



News

25 November (Issue 20/22)

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Welcome to the latest edition of Statewatch News, featuring:

- **Mediterranean action plan: more externalisation**
- **New border databases mean longer border queues**
- **'Instrumentalisation' of migrants: watering down human rights safeguards**

And don't forget to take a look at [our new report on the growing powers of Europol](#), the EU's policing agency, published earlier this month.

The next issue of Statewatch News will go out on 16 December, and will be the last of this year.

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Mediterranean action plan: more externalisation

EU justice and home affairs ministers are meeting today to discuss the ongoing migration situation, with a new European Commission action plan for the central Mediterranean up for discussion. The plan foresees further externalisation of policing and border enforcement, in particular to North African states – including Libya and Egypt, both countries with disastrous human rights records.

The Commission is also proposing that the EU seek talks at the International Maritime Organisation to develop “a specific framework and guidelines for vessels having a particular focus on search and rescue activities.”

What will become of this plan remains to be seen, but there are bad precedents: Italy's 2017 'code of conduct' led to multiple organizations having to halt operations in the Mediterranean following lawsuits and harassment. The new Italian interior minister now wants another such code.

Read more [here](#).

New border databases mean longer border queues

EU institutions and member states are racing to have the Entry/Exit System (EES) in place by May 2023. The system will be used for the biometric registration of all travellers to the EU, compiling the times and places they entered and left the bloc in order to root out 'overstayers'.

One of the arguments for introducing this system has been the need for greater efficiency. However, a compilation of comments from the member states on the implementation of the EES shows that it is likely to substantially increase waiting times at borders, a point that was made [over a decade ago](#) when the plans were first published.

Read more [here](#).

Council watering down human rights safeguards in 'instrumentalisation' rules

Following the dramatic scenes at the border between Poland and Belarus in 2021, the European Commission proposed new rules on the "instrumentalisation" of migration and asylum that would allow states to derogate from EU asylum law.

Discussions in the Council are ongoing, and a text circulated at the beginning of November added "non-state actors" to those who could potentially "instrumentalise" migrants, raising concerns that sea rescue NGOs may be targeted by the authorities. References to the best interests of the child and the principle of *non-refoulement* have also been removed from the substantive part of the text.

Read the story [here](#), and find the latest version of the text (from 21 November) [here](#).

News

EU: 'Instrumentalisation' Regulation: latest Council Presidency compromise text

EU: Mediterranean migration plan underpinned by more policing and border enforcement in repressive states

Schengen border crossing times to increase massively when new database comes into use

Council seeks to water down human rights safeguards in migration “instrumentalisation” rules

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News

25 November 2022

[EU: 'Instrumentalisation' Regulation: latest Council Presidency compromise text](#)

On 21 November, the Czech Presidency of the Council of the EU circulated an updated compromise text of the proposed 'Regulation addressing situations of instrumentalisation in the field of migration and asylum'.

24 November 2022

[EU: Mediterranean migration plan underpinned by more policing and border enforcement in repressive states](#)

An extraordinary meeting of the EU Justice and Home Affairs (JHA) Council will take place tomorrow to discuss migration. The European Commission has published a plan setting out the general direction for action in the central Mediterranean. Other documents obtained by Statewatch shed more light on the matter: more intensive police cooperation with repressive states and externalisation of borders instead of relocation of refugees, in full knowledge of the dire situation for people seeking safety, in particular in Libya.

17 November 2022

[Schengen border crossing times to increase massively when new database comes into use](#)

EU institutions and member states are racing to have the Entry/Exit System (EES) in place by May 2023. The system will be used for the biometric registration of all travellers to the EU, compiling the times and places they entered and left the bloc. Stay times will be automatically calculated with the hope of catching and removing 'overstayers'. However, the waiting time for travellers at borders looks set to increase substantially. A compilation of member states' comments gives an overview of progress with the system's implementation.

17 November 2022

[Council seeks to water down human rights safeguards in migration "instrumentalisation" rules](#)

References to child's best interest and non-refoulement removed; derogations could be applied to people "disembarked following search and rescue operations".

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The Roundup

Material we have shared on our [Twitter](#) and [Facebook](#) accounts in the last fortnight.

- [Asylum and immigration](#)
- [Civil liberties](#)
- [Law](#)
- [Military](#)
- [Policing](#)
- [Prisons](#)
- [Privacy and data protection](#)
- [Racism and discrimination](#)
- [Surveillance](#)

Asylum and immigration

Le Monde, 24 November

[**Could France's rescue services be held criminally responsible for the drowning of migrants in the English Channel?**](#)

"After 27 migrants died trying to cross the Channel in 2021, French police investigating the sinking of the dinghy are questioning the actions of CROSS (Regional Maritime Surveillance and Rescue Operational Center), who refused to send a rescue ship."

Le Monde, 24 November

[**Frontex surveillance equipment is used by Libyan coast guard to unlawfully intercept migrants**](#)

"«Le Monde» a identifié l'origine de sept images aériennes publiées par les gardes-côtes libyens sur leurs pages Facebook. Elles ont été réalisées par des appareils de surveillance de Frontex, et démontrent comment les activités de l'agence européenne facilitent des interceptions illicites par les Libyens en Méditerranée. Frontex a toujours soutenu ne pas collaborer avec les garde-côtes libyens."

The Local, 24 November

[**France to use iPads to check biometric data of UK travellers from UK**](#)

"France plans to use tablet computer devices to register non-EU car passengers at land and sea borders – including its border with the UK – when the new EU border system EES becomes operational next year, a new document has revealed."

See: [**Schengen border crossing times to increase massively when new database comes into use**](#)

Info Migrants, 24 November

[Egypt, Greece sign deals on migrant rescues, agriculture](#)

“Egypt and Greece have signed two bilateral deals, including a pact to improve cooperation in migrant search and rescue missions across the Mediterranean Sea, officials said. The EU, meanwhile, is urging member states to set aside their differences over migration.”

EU Joint Research Centre/Frontex, 23 November

[Weak Signals in Border Management and Surveillance Technologies](#)

JRC Technical Report on emerging technological solutions for European Integrated Border Management, to address Frontex's operational needs and enhance management of EU external borders.

[Joint statement by borderline-europe, Can't Evict Solidarity and CPT - Aegean Migrant Solidarity and Mobile Info Team](#), 22 November

Good news!

Greece: Because Mousafir resisted a pushback, he was sentenced to 47 years in prison.
Update: Something no one had expected happened: Mousafir, sentenced to 47 years in the first instance, was completely acquitted of the smuggling charge!

EU Observer, 21 November

[EU Commission suggests need for new charity rescue boat rules](#)

“The European Commission wants to promote talks on possible new international maritime rules on sea-rescues for charity boats.”

The Guardian, 19 November

[Man being processed at Manston detention centre in Kent dies](#)

“A man who arrived in the UK on a small boat a week ago and was being processed at Manston has died, the Home Office said on Saturday. He became ill while at the Kent detention site and was taken to hospital, but later died.”

The Observer, 19 November

[Inquiry into worst Channel disaster for 30 years fails to contact victim's families](#)

“A UK investigation into the drowning of at least 27 people trying to cross the Channel in a small boat has yet to contact most of the victims' families 12 months after the tragedy”

“The response of the UK and French authorities to the worst maritime disaster in the Channel for 30 years is under intense scrutiny, amid new evidence that both passed the buck and failed to help during the crucial hours after the incident was reported to coastguards.”

Council of the EU press release, 18 November

[Border management: Council authorises the opening of negotiations with four Western Balkans partners on Frontex cooperation](#)

“The Council today decided to authorise the opening of negotiations with Albania, Bosnia and Herzegovina, Montenegro and Serbia to broaden agreements on Frontex cooperation.”

Solomon, 18 November

[Exclusive: UN Letter Documents Greek Pushback of Turkish Asylum Seekers](#)

“In March, eight Turks reached Greece by boat, fearing persecution in their homeland. The UN urged Greece to provide protection, but instead the men were pushed back to sea and into the arms of the Turkish police.”

Aditus Foundation, 17 November

[Malta's institutional neglect of migrants](#)

“We have compiled a timeline of the known instances of institutional neglect and racialised violence that records Malta’s long and shameful history in its treatment of migrants and asylum-seekers that have reached our shores since 2002.”

EUobserver, 17 November

[Spain accused of Melilla migrant death cover up](#)

“Spain claims the deaths took place on the Moroccan side, a view sharply contested by human rights organisations.

It has also refused to open an independent probe.”

The Arab Weekly, 16 November

[Morocco outlines plan to permanently mobilise 50,000 soldiers](#)

Morocco mobilizes some 50,000 soldiers to guard and monitor the country’s borders on a permanent basis - They say units of the armed forces arrested more than 56,000 people who were planning clandestine immigration during the first half of 2022.

InfoMigrants, 16 November

[Trial begins after death of asylum seeker 31 years ago](#)

“A trial against a German man accused of murder in a 1991 arson attack on a refugee center in Saarlouis begins in Germany today. The fire resulted in the death of a Ghanaian asylum seeker.

A murder trial is set to begin Wednesday (November 16), 31 years after an asylum seeker died in a fire in Germany. The main suspect in the trial, named in the German media as Peter S. and reported to be 51 years old, was arrested in April and has been in custody ever since.”

Verfassungsblog, 15 November

[Seven Months in the Freezing Forest. Why events at the Latvian-Belarus border were long hidden from the public](#)

“On 10 November 2022, Latvia extended the emergency situation at its border with Belarus for a further three months – now until February 2023. Introduced in August 2021 in response to the perceived ‘hybrid attack’ organised by Minsk, the state of emergency has since been renewed five times, effectively becoming a permanent condition.

In practical terms that means that Latvia will continue carrying out systematic pushbacks – despite the very low number of border crossing attempts and allegations of gross violations of human rights.”

See also: **[Building walls, restricting rights: Lithuania's response to the EU-Belarus border 'crisis'](#)**

InfoMigrants, 15 November

["On nous a abandonnés dans le désert à 2h du matin" : le calvaire des migrants refoulés de l'Algérie vers le Niger](#)

["We were abandoned at 2 in the morning: the Calvary of migrants returned from Algeria towards Niger]

Each year, Algeria expels thousands of sub-Saharan Africans towards Niger, abandoning non-Nigerien migrants in a place called Point Zero, which marks the border between the two countries in the middle of the Sahara.

Euractiv, 14 November

[Anti-migrant violence still seen at Croatia's borders, says NGO](#)

“Violent treatment of migrants at Croatia's border has decreased, but police still resort to illegal pushbacks, and this is only likely to get worse once the country joins the Schengen area next year, said an official from a leading human rights NGO. Croatia is envisaged to join the borderless Schengen area from 1 January 2023, pending the final confirmation of EU leaders in December, making its border with Bosnia and Serbia the external Schengen border.”

Medact/Migrant Solidarity Group, 11 November

[Profiting from pain: Accommodating asylum seekers in England](#)

“A new report prepared by the Migrant Solidarity Group, surveying professionals working with those housed in contingency accommodation, has found that inadequacies exist across medical and legal provision, social services, integration support and basic, essential areas of care.

With this new report, the MSG hope to shed further light and alert the public to the conditions in contingency accommodation.

These findings are corroborated by reports by other organisations, such as Doctors of the World and the Refugee Council. The treatment of asylum seekers in these facilities is an attempt by the Government of a new, malignant normality: detention camp facilities for refugees. By not speaking and acting out, we are at risk of becoming complicit.”

The Conversation, 9 November

[Manston holding facility: does the UK's treatment of asylum seekers violate the law?](#)

"A woman held at the Manston holding facility in Kent is taking legal action against Home Secretary Suella Braverman. The asylum seeker claims that she was held unlawfully in "egregiously defective conditions" at the centre. Her case is supported by the organisation Detention Action, and another case is being put forward by the charity Bail for Immigration Detainees."

Migreurop, November 2022

[Greece must revoke the decision to consider Turkey a safe country](#)

Petition calling for the revocation of the Greek government's Joint Ministerial Decision (JMD) to declare Turkey safe for asylum seekers, because it is unlawful, inhumane and unworkable.

Civil liberties

The Guardian, 22 November

[Dutch court sides with squatters of sanctions-hit Russian's mansion](#)

Heleen over de Linden, a Dutch lawyer representing the squatters: "I was convinced we were in the right, but I was still somewhat surprised to see the judge agree with our arguments."

Insulate Britain, 21 November

[First trial by jury of Insulate Britain supporters who demanded last year that the government insulates homes begins](#)

"The trial of the first four Insulate Britain supporters to be tried by jury is due to begin today in Court 2 at Inner London Crown Court. The trial comes just days after the Chancellor announced a £6bn pledge as part of the Autumn Statement to Insulate Britain. ... The trial is expected to last up to 4 days and is the first jury trial of 51 trials scheduled to take place over the 13 months. If found guilty the supporters could face a maximum sentence of life imprisonment. ... The Crown Prosecution Service has chosen to summon a total of 56 supporters to answer at least 201 charges of Public Nuisance across at least 51 jury trials the last of which is scheduled to begin on 4th December 2023."

Yahoo! News, 20 November

[Migrant groups decry 'witch-hunt' as Greece tightens grip](#)

"When dozens of Syrian asylum seekers were stranded on the Greek-Turkish border in July, lawyer Evgenia Kouniaki never imagined taking on their case would lead to her quitting her NGO in protest at perceived government pressure.

But in a country determined to reduce migration from neighbouring Turkey, rights groups are facing increasing hostility with some campaigners stepping away from the struggle."

Chard and Ilminster News, 16 November

Scotland 'first country in world' to publish biometrics code of practice

Scotland has become the first country in the world to publish a special code that governs the use of DNA and other biometric data in a criminal justice setting.

The Guardian, 15 November

Writer Roberto Saviano goes on trial for comments about Italy's PM

Giorgia Meloni is suing Gomorrah writer for criminal defamation over comments about her migrant policy.

Verfassungsblog, 11 November

The Penultimate Chapter in the Case of Julian Assange. A Scenario at the European Court of Human Rights

"After almost four years under unchanged detention conditions in the high-security prison Belmarsh, Julian Assange is facing yet another challenge. The upcoming decision of the High Court of England and Wales might ultimately determine whether Julian Assange can be extradited to the United States where he would face up to 175 years in prison if convicted on all 18 charges."

EU Law Analysis, 28 October

Should the EU Ban the Real-Time Use of Remote Biometric Identification Systems for Law Enforcement Purposes?

"It has been around two years since the European Commission introduced its Draft Artificial Intelligence Act ("EU-AIA), which aims to provide an overarching AI safety regulation in the region. The EU-AIA's risk-based approach has been severely criticised mainly for failing to take a fundamental rights approach to regulate AI systems. This post focuses on the EU-AIA's position on the use of Real-Time Remote Biometric Identification Systems (RT-RBIS) by law enforcement authorities in public spaces, which continues to cause the most controversy."

Law

CJEU, 22 November

Prohibiting the removal of a Third Country National suffering from a serious illness

"In the absence of appropriate medical treatment in the receiving country, that national risks being exposed to a real risk of a rapid, significant and permanent increase in the pain linked to that illness"

Privacy International, 18 November

UK High Court orders groundbreaking redress for thousands of migrants affected by unlawful phone seizures and data extraction

"In a case that found seizing and extracting data from migrants' mobile phones breached their fundamental right to privacy, UK courts breathe some life into the human rights principle of access to remedy."

CJEU, 17 November 2022.

[Bulgarian data retention law breaches EU law](#)

Problems of widespread data retention allowed in national law contradict the 2002 Directive on the protection of privacy and personal data (2002/58/CE).

ECtHR, 16 November

[The Court has applied an interim measure concerning 148 homeless asylum-seekers in Belgium](#)

"On 15 November 2022, the European Court of Human Rights (Chamber of seven judges) decided to indicate an interim measure (Rules 39 of the Rules of the Court) in the case of Msallem and 147 Others v. Belgium (application no. 48987/22 and 147 others).

The case concerns the applicants (adult males), who have applied to the Belgian authorities for international protection and have not been assigned accommodation on account of the alleged saturation of the network for receiving asylum-seekers in Belgium. The applicants have all obtained a final domestic decision from the Brussels Labour Court ordering the Federal Agency for the Reception of Asylum-Seekers (Fedasil) to provide them with accommodation and material assistance in accordance with the Law of 12 January 2007."

Open Democracy, 16 November

UK: **[MPs vote through National Security Bill in 'disaster for free press'](#)**

"Journalists and so-called 'civil society' organisations... that receive foreign funding, or work for news organisations based outside the UK, could... face prosecution"

Verfassungblog, 9 November

[Compensation for non-material damages under the GDPR. An uphill battle](#)

"On 6 October 2022, Advocate General (AG) Campos Sánchez-Bordona delivered his Opinion in case C-300/21. At stake is the interpretation of Article 82 of the General Data Protection Regulation (GDPR), which provides compensation for non-material damages. The Opinion opts for a strict interpretation of this provision, but the present blogpost advocates that a broader reading is possible, and even desirable, in light of the GDPR's objectives and the many barriers impeding effective enforcement of data protection rights."

Military

TNI, 14 November

[Climate Collateral. How military spending accelerates climate breakdown](#)

"...military spending and arms sales have a deep and lasting impact on the capacity to address the climate crisis, let alone in a way that promotes justice".

Declassified UK, 14 November

UK: [Perverse priorities: cut public spending, keep nuclear arms and warplanes](#)

“Chancellor Jeremy Hunt is considering billions worth of cuts in public spending while the Ministry of Defence, with Labour’s support, plans to spend vast sums on just two hugely expensive military projects.”

Policing

Vice, 21 November

UK: [Inside the Hip-Hop Record Store Run by Undercover Cops](#)

“Locals knew Boombox as the shop with a recording studio in the back. It was also part of a Met Police sting codenamed Operation Peyzac.”

Liberation, 14 November

[Aux frontières de l’Europe, des migrants devenus boucs émissaires de la «guerre aux passeurs»](#)

“Au Royaume-Uni, en Italie et en Grèce, des demandeurs d’asiles sont régulièrement accusés d’être membres des réseaux criminels dont ils sont eux-mêmes victimes pour avoir piloté un bateau, tenu un GPS ou même appelé les autorités à l’aide. Certains sont emprisonnés après des procès entachés d’irrégularités.”

EUobserver, 10 November

[Europol given 'blank cheque' to do what it wants, say critics](#)

“In a report out Thursday, Statewatch, a civil rights organisation, says that Europol may end up being used “as a conduit for harassing political opponents and dissidents.”

See: [Empowering the police, removing protections: the new Europol Regulation](#)

Privacy and data protection

Patrick Breyer MEP, 10 November

[Cybersecurity: EU bans anonymous Internet sites](#)

“The EU Parliament today approved the directive to increase cyber security (“NIS 2”) by a large majority. According to it, the registration of internet domain names shall in the future require the correct identification of the owner in the Whois database (Article 28).”

A Statewatch analysis from almost a decade ago examined this matter: [Want to set up a website? The Five Eyes want your personal data](#)

Racism and discrimination

The Guardian, 20 November

UK: [Kent Tory councillor pictured in blackshirt at far-right event](#)

“A Conservative councillor photographed wearing a blackshirt and surrounded by fascist imagery at far-right events is under investigation. Andy Weatherhead (Hythe West representative on Kent county council) attended rallies organised by the openly fascist New British Union (NBU) before joining the Conservative party, and was surrounded by symbols associated with Oswald Mosley’s British Union of Fascists.”

Rosa Luxembourg Stiftung, 10 November

[Sweden’s new government: a dystopian nightmare](#)

“The political results of the Swedish election are in, and they bear all the hallmarks of a bad dystopian novel. The new government will be comprised of the Moderates, the Christian Democrats and the Liberals, and – in all ways except appointed ministers – the far-right Sweden Democrats.”

Surveillance

EDPS, 14 November

[EU Media Freedom Act: EDPS calls for better protection for all journalists and a ban on highly advanced military-grade spyware](#)

“In its Opinion published today, the EDPS welcomes the objectives pursued in the proposed EU Media Freedom Act to protect media freedom, independence and pluralism across the EU. Media freedom is a precondition for the functioning of media services in the EU’s internal market and, more importantly, a key enabler for the rule of law and democratic accountability in the EU.”

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