Excise and the National Criminal Intelligence System. *Home Office* press release, 10.2.94.

Policing - new material

Under siege with the road warriors, Conor Foley. *New Statesman & Society*, pp12-13, 25.2.94. On the heavy-handed policing of the anti-M11 motorway extension in east London. Operation Bernard cost £200,000 and involved between 700 and 1,000 police officers to evict people from seven houses.

What price protest?, Claire Casey. *Police Review*, pp18-19, 25.2.94. On the policing of the anti-M11 motorway protests in east London and the larger issue of policing demonstrations. Commander John Townsend asks whether 'a handful of

demonstrators...should cost the country so much money' and suggests a review of the role of bailiffs and sheriffs, with a possibility of their powers being increased.

A fight to the death, Dave Hill. *Guardian* 5.3.94. A decade after the year long miners' strike to save their jobs and the industry all but 17 of the 170 pits involved have been closed.

Policing into the next century, Paul Condon. *RUSI Journal* 139(1):9-11, 1994. The Met. commissioner is optimistic about the future of policing, which he argues will 'make far more use of intelligence, targeting, surveillance and technical devices.'

Human factors in the quality control of CID investigations, Barrie Irving & Colin Dunnighan. *The Royal Commission on Criminal Justice Research Study No. 21*, HMSO 1993, pp108, £13.

The 1992 British crime survey, Pat Mayhew, Natalie Aye Maung & Catriona Mirrlees-Black. *Home Office Research Study* 132, 1993. This is the fourth British Crime Survey, with the intention of providing an index of the extent of crime and of crime trends.

Time for a change, Michael Clarke. *Police Review* pp14-16, 14.1.94. The results of a Police Review firearms survey that 'highlights a growing desire for routine arming and a call for more armed response vehicles.'

Response of the Finnish government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Finland from 10 to 20 May 1992, 144 pages, 1993, Council of Europe.

Report to the Dutch government on the visit to the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 30 August to 8 September 1992, 65 pages, 1993, Council of Europe.

Parliamentary debates

Police and Magistrates' Courts Bill, *Lords*, 15.2.94. cols. 101-159, 181-198 & 17.2.94. cols. 292-345, 353-414

Criminal Justice and Public Order Bill, *Commons*, 21.2.94. cols.23-123

Identity cards, *Lords*, 2.2.94. cols. 1352-1368

Police responsibilities and rewards, *Commons*, 28.10.93, cols 975-989

NORTHERN IRELAND

Chancellor sees all

From 2,000 feet in the sky, 'it is possible to read the writing on a packet of crisps or see spots on a persons face - that's how good the definition is'. So claimed a senior security source in an 'exclusive' interview with the Belfast Telegraph. He was referring to the new American made Chancellor camera, a by-product of the US space programme, which is now fitted to military helicopters engaged in surveillance work in the North of Ireland. The search for a new camera began after 'heli-tele' film was used as evidence in the numerous trials which followed the killing of two British Army corporals at a West Belfast funeral in 1988. Notwithstanding

computer enhancement, the quality of that film was poor, raising significant doubts as to its use as identification evidence.

Belfast Telegraph, 9.2.94.

Northern Ireland: in brief

* **Border roads**: The British and Irish governments recognise 291 border crossing points between Northern Ireland and the Republic. One hundred and three of these are subject to closure orders. *Hansard* 20.11.93. col. 781

* **France: phone-tapping inquiry**: the inquiry into the phone-tapping cell involved in the 'Irish Three' case and the bugging of journalists and political figures has taken another twist (see *Statewatch*, vol 3 no 3 & vol 4 no 1). Two of the men involved former gendarme Colonel Christian Prouteau (then head of the Elysée security cell) and Gilles Ménage, then head of President Mitterand's private office, have refused to answer the questions of the investigating judge, Jean-Paul Valat now he is seeking yet again to question them. The scandal has also spread from the President's office to the Prime Minister's. One of the phone-tap victims Le Monde journalist Edwy Plenel includes information in a new book which shows that codes on the transcripts of intercepted phone conversations involve the Inter-Ministry Communications Group (GIC) which authorises phone-taps and is responsible to the Prime Minister. The codes also show that the phone lines used belong to the DGSE (overseas intelligence service), which is theoretically accountable to the Defence Minister. *European*, 25.3.94.

Review: Coca Cola Criminology

Terrorist Threat to Safe Shopping, Centre for the Study of Public Order, 27 pages, £10.

British criminology has finally discovered the IRA, in all but name. Two academics at the University of Leicester's Centre have produced a report which seeks to analyse the cost to commercial interests of IRA attacks on business premises.

The report is interesting for three reasons. First, its characterisation of terrorism is irresponsibly misinformed. Second, it is less concerned with the safety of shoppers than with the threat to retail profits, and thirdly, the report uses survey evidence from a sample of shoppers to advocate the installation of a predictable array of surveillance technology, including identity cards.

An adequate response to terrorism, the report begins, must be premised on 'a thorough understanding of the changing nature of terrorist activities' (characterised as a shift from political and military targets to economic and commercial ones) as well as 'an appreciation of terrorist motivations' (terrorists are essentially irrational, 'they allow no debate, nor are they susceptible to reason' and largely immune to deterrent penalties).

Although it is evident from the incidents mentioned (the Brighton bomb, the Downing Street mortar attack, the Baltic Exchange) that it is the IRA threat which is under discussion, the report manages to avoid mentioning the IRA by name, except once when reference is made to MI5 taking over the lead role in combatting the IRA in Britain. This quite extraordinary omission means that we are expected to understand terrorism without knowing which groups are which, what their political aims are and how they relate to other groups and political movements, and finally, what the current state of the conflict happens to be.

The report is sharper when discussing the economic costs of the IRA's bombing of English cities. At stake here is a £368 billion per annum market. It suggests three types of costs. Firstly, there are the direct costs of repairing the damage and getting back to normal.

The Bishopsgate bombing, for example, displaced 20,000 workers and generated a repair bill of at least £350 million, a bill which is eventually passed on to consumers. Secondly, there are the indirect costs incurred through the disruption and loss of trade, lower employee morale and lost productivity. And thirdly, there are longer-term consequential losses - the erosion of customer confidence. Whole areas come to be avoided, particular stores boycotted and other 'significant changes in shopping behaviour' occur.

This is as far as the report goes, however. It avoids an overall assessment of these costs in recent years. It does not discuss the private security costs of personnel, buildings, stock and equipment - for instance the cost to City firms of back-up computer storage housed in old London Underground tunnels. Nor does it calculate the costs of the regular disruption of commuter traffic - the IRA claimed 1,060 incidents of this kind in England in 1992. It fails, furthermore, to mention the public sector costs associated with all this, whether spent in England itself, or Ireland.

With such a narrow view of terrorism, it is understandable that the report recommends a) target-hardening (eg the City could be ringed with steel for £100 million, but this would incur annual costs of £25 million); b) improved surveillance (300,000 CCTV cameras are sold each year in Britain); c) 'widening and deepening' police powers (eg random stop and search powers in relation to vehicles); and d) improved intelligence.

The researchers interviewed 849 'representative shoppers' at five shopping locations in the city of Leicester. They found a high level of fear: 61% said they had 'thought about the possibility of a bomb explosion'. When asked about CCTV, only 15% were in any way 'worried and concerned' about its use, but hardly any of these took the view 'that CCTV spoiled their shopping'. The more 'public' the location, the more widespread was the acceptance of CCTV. There was acceptance of other security measures - unarmed security guards (91%), ID cards (78%), random road blocks (57%) and armed police (40%).

The overall impression of this report is that it is a weakly argued technical fix to terrorism. Why the authors think that such tactics actually work is hard to imagine. But at least the makers of CCTV and other security equipment, and the private security/police companies have nothing to fear from this report. The Centre is forging a criminology which is in keeping with the commercialisation of the law and order business. As the state is given over to the market, to the accountants, agencies and private companies, it should not be so surprising to find that the IRA have resurrected the strategy of 'economic warfare'.

Not so long ago, Coca Cola marketing division reorganised on an all-Ireland basis. The company now views the North as 40% of the Irish market rather than 1.5% of the UK market. Maybe *The Terrorist Threat to Safe Shopping* is not Coca Cola criminology after all.

Northern Ireland - new material

Policing the diaspora, William de Laval. *Irish Reporter* pp26-27, No. 13, 1994. Outlines the ways in which Irish people in different parts of the world, particularly Europe, have received the unwelcome attention of various state security services.

Irish prisoners overseas: the diaspora behind bars, Nuala Kelly. *Irish Reporter* pp28-29, No. 13, 1994. On the Irish Commission for Prisoners Overseas and the conditions faced by Irish prisoners in foreign jails.

Statistics on the operation of Prevention of Terrorism

legislation - 1993. *Home Office Statistical Bulletin* 3/94, 22 February 1994.

Common Ground. *Pat Finucane Centre* Vol. 1, No. 1 1994. This is the launch issue of a new newsletter that 'seeks to promote respect for human rights and foster creative political action around the future of Ireland.' It contains articles on the British and Irish governments' joint declaration, Bloody Sunday and the human rights work of Pat Finucane, who was assassinated by the UDA in 1989.

Parliamentary debates

Northern Ireland, *Commons*, 21.1.94. cols. 1155-1220

Neil Latimer (imprisonment), *Commons*, 23.2.94. cols. 408-416

Northern Ireland, *Commons*, 22.10.93, cols 483-550

Security (Northern Ireland), *Commons*, 25.10.93, cols 577-590

Northern Ireland, *Commons*, 29.11.93, cols 785-812

RACISM & FASCISM

TUC march against racism

Almost 40,000 people joined a Trades Union Council (TUC) 'Unite against racism' march from Spitalfields Market to London Fields on Saturday 19 March. It was one of the largest anti-racist demonstrations seen in recent years and highlighted the escalating racist violence in east London since the election of the fascist British National Party (BNP) candidate, Derek Beackon, at the Isle of Dogs by-election last year (see *Statewatch*, vol 3, no 5).

One victim of this increased violence was nineteen-year old Muktar Ahmed, who was brutally beaten by a gang of twenty racists less than a hundred yards from his home in February. The beating he received was so severe that he was fortunate not to have died.

Following the Isle of Dogs election campaign the Liberal Democrats were severely criticised for a running a blatantly racist campaign that contributed to the BNP victory by victimising the local Bangladeshi community. This pressure forced the party to initiate an inquiry, chaired by Lord Lester, into the conduct of the local party. It concluded that their campaign 'was profoundly misguided, and was counter-productive in helping to make racism appear respectable and pave the way for the BNP's victory'.

Nonetheless, the inquiry appears to have had little effect on the local party who obstructed the TUC march organisers at every opportunity. The planned route of the march, from Spitalfields Market to Mile End Park, was turned down by the Liberal Democrat controlled Tower Hamlets council on the grounds that a rally at the park would spoil the grass. A second venue, at Victoria Park, was also refused and the march was eventually forced to rally at London Fields, in neighbouring Hackney. These circumstance made complaints by Liberal Democrat leader, Paddy Ashdown, that he had not been allowed to speak at the rally, ring hollow.

Since the march the Tower Hamlets Liberal Democrats have faced further criticism following the attempted deselection of six Asian candidates and their replacement by whites in order to run an 'ethnically balanced ticket' for the May council elections. The racism of the Liberal Democrats, combined with splits within the Labour Party over whether they should play the 'race-card' does not bode well for the May elections when the BNP will be fielding three candidates in the area. If the BNP win all three seats they will have access to a twenty-million pound budget to further their fascist aspirations.

Political speech and race relations in a liberal democracy, Lord Lester. Report of an inquiry into the conduct of the Tower Hamlets Liberal Democrats in publishing allegedly racist election literature between 1990 and 1993, Liberal Democrats, 1993. *Neither unique nor typical: the context of race relations in the London Borough of Tower Hamlets (Interim report)*. Runnymede Trust, 1993.

Holland: Race statistics criticised

Figures produced by the police criminal intelligence service on the source of racist violence has come under strong attack. A confidential analysis by the Central Recherche Informatiedienst (CRI, Central Criminal Intelligence Service) concludes that racist provocations and violence against foreigners in Holland do not originate from organised rightwing extremism. According to the CRI, they are local and mostly unrelated incidents. The number of reported incidents over 1993 (612) has risen sharply compared to the first documented period (Jan 1992 - May 1993: 337 incidents).

Experts however have questioned the reliability and validity of the CRI's analysis. Criminology Professor and expert on policing Dr Cyrille Fijnaut (Leuven and Rotterdam universities) says that the figures are based only on published accounts and that many incidents are not included. He says their conclusion that organized right-wing extremism plays no role is not supported by hard evidence. Dr Jaap van Donselaar of Leiden University, considered to be an expert on rightwing extremism, also questions the CRI's conclusions and emphasizes that extreme right political parties make every effort to keep connections with their violent followers out of the limelight.

The Fascisme Onderzoekskollektief (FOK, Fascism Investigations Collective), which has many local correspondents throughout the Netherlands and confidential sources within extremist groups, calls the figures blatantly unreliable. 'The CRI has to work on data supplied voluntarily by local police forces. They did not include in their figures at least eight serious incidents (a hostage situation involving asylum seekers, a case of arson and a number of physical assaults) in which rightwing extremists were involved.' The FOK spokesperson also pointed out that a group of extremists sentenced in 1993 for violent crimes against foreigners was not considered to be organised, because during police questioning the subject was not brought up. However, five of them were card-carrying members of the CP '86 extremist party that has local councillors throughout the country. The CRI accepts that its conclusions are based on the statements of arrested perpetrators, and that only in a very limited number of incidents were people arrested. 'Information' from police intelligence services was not used in the analysis.

Racism & fascism - in brief

* **Far right gains in polls:** In Austria the far right Freedom Party (FPÖ), led by neo-Nazi Jörg Haider, made significant gains in three provincial elections in Carinthia, Salzburg and Tyrol in March. In Carinthia, Austria's poorest state and the FPÖ's power-base, they polled an unprecedented 33.3% of the vote. The ruling Social Democrats, whose vote plunged by 9%, took 37.4% of the vote. This was enough to ensure that Haider would not regain the governorship he was forced to resign in 1991, after declaring his admiration for Hitler's 'employment' practices. In Holland representatives of the extreme-right racist parties Centrumdemokraten and the smaller CP '86 and Nationaal Blok have won 87 seats in nation-wide local elections on March 2. Four years ago, they won 17 seats, but this time they managed to present candidates in a much larger number of cities. In Rotterdam, with 13.7% of the votes the rightwing extremists became the second-

largest political group, nearly doubling their 1990 vote. In Amsterdam they won 9.7% of the votes (6.8%, 1990). *Independent* 4.3.94; *Statewatch* contributor.

* **Irving jailed:** Nazi revisionist historian, David Irving, was sentenced to three months imprisonment for contempt of court in February. Police arrested Irving at his Mayfair home after a High Court judge found him in contempt for failing to provide details of his assets after he was sued by a German publisher. Irving had received an advance payment of DM150,000 for two volumes of a biography of Winston Churchill, but had failed to produce the second volume. He was released after serving ten days.

Racism & fascism - new material

Racism: the destruction of civil and political liberties, Conor Foley & Sharron Nelles. *National Council for Civil Liberties Report 3*, 1993, pp60, £3. This report concludes by pointing out that 'the government is not taking the problem of racial violence seriously, nor is it adequately upholding the rights of ethnic minorities to live in a society which respects their most basic human rights.'

Race attacks: do we need a new law? *Labour Research* 83(2):7-10, 1994. A contribution to the debate over the need for a new law to combat harassment and racial attacks.

European unions tackle racism. *Labour Research* 83(2):11-12, 1994. An investigation of what European trade unions have done to fight racism within their ranks.

Newham Monitor No. 4, 1994. The quarterly bulletin of the Newham Monitoring Project covers the Tower Hamlets Nine, Joy Gardner and nazis in Newham.

The forgotten history of black people's resistance to immigration controls. *No one is illegal* No. 16 (Spring) 1994.

Fascism and the state in Britain: the case of the British Fascists 1923-31, John Hope. *Australian Journal of Politics and History*, Vol 39, no 3, pp367-380.

Anti-racist law and the travellers (prepared with the Irish Travellers Movement and DTEDG), 1993, £3.00; **Submission to the UN Human Rights Committee on the First Report by Ireland under the International Covenant on Civil and Political Rights**, 1993, £3.00. Both from: The Irish Council for Civil Liberties, 35-36 Arran Quay, Dublin 7, Ireland.

EUROPE

EU: Secrecy law

The secrecy laws agreed in December 1993 by the General Affairs Council of the EU are only partly in operation. The Council Secretariat is operating the new procedures in relation to the release of documents - it is refusing to release the full minutes and background documents in the fields of policing, immigration and judicial cooperation (all the areas covered by TITLE VI of the Treaty of Union - the new name for the Maastricht Treaty - and dealt with by the K4 Committee). The vetting of staff handling sensitive material is however on hold because negotiations with the staff unions and ongoing discussions between the permanent

delegations of EU state on precise definitions. The Dutch government's challenge to the new procedures is with the European Court of Justice. (see *Statewatch* vol 3 no 6 & vol 4 no 1).

Through COREPER, the permanent committee of high-level officials representing each state, and its subsidiary committee, the ANTICI group (deputies) some governments have been seeking 'clarifications'. The German delegation said that if the procedures were to have an 'unchallengeable legal basis' it should take the form of a 'regulation' as it imposed legal obligations on Member states (who would carry out security screenings of Council staff). The French delegation wanted a 'weightier' form of obligation. The Legal Service of the Council opposed the legal form of a 'regulation' on the grounds that they did not have the power to do so under the EC Treaty. The Legal Service further pointed out that no powers to adopt 'internal security rules for the General Secretariat' were given under the TEU. All they were empowered to do was to adopt a 'Decision' which 'may provide for obligations on Member states'.

The Italian delegation raised the question of the status of people who work for the Council. Staff were not, they said:

yet subject to supranational arrangements, with European citizenship, a European police force and European courts, and are therefore still national citizens and subject to purely national investigation, rulings and sanctions. Security clearance may therefore apply only nationally and may be granted and withdrawn only by the Member state in question.

Classified information: draft Council decision: Legal Service opinion, 7.2.94, SN 1405/94; ANTICI GROUP: meeting document: Classified information, 20.1.94, SN 1260/94.

EU: New Council Directorate

A new Directorate-General H: Justice and Internal Affairs has been created in the Council of the European Communities. The Council is the permanent institution representing the government and states of the 12 EU countries (the other permanent institutions are: the Commission, the Parliament and the Court of Justice). The structure of the new directorate, headed by Charles Elson, is organised to reflect that of the new K4 Committee and its steering groups (see *Statewatch* vol 3 no 6 and the *Statewatch* handbook on the European state). Its structure is as follows:

Director-General

Director (with special responsibility for Divisions I & IV)

Division I: asylum and immigration, plus CIREA (Centre for Information, Discussion and Exchange on asylum), CIREFI (Centre for Information, Discussion and Exchange on the crossing of borders and immigration) and EURODAC (the computer system recording the details and fingerprints of refugees and asylum-seekers to be refused entry to the EU). *Division II:* police cooperation and customs. *Division III:* judicial cooperation (civil and criminal). *Division IV:* general affairs: archives, relations with the European Parliament, studies - in liaison with Division I.

Justice & Interior Ministers

Before the meeting of the Council of Justice and Interior Ministers on 23 March began a special session had to be held to consider a written request from the US government for lists of 'hooligans' travelling to this summer's World Cup. The seven countries

involved, Germany, Spain, Italy, Belgium, Holland and Greece, agreed to set up a sub-committee to consider the question. The handing over of lists however presented a problem to some. Maire Geoghegan Quinn, the Irish Justice Minister, said there would have to be some arrangement 'but I don't see us handing over lists'.

The meeting itself considered reports on: 1) the Commission's proposal on immigration and asylum: generally welcomed and added to the work programme of steering group 1 of the K4 Committee. Germany and the UK expressed reservations about the sections dealing with 'integration'; shutting the borders and expelling 'illegal' immigrants was their first priority. 2) the European Information System (EIS, the EU-wide computer system covering policing, immigration and criminal matters): a draft is expected to be ready for the meeting in June. The outstanding question is whether or not to include more detail on the interface between this convention and that on Europol. 3) Europol: the Convention is still expected in the autumn. No decision was made on the permanent appointments to head the European Drugs Unit. 4) telecommunications: under the rubric of combatting 'organised crime' it is planned to use information gained through 'tapping' as evidence in court in another state. 5) cooperation on terrorism: a system of liaison officers is to be instituted backed by more systematic meeting and specialist seminars. 6) extradition: discussion of a new convention - one which allows the extradition of nationals and removal of 'political' offences - is ongoing. Greece and Portugal, for example, are forbidden by their constitutions to extradite their own citizens. 7) European Convention of Human Rights: the question is whether this can be incorporated by the EU, the problem is that it is not a 'state' and therefore cannot be the subject of a legal action. They have asked the European Court of Justice for its opinion. 8) EU fraud: Michael Howard, the UK Home Secretary, attending his first meeting, presented a draft decision on fraud and money-laundering which was 'welcomed'.

Justice & Interior Affairs Council press release, 23.3.94; notes from the Civil Liberties Committee of the European Parliament meeting with Mr Perakis, President-in-office of the K4 Committee, 24.3.94; Statewatch contributor.

Turkey detains Kurdish MPs

Six Kurdish MPs, members of the pro-Kurdish Democratic Party (DEP), have been arrested by police after the right-wing Turkish parliament voted to lift the immunity from prosecution of several Kurdish deputies. A radical Moslem MP, accused of attacking secularism, was also detained but later released.

DEP chairman, Hatip Dicle, and deputy, Orhan Dogan, were bundled into police cars as they left parliament on the evening of March 2. The other five MPs surrendered to police the following day after seeking sanctuary inside the Parliament.

The MPs have been accused of crimes against the Turkish state, under Section 125 of the penal code; it is a charge that carries the death penalty. The DEP advocates Kurdish autonomy in south-eastern Turkey and refuses to condemn the Kurdish Workers' Party (PKK) rebellion. In a recent incident in Sirnak province about a dozen people were killed, and an unknown number wounded, when a Turkish aircraft bombed a Kurdish village.

The European Parliament, in a strongly worded statement, has condemned the arrests and demanded that the MPs be released immediately. It also urged Turkey to recognise the right of autonomy of the Kurdish population in Turkey. In response, Prime Minister Tansu Ciller warned that she 'would not allow interference in our internal affairs', while the Foreign Ministry dismissed the EP statement as 'prejudiced'.

Independent 3 & 4.3.94, Balkan News 20.3.94.

Smart card passports

Six of the twelve member states of the European Union have concrete plans to introduce 'smart cards' to replace the traditional passport. Most advanced are the French, who will start the introduction of the smart card in 1995 over a planned ten-year period. In Holland an experiment with the 'Schiphol Travel Pass' was recently discontinued. About a thousand frequently travelling participants had a smart card which allowed them to clear customs through a dedicated checkpoint, where their fingerprint was compared with the information registered in the card. Schiphol officials declared that this method was too cumbersome. All persons registered with the Aliens department will receive a chipcard shortly which will allow the police to check their identity. The present paper identity card is said to be too vulnerable to tampering.

Europe - in brief

* **Effects of the Schengen Agreement:** the Dutch paper *Kleintje Muurkrant* draws attention to the effect of the Schengen Agreement and to the Schengen Information System (SIS). Although the start of the SIS has been delayed due to conflicting computer software the paper says that too little attention has been paid to the effects of exchanging information on individuals. It uses the example of a foreign correspondent from a non-EU newspaper who was expelled from Greece for criticising its government's decision not to recognise Macedonia. Under the SIS the individual would be registered as an 'undesirable' alien in all member states. The person could only be admitted to another country if it served a humanitarian purpose or the national interest - and this state would have to guarantee that the person would not damage Greek interests. *Kleintje Muurkrant*, 17.2.94.

* **Croatia: UK officer to be prosecuted:** The Commander of the UK warship Sir Geraint, David Gerard, is being prosecuted by the Croatian customs for violating regulations. The Commander was responsible for a container being held in warehouses in Split which was meant to be holding petrol and gas but was found to be explosives and military equipment. Customs officials became suspicious when the key was allegedly lost. They broken the lock and found the real cargo list inside. *Balkan News*, 6.2.94.

* **Schengen expansion?** Despite the delay in the Schengen Information System going on-line - because of software problems - the nine EU Schengen countries are proceeding with the assumption that it is also going to be the European Information System (the planned EU-wide computer system covering policing and immigration). Dr Bernd Schmidbauer, the Minister who is the current President-in-Office of Schengen, told the Civil Liberties Committee of the European Parliament in March that they had started talks with Austria. Denmark is now considering observer status with Schengen and the EEA countries about to join the EU are 'aligning themselves with the system for when they join the Community'.

This leaves two non-Schengen countries, the UK and Ireland, with no say. The director-general of the UK's National Criminal Intelligence System, Mr Pacey told *Police Review*: 'I'm always nervous when there's a European police institution being established with nine signatories and we are not playing our part in its development. If at some stage in the future we want to join, it may not be the institution we would have preferred had we been in a position to influence its development'.

EU: debates, resolutions and proposals

European Parliament debates

Cooperation in the fields of justice and home affairs, 13.7.93, *OJ 3-433*, pages 62-67.

Free movement of persons, 14.7.93, *OJ 3-433*, pages 150-165.

Court of Justice, 14.9.93, *OJ 3-434*, pages 49-52.

Crossing of the EC's external borders, 27.10.93, *OJ 3-437*, pages 173-176 and 28.10.93, pages 284-286.

Oral question and discussion:

European immigration, 23.6.93, *OJ 3-432*, pages 158-159.

Resolutions:

Free movement of persons pursuant of Article 8a of the EEC Treaty, 20.9.93, *OJ C255*, pages 183-4.

European immigration policy, 20.9.93, *OJ C255*, pages 184-186.

Cooperation in the fields of justice and home affairs (Title VI), 20.9.93, *OJ C255*, pages 168-171.

PKK terrorist campaign, 20.9.93, *OJ C255*, pages 148-149.

Human rights, democracy and development, 20.9.93, *OJ C255*, pages 47-51.

Rules of procedure of European Parliament subsequent to the Treaty of European Union, 15.9.93, *OJ C268*, pages 51-124.

Joy Gardner, 16.9.93, *OJ C268*, page 147.

European Commission proposals/directives

Rights of residence of students (directive), 18.12.93, *OJ L317*, pages 59-61.

Convention on the crossing of external borders (proposal; Commission using right of initiative, policy to be decided by the Council), 15.1.94, *OJ C11*, pages 6-15.

Regulation determining the third countries whose nationals must be in possession of a visa when crossing the external borders of the Member States (proposal; Commission using right of initiative, policy to be decided by the Council), 15.1.94, *OJ C11*, pages 15-17.

European Council

Code of conduct concerning public access to Council and Commission documents (see *Statewatch* Vol 3 no 6 and Vol 4 no 1 for restrictions placed on documents in the fields of justice and home affairs, and on foreign and security policy), 31.12.93, *OJ L340*, pages 41-44.

(*OJ* is the Official Journal of the European Communities)

Europe: new material

Enlarging the European Union in northern, central and eastern Europe, Nicholas Hopkinson. *Wilton Park Paper* 81, HMSO 1994, £8. This is a report based on a Wilton Park conference held last September.

The police in Slovenia: policing a new republic. *Police* pp24-25, February 1994. A short piece, from INTERPOL, on the Slovenian police.

European Union: the institutions, Susan Belgrave. *Legal Action*

pp16-17, March 1994.

Criminalising the Kurds. *CARF* pp10-11, March/April 1994. Asks if European powers are being drawn into the Turkish governments plans to crush Kurdish rebels within the year.

The making of European immigration policies, Jan Niessen. Churches Commission for Migrants in Europe, Briefing paper no 15, 36 pages, £5, from: CCME, 14 rue Joseph II, B-1040 Brussels. 'This is an attempt to formulate proposals for European policy-making procedures using existing international fora, and European policies using international human rights standards'.

EC and Public Access, prepared for the Danish Union of Journalists and the Danish Newspaper Publishers' Association, 60 pages, 1993. Examines access to official information in EC and in the individual member states. Danish Union of Journalists, GL Strand 46, DK 1202 Kobenhavn K, Denmark.

CIVIL LIBERTIES

The following are recent publications added to the library of Liberty, 21 Tabard Street, SE1 4LA. Tel: 071 403 3888. They are available for reference. Please make an appointment if you want to visit - a small charge is made to non-members.

Top Secret: an interim guide to recent releases of intelligence at the Public Records Office (covering 1791-1909), Lousie Atherton. Public Records Office, 1993, 32pp.

Canadian Security Intelligence Review Committee. Annual reports 1992-1993.

Judicial review (a practical guide), Richard Clayton. Longman, 1993, 201pp.

Report of the 1993 Conference of European Community parliamentarians on HIV/AIDS. British all-party parliamentary group on AIDS. Council of Europe, 1993, 74pp.

Women in the civil rights movement: trailblazers and torchbearers, Vicki Crawford ed. Open University, 1990, 290pp.

The Criminal Justice Act 1993: text and commentary, Rudi Fortson. Sweet & Maxwell, 1993, 146pp.

Immigration, nationality and citizenship, Satvinder S Juss. Mansell, 1993, 200pp.

The UK's part in the preparation of the European Convention of Human Rights, 1950, Geoffrey Marston. International and comparative law quarterly, October 1993, 32pp.

Individual rights and the law in Britain, Christopher McGrudden ed. Clarendon, 1994, 668pp.

Attacks on justice: the harassment and persecution of judges and lawyers, Mona A Rishmawi ed. Centre for the Independence of Judges and Lawyers, Switzerland, 1993, 224pp.

Response to Runciman: a critical analysis of the report of the Royal Commission on Criminal Justice. Society of Labour Lawyers, 1993, 58pp.

Textbook on civil liberties, Richard Stone. Blackstone, 1994, 367pp.

SECURITY & INTELLIGENCE

UK employs 10,766 spies

For the first time the number of people employed by the UK's security and intelligence agencies has been published. The figures given are: MI5 (internal security) 2,235; MI6 (overseas intelligence; espionage) 2,303, and GCHQ (the agency which carries out surveillance of electronic and telephone traffic) 6,228. The numbers will reduce next year by 2.3% (giving MI5: 2,189; MI6: 2,251; GCHQ: 6,076). The total expenditure on the three agencies is £881 million in 1994/95. This total includes the cost of completing MI5's new headquarters at Thames House on the north bank of the Thames (265.6 million), and the Vauxhall Cross headquarters of MI6 on the south bank (£93.2 million). The figures were provided, with little fanfare, in the Treasury supply estimates paper (Class XIX).

New MI6 Head

David Spedding, 51, has been named as the new head of the Secret Intelligence Service (MI6). He will take over from the existing chief, Sir Colin McColl, in September.

Spedding began his career as an intelligence officer in 1967 and spent his early years training as an Arabist at the Middle East Centre for Arabic Studies, a Foreign Office establishment located at Shemlan in Beirut. He then became second secretary at the embassy in Beirut until he was - one of a number of SIS officers - named by Kim Philby in 1971. Following Philby's disclosure he was transferred to Santiago, Chile, where his two-year (1972-1974) posting coincided with the CIA-backed overthrow of the Allende government by the military dictator, General Pinochet.

In 1978 he was posted to Abu Dhabi and between 1981 and 1983 he was at the Foreign and Commonwealth Office in London. He served as a counsellor in Amman from 1983-1986, a period when Jordan was acting as a conduit to supply Iraq with western arms.

He returned to London in 1986 where he took responsibility for Middle East affairs and was the officer in charge of covert intelligence operations during the Gulf War. He was also in charge of a joint operational section that liaised with the Security Service, MI5. In 1992 he became director of operations for MI6.

Guardian 5.3.94.; *Daily Telegraph* 5.3.94.

New UK secrecy definitions

The UK government has announced a new system of classifying secret documents known as the 'protective security marking system'. The Prime Minister said that the new system followed a review conducted in the light of the changing nature of threats to national security. He said:

In recent years, the nature of the threats to government security has changed. Whilst some of the traditional threats to national security may have somewhat reduced, others have not. The security of government is also increasingly threatened by for example theft, copying and electronic surveillance, as well as by terrorism.

The new classification system still has four categories (full-text

given below). The language too has been modernised. Markings are given to 'assets' (including information) whose exposure or publication would 'compromise that asset or information'. The first is *Top Secret*: the old definition related to 'causing exceptionally grave damage to the nation', the new one says:

the compromise of this information or material would be likely: to threaten directly the internal stability of the UK or friendly countries; to lead directly to widespread loss of life; to cause exceptionally grave damage to the effectiveness or security of UK or allied forces or to the continuing effectiveness of extremely valuable security or intelligence operations; to cause exceptionally grave damage to relations with friendly governments; to cause severe long-term damage to the UK economy.

The second *Secret* previously defined as 'causing serious injury to the interests of the nation' is now:

the compromise of this information or material would be likely: to raise international tension; to damage seriously relations with friendly governments; to threaten like directly, or seriously prejudice public order, or individual security or liberty; to cause serious damage to the operational effectiveness or security of UK or allied forces or the continuing effectiveness of highly valuable security or intelligence operations; to cause substantial material damage to national finances or economic and commercial interests.

The third *Confidential* was 'being damaging to the interests of the nation' and is now:

the compromise of this information or material would be likely: materially to damage diplomatic relations (ie: cause formal protest or other sanction); to prejudice individual security or liberty; to cause damage to the operational effectiveness or security of UK or allied forces or the effectiveness of valuable security or intelligence operations; to work substantially against national finances or economic or commercial interests; substantially to undermine the financial viability of major organisations; to impede the investigation or facilitate the commission of serious crime; to impede seriously the development or operation of major government policies; to shut down or otherwise substantially disrupt significant national operations.

The fourth *Restricted* was 'being undesirable in the interests of the nation' and is now:

the compromise of this information or material would be likely to affect diplomatic relations adversely; to cause substantial distress to individuals; to make it more difficult to maintain the operational effectiveness or security of UK or allied forces; to cause financial loss or loss of earnings potential to or facilitate improper gain or advantage for individuals or companies; to prejudice the investigation or facilitate the commission of crime; to breach proper undertakings to maintain the confidence of information provided by third parties; to impede the effective development or operations of government policies; to breach statutory restrictions on the disclosure of information; to disadvantage government in commercial or policy negotiations with others; to undermine the

proper management of the public sector and its operations.

The existing system is based on the four security classifications plus 'a complex range of privacy markings (eg: 'Commercial in Confidence', 'Management in Confidence'). What the new system does is to abolish these privacy markings and incorporate the areas covered by them into a classification system previously limited to defence and national security. Thus government policy, the operations of the public sector, and private financial and commercial interests are brought within the ambit of 'official secrecy'.

Cabinet Office press release, 23.4.94.

France: New laws on intelligence

The new French criminal code which came into effect on 1 March includes several new provisions on security and intelligence. Espionage is no longer limited to military and political matters but now officially confirms the existing practice which extends its definition to industrial, commercial, and technological matters. The concept of threats to the 'national defence interests' has been replaced by threats to the 'fundamental interest of the nation' which extends to cover environmental and economic interests. The new law sanction not just the gathering of covert intelligence but also of 'open' intelligence, that is information that might present a risk to the fundamental interests of the nation (even if each piece of information by itself is not secret). A totally new crime of 'disinformation' is introduced which is one carried out in the interests of a foreign power with the intention of misleading civil or military authorities.

The new Article 413-9 protects information classified as 'Très Secret Défense', 'Secret Défense' and 'Confidentiel Défense'. Crimes related to national security risks have been downgraded into misdemeanours to enable easier prosecutions.

Intelligence Newsletter, 24.3.94.

Hilda Murrell

A decade after the murder of anti-nuclear campaigner and horticulturalist, Hilda Murrell, a new investigation by West Mercia police has confirmed the results of the original inquiry by reasserting that she was killed by a burglar.

Ms Murrell, who was 78, was killed after finding an intruder at her home; she was abducted and driven to the country where she was stabbed and left for dead, eventually dying from exposure. At the time, questions were asked as to why a burglar would take her from her house in broad daylight rather than dealing with the situation at her house.

Ms Murrell was planning to speak at the Sizewell nuclear plant inquiry and was active in protesting at plans to build the proposed power station. The security services had engaged detective agencies to gather information about the protesters. At least one private detective subcontracted some of the work to professional criminals, including a notorious fascist and convicted child-molester.

At the end of February West Mercia Assistant Chief Constable, David Thursfield, dismissed any 'sinister' motive for the crime, arguing that there was no evidence to support speculation. A month later in an extremely unusual move the West Mercia police announced that they were offering a £10,000 reward for information which solves her murder. The West Mercia investigation does little to allay ongoing suspicions concerning the death of Hilda Murrell.

See Gary Murray's book *Enemies of the State*, 1993; *Guardian* 26.2.94; 22.3.94.

Switzerland: Restricted access

The Swiss Minister of Justice and Police presented new legislation on 14 February entitled 'Law to protect the inner security' (a state protection law). Four years after the exposure of the widespread gathering of files on political activists, this law is intended to provide a legal basis for federal political police operations, the *Bundespolizei* (see *Statewatch* vol 2, no 4). The Bill contains a very restricted right of access to files held by the political police. At present people 'registered' (put under surveillance) by the political police have a general right to see their files. Under this proposal people must explain the reason why they want to see their own files, give information on which matter they might have been placed under surveillance and under what circumstances. The authorities on the other hand would be given the right to refuse to give out information. The Bill will be discussed in parliament later in the year.

Komitee Schluss mit dem Schnuffelstaat, Bern, Switzerland.

Security & Intelligence - in brief

MI6 in Australia: Two former Australian intelligence officers have claimed that the Australian Intelligence Service (Asis) has been run by the British Secret Intelligence Service, or MI6, for the past 40 years. Among the allegations, which were made on the Australian Broadcasting Corporation's *Four Corners* programme by two former Asis officers, was the claim that Asis agents were carrying out surveillance operations against China, in Hong Kong, on behalf of the British. The programme also claimed that information obtained by the Australians on behalf of its allies was not necessarily passed on to the Australian government. *Times* 22.2.94.

* **Albania: how times change?** The CIA has sent two small, unmanned spy planes and a ground satellite transmitting station to Albania to gather intelligence and monitor potential targets in the former Yugoslavia. The slow-flying, remote-controlled planes are capable of staying aloft for 24 hours. The Albanian parliamentary assembly has also unanimously agreed to try and become a member of NATO. *Balkan News*, 6.2.94.

Security & Intelligence - new material

Immune response, Patrick Fitzpatrick. *New Statesman & Society*, p15, 25.2.94. On the arms to Iraq inquiry and the use of Public Interest Immunity certificates by the government.

Remember, remember 17 November, Hugh Barnes. *Observer magazine*, 13.3.94, pp40-44. Looks at Greece and 'Europe's most "successful" terrorist organisation, November 17, which is over 20 years old, yet none of its members has ever been caught'.

Parliamentary debates

Georgi Markov murder: inquiries, *Lords*, 26.1.94. cols. 960-961

Employment protection (Government Communications Headquarters), *Commons*, 25.1.94 cols. 163-168

Intelligence Services Bill, *Lords*, 3.2.94. cols. 1380-1414 & 14.2.94. cols. 10-15

Intelligence Services Bill [Lords], *Commons*, 22.2.94. cols.153-249.

PRISONS

Prison suicides increase

The number of prison suicides rose to forty-six in 1993; this figure is five more than in 1992 and marks a return to the high prison suicide rates of the late 1980s. The figure has increased despite the introduction of Prison Service prevention programmes.

In Moorlands Prison, a young offenders institution in south Yorkshire, two teenagers have been found hanged in their cells within three days. The two suicides are the first of the new year. *Guardian* 7.1.94;

Prisons - new material

'**This is not a prison:** Foucault, the panopticon and Pentonville, John Pratt. *Social & Legal Studies* 2:373-395, 1993.

Mandatory life prisoners: challenging the tariff, Neil O'May. *Legal Action*, p21, December 1993. On the policy for release of life prisoners.

Parole recommendations and ethnic origin. *Home Office statistical bulletin* 2/94, 1994.

Drugs in Prisons. *Prison Watch* 21.1.94. This is a short discussion document available from Pete Moore, 24 Rochester Close, Derby.

Report of an inquiry by Her Majesty's Chief Inspector of Prisons for England and Wales into the disturbances at HM Prison Wymott on 6 September 1993. HMSO (Cm 2371), 1993 (£9.45). Report on the disturbances at Wymott (see *Statewatch* vol 3, no 6).

Report of Her Majesty's Chief Inspector of prisons April 1992-March 1993. HMSO 1993 (£9.80). This report praises the establishment of the Directorate of Health Care, but is critical of the handling of the decision to allow private contractors to tender for education services. The efficacy of the Prison Service was questioned following the inspections of Whit Moor and Belmarsh prisons.

Statistics of offences against prison discipline and punishments: England and Wales 1992. HMSO (Cm 2411) 1993 (£7.55)

HM Chief Inspector of Prisons for Scotland: report for 1992-93, HMSO (Cm 2348) 1993 (£4.50). **Scottish Prison Service: annual report 1992-1993,** HMSO (Cm 2323) 1993, (£11).

BOOKS RECEIVED

All books received are listed on the online database.

The dark side of Europe: the extreme right today, Geoffrey Harris. *Edinburgh University Press* 1994, pp265, £12.95pb.

Coming out of the blue: British police officers talk about their lives in 'the job' as lesbians, gays and bisexuals, Marc E. Burke. *Cassell* 1993, pp256.

Immigration, Nationality and citizenship, Satvinder S Juss. *Mansell* 1993, pp200, £35 hk.

Europe's International Migrants: data sources, patterns and trends, John Salt, Ann Singleton and Jennifer Hogarth. HMSO,

1994, £50.

Northern Ireland and the politics of reconciliation, Dermot Keogh & Michael H Haltzel (eds). *Cambridge University Press* 1994, pp267, £12.95 pb.

International security review. *Royal United Services Institute* 1994, pp318, (no price given).

The new ideology of imperialism, Frank Furedi. *Pluto* 1994, pp140, £8.95 pb

The European Imperative: economic and social cohesion in the 1990s, Stuart Holland. *Spokesman* 1993, pp266, pb £14.95.

Beyond Borders: West European migration policy towards the 21st century, Sarah Collinson. *Royal Institute of International Affairs* 1993, pp116, pb £9.95.

Personal information: privacy and the law, Raymond Wacks. *Oxford University Press* 1994, pp327, pk £16.95.

The psychology of crime, Philip Feldman. *Cambridge University Press* 1993, pp526, pb £15.95.

Bail: the law, best practice and the debate, Paul Cavadino & Bryan Gibson. *Waterside Press* 1993, pp221, pb £14.

Criminal records: state citizens and the politics of protection, Bill Heberton and Terry Thomas. *Avebury* 1993, pp194.

Silent warfare: understanding the world of intelligence, Abram N. Shulsky. *Brassey's* 1993, pp 285, hk US\$20.

Racist violence in Europe, Tore Bjorgo & Rob Witte (eds). *St Martin's Press* 1993, pp261, pk £12.99.

Race, riots and policing: lore and disorder in a multi-racist society, Michael Smith. *UCL Press* 1993, pp280, pk £12.95

Organizing Europe: the institutions of integration, Clive Archer. *Edward Arnold* 1994, £12.99 pb.

Scotland Yard, Robert Fleming (with Hugh Miller). *Michael Joseph* 1994, pp385, £14.99 hk.

**Germany:
'Internal security' laws -
moral panic and election campaigns**

Since 1980 the German Penal and Penal Procedural Law has undergone about 30 changes introducing new offences, increasing punishment for some offences, and, most importantly, giving greater powers to the police and prosecution agencies. In addition new regulations for the secret services were introduced in 1990 and new police laws for the Lands (regions). Despite all of these changes a new wave of proposed internal security bills have been produced by the political parties in the context of the 1994 election campaign. Both the government (conservatives and liberals) and the social democratic opposition (SPD) are basing their election campaigns on the supposed danger of organised crime, which has

been the main justification for increased police powers over the past few years.

Bugging

In 1992 the first 'Law against illicit drug traffic and other forms of organised crime' was passed by the two chambers of the federal government (Bundestag - Commons, Bundesrat - representing the Länder governments) with the support of the SPD. The law not only introduced 'money laundering' as a new offence but also legalised a range of proactive police methods: informers, undercover agents, long term observation, police electronic

surveillance, and computer matching. The law gave police practices a legal basis in the penal procedural code - the results of surveillance can now be used in court where previously they were sometimes restricted.

Almost immediately the then Minister of the Interior, Rudolf Seiters, declared that these new surveillance techniques would not be good enough to combat organised crime. He called for new powers of bugging, and legitimating crimes committed by police undercover agents. Bugging has been introduced as a police method in most of the Land police codes, but the information gained cannot be used in court. This would require a new law and a restriction being placed on the inviolability of people's homes which is guaranteed in Article 13 of the constitution. To amend the constitution requires a two-thirds majority of the MPs and therefore needs the support not just of the governing parties but also of parts of the SPD. The party conference of the SPD has accepted the need for this change but the government's coalition partners the Free Democrats have, so far, not.

With both sides in the election trying to present themselves as the toughest defenders of internal security, with little consideration of the civil liberties implications, the situation has become quite confused. The SPD has presented a bill for a 'Second Law against organised crime' including bugging whereas the government coalition has presented a 'Crime Fighting Bill 1994' without bugging.

Crime Fighting Bill 1994

The Bill is presented as a measure to combat mass delinquency, political extremism and organised crime. It covers:

- restrictions on the evidence which can be presented to speed up court proceedings; immediate imprisonment to avoid the repetition of offences in cases of serious physical injury and arson (apparently to repress neo-nazi and racist attacks);

- widening offences for which convicted foreigners can be deported (eg: drug dealing and use); foreigners who have been deported (generally for having entered illegally or staying without a visa) will not be able to get a visa for five years (even if they fulfil all the required conditions); smuggling foreigners into the country or presenting a false asylum application will become criminal offences and if committed through an organised group will be punishable with from 6 months (minimum) up to 10 years in prison (and the police will be empowered to use telephone tapping against a suspected person);

- the offences under 1992 law regarding the forfeiture of assets is to be broadened to include those associated with organised crime; crown witnesses can also appear in court in these cases (previously they were restricted to drug trafficking and repentant members of terrorist groups).

- since 1968 the police interception of mail and telephones have been regulated on the code of penal procedure. Interceptions by the intelligence services are authorised only for political crimes and for dangers to the security and existence of the FRG or a Land under the 'Law on Article 10 of the Constitution' (this is 'supervised' by a special secret commission of the Bundestag).

This distinction flows from the separation of police with executive powers and intelligence services (without) ordered by the Allied occupation government in 1949 following the introduction of the Basic Law (Constitution). The separation of powers has undergone many changes in the last 20 years resulting from increased police intelligence and proactive powers on the one hand and information

exchange links between intelligence services and police and prosecutors on the other. Since the end of the Cold War the intelligence services have lost their traditional enemies and began to look for new ones, which they found in organised crime and supposed drug cartels. The *Verfassungsschutz* (the internal intelligence agency) as well as the *BND* (Federal Intelligence Service responsible for espionage) started to 'observe' organised crime and to compete with the police - especially the *BKA* (Federal criminal police office) - in this field. Under this bill the *BND* would get powers to control international wireless communications not only in cases of traditional political crime (high treason etc) but also in ones concerning possible terrorist attacks and the long list of offences under the heading of 'organised crime' (including money laundering). The information gained by the *BND* would have to be passed to the police and, if necessary, to the *Verfassungsschutz*. Thus the traditional separation of police and secret services - resulting from the lessons of the Gestapo - is beginning to disappear completely.

SPD proposals

The Social Democrats oppose this government bill on the grounds that it will fail to combat organised crime and has presented one of its own. Their proposals would require two changes to the Constitution (and thus require the support of the Christian Democrats). The first change concerns extending police bugging powers, referred to above.

The second proposes that Article 14 of the Constitution on the protection of private property be amended so that 'tainted property' can be forfeited and confiscated on the *suspicion* that it comes from or could be used for severe criminal offences - ranging from drug trafficking to offences against the environment. The individual would only be able to get their money or property back if they can prove in a civil court the legality of their ownership and the legal purpose for its use. This overturns the principle of 'in dubio pro reo' - a fundamental basis of a fair trial - would be turned upside down (ie: a person has to prove their innocence).

In addition the SPD want to widen police powers for intercepting communications for cases of organised 'fencing', money laundering, various forms of fraud, environmental crimes and corruption.

The two bills - from the government coalition and the SPD - will be discussed in the near future. Further legislation on the *BKA* and the *BGS* (Federal Border police) are being prepared by the government. Internal security, and thus the restriction of civil liberties, will be one of the main issues in the forthcoming election campaigns.

**RESEARCH &
INFORMATION
NOTICEBOARD**

Conference on European Union Common Foreign and Security Policy, Brussels 27 April 1994. **Conference on European Union Policy on Justice and Home Affairs**, Brussels 28 April 1994. Organised by European Citizen Action Service (ECAS), rue Defacqz 1, B-1050 Brussels, Belgium. Tel: +32 2 534.51.66. Fax: +32 2 534 5275.

Sustainable security: The International and National Steering Committee of Nuclear Free Local Authorities (ISC & NSC): Peace Pavilion at the forthcoming Global Forum '94 to be held in Manchester: 24 June - 3 July, 1994. Details from: National Steering Committee of Nuclear Free Local Authorities, Nuclear Policy and information Unit, Manchester Town Hall, Manchester M60 2LA. Tel: 061 234 3222. Fax: 061 236 8864. Contact: Stella Whittaker.

The use and abuse of power: Beyond control? 22nd Annual Conference of the European Group for the Study of Deviance and Social Control. August 25-28, 1994 at the Democritus University of Komotini, Thrace, Greece. Papers welcomed on: new definitions of crime; crimes of the powerful; national identities and migration; political and judicial corruption; economic rationality in education, welfare and other social institutions. Projected cost, including conference fee, £100. Outline of proposed papers should reach Paddy Hillyard (University of Bristol tel: 0272 303030 or Mick Ryan tel: 081 316 8964. Details from: Mick Ryan, University of Greenwich, Woolwich Campus, Wellington Street, Woolwich, London SE18 6PF.

Towards peace in Ireland: conference in London on 2 July, 1994. Issues to be discussed include: the Hume-Adams initiative, the Irish economy, human rights and pace. John Hume MP will be giving the keynote speech. Details from: Towards peace in Ireland, BM Box 5355, London WC1N 3XX.

People's right: International Conference on Public Legal Services: organised by the Law Centres Federation and the University of Kent. 27-30 June 1994. Contact: Law Centres Federation, 18 Warren Street, London W1P 5DB Tel: 071-387-8570.

Translators wanted: Statewatch needs people prepared to scan journals and

translate relevant articles and reports from German. If you can help please write to us or ring: Statewatch, PO Box 1516, London N16 0EW. Tel: 081 802 1882.

CONTENTS

Immigration.....1
Wave of hunger strikes
Denmark: Border controls
Germany: Yugoslavs to be deported
Switzerland: contract on 'illegals'
In brief
New material

Law.....3
France: new penal code
Holland: Absent witnesses
ECHR: UK vs. the rest
Criminal Justice Bill
Disenchantment with Mackay
New material

Policing..... 5
Europol HQ opened
Holland: surveillance techniques
Operation Jackpot
Scotland: cross-border curbs scrapped
Police Bill changes
Holland: speculative police raids
New material

Northern Ireland.....7
Chancellor sees all
Review:Terrorist threat to Safe Shopping
New material

Racism & fascism..... 8
TUC march against racism
Holland: race statistics criticised
New material

Europe 10
EU: secrecy law
EU: New Council Directorate
Justice & Interior Ministers
Turkey detains Kurdish MPs
Smart card passports
In brief
EU: debates, resolutions and proposals
New material

Civil liberties 12
New material

Security & Intelligence..... 12
UK employs 10,766 spies
New MI6 Head
New UK secrecy definitions
France: New laws on intelligence
Hilda Murrell
Switzerland: restricted access
In brief
New material

Prisons..... 14
Prison suicides increase
New material

Books received.....14

Feature: Germany: 'Internal security' laws - moral panic and elections.....15

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