

# statewatch

monitoring the state and civil liberties in the UK and Europe

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UK/EU

## UK takes lead on surveillance of passengers

**"Security and immigration" risks to be stopped from boarding**

The UK government is planning to introduce an "Authority to Carry" scheme which will see all passengers entering or leaving the country being checked against police and security databases to see if they are a "known security or immigration risk". If they are identified as a "risk" they will not be allowed to board the plane. The only country to currently operate such a system - the Advanced Passenger Information System (APIS) - is Australia. The USA too is planning to introduce the same system.

The UK plan came to light when it sought to amend a draft EU proposal by calling for passenger data to be handed over *before* a flight has taken off rather than when it takes off:

*[The proposal] does not support the board/not board principle of the UK "Authority to Carry" scheme, which is currently being developed and for which there is already provision in UK legislation. It relies on carriers transmitting passenger information at the time of check-in and will enable a check to be made against Home Office (Interior Ministry) databases and, in the event that the passenger is identified as a known security or immigration risk may result in authority to carry the passenger being denied. (EU document: 13363/03, 15.10.03)*

The UK legislation referred to is the Immigration (Passenger Information) Order 2000 (based on an amendment to the 1971 Immigration Act in the Immigration and Asylum Act 1999, Section 18). The Order requiring information on passengers to be handed over applies to ships and aircraft which are "expected" to arrive in or leave the UK. Passenger information can be requested on a specific plane or for "all the carrier's (ships or) aircraft". A "request" placed on a carrier "continues in force" until withdrawn or renewed (which it can be every six months). The data required is not restricted to "foreign nationals", it covers all passengers including UK and EU citizens. Up to now the power has only been used for specific flights or flights from and to specific destinations (eg: Pakistan).

### The EU proposal

In February the Spanish government put forward a proposal for an EU Directive requiring all airlines to collect and pass over

passenger data for vetting. The purpose of the proposal is to combat "illegal immigration" and in the first draft said data should be gathered on all "people" arriving in the EU. On 25 June the Permanent Representative of the UK government in Brussels wrote to the Council of the European Union formally stating that the UK intended to participate in the proposal. On 9 July a number of other EU governments successfully argued that the term "people" should be replaced by "foreign nationals" thus excluding checks on EU citizens (Draft of 11.7.03). The UK government had no such concerns. The latest draft, 27 October, is: 1) limited to air travel and combatting "illegal immigration"; 2) limited to "foreign nationals"; 3) provides for checks to be made at "the airport of arrival" (not the airport of departure); 4) weak on "data processing" (no rights of data subject are set out) and says data "shall immediately" be deleted after "passengers have entered".

The Netherlands government says that the proposal has "no added value" in "combatting illegal immigration" but "the proposal to include terrorism holds promise". The Portuguese wants data to be held for six months but says it should not cover terrorism (and this could not be legal under Title IV TEC). Sweden "is not convinced that a routine-like collection of data of foreign nationals... can be considered not to be excessive" (under data protection law). Greece too sees no added value in the proposal as foreign nationals are checked anyway on arrival, that the further processing of data (checks against security and intelligence databases) would be contrary to its data protection law and "it will not be possible to delete information" from the databases being consulted. And this is all happening against the background of major objections in the EU to handing over airline passenger data to the USA.

Whatever happens to the EU proposal the UK government intends to proceed with the wholesale surveillance and screening of travellers and denial of permission to board for "security or immigration" risks. The term "security" risk is not defined and could, in time, be applied to protestors or critics as well as suspected criminals and terrorists.

See: [www.statewatch.org/pnobservatory.htm](http://www.statewatch.org/pnobservatory.htm)

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UK

## Cover-up over Porton Down "volunteer" sarin experiments

September will see the first open inquest into the death of Ronald Maddison, a 20-year old serviceman who died an agonising death fifty years ago after an experiment that saw him exposed to 200 mg. of liquid sarin nerve agent at the Ministry of Defences Porton Down military testing centre near Salisbury, Wiltshire (see *Statewatch* vol. 12 no. 6). It is also the month that the Crown Prosecution Service (CPS) chose to announce that it "has advised that there should be no prosecution for any criminal offences arising from the evidence reviewed to date on allegations made about experiments carried out on human volunteers [sic] at Porton Down, Wiltshire, from 1939 to 1989." As recently as 2002, Severin Carrel reported in the *Independent* newspaper that scientists at Porton Down had developed "A potentially devastating range of genetically modified superbugs, including bubonic plague, smallpox and gangrene."

More than 3,000 human guinea pigs are thought to have been duped into taking part in the experiments which took place over four decades between the 1940s and the 1980s. The CPS's advice not to prosecute followed an investigation by Wiltshire police, (Operation Antler, which started in 1999), after more than 400 complaints by veterans of Porton Down's "Human Volunteer Observer Scheme". The men say that they were deceived and secretly tested with lethal nerve gasses after volunteering to participate in tests to find a cure for the common cold.

Last year the Lord Chief Justice, Lord Woolf ordered a new inquest, saying "justice requires that these matters are properly investigated." The outcome of the new inquest - the first, in 1953, was held in secret and resulted in a verdict of misadventure - is now considered crucial to other Porton Down veterans who are calling for a public inquiry into the experiments. The veterans have also challenged the CPS's decision not to prosecute the officials behind the programme, claiming that they were deceived into taking part in the chemical agent tests. Many of the "volunteers" complain of ill-health, especially respiratory problems, and there is incontrovertible evidence that scientists were fully aware of the risks involved in the tests.

A recent article in the *Observer* newspaper (28.9.03) included testimony from the military ambulance driver who drove Maddison to hospital. Alfred Thornhill said:

*It was like he was being electrocuted, his whole body was convulsing. I have seen somebody suffer an epileptic fit, but you have never seen anything like what happened to that lad.. the skin was vibrating and there was all this terrible stuff coming out of his mouth.. it looked like frogspawn or tapioca.*

After Maddison had been taken to the hospital unit, Thornhill witnessed another scene that was to haunt him down the years:

*I saw his leg raise up from the bed and his skin begin to turn blue. It started from the ankle and started spreading up his leg. It was like watching somebody pouring a blue liquid into a glass... It was like watching something from outer space and then one of the doctors produced the biggest needle I had seen. It was the size of a bicycle pump and went down into the lads body.*

The government, it would seem, is in denial concerning the investigation of their country's shameful experimentation with liquid nerve agents. The Porton Down Veterans' Support Group is still hoping that a public inquiry will shed light on the "horror" of the experiments some 50 years after they took place.

*Porton Down Veterans Support Group, PO Box 787 Maidstone, Kent ME14*

*IEF. For further information on the Porton Down experiments see Rob Evans book "Gassed: British Chemical Warfare Experiments on Humans at Porton Down" (House of Stratus) 2000 (ISBN 1-84232-071-8); Observer 28.9.03; Sunday Times 28.9.03; Independent 29.9.03; Crown Prosecution Service press release 11.9.03*

UK

## Libel payment for Lofti Raissi

In April 2002 Lofti Raissi, an Algerian-born pilot, was cleared by a British court of allegations that he trained the 11 September hijackers. Lofti was arrested days after the attacks on the Pentagon and the World Trade Centre, and the Pentagon played a key role in instigating charges against him, insisting that they had insurmountable evidence that he had trained the pilots. After spending five months detained at Belmarsh high security prison in southeast London, where he was told he would be charged with conspiracy to murder and could face the death penalty in the USA, Lofti was cleared of all charges. He was the first person to be arrested after September 11 and his imprisonment, during which he says he was assaulted and verbally abused, was made all the more unbearable by "the way the media printed every single lie that the FBI and Scotland Yard told them".

Lofti's lawyers estimate that more than 500 articles, based on the US allegations, were published across the world. The *Mail on Sunday* published additional claims, including the extraordinary allegation that he had stolen the identity of a woman. At the beginning of October Lofti reached a settlement at the High Court, when Associated Newspapers (the publisher of the *Daily Mail* and the *Mail on Sunday*) agreed to pay substantial damages and legal costs for "any distress caused as a result of the publication of the article." Mr Raissi had argued that the allegations implied that he was "an important member of the organisation responsible for the September 11 terrorist attacks and played a key role in the preparation of those attacks, in particular by training terrorist hijackers to fly."

Lofti has already begun legal action against the FBI and the US Department of Justice for £13 million for false imprisonment and malicious prosecution. He will also bring a claim against the Crown Prosecution Service and the UK police.

*Independent 6 & 7.10.03.*

SPAIN

## Al Jazeera journalist arrested on terror charges

Tayseer Alouny, a Syrian-born Spanish citizen (he holds Spanish and Syrian nationality) and *Al Jazeera* journalist, was arrested in his home in Alfacar (near Granada) on 5 September 2003 on orders from *Audiencia Nacional* judge Baltasar Garzon. The International Federation of Journalists considered the arrest "unacceptable", alleging a lack of evidence against him.

After spending five days in pre-emptive custody (the maximum allowed under Spanish law) Garzon remanded him in custody in Soto del Real high-security prison to the north of Madrid on charges of: membership of Al Qaida, of having financed an Al Qaida cell, and of acting as a courier for Al Qaida. In particular, he is accused in relation to his contacts with Imad Eddin Bakarak Yarkas, aka Abu Dahdah, the suspected leader of a Spanish-based Al Qaida sleeper cell. The arrest order states that "sufficient elements and evidence exist to state that Tayseer Alouny was integrated in Abu Dahdah's group and linked to most of its members beyond his condition as a journalist". Meetings with members of this suspected cell, described by investigators as efforts to organise financial support, backing for members and recruitment of new militants

for Al Qaida, were said by the journalist to be gatherings of friends in which political and religious issues were discussed. When he was asked about payments made in 1995 when he travelled to Afghanistan and Turkey, Alouny said he had given some money to compatriots abroad, but did so in "solidarity" with Syrian exiles and as a wedding present, in another case. Alouny's wife expressed concern over the arrest due to her husband's poor heart condition, adding that he is kept "incommunicado".

On 18 September five more Al Qaida suspects were detained on orders issued by Baltasar Garzon, four of whom are suspected of helping to finance the cell and of links to Tayseer Alouny. Garzon has begun proceedings against 35 people, including Osama Bin Laden, 11 have been arrested of whom 3 are in prison in Spain.

In a letter to the Spanish prime minister Jose Maria Aznar, *Al Jazeera's* directors and staff asked for "our comrade Tayseer Alouny to be freed immediately". The letter goes on to state that Alouny "had not done anything wrong apart from sending impressive and first-rate reports from Afghanistan, one of the worlds most difficult and dangerous places". Describing the charges against Alouny as "verging on the absurd", the letter explained that "a journalist, and particularly a correspondent, usually establishes contacts with several sources", and that "On several occasions, western journalists have held secret meetings with clandestine organisations without ever being prosecuted for carrying out their work." Alouny, the *Al Jazeera* correspondent in Kabul during the war in Afghanistan, interviewed Bin Laden after the 11 September 2001 attack on the US, and he also covered the development of military operations in Iraq for the Qatar-based television company. In both instances (in Kabul and Baghdad) the offices of *Al Jazeera* were bombed by the armed forces.

*Al Jazeera* 9.9.03; *El Pais* 6, 7, 12, 13, 19, 21.9.03

## Civil liberties - new material

**"Killing you is a very easy thing for us": Human Rights Abuses in Southeast Afghanistan.** Human Rights Watch vol. 15 no. 05 (c) (July) 2003, pp. 104 This report, based on field research conducted from January to June 2003, concludes that "warlords and military commanders are becoming more and more entrenched" in post-war Afghanistan. If this situation is "allowed to continue with impunity, these abuses will make it impossible for Afghans to create a modern, democratic state." The organisation highlights three main types of abuse: "violent criminal offences - armed robbery, extortion and kidnappings - committed by troops, police and intelligence agents; governmental attacks on the media and political actors; and violations of the human rights of women and girls." The report blames the US government, which "has done much to entrench the warlords responsible for the worst abuses" and other key UN member states, "particularly those of the European Union and Afghan neighbours" for "failing to expand international peacekeeping forces beyond Kabul to problematic areas." Available from Human Rights Watch, 350 Fifth Avenue 34th Floor, New York, NY 10118-3299, U.S.A. <http://www.hrw.org>

**"The US army wants to execute my boy".** *Socialist Worker* 19.7.03, p. 5. Interview with Azmat Begg, the father of Moazzam Begg, one of two British prisoners interned without trial in Guantanamo Bay, Cuba, who face US kangaroo court justice. He accuses the "prime minister of abandoning people who have done nothing, and who would be freed by courts in this country."

**The road to war,** Robin Cook. *Sunday Times News Review* 5.10.03 Extracted from former Foreign Secretary Robin Cook's diaries, this article reports his claim that Tony Blair, the Prime Minister, privately conceded, two weeks before the invasion of Iraq, that Saddam Hussein did not have any weapons of mass destruction. Cook also says that the chairman of the joint intelligence committee (JIC), John Scarlett,

agreed that Saddam had no such weapons. Cook writes: "I had now expressed that view [that Saddam did not have weapons of mass destruction] to both the chairman of the JIC and to the prime minister and both had assented in it."

**Military Justice? The proposed us of US military commissions to try detainees at Guantanamo Bay,** Clair Phytas. *British Institute of Human Rights Newsletter* Autumn 2003, pp.2-3. This article concludes that "The.. proposed military commissions appear to be less tribunals of law than a series of procedural formalities, particularly since the higher echelons of the US government have already concluded that the detainees are terrorists. The risk of verdicts being of a political nature reinforces the need for judicial oversight by civilian courts. The sanctioning by the UK and other governments of the use of such courts without guarantees of full due process would not only set a dangerous precedent for other states to follow, but would be a travesty of justice."

## IMMIGRATION

### SPAIN/CUETA

## Police evict *Medecins Sans Frontieres* camp

On 21 September 2003 the police raided and cleared the camp that *Medecins Sans Frontieres* (MSF) had established in El Jara, to look after asylum applicants and undocumented migrants for whom there is no space in the *Centro de Estancia Temporal de Inmigrantes* (CETI, Temporary Immigrant Holding Centre). With this act, Spain has become the first country to dismantle a camp run by the MSF (a doctors humanitarian organisation that won the 1999 Nobel Peace Prize). The measure was adopted by the government shortly before Gabriela Rodriguez, the United Nations rapporteur on the rights of migrants, was due to visit the camp. The 350 evicted refugees were "relocated" in the CETI in spite of the fact that it was full.

Some of those who found themselves in the tents put up by the MSF fled, fearing they would be expelled. The camp had registered up to 450 migrants and refugees. A report released by the MSF states that 95% of the people in the camp are asylum applicants and that 64% of them have health problems. Within ten days of the eviction, 150 refugees and undocumented migrants were locked out of CETI's because they were full. The MSF is looking after them. A statement by Carlos Ugarte, responsible for MSF projects said that, "what is truly worrying is that inside the CETI there are 650 migrants, around 200 more than the maximum number allowed, and they are sleeping in a library and a couple of classrooms that have been fitted out as dormitories."

### IRELAND

## No more right to remain for parents of Irish born children

Eleven thousand asylum seekers face immediate deportation after Minister of Justice Michael McDowell announced on 17 July that their claims for residency solely on the basis that they have become parents of Irish citizen children have been nullified. Officials immediately issued 400 deportation notices. People were told that they only had 15 days to appeal, but without legal aid for a process that could cost between 2,000 to 4,000 euros. The decision follows a Supreme Court ruling on 23 January this year that removed the right of parents to remain with Irish born children. While these Irish children cannot be legally deported,

they will be forced to leave the country with their families. In effect, this marks the beginning of a racialised citizenship law in Ireland.

The Supreme Court found that as Irish citizens, no child born to non-national parents in Ireland, can be deported. Such a child citizen has rights of residency. It also clearly sets out that Irish child citizens have the constitutionally protected right to the company of their parents and therefore that there is a *prima facie* case for the family to reside in the State with their child. But:

*the Court also found that the family rights of an Irish child citizen are not absolute and can be restricted in certain circumstances, including for reasons relating to immigration policy. This therefore allows for the possibility of deporting non-national parents of Irish children in certain circumstances, as they are not by reason of constitutional imperative automatically entitled to residency, although their child, as an Irish Citizen, is. (Irish Council of Civil Liberties)*

The mass deportation of parents of Irish born children, however, was authorised a decision by the Justice department on 19 February that removed the right of parents to apply for citizenship solely on grounds of parentage to Irish born children. In reaction to the notice on the Department of Justice website, Aisling Reidy, Director of the ICCL commented:

*Far from what is implied by the Department of Justice, this move is not a necessary result of the Supreme Court decision in the Osayande and Lobe cases. However, those who were worried that the Department of Justice would react in a broad, arbitrary and unfair manner to that decision have had their fears confirmed by this decision of the Minister.*

The ICCL and the Irish Refugee Council pointed out that the Supreme Court did not decide that non-national parents have no right to apply for residency rather that it confirmed that every Irish child citizen has a right to residency, irrespective of who their parents are, but that non-national parents do not have an automatic entitlement to residency.

On 17 July 2003 the Minister for Justice announced that a backlog of 11,000 claims for residency for non-EU immigrant parents solely on the basis that they have become parents of Irish citizen children had been nullified. Four hundred notices of effective deportation were issued, informing people that the Minister proposes to deport them, and that they have 15 working days to make written representations for temporary leave to remain on humanitarian grounds, which may include parentage of an Irish citizen, the length of time they have resided in Ireland and their family and domestic circumstances. Alternatively those issued with the notices can agree to the voluntary return option.

While Irish child citizens cannot be legally deported, they will be practically obliged to leave the country with their parents. The Minister made clear he will not be "blackmailed" by parents threatening to leave their children behind, and, if necessary, the courts will compel them to take their citizen children with them.

*The Coalition Against Deportation of Irish Citizens (CADIC) has published a useful information leaflet (5.9.03) detailing the legal aspects of these recent decisions (see <http://www.childrensrighs.ie/pubs/CADICinformationleaflet.doc>); Irish Council for Civil Liberties: [http://www.iccl.ie/minorities/race/03\\_ibcsub.html](http://www.iccl.ie/minorities/race/03_ibcsub.html); National Coalition of Anti-Deportation Campaigns: <http://www.ncadc.org.uk/letters/newszine37/ireland.html>*

## Immigration - in brief

■ **Spain/Morocco: Trader killed by Guardia Civil gunshots:** The incidents that are repeatedly taking place on the Spanish border with Morocco in Ceuta, involving police officers attempts to arrest those who enter Spain clandestinely, caused another death on 3 October 2003. A trader died of a bullet wound from a shot fired by a *Guardia Civil* officer as he attempted to cross a barrier that has been erected on the border. The civil government in Tetuan (Morocco) claims that the death occurred

on Moroccan territory, a fact that, if confirmed, could lead to a diplomatic incident between the two countries. The recent restrictions placed by the Spanish authorities on Moroccan citizens who regularly cross the border to trade, has resulted in several confrontations with the police, and complaints by traders on both sides of the border.

■ **Spain: Immigration law reform approved:** On 2 October the Spanish Congress approved the reform of the *Ley de Extranjeria* with a large majority. After an agreement reached by the *Partido Popular* (PP) and the *Partido Socialista Obrero Espanol* (PSOE), in which the former accepted most of the amendments proposed by the PSOE, the adoption of the law is assured. It must still undergo scrutiny by the Senate (upper chamber), but may be in force by the start of 2004. Aspects of this reform were highlighted in *Statewatch* vol. 13 no. 3/4.

■ **Greece: Migrant deaths:** On 9 September, members of the Greek armed forces posted on the Greek-Turkish border on the river Ebro spotted and began collecting the bodies of would-be migrants who died in an attempt to reach the Greek side of the river. The body count of dead migrants, who are believed to have tried to use a boat that did not survive the crossing and has not been found, eventually reached 23 (21 men and 2 women), believed to have come from Pakistan. *il manifesto* 11.9.03.

■ **Spain: Deaths in the Strait:** The number of migrants who have died attempting to reach the Spanish coast in dinghies is rising. In the first two days of August, 25 bodies were found in the Canary Islands. The cold statistics reveal that 80 migrants died in this manner at the beginning of August, representing a doubling of casualties over the previous year. Humanitarian organisations have also expressed concern about the recent increase in migrant children arriving from Morocco in dinghies. On 25 September, 21 minors landed in Tarifa in a dinghy.

## Immigration - new material

**Immigration policy and practice update**, Jawaid Luqmani. *Legal Action* August 2003, pp. 17-18. Considers changes of immigration rules (from 1 April 2003) and the Nationality, Immigration and Asylum Act 2002.

**"Inmigración, racismo y xenofobia", Analisis de prensa - January-March 2003.** *Centro de Estudios y Documentación sobre racismo y xenofobia.* This issue of the review, breakdown and analysis of articles that have appeared in the press, focuses on the issue of gender in press discourse about immigration. An in-depth study by Clara Pérez Wolfram looks at the construction of immigration as an essentially masculine phenomenon, in which females are mere victims, depersonalised and stripped of an active role in their migratory plans. Thus, notes Wolfram, we never know why they chose to migrate, or what their plans or expectations were. The use of the *hiyab* (headscarf) and the representation of women as victims of prostitution rings is used to support this portrayal, and its male dimension makes it easier to portray as threatening. Reviewing articles in the press she argues they are often racist and sexist, and that they tell us more about the host country and its prejudices and notions of superiority than they tell us about the migrants who are the subject of the articles. Available from: *Mugak*, Peña yGoñi, 13-11, 2002 Donostia, Basque Country, Spain.

**Ottavo Rapporto sulle migrazioni 2002**, Franco Angeli. *ISMU* 2003, pp367, 23.00 euro. This is the eighth annual report by the ISMU Foundation, which provides a wealth of documentation and analysis of migration in Italy. It includes a breakdown of the figures on migrants who are present on Italian and EU territory, an analysis of the Bossi-Fini amendments to the law on immigration, EU policy developments and initiatives and a brief review of media coverage of immigration related issues throughout the year. Part two of the book looks at data divided into areas of interest, like employment, education, health, housing and settlement, deviance (including reported criminal offences,

immigrant prison population, detained minors, with an analysis of discriminatory trends), and the attitude of Italian society towards migrants. The third section involves in-depth reports on immigrant families, the needs of businesses in relation to the regulation of immigration flows and the differences that exist between the Islamic communities in different European countries. The fourth and last section looks at the international scenario, both from the perspective of countries of origin (Morocco, Asia, the Americas) and regions of arrival (US, EU), highlighting the increasing influence of security considerations in policy-making on immigration.

**Migrations chinoises en Europe.** *Migrations Societe* vol. 15 no 89, (September-October) 2003, pp. 225. This issue focuses on Chinese migration to Europe and on the different characteristics of Chinese communities in different EU and EU accession countries, with essays on Spain, Italy, the Netherlands, Germany, Denmark, the UK, France, Portugal, Hungary, the Czech Republic, Poland, Slovakia and Russia. Also includes an essay on the new Italian "Bossi-Fini" law on immigration. Available from: Centre d'Information et d'Etudes sur les Migrations Internationales, 46, rue de Montreuil - 75011 Paris, France.

## MILITARY

### EU

## New security strategy calls for world-wide preventive actions

In June the EU published a series of security documents, including a draft of a EU security strategy and an action plan for non-proliferation of weapons of mass destruction (WMD). According to *Jane's Defence Weekly* the documents introduce a new element of strategic thinking in the EU debate on defence and security. Even more important the documents allow for the use of force to prevent WMD proliferation.

EU foreign ministers meeting in Luxembourg approved two documents *Basic Principles for an EU strategy against Proliferation of Weapons of Mass Destruction* and the *Action Plan for the Implementation of the Basic Principles for an EU Strategy against Proliferation of Weapons of Mass Destruction*. In the first document the ministers declared that member states may on occasions use military force to stop the spread of WMD:

*When [non-military] measures have failed, coercive measures under Chapter VII of the UN Charter and international law (sanctions, selective or global, interceptions of shipments and, as appropriate, use of force) could be envisioned.*

According to *Jane's* this line of thinking "moves the EU defence philosophy more in line with that of the US." The main difference is still that the Europeans understand use of force always within the context of a UN Charter resolution or at least with the Security Council acting in a central role (but that means without a clear mandate).

However in another important document, a draft EU security strategy brought forward by the EU high representative for common foreign and security policy, Javier Solana calls for new or improved rule which would allow for effective, yet legal action against new threats, in his words "robust interventions". International laws should evolve against proliferation, terrorism and global warming (sic), the security strategy states. *Jane's* concludes that the logic of the new EU security strategy suggests that more scrutiny may be given to the legality of the use of force in a pre-emptive scenario in order to allow for effective action against the combination of WMD and terrorism. Before December the European Council of ministers and the European Commission will produce a detailed strategic document on the basis of the Solana paper.

*Jane's Defence Weekly "EU rethinks security stance" 30.7.03 (Tomas Valasek); UZ Nr. 26/2003 "EU droht mit weltweiten Interventionismus" [EU threatens with world-wide interventionism] (Arno Neuber), www.imi-online.de*

### EU

## Still no compromise on military headquarters

During an informal meeting of EU defence ministers in Rome on 4 October no broad agreement was reached on the idea of setting up an autonomous European headquarters. It was accepted that a solution for that question should be sought by November at the joint meeting of EU foreign and defence ministers in Brussels.

Last April "diplomatic warfare" broke out in Nato after a call by France, Germany, Belgium and Luxembourg for the creation of a purely European headquarters and planning staff in the Belgian town of Tervuren. In September the situation calmed down at the Anglo-French-German mini-summit in Berlin when the UK Prime Minister agreed to a joint paper sketching out proposals for an autonomous European force. According to the *Financial Times* that document said: "The European Union should be endowed with a joint capacity to plan and conduct operations without recourse to Nato resources and capabilities. Our goal remains to achieve such a planning and implementation capacity either in consensus with the 25 [member states] but also in a circle of interested partners." The new operational headquarters would for the time being have a staff of 40 or 50 officers which is rather modest.

In Rome, Italy tried to broker a further deal by tabling plans to form a defence advance guard, operating similarly to the eurozone. A suggestion was that this "hard core" (including Britain) would have to pledge a specific portion of their budget for defence. This might very well become the course taken, but in Rome there was no consensus about where the new headquarters would be located. The Tervuren idea seems to be off the table for the moment, but neither could agreement be reached about the British proposal to create a European planning unit at NATO's military headquarters in Mons, Belgium (SHAPE) or an Italian compromise to entrust the planning to the national headquarters of a framework nation reinforced by officers from other member states in a so-called virtual planning cell. However a French proposal to create a 1,000 strong EU paramilitary *gendarme* force to enforce stability after military interventions was welcomed by the ministers as was the idea of the EU taking over the military mission in Bosnia which is now fulfilled by Nato's SFOR.

*BBC News; Financial Times; Daily Telegraph, Defense News; The Independent; eurActiv.com*

## Military - in brief

■ **UK: Commemoration of September 11:** An itinerant exhibition of photographs, from the personal collection of Roberta Bacic, has been assembled to commemorate and share "the process of dealing with the past alongside the relatives of the disappeared and those executed for political reasons in Chile" on 11 September 1973. The exhibition, which has been travelling across Europe, marks the US-backed coup which saw tanks rumbling through the streets and civilians executed by firing squads at the National Stadium, in an early example of the USA's "war on terrorism". The execution of elected President, Salvador Allende, prompted celebrations in Richard Nixon's White House, according to recently released US government records. The exhibition "will give a voice to some of the voiceless" and show "the outcomes of the struggle for truth, justice and memory." For more information contact War Resisters International, 5

Caledonian Road, London N1 9DX, UK, email: office@wri-irg.org

■ **EU: EU exports more small arms than US:** The EU is now the worlds largest exporter of small arms, selling \$170 million more annually than the US according to figures released in the Small Arms Survey compiled by the Graduate Institute of international Studies in Geneva. The research project is linked to the UN Conference on the Illicit Trade in Small Arms and Light Weapons. The Survey 2003 documents 1,134 companies in at least 98 countries. *Jane's Defence Weekly 10.9.03*

■ **UK/USA/Iraq: WRI campaign for jailed conscientious objector:** The British based War Resisters International (WRI), which promotes nonviolent action against the causes of war, has called for letters of protest to be sent to the US authorities and US embassies abroad following the jailing of the conscientious objector, Stephen Funk. Funk, a US marine who failed to report for duty at the outset of the - illegal - invasion of Iraq, was sentenced to six months imprisonment for unauthorised absence on 6 September. The more serious charge of desertion was dropped. He will serve his sentence at Camp Lejeune and letters of support can be sent to him at: Stephen Funk, Building 1041, PSC 20140, Camp Lejeune NC 28542, USA. The WRI is also asking for protest letters to be sent to the US authorities: George W. Bush, The White House, 1600 Pennsylvania Avenue NW, Washington DC 20500, USA; Donald H. Rumsfeld, Secretary of Defence, 1000 Defence Pentagon, Washington DC 20301-1000, USA.

## Military - new material

**British weapons in the Indonesian war in Aceh,** Aguswandi & Paul Barber. *Peace News* no. 2452 (September-October) 2003, p. 20. Indonesia's massive military offensive in Aceh, a province of four million people on the northern tip of the island of Sumatra, has left behind a trail of civilian casualties in its asymmetrical "war on terrorism". This has not prevented the UK government supplying "key support" to the Indonesian military, in the form of Hawk aircraft and Scorpion tanks, in their attempts to crush the Free Aceh Movement. For more information contact the Indonesia Human Rights Campaign, TAPOL, +44 20 8771 2904; <http://tapol.gn.apc.org>

**European merger era is over,** David Mulholland. *Janes Defence Weekly 9.7.03* pp. 20-21. According to senior executives in the European defence industry the days of big European mergers are over. There are now three major defence companies in Europe: BAE Systems, EADS and Thales. Smaller, but still sizeable, ones are DCN (France), Finmeccanica (Italy), Rolls-Royce and GKN (UK), Rheinmetall (Germany) and Saab (Sweden). BAE still does not rule out a merger with a US company but it is thought improbable that any of the US giants is interested, as many of BAE's attractive assets are tied up in joint ventures.

**What model for CFSP? Hans-Georg Ehrhart.** Institute for Security Studies, *Chaillot Paper 55*, (Paris) 2002.

**Kein Abschied vom Leitbild "Zivilmacht". Die Europaeische Sicherheits- und Verteidigungspolitik und die Zukunft Europaeischer Aussenpolitik** [No goodbye to the "civil power" ideal. The European Security and Defence Policy and the future of European foreign policy], Matthias Dembinski. *HSFK-Report 12* (Frankfurt) 2002.

**Die Sicherheits- und Verteidigungspolitik der "Zivilmacht Europa". Ein Widerspruch in sich?** [The security and defence policy of the "civil power Europe". A contradiction in terms?] Annette Juennemann, Niklas Schoerling. *HSFK-Report 13* (Frankfurt) 2002.

**Future of European Armaments Cooperation.** Wolfgang Hermann. *Europaeische Sicherheit 6/2003* pp. 23-27.

**Strategic Airlift for Europe,** Hermann Hagen. *Europaeische*

*Sicherheit 6/2003* pp. 48-49

**NATO base cuts in new command revealed,** Luke Hill. *Janes Defence Weekly 11.6.03* p. 3. Includes a diagram of new the NATO command structure.

## POLICING

### ITALY

## 73 officers to face charges for Genoa policing

Prosecutors investigating events during the G8 summit in Genoa in July 2001 have charged 73 people including police officers, prison officers and officials over the violent raid on the Diaz and Pascoli schools and the abuses perpetrated against detainees in the Bolzaneto police barracks, which was equipped as a detention centre for demonstrators. The investigators came to the conclusion that the abuses were not the result of actions by a few individuals and the prosecutors singled out the officers in charge, in both the raids and at the Bolzaneto barracks. The judge for preliminary investigations will decide whether to bring charges against the accused in a pre-trial hearing.

In the case of the raid on the schools where activists were staying and where an independent media centre had been set up, prosecutors argue that there was an attempt:

*to put together a collection of evidence against those arrested and, thus, to commit the crimes of slander and of abuse of their position, as well as to justify the violence [that was] used*

The raid resulted in 93 arrests, and 61 of the occupants were injured. The fabrication of evidence to justify the arrests and violence has also surfaced: two molotov cocktails were planted and a knife attack on a police officer turned out to have been self-inflicted. The occupants of the school were also alleged to have violently resisted the raid.

The molotov cocktails, which police officer Michele Burgio confessed to taking. and planting. in the school on orders from Pietro Troiana, the deputy police chief in Genoa, were used to charge the occupants with possession of explosives. Each of the 93 people arrested were falsely accused of a series of crimes including criminal association to commit destruction and looting, obstructing public officers in the exercise of their duty and possessing explosives and illegal weapons. One of them who was not identified was accused of attempted murder in relation to the alleged stabbing attempt.

The prosecuting team deemed that ten officials are to be charged for signing the arrest orders, and the order to authorise the search and raid. The heads of the different flying squad units that were brought in from Rome have been identified as well as the head of the Rome flying squads, Vincenzo Canterini and his deputy Michelangelo Fournier, and they may face charges of participating in causing serious injuries. They are accused of:

*causing various personal injuries, sometimes serious, to the persons who were present inside the building, struck with the ordnance truncheons or with other violent acts, committing these acts or otherwise not preventing others from such behaviour, which was criminally in excess of the limit on the legitimate use of means of physical restraint ...striking the mentioned persons with violence, all of whom were in an obviously unoffensive and resigned attitude, sometimes striking them repeatedly while they were on the floor.*

They are accused of acting in association with other officers (estimated at more than 200) who have not been identified. The police officer who alleged that he was stabbed (Massimo Nucera) and another who backed his story, also face possible

charges of falsehood and slander. Further charges may be brought in relation to the search, which saw the confiscation of hard discs and the destruction of computers used by the independent media centre in the Pascoli school.

While prosecutors are looking to charge 30 people for events during the search and raid in the Diaz/Pascoli schools, 43 may face charges in relation to events in the temporary detention centre that was set up in the national police barracks in Bolzaneto, including prison medical staff. Five people have been identified as the authors of violent acts, and issuing threats and insults against detainees. The top police officer in Bolzaneto, Alessandro Perugini, the deputy head of the Genoa *Digos* (*Direzione generale operazioni speciali*, special operations general directorate) is accused of "tolerating or otherwise not preventing restrained persons" from being subjected to treatment described as "humiliating, inhumane and degrading", which included violent offences and offences with political, racial or sexual connotations.

*il manifesto* 13.9.03.

## ITALY

### Clashes at the IGC on the European Constitution

On Saturday 4 October 2003, there was a demonstration to protest against the opening of the intergovernmental conference (IGC) on the drafting of the European Constitution in Rome. Clashes between the police and demonstrators developed after an attempt by the *Disobbedienti* (an activist network that argues for the need for civil disobedience as a form of political struggle) to enter the forbidden "red zone" (which was cordoned off by police) around the *Palazzo dei Congressi* building where the IGC was being held. The attempt was followed by police charges.

Two demonstrators who were detained during the clashes are under house arrest, accused of resisting and causing injuries to police officers and of being in possession of weapons (a stone and a stick), which they deny. 68 people face charges in relation to the clashes, and to actions that took place before the march: they include a fire that was started in the offices of a temporary employment agency in the San Paolo neighbourhood (32 of those charged are accused of destruction and looting, an offence that carries a minimum eight-year prison sentence), the emptying of a lorry of animal excrement outside Berlusconi's residence in Rome and of toilet paper outside *Palazzo Chigi* (the seat of the Italian Parliament).

Police also claim to have found weapons in a van that was being used by the *Disobbedienti*, including shields, helmets, wooden sticks and cutting instruments. The fact that investigators from a magistrates unit working in the field of anti-terrorism have been placed in charge of investigations may result in charges of belonging to a criminal organisation.

*il manifesto* 7-8.10.03.

## NETHERLANDS

### Man shot dead by police

On Wednesday 6 August 2003, an Amsterdam police officer shot dead a man in the streets of Amsterdam West. According to a Justice Department spokesman, Driss Arbib, a 33-year-old of Moroccan origin, had threatened an officer. The account given by witnesses is more complicated and the local community and migrant organisations have voiced doubts about a threat having been present before the fatal shot. A committee has been formed against "senseless police violence", which organised a demonstration on 16 August 2003 against police brutality and

discrimination. The body responsible for investigating police misconduct (*Rijksrecherche*) is investigating the case.

According to Driss Arbib's girlfriend, Oum Koltsoum El Menssi, she and Driss were eating in the *Warung Swietie* restaurant in Mercatorplein square in Amsterdam West. After dinner, Driss went to gamble on one of the machines in the restaurant when four men who sat at the table next to her started to harass her. Driss suggested that they leave and go home. As they left he told one of the men that they objected to the intrusive looks and questions. According to Driss's girlfriend, one of the men responded by head-butting him. Customers told them to take it outside and Driss left. In the meantime, the police arrived and talked to two of the four men, who told them that Driss had been drunk and was looking for a fight. At that moment Driss returned to the cafe with a 20 cm. long knife, which he pointed at the man who had assaulted him. A policeman shot Driss dead. According to Oum Koltsoum El Menssi, the officer did not offer the victim assistance.

After the killing, tensions arose in the neighbourhood. In 2000, Het Mercatorplein had been at the centre of riots by Moroccan youth, after a concert was stopped because a rapper had shouted "Fuck the police". According to members of the local community, a lot has changed since then, with houses having been renovated and life having returned to the square. A Surinamese woman summarised the anger by arguing that if it had been a white man, the police would not have fired.

On 7 August 2003, a memorial service was held in remembrance of Driss Arbib on *Het Mercatorplein*. A day later, several Moroccan organisations organised a demonstration against police violence and discrimination. The chairman of the Committee for Moroccan Workers in Holland, Jamal Oufatih, said it had been the third time the police had used such force against a person of Moroccan origin. He confirmed that Driss was not known to the police and that he had worked at Schiphol airport. That evening the Committee Against Senseless Police Violence and Discrimination (CASPVD) was formed.

The CASPVD has rejected an investigation by the *Rijksrecherche* arguing that their investigations are flawed and suggesting that the body cannot be seen to be independent from the police. The *Rijksrecherche* investigates police misconduct, from shooting incidents, acts of violence and discrimination to corruption allegations and fraud (the latter making up the majority of its work) - in shooting incidents and deaths in custody it automatically carries out an investigation.

The *College van Procureurs Generaals*, the highest level of the *Openbaar Ministerie* (public prosecution service) is responsible for the *Rijksrecherche*. Opinions differ, with some lawyers claiming that they deliberately do not investigate complaints properly. Others say that their investigations are sometimes more efficient than police inquiries. However, most lawyers who have dealt with shootings by police officers agree that the officer is usually not prosecuted; after the *Rijksrecherche* investigation the public prosecutor in the city where the incident happened invariably decides not to pursue the case. The Committee Against Senseless Police Violence and Discrimination has therefore announced a parallel investigation into Driss Arbib's death and several other incidents.

According to the Amsterdam Justice Department, the *Rijksrecherche* has investigated the use of firearms by the Amsterdam police eleven times since 2001. In two cases, a Moroccan was involved and both cases were fatal incidents. One investigation involved a shooting incident in Amsterdam South East in 2001. On 11 December 2001, a police officer shot dead a 19-year old suspect during his arrest. According to the police account, two men tried to break into a clothes store on the Bijlmerplein. The men fled on a scooter and were stopped when a fight ensued in which Said D. was killed. The other suspect was arrested. Witnesses said that Said D. was trapped under his scooter, when an unmarked police car cornered it. According to

the witnesses, it was not clear whether or not Said D. tried to run away from the police officer or if he attacked him. P Plasman, lawyer for Said D's parents, argued that witnesses contradicted each other and insisted that the case be brought before a judge. In May 2003, the public prosecutor decided not to pursue the case because the police officer had said that the suspect tried to strangle him. The eye-witnesses deny this. Said D's parents have appealed against the Justice Departments decision not to prosecute the police officer.

Jelle Kuiper, Chief of the Amsterdam police force defended the police officer in the Driss Arbib case and announced that he had not been suspended from duty. Kuiper was convinced that the officer had acted in self-defence and that he had tried to resuscitate the victim. Criticism was levelled at the police chief for giving a version of the circumstances surrounding the death before the *Rijksrecherche* had concluded its investigation. Kuiper merely referred to the shooting as an "incident" and denied allegations that the stabbing of a police officer two weeks before had led to the police becoming "trigger-happy". Kuiper, in turn, accused the Committee Against Senseless Police Violence and Discrimination of inciting the Moroccan community, claiming that the death is an example of institutional police violence. Another problem according to the Chief Public Prosecutor in Amsterdam, Leo de Wit, is that officers who are involved in shooting incidents are no longer seen as suspects because they are perceived to have acted within the law.

In parliament, members from the Green Left and other parties questioned the reaction of the Chief of police, Jelle Kuiper. They argued that he should be more reserved and await the outcome of the *Rijksrecherche* investigation. They also said that the Committee Against Senseless Police Violence and Discrimination should not go ahead with their investigation.

Many in the Moroccan community believes the shooting of Driss Arbib to be a symbol of continuing police violence against them. They say that the climate changed after 11 September 2001. The community is angry about connections being made between migration and crime, Islam and terrorism and Moroccans and "integration". On 16 August, 1,000 people demonstrated in de Baarsjes, the neighbourhood of which the Mercatorplein is the centre. Two days before the demonstration, J Cohen, the Mayor of Amsterdam, received representatives from the local Moroccan community.

A local politician from the Green Left party, Mustapha Laboui, of Moroccan origin, commented that although the Mercatorplein had been renovated, this was not enough as activities need to be organised for the local youth, otherwise, he argued, tensions will remain. However, Laboui and a local community worker, El Hossaine Boulachioukh, do not entirely agree with the Committee Against Senseless Police Violence. They were surprised that the committee had not approached the 12 Moroccan organisations in the neighbourhood.

The *Rijksrecherche* has criticised police forces in its reports. In its annual report for 2002, it expressed dissatisfaction at the lack of cooperation between different police forces and called for more technical support from forces that are not involved in incidents under investigation. The annual report says that the *Rijksrecherche* is not called in soon enough and that it was necessary to interview the police officer involved in a shooting incident at a much earlier stage in the process. The *Rijksrecherche* does not have its own technical team so it is dependent on the cooperation of the police.

Researchers at the Free University of Amsterdam investigated the use of firearms by the Dutch police from 1978 until 1995, a period in which 297 people were shot by the police, resulting in 53 deaths and 244 casualties. In 2001 and 2002, the *Rijksrecherche* investigated 22 shooting incidents, of which 20 ended in injuries from one or more bullets. In three of the 20 cases the police officers were found to be insufficiently trained. In 1996, the Police Institute for Public Order and Threat

Management concluded that while police officers learn how to shoot they do not know how to prevent shooting incidents. In their research they compare the officer on the street with a young football player who chases the ball but lacks an overview. They say that little has changed since 1996,

For instance, in July 1998, Moravia Ramsahai, who was suspected of stealing a scooter, was chased by police in Amsterdam South East. According to the police version of events, Ramsahai pointed a gun at them upon which they shot him dead. Gerard Hamer, the family's lawyer, says that in cases like this there is never a public hearing such as a court case. The public, he argues, has to trust the authorities that it is a justified killing. He argues that the problem with the *Rijksrecherche* is that it will not judge their "colleagues" and when civilians give a different account from police officers, they will believe the police officers version. *Rijksrecherche* personnel are often former police officers. Lawyers, representatives and families of the victims have therefore demanded that police violence should be investigated in court, by a judge, and not by an quasi-independent body which has the power to decide whether a case should be prosecuted.

*Het Parool, Trouw, NRC Handelsblad, de Volkskrant, Algemeen Dagblad, Amsterdam's Stadsblad, de Telegraaf* 12.12.01; 2003: 08.08, 09.08, 11.08, 12.08, 13.08, 14.08, 15.08, 16.08, 18.08, 19.08, 20.08, 21.08, 23.08, 01.09, 02.09

## ITALY

### Raids against anarchist groups

On 24 September 2003, *carabinieri* from the ROS (*Raggruppamento Operativo Speciale*) division of the Italian paramilitary police carried out raids on the homes of 40 people linked to anarchist groups and organisations in Tuscany, Liguria, Emilia Romagna, Piedmont, Lombardy and Abruzzi on orders from the Genoa prosecutors office. The raids, part of "Operation Blackout", are linked to a series of incidents in the last two years involving fires and the use of explosive devices to strike targets such as "pillars for the distribution of electricity, aerials used for mobile telecommunications systems, incinerators and the skiing infrastructure". The offences were aimed at objects rather than people, and the perpetrators sometimes attached slogans in support of Marco Camenish, an anarchist prisoner detained in Switzerland after spending ten years in detention in Italy.

Computers, floppy discs, CDs and written material were confiscated in the raids, which affected several anarchist collectives including *Croce nera anarchica* (Anarchist Black Cross), *Terra selvaggia* (an environmental and animal rights magazine), *Il silvestre* (an environmental group) and others, including the *Federazione Anarchica Italiana*. A statement by the activists said that the *carabinieri* sought "documentation on personal contacts, with the scope of "constructing" a web of relationships...to prove the existence of an imagined subversive association". In another press statement dated 11 October 2003, the activists reaffirmed that they have absolutely nothing to do with the acts of which they are accused, for which 13 people have been formally notified that they are under investigation.

*Il manifesto* 26.9.03; *comunicato degli indagati delloperazione "black out"* (statement of those under investigation) 11.10.03.

## UK

### Police to face charges over unlawful death?

In October St Pancras coroners court found that Roger Sylvester, a 30-year old black man who died after being restrained by up to eight police officers in north London in January 1999, had been



unlawfully killed (see *Statewatch* vol 9 no 1). The outcome, which began to answer some of the questions raised by Roger's family during their four-year long campaign for justice, prompted the Crown Prosecution Service (CPS) to announce that it will review the case against eight police officers. They could now face manslaughter charges for using excessive force while the family could bring claims for damages from the Metropolitan police force. In 2000 the CPS ruled that there was not enough evidence to prosecute any of the officers involved in Roger's death.

The inquest concluded on 3 October when a jury returned a unanimous unlawful killing verdict, stressing that Roger had been restrained for too long and that his death was caused by more force being applied than was "reasonably necessary". In addition to being held in the restraint position for too long, there was a lack of medical attention and no attempt was made to alter his position of restraint. Roger's family greeted the verdict with cheers and tears and said that it was "a just verdict". They added that they hoped the police would now change the way that they trained officers to deal with people in custody but emphasized that there also needed to be "appropriate sanctions".

As a result of the jury's verdict a CPS spokesman said that it would review its earlier decision not to bring charges against the policemen: "As with all inquest verdicts the CPS will review the case in light of all the evidence, including any new evidence given at the inquest and observations of the jury." Deborah Coles, of INQUEST, an organisation that gives support and advice to families of those who die in custody, stressed the importance of a prosecution being brought:

*The jury have decided that police officers used dangerous, excessive and unlawful force restraining Roger Sylvester, a vulnerable and mentally ill young man in the prone or three-quarters position for some 15-20 minutes until he stopped breathing. We now expect them to be prosecuted.*

In the Prison Service, staff have been instructed against prone restraint for more than five minutes while some psychiatric institutions instruct their staff not to use the restraint for more than 30 seconds. If the CPS declines to bring a prosecution of the police officers the Sylvester family will consider a civil action.

Following the unlawful killing verdict the Metropolitan police, which expressed its "disappointment" at the verdict, suspended the officers involved in Roger's death - it remains to be seen if any charges will be brought against them. The officers have said they may appeal against the inquest verdict. Even if a prosecution is brought it is, judging from legal precedent, highly unlikely that a conviction will follow, as "there has only ever been one successful prosecution of officers involved in a black death in custody" (Harmit Attwal, Institute of Race Relations). In April 2002 five police officers facing charges of manslaughter and misconduct charges for their involvement in the death of Christopher Alder in 1988 were cleared after the judge instructed the jury to clear them because of conflicting medical evidence (see *Statewatch* vol 8 no 6, vol 9 no 1, 5).

Harmit Athwal "Roger Sylvester - police indicted for black death" <http://www.irr.org>; INQUEST press release 3.10.03, <http://inquest.gn.apc.org>; BBC News.

## Policing - new material

**Police and the law - Parts 1 and 2**, Matthew Ryder and Sadiq Khan. *Legal Action* August 2003, pp. 24-29, September 2003, pp14-17. Three part review of recent developments in the law relating to the police.

**Safer Restraint. Report of the conference held at Church House, Westminster in 2002.** Police Complaints Authority 2002, pp. 25, £5 (ISBN 0-9543215-0-2). This report, published in May, reports from a conference held in 2002. It begins with brief sections on "definition and numbers" and "restraint-related deaths among black and ethnic groups" before focusing on medical issues and equipment. Under medical issues

the report examines positional asphyxia, excited delirium, mental illness and neck holds. Equipment discussed includes batons, CS spray, handcuffs, the emergency restraint belt, firearms and "less-lethal" weapons such as baton rounds and the taser. The report concludes with 11 recommendations on preventing restraint-related deaths and nine recommendations on investigating restraint-related deaths.

**Views on Organised Crime in Northern Ireland**, Mary Maguire, Kristine Amelin & Michael Williams. *Research and Statistical Bulletin* 2 (Northern Ireland Office) August 2003, pp. 16. Describes "public awareness and knowledge of organised crime in Northern Ireland." Northern Ireland Research & Statistics Department, Tel. 028 9052 7534.

## PRISONS

### UK

## Category A prisoners

The Home Office is likely to abandon a blanket policy of refusing to let Category A prisoners see reports assessing their risk levels after a judgement in the High Court. Mr Justice Munby said that Alan Lord, a Category A prisoner serving life for murder, had been "wronged" and "treated shabbily and unfairly" by the prison service policy of disclosing only the "gist" of risk assessments and not the full reports. Category A prisoners are entitled to have their security categorisations reviewed annually and can request recategorisation and transfer to less secure conditions. Reports are drawn up by prison staff, doctors, psychologists and probation officers, with an overall recommendation by the prison governor or deputy governor, and a "gist" of these reports is disclosed to the prisoner from which to make representations. Mr Justice Munby said that the gist statement in Alan Lord's case was defective in that it gave the impression that views about his risk were unanimous and failed to disclose that two of five reports had recommended reclassification at a lower risk level and that a third had expressed no view. The defects in the statement "were serious and pervasive" and "concealed and suppressed vital information" and therefore "fell far short of what both the law and elementary principles of fairness and justice require..." He added: "Worse than that, it goes a long way to depriving him of any meaningful ability to make worthwhile representations". The judge noted that the evidence strongly suggested that what had happened in Lord's case was far from an isolated error. "I am left with the uncomfortable feeling that there may well be others...who have, I fear, been treated as shabbily and unfairly as the claimant."

The Home Office had argued that the policy protected report writers from revenge attacks by prisoners. The judge held that, while there would be cases in which the Home Secretary would be justified in withholding reports, a blanket policy was unjustified.

Until December 1993, and the judgement in *R v Secretary of State for the Home Department ex p Duggan* (1994) 3 All ER 277, the position had been that Category A prisoners were not entitled to know the reasons for their categorisation. In *Payne v Home Office* (2 May 1977, unreported) Justice Cantley took the view that the provision of sufficient information to allow prisoners to fully understand the reasons for their categorisation could seriously hamper and frustrate the proper management of prisoners. In the *Duggan* case, Lord Justice Rose noted that: "A prisoners' right to make representations is largely valueless unless he knows the case against him and secret, unchallengeable reports which may contain damaging inaccuracies and which result in loss of liberty are, or should be, anathema in a civilised, democratic society." That "should be" was of some significance.

After Duggan, Category A prisoners were entitled to know the gist of reports prepared, but, although full disclosure became the norm as regards parole, sentence planning, tariff setting and categorisation of non-Category A prisoners, until the decision re. Alan Lord, the gist, and the attendant inaccuracies and deceptions it contained, was all the Category A prisoner were allowed to see. In 1998, in *R v Secretary of State for the Home Department exp McAvoy* (1998) 1 WLR 790 the Court of Appeal rejected an argument for full disclosure. Five years on, and the judiciary has recognised that the argument cannot any longer be resisted, but during those five years a large minority of prisoners have endured the restrictions on contact with friends and family, and frequent, disruptive transfer around the high security estate, which Category A status entails.

*Guardian 2.9.03; Times 2.9.03.*

## Prisons - in brief

■ **UK: Blunkett ordered to call public inquiry into Mubarek murder:** The family and friends of Zahid Mubarek, who was beaten to death as he slept by his cellmate at Feltham Young Offenders Institution (YOI) in March 2000, won the right to a public inquiry into the circumstances surrounding his death in October. The ruling, by Lord Bingham, sitting with Lords Slynn, Steyn, Hope and Hutton at the Court of Appeal, rejected the Home Office's view that such an inquiry was unnecessary, arguing that the refusal was a breach of Article 2 of the European Convention on Human Rights (the legal protection of the right to life). They said that the state had a duty to investigate such deaths. It is seen as a significant victory for the family who have fought to get answers as to why their son was made to share a cell with Robert Stewart, a racist who had publicly threatened to kill his "padmate". The decision to hold a new inquiry follows an internal Prison Office inquiry that made 26 recommendations for change at the YOI and Home Office instigated investigation by the Commission for Racial Equality (CRE). The Mubarek family argued that both of these inquiries were inadequate and left many questions unanswered. They have been demanding an independent public inquiry into Zahid's murder for the past three years.

■ **UK: Deaths at Durham prison:** HMP Durham holds over 100 women prisoners and is the only high security jail for women inmates. It is overcrowded and, by its own admission unable to cope. At an inquest into the death of Beverley Fowler, who hanged herself in her cell at the jail in October 2002, the jail's regime was severely criticised. On 19 September 2003 a jury at Durham magistrates court returned an open verdict into Beverley Fowler's death. Beverley was due to be deported to Jamaica two days after she killed herself, having completed her sentence for smuggling Class A drugs into the UK. She was known to be terrified at the prospect of deportation because she believed a criminal gang was looking for her. Gilly Mundy, a caseworker for INQUEST, said in a statement "Beverley was one of four who had taken her life at HMP Durham from August 2002 to May 2003. Prior to that there had been no deaths at the jail for 12 years. The spate of deaths coincided with a 150% increase in the female population at Durham." The effect of the increase was made worse by the fact that about 25% of the inmates were on special watch. *INQUEST; BBC News Online 20.9.03*

## Prisons - new material

**The Northern Ireland prison population in 2002**, Seamus McMullan, Kristin Amelin & Michael Willis. *Research & Statistical Bulletin* no. 3 (September) 2003. Available on [www.nio.gov.uk](http://www.nio.gov.uk)

## SECURITY & INTELLIGENCE

### UK

## Private agency put protest groups under surveillance

A Sunday Times "Insight" investigation has revealed that a number of private companies, including the defence giant BAE Systems and the security firm Group 4, were supplied with personal details on protestors by a private agency run by Evelyn Le Chene, is said to have a database of 148,000 activists, peace protestors, environmentalists and trade unionists.

BAE is said by the Sunday Times to have paid the company £120,000 a year for information. One of the group placed under surveillance was the Campaign Against the Arms Trade (CAAT) which opposed, for example, the sale of Hawks jets to Indonesia. "Agents" from the company are said to have joined the protest groups and : "downloaded computer files, rifled through personal diaries, conducted surveillance and passed on bank account details".

Group 4, the security firm, also used the services of the firm particularly when it was engaged to protect road-building programmes from protests (like the Newbury by-pass). A Group 4 spokesperson is quoted in the Sunday Times: "We were getting information about where the protestors would be and what times in advance. We would have paid for that information".

There is no suggestion that BAE or Group 4 asked or encouraged the firm to carry out any illegal activity.

*Sunday Times, 28.9.03 & 5.10.03.*

## Security - new material

**Who sanctioned Britain's death squads? Time for the truth.** *Sinn Fein 27.5.03.* ([http://sinnfein.ie/pdf/Collusion\\_Dossier.pdf](http://sinnfein.ie/pdf/Collusion_Dossier.pdf)). Examination of the role of the British governments involvement in the murder of citizens in Ireland, through its security agencies MI5, Military Intelligence and the RUC/PSNI Special Branch. The report contains seven recommendations: i. a public inquiry, ii. disclosure of all information on collusion by British government departments and agencies, iii. publication of the Stevens and Sampson/Stalker reports in full, iv. the disbanding of the FRU/JSG, v. the full implementation of the Patten report on policing and full local democratic accountability, vi. an end to operations by British intelligence agencies aimed at destabilising the peace process, and vii. the Irish government should be afforded full and proper disclosure by the British government on all information vital to the rights and welfare of Irish citizens.

## LAW

### GERMANY

## Freedom of information stalled

Several civil liberties groups and a number of Green MPs have called for the swift drafting and passing of the Freedom of Information Act in Germany. Since 1998, the Social Democrat/Green coalition government has been promising to pass such a law at the federal level (relevant regulations already exist in the *Länder* of North Rhine Westphalia, Schleswig-Holstein, Brandenburg and Berlin), but certain economic interest groups and representatives from the ministry of economy, the defence ministry and the civil service are blocking this.

For the economic sector, the introduction of a general civic

right to access governmental records poses a potential risk to their "corporate secrets". For the administration it would imply the creation of transparency in its own departments. The civil liberties group *Humanistische Union e.V.*, the investigative journalists association *Netzwerk Recherche* and the anti-corruption watchdog *Transparency International*, amongst others, are therefore calling for the passing of the Freedom of Information Act which, in its coalition agreement, the government promised to introduce five years ago. The pressure groups are currently developing minimum demands towards such a law and are planning to draw up their own draft "white paper". Manfred Redelfs of *Netzwerk Recherche* explains that:

*In order for the German administration to finally free itself from the remnants of authoritarian state structures, it is obviously necessary for the public to increase its pressure. If the administration cannot draft a comprehensive and modern civil right to inspect public records which is intelligible to every citizen, we will obviously have to help them with this task.*

*Humanistische Union press release; Netzwerk Recherche, Transparency International 27.5.03 and*

*humanistische-union.de/2003/2003-03,akteneinsicht,nrw.pdf*

*For more information on the current situation see:*

*<http://www.heise.de/newsticker/data/jk-01.09.03-004/>*

*and <http://www.netzwerkrecherche.de/html/vs2.htm>*

*Self-help guide on how to exercise the right to access public information, by the Humanistische Union: <http://files>.*

## UK

### Tagging and curfew orders breach children's rights

Electronic monitoring (EM) is a measure that was introduced for the first time in the USA in 1984. Following trials there the UK government adopted tagging in July 1995 when 83 offenders were tagged by courts as part of a curfew order in three areas - Greater Manchester, Norfolk and Berkshire. Conservative government Home Office Minister, Lady Blatch, (see *New Research Published into Electronic tagging*, Home Office 403/96) said that:

*tagging represents a useful additional sentence for courts. It punishes criminals by restricting their liberty and is a cost-effective alternative to imprisonment*

This then encouraged subsequent law-making policy to adopt EM for juvenile offenders already subjected to a curfew order. As a consequence, between March 1998 and February 2000, the pilot scheme was extended to 10-15 year-old young offenders under an extension of powers from Section 43 of the Crime (Sentences) Act 1997. Since 2001, the year the measure was handed to courts, 4,000 young people have been tagged in England and Wales.

The Labour government's policy of fighting youth crime through tagging children ignores doubts among lawyers and academics. There are two main areas of concern. Firstly, the debatable legitimacy of the curfew order itself which restricts childrens' civil liberties, such as the freedom of movement and the freedom of association as well as the basic principles of criminal law, that dictate that nobody can be accused of an act that is not recognised as a crime and that an individual is innocent until proven guilty. Secondly, a nationwide application of EM conflicts with the United Nations Convention on the Rights of the Child.

The curfew order is essentially a preventive measure established under section 14 of the Crime and Disorder Act 1998 which prevents all children under the age of 10, who live in a specific area with a high risk of criminality, from meeting in particular public places at certain times (9pm to 6am) unless

accompanied by a parent or a responsible adult. The *rationale* of this order is that unsupervised children assembled in a public place can cause alarm and misery to local communities and can encourage one another into antisocial or criminal behaviour. [1]

The legitimacy of this measure is essentially focused on the legality of a punitive order which preventively labels children who are "potentially" at risk of committing offences on the basis that they live in a deprived area. Moreover, the fact that all minors under the age of 10 can be subject to a curfew reflects the lack of protection for children in the UK legislation. In fact, minors are treated exactly as adults with a full capacity of understanding and will.

The next important issue related to the electronically monitored curfew is the infringement of the fundamental rights and freedoms established by the United Nations Convention on the Rights of the Child. The practice is contrary to the following articles:

\* Art. 2 principle of non discrimination

\* Art. 3 best interest of the children

\* Art. 8 right of private life and family

According to Article 2 "non-discrimination" means that no child should be injured, privileged or punished by, or deprived of, any right on the grounds of his/her race, colour or gender; on the basis of his/her language, religion, or national, social or ethnic origin; on the grounds of any political or other opinion; on the basis of caste, property or birth status; or on the basis of a disability. Evidence suggests [2] that curfew measures have been often used in a discriminatory way to target young people from minority groups. Poverty, cultural insensitivity and institutional racism are the main reasons for this discriminatory treatment of black and migrant young people.

Article 3 states that the best interests of the child shall be the primary consideration in all actions undertaken by the State in a public or private welfare institution, court of law, administrative authority or legislative body. This provision is therefore, strictly related to Article 8 which establishes that all State parties shall respect the right of the child to a private life and family relations without unlawful interference. The effects of electronically monitored curfew on young offenders and their families, according to the results of research carried out by the Home Office in 2000, are not uniform.

Young offenders sometimes perceive the tag as a trophy or, alternatively they feel that they are a victim and further stigmatised by the criminal system. Some young people interviewed said that they have been excluded from school activities, such as sport or lectures, because of the tagging equipment. A number of juvenile offenders interviewed by Home Office researchers said they were ashamed to do physical activities while wearing the tag because it makes them the butt of jokes by other students. The general feeling is that the prejudiced and discriminatory attitude of teachers and other students contribute to the process of social exclusion of tagged young offenders. Obviously, in those conditions the risk of re-offending in self-defence arise and the chances to rejoin mainstream education are made more difficult.

The intrusion of the criminal justice system into a family setting can also create further embarrassment for those parents who live already in difficult conditions. Single mothers had to sacrifice their part-time jobs to be at home when their sons were under curfew. Furthermore, the stress of this measure in a difficult family environment contributed towards creating additional boundaries among members of the family unit. Psychological problems also result from the tagging of young people, both for the minor under curfew as well as members of the family unit. According to Dr Jack Boyle, a child psychologist who has worked with young people who have been tagged, one consequence of tagging is that of ascribing to those children the

status of an anti-social person. The measure fails to take into account the personal needs of the minor who often is involved in difficult situations such as having experienced family break down or abuses.

A spokeswoman from for the Howard League for Penal Reform agrees with the view that tagging, without taking into account the personal needs of young people, is futile because it does not discourage the individual from taking up a criminal career. On the contrary, it increases the possibility of involvement with the criminal justice system. Tagging children does not address the causes of crime and it does not represent an efficient long-term solution for preventing future criminal behaviour. Moreover, a minor subjected to tagging appears to be more vulnerable and at risk of a double victimisation - firstly by society and secondly by the criminal justice system.

1. See Home Office, "No More Excuses A New Approach to Tackling Youth Crime in England and Wales", 1997.

2. See Gelsthorpe L. and Morris A., "Much do about nothing - a critical comment on key provisions relating to children in the Crime and Disorder Act 1998", in "Child and Family Law Quarterly", vol. 11, no 1, 1999.

3. See Elliot R., Airs J., Easton C., Lewis R., "Electronically monitored curfew for 10 to 15 year olds- report of the pilot", Home Office Occasional Paper, 2000, London: Home Office.

## NORTHERN IRELAND

### Finucane's right to life was violated

On July 1 the European Court of Human Rights (ECHR) unanimously found that human rights lawyer, Patrick Finucane's right to life, which is protected under section 2 of the European Convention of Human Rights, was violated by an "inadequate investigation into his death". The ECHR criticised almost every aspect of the government's investigation into Finucane's murder, which was carried out by a loyalist death squad acting with the assistance of British security personnel in February 1989 (see *Statewatch* vol. 2, no 5, vol. 4 no. 3, vol. 8 no. 2). It found that the police investigation into Finucane's murder, "had been conducted by officers who were part of the police force suspected by the applicant [Mrs Finucane] of making death threats against her husband" leading to a "lack of independence" and raising "serious doubts as to the thoroughness or effectiveness with which the possibility of collusion had been pursued."

The inquest had "failed to address serious and legitimate concerns and could not be regarded as having constituted an effective investigation." Inquiries investigating Finucane's death "had not been made public, so the necessary elements of public scrutiny and involvement of the family were missing." The Director of Public Prosecutions (DPP) was also criticised for failing to explain his reasoning behind decisions not to prosecute and failing to provide information to reassure "the applicant and the public that the rule of law had been respected."

Surprisingly, in light of these devastating criticisms of the UK and Northern Ireland criminal justice system the Court "did not consider it appropriate to indicate that the Government should hold a fresh investigation into Mr Finucane's death". The Committee on the Administration of Justice (CAJ) has called for the publication of the Stevens reports, an explanation from the DPP for the many controversial decisions that have been made in the Finucane case and "most importantly of all, to immediately establish an independent, international public inquiry."

"Case of Finucane v. the United Kingdom" (Application no. 29178/95) Strasbourg 1.7.03; ECHR press release "Chamber judgement in the case of Finucane v. the United Kingdom" 1.7.03; *Just News (CAJ) July/August 2003. Just News, 45/47 Donegall Street, Belfast BT1 2BR, Tel. (028) 9096 1122.*

## Law - new material

**The Iraq Affair - Legal Issues**, Dr. Paul Arnell. *SCOLAG Legal Journal* issue 309, July 2003, pp 121-123. This article raises legal issues arising from the invasion of Iraq in relation to the legality of the military action and the legality of the prosecution of the conflict. Arnell concludes that: "Objective judgement on the use of force against Iraq must conclude that the action was in contravention of international law" while "an objective judgement on the legality of the prosecution of the conflict is, due to limited information, impossible to make." Available from: SCOLAG Legal Journal, 7 Drumdryan Street, Edinburgh EH3 9JZ, Scotland, [www.scolag.org](http://www.scolag.org)

**Public order review**, Jo Cooper. *Legal Action* September 2003, pp. 18-20. Latest update reviewing trends and significant developments in public order and arrest cases. This piece considers the Police Act 1985 (assault on a police officer), Football (Offences) Act 1991 (racist chanting) and the Criminal Justice Act.

**A Bill of Rights for Northern Ireland. Through the years - the views of the political parties.** *Committee on the Administration of Justice* (July) 2003, pp. 24 (ISBN 1 8732585 44 2). The CAJ has long campaigned for a Bill of Rights for Northern Ireland. This paper is a compilation of the position taken over the years by Northern Ireland's political parties and is designed to facilitate dialogue around the issue.

**Coroners law review**, Leslie Thomas. *Legal Action* September 2003, pp. 21-24. Thomas considers the proposals contained in *Death certification and investigation in England, Wales and Northern Ireland - The reports of a fundamental review 2003* in light of the changing case law under The Human Rights Act 1996.

## RACISM & FASCISM

### GERMANY

### Anti-fascists fined for countering nazi demo

Last autumn, thousands of people demonstrated in Munich against nazi rallies opposing a travelling exhibition on war crimes committed by Germany's regular armed forces during World War II (and which are often portrayed by historical revisionists as non-fascist, see *Statewatch* vol 12 no 6). Almost a year later, the authorities have started to prosecute individual anti-fascists for organising the counter-demonstrations. On 22 September this year, the Munich county court sentenced two anti-fascists Christian Boissevain and Martin Löwenberg (who had been interned in a concentration camp during Germany's nazi regime) to pay fines for organising the protest on 30 November last year. The nazi demonstration was registered with the authorities by the alleged right-wing terrorist Martien Wiese who was arrested in early September in connection with planned bomb attacks on a synagogue and other institutions in Munich.

The public prosecutor accused Boissevain and Löwenberg of public incitement to criminal offences, as Boissevain had handed people streetmaps showing the route of the planned nazi demonstration. He was found guilty and sentenced to pay 900 Euro. The 78-year old Löwenberg, a committee member of the Bavarian branch of the Association of those Persecuted by the Nazi regime (VVN-BdA), was sentenced to pay 300 Euro for a speech he made calling on people to stop the nazi rally. Löwenberg said:

*After liberation in 1945 the most important lesson for us was: fascism and war could have been averted if democrats and anti-fascists had recognised the threat in time and actively fought the Nazis. As long as my head and my body allow it, I will always be there when Nazis*

march, in order to show that they are not tolerated in Munich.

The public prosecutor ruled that the legality of a demonstration was decided by courts and not by citizens. The fact that even the Social Democratic mayor of Munich, Christian Ude (*Sozialdemokratische Partei Deutschlands*), had publicly called on people to block the way of nazis did not impress the court. The sentence created outrage in the overfilled court room and several people were ordered by the judge to leave, including the head of Munich's Green Party Siegfried Benker, who will be standing trial in October for opposing the far-right demonstration.

Whilst the Bavarian court prosecutes anti-fascists for organising a peaceful counter-demonstration with the argument that the state decides on matters of fascism, many have asked if the state is indeed able to protect the Jewish community and foreigners from fascist attacks. The failure of the internal security services to stop the activities of the neo-nazi organisation that was behind the planned bomb attack in Munich has yet again thrown up serious questions with regards to the security services and the far-right in Germany (see *Statewatch* vol 12 nos 1 & 3).

Martin Wiese, who registered the nazi rally with the Munich authorities, is a 27-year old and part of the neo-fascist group *Aktionsbündnis Süddeutschland* ("Action Alliance South Germany") and the 30-40 strong skinhead group, *Kameradschaft Süd* ("Comradeship South") which is known for its violent attacks on foreigners in Munich. The latter planned a bomb attack on the Jewish community centre and synagogue in Munich for 9 November this year, the anniversary of the *Reichspogromnacht* - when in 1938 the German SA and SS burnt down synagogues and Jewish shops across Germany and deported more than 30,000 Jews to concentration camps the next day. Wiese moved from Mecklenburg-Vorpommern to Munich three years ago and allegedly also took part in the attack on the asylum seekers home in Rostock in 1992. He is known for his active opposition to the abovementioned exhibition uncovering war crimes committed by the German regular armed forces. In August this year, he spoke at a 2,400 strong nazi rally in Wunsiedel in commemoration of Hitler's former deputy Rudolf Hess.

The Bavarian Interior Minister, Günther Beckstein, and the German internal intelligence service (*Verfassungsschutz*) presented the find of 1.7 kg of the explosive TNT at the home of Wiese and fellow fascists at the beginning of September this year as a success. However, research by the investigative television journal *Kontraste* has shown that whilst the Munich police department responsible for "political extremism" successfully investigated the former concentration camp victim Löwenberg, the Bavarian secret services were completely unaware that Wiese and his colleagues had already obtained explosives in May this year and had been building a pipe bomb.

They were unaware of this despite the fact that the Bavarian *Verfassungsschutz* had been investigating Wiese and his "comrades" for their violent activities in the skinhead group until 2002, because at the beginning of 2003 the internal security service came to the conclusion that the *Kameradschaft Süd* was "less dangerous" ("minder gefährlich"). The only reason they searched Wiese's house was because one member of *Kameradschaft Süd* wanted to leave the nazi scene and was beaten up by his "comrades". When bystanders called the police he gave them information about the explosives and planned bomb attack. Police searches followed and uncovered 1.9 kg of explosives (1.7 kg of which was TNT), pistols and hand grenades. Since 9 September this year, nine neo-nazis, Wiese among them, have been detained, the prosecution having brought charges against them on grounds of the formation of a terrorist organisation, amongst others. Apart from the synagogue attack, an more extensive hit-list was found in Wiese's flat.

For the investigative piece by *Kontraste* see:

[http://www.kontraste.de/0310/manuskripte/txt\\_neonazis.html](http://www.kontraste.de/0310/manuskripte/txt_neonazis.html);

For a more in-depth article on the Munich Nazi arrests and their background see: *junge welt* 23.9, 1.10.03.

## ITALY

### Berlusconi's brave new world

In an extraordinary interview given to the *Spectator* magazine, Italian prime minister Silvio Berlusconi spoke of his world-view and tackled some of the criticisms that have been levelled at him.

He dismissed his reference to the German SPD politician Martin Schultz MEP as a *kapó* (Nazi concentration camp prisoner turned collaborator) as a "joke"; he denied that he controls a sizeable portion of the Italian media; he claimed that his trouble with the law is the result of a conspiracy by Italian magistrates (which he believes is strongly infiltrated by Communists), said that criticism by journalists is motivated by "jealousy"; he argued that the Italian left should have been put on trial for "their moral complicity with the crimes of the Communist regimes from Stalin to Pol Pot to Milosevic".

On his support for the US-led war on Iraq, he explained that, "if a brother goes into a certain business and for three months I say, "I beg you not to do it", and when he does it, well he is my brother, and I support him, even if not to the point of supporting all his losses!". The "brotherly" relationship results from the fact that "we are alive today because of the US...who liberated us from nazism and communism". He does not believe that Blair and Bush lied on the question of Iraq's weapons of mass destruction because "I believe Blair and Bush because I look into their eyes and I believe them". In fact he feels that before focusing on the need to "give the poor of the world food, water, education, sanitation", the priority should be to give them "liberty".

He even argues for a more interventionist approach to international relations, because after the fall of the Berlin Wall, "we are now able, with Russia and America together, to look at all the States in the world, and assess the dignity of all the people in the world, and we can give them democracy and liberty. Yes! By force if necessary."

The two claims made by Berlusconi which drew the greatest criticism in Italy concerned judges and Italy's fascist past. Judges are "mad twice over", because of their political beliefs, and because "to do that job you need to be mentally disturbed, you need psychic disturbances", as well as being "anthropologically different". After these suggestions that left-wingers are in fact mad, and that judges also have intrinsic mental health problems, he explained that "That is why I am in the process of changing everything", possibly in reference to reforms that are underway to prevent judges from talking to the press and to increase political control over judges, as part of the re-structuring of the judiciary. With regards to Italian fascism, in the context of the Iraq War, Berlusconi said that it was "a much more benign dictatorship", flippantly arguing that "Mussolini did not murder anyone", but rather he "sent people on holiday to confine them" on islands that are now exclusive resorts, in reference to people who were banished and/or interned in places like Capri.

The reaction by the leaders of the opposition parties in the Italian parliament was immediate: "Mussolini was a murderer and Berlusconi shows that he is unfit to represent a democracy that was born from the fight against nazi-fascism". Mussolini was responsible for the murder of his political opponents; the most famous cases being the murders of socialist MP Giacomo Matteotti, Antonio Gramsci, Amedola, don Minzoni and the Gobbetti brothers. Fascist gangs also killed a dozen people considered to be dissidents. The *Associazione Nazionale Partigiani d'Italia* (ANPI, Italian National Partisans Association,

born from the Resistance to fascism) claims that Mussolini subjected Italy to a "regime of terror", with the special tribunal for the defence of the State (a political-judicial body) passing 5,319 judgements, including thirty-one death sentences, placing 15,000 Italians under house arrest, interning 8,000, and 160,000 under special surveillance. Imperial wars were also conducted in Libya and Ethiopia. In Libya (at least 50,000 were killed in the region of Cirenaica, although substantially higher estimates also exist) with the region of Tripolitania conquered by 1930, and Cirenaica bearing the brunt of a repression which saw rebel leaders hanged, the clearing of tribal areas with members of the tribes sent to concentration camps, thousands of executions and death sentences passed for carrying weapons or for paying tributes to rebels. The war in Ethiopia resulted in around 4,500 dead among the Italian armed forces, according to official Italian figures, and between 40,000 and 50,000 Ethiopians in the north, and between 15,000 and 20,000 in the south. Ethiopian sources talk of 275,000 deaths, including civilians. To break the resistance of rebels Mussolini explicitly ordered the use of chemical weapons to "finish off the rebels", and "to begin to carry out a systematic policy of terror and of extermination against the rebels and populations that are (their) accomplices". Occupying German forces, with the connivance of the fascist *Saló Republic* regime that followed Mussolini's fall from power in 1943 in northern Italy, had thousands of Italian Jews arrested and sent to concentration camps in Germany, many of whom never returned.

One of Berlusconi's lieutenants, *Forza Italia* senator Paolo Guzzanti, wrote a feature in the *Spectator* to defend Berlusconi on 4 October, claiming that Italian fascism had nothing to do with the Holocaust, complaining about the fact that Berlusconi was made to apologise to the Italian Jewish community, and suggesting that Mussolini in fact had no affinity with Hitler, but rather fought on his side out of "fear of Hitler rather than greed for territory". He also talks of the murders and executions, "his regime condemned 42 people to death, of whom fewer than half were executed, and murdered perhaps half a dozen", to provide evidence that "in fact what Berlusconi said about Mussolini being a benign dictator is more or less correct", compared with other dictators of the time. However Berlusconi had also said that "Mussolini did not murder anyone", and even by the criteria used by Guzzanti, the statement belies the truth.

Another interesting issue raised by Berlusconi was his reading of the G8 summit in Genoa in July 2001. He remembers a wonderful dinner between world leaders in which "I was making jokes as usual" after which he decided "to push my chair back and let them talk, and I saw Blair joking with Chirac, and Putin joking with Bush, and I was joking with everyone.. and I thought "What a wonderful world." Others remember those days, shortly after Berlusconi's electoral victory, as a time when constitutional rights were suspended, when police used indiscriminate violence on people exercising their right to demonstrate, and prisoners were tortured and denied their rights to lawyers and medical treatment, leading opposition politicians to talk of South American dictatorships to find a realistic comparison.

*The Spectator*, 6.9.03, 4.10.03; *Associazione Nazionale Partigiani Italiani* website, [www.anpi.it](http://www.anpi.it)

## NORTHERN IRELAND

### Racist violence surges in loyalist Belfast

In July this year, racist attacks, which have been prevalent in Belfast for the past five years, peaked when seven families had to flee their homes after an escalation in racist attacks. Two families from South Africa had lucky escapes when pipe bombs

failed to explode, others had to flee their homes due to mob attacks. There have also been several violent robberies at the homes of Chinese families who own take-aways and other businesses in the area. The attacks have been connected to the "White Nationalist Party" (WNP) which distributed racist leaflets in the Craigavon area in Belfast before the attacks, and members of the loyalist UDA and UDF.

The loyalist *Ulster Political Research Group* which represents the UDA quickly distanced themselves from the attacks although their spokesman Tommy Kirkham had to admit that: "The fact is, it wouldn't be possible for the UDA and UVF not to know what's going on in South Belfast". However, the *Andersonstown News* (7 July 2003) commented that loyalist sources on the Donegall Road say racist attacks were occurring long before the fascist party started their propaganda campaign: "Everyone in the area knows it was the UDA's junior wing, the UYM, who pipe-bombed the South African homes," said a loyalist insider. "Similar incidents have been occurring for the past five years. The UDA are just trying to cover their backs by issuing this statement - its just too easy and convenient to blame the Nazi Party."

Ulster loyalist Gareth James Allen (35), who formed the extreme right-wing "White Nationalist Party" in Northern Ireland last year, confirmed he had resigned from the party after pressure from loyalists but he denied his party had anything to do with the attacks. "Its just not worth the hassle," he said. "If I were to stay in my current role I'll become a hate figure within my own community." The leaflets distributed by the WNP claimed "Al Qaida-style terrorists [were] operating in the area" and opposed the building of a mosque in nearby Bleary.

James Uhomoibhi, chairman of the Northern Ireland African Cultural Centre, said that "Africans here are not a homogeneous community. There are Catholics and Protestants, living in loyalist and nationalist areas, from the Falls Road to the Shankill. Those attacking us want to push the community into a state of confusion and derail it from reaching harmony and peaceful coexistence."

About 2,600 Africans live in Northern Ireland, of whom about 30-40% live in Belfast. There was a 45% rise in reported racial incidents - from 186 to 269 - from 1999 to 2000, according to the Equality Commission for Northern Ireland.

*Staterwatch* vol 10 no 2. *Guardian* 5.7.03 and

<http://www.geocities.com/irishafa/firstnews.html>

## UK

### Tyndall expelled from BNP

The far-right British National Party (BNP) has expelled its founder and ex-leader, John Tyndall, in what has been described as "the night of the long knives". Tyndall, who founded the organisation along broadly national socialist principles in 1982, led it until he was ousted by the "reformist" Nick Griffin in 1999. With Griffin's rise to power it was only a matter of time before Tyndall, a constant irritant to his leadership, was expelled. Griffin was concerned that the former leaders overt fascism and outspoken racism are a constant reminder of the BNP's violent and bloody history. Griffin shares a history of involvement in the same organisations. Among the key players in the reformed party is Tony Lecomber (aka Anthony Le Comber, Tony East, Tony West) who was nicknamed the "mad bomber" after detonating a car bomb outside a left political party in south London. He was jailed for three years for this offence, and has also received a separate jail sentence for an anti-Semitic attack on a man at a railway station. Griffin wants to repackage the BNP as populist nationalist party with a respectable electoral image in the European mould.

## Racism & fascism - in brief

■ **France/European Parliament: Le Pen loses seat:** The extreme right-wing leader of the *Front National*, Jean Marie Le Pen, lost his European parliament seat in April when the EU's Court of First Instance dismissed his challenge to a barring order issued after he assaulted a rival politician. The incident occurred in 1997 when Le Pen hit Annette Peulvast-Bergeal during a parliamentary election campaign. He was convicted of assault the following year and temporarily banned from holding public office in France. The decision was upheld by the French Council of State in 2000 and in October of that year he was stripped of his EU parliament seat. The ban was lifted in January 2001 after Le Pen lodged an appeal. It was this appeal that was rejected on 10 April.

■ **Switzerland: Far-right general election victory:** The far-right Peoples Party (SVP), led by the anti-immigrant German-speaking billionaire Christoph Blocher, won 27% of the votes in October's parliamentary election, winning an extra 11 seats in the lower house of parliament and increasing its total number of seats to 55. The Social Democrats received 23% of the vote and the Greens nearly 8%. The right wing Radicals (FDP) and Christian Democrats were the main losers. The SVP ran a virulent anti-foreigner campaign, in which asylum seekers were demonised as criminals and drug dealers. It was criticised by the United Nations refugee agency who said that it was some of the most anti-asylum advertisements ever seen in Europe. Boucher is expected to take a second seat on the seven-member cabinet.

## Racism & Fascism - new material

**The British neoconservatives**, John Kampfner. *New Statesman* 12.5.03, pp.18-20. This piece examines an "intriguing new alliance [that] is forming in British politics" which "lies beyond conventional party structures". The UK neo-conservatives are "a coalition between conservative thinkers and their pro-war, pro-intervention counterparts who hailed from the left" including David Aaronovitch (*Guardian* journalist), John Lloyd (former editor of the *New Statesman*), Stephen Pollard (ex-Fabian Society and the Social Market Foundation), Danny Finkelstein (former Social Democrat and would be Conservative Party candidate), Michael Gove (assistant editor of *The Times*) and Melanie Phillips (*Daily Mail* columnist).

**Denmark's "exotic" exhibitions**, Rikke Andreassen. *Race & Class* vol 45 no 2 2003 pp. 39-53. Andreassen recounts the series of ethnographic exhibitions in Denmark between 1878-1909 and their impact as mass audience entertainment. He describes the public obsession with "naturalness" and "authenticity" leading to a positive image of "noble savages", unspoiled and in tune with nature. Nonetheless they were also seen as backward and uncivilised; lacking in "cultural history". Andreassen argues the (often deliberately exaggerated) sexuality of these "exotic" people "was an integral part of the period's European discourse on sexuality..." Moreover, this discourse was a male one and thus unconsciously perhaps these exhibitions represented an attempt to "control and "narrate" a hierarchical world order" - a strengthening of European culture and identity, what Andreassen describes as "a white male European version of history".

**Bringing it all back home: Irish emigration and racism**, Bill Rolston. *Race & Class* vol 45 no 2 2003 pp. 21-38. Rolston focuses on the emigration of "Scots Irish" and "Irish Catholics" to the USA and the social world they encountered. He charts the role over time of these Irish immigrant classes in a society of racial and religious prejudice coupled with an unforgiving system of economic liberalism. In particular he focuses on their relationship with African-Americans and the racism directed towards them both during slavery and the escalating racism with their emancipation - which was seen by the "Irish" as a major threat to their own economic and social struggles. Racism played a large role in Irish social assimilation and advancement: "They

justified their [social] mobility through racist sentiments no less intense and offensive than those of their WASP bosses". Thus they forced African-Americans out of Irish monopolised professions at every opportunity. Rolston notes that remarkably this racism was not reciprocated and indeed cites several examples of African-American support for the Irish struggle for freedom. He also emphasises the need for caution against generalisation over the level of racism amongst Irish settlers, but concludes that it did influence friends and family across the Atlantic: "the intermingling of racism and anti-racism has left its mark on contemporary attitudes in Irish society". Available from: *Sage Publications*, Tel (0)20 7374 0645, [subscription@sagepub.co.uk](mailto:subscription@sagepub.co.uk), [www.sagepublications.com](http://www.sagepublications.com)

**Investigating allegations of racially discriminatory behaviour. Police Complaints Authority guidelines.** *Police Complaints Authority* (July) 2003, pp. 18 (ISBN 0-9543215-2-9. These guidelines are "intended to assist in the development of the complaints process as a means of raising the standard of policing". It is a reflection of the report of The Stephen Lawrence Inquiry (1999) in which Sir William Macpherson stated that: "Appraisal, supervision and disciplinary procedures should be used to make clear to all staff that the service is committed to a policy of non-tolerance of racist conduct."

**EUMC internet guide on organisations combating racism and xenophobia in Europe**, Beate Winkler & Bent Sorensen (eds). *European Monitoring Centre on Racism & Xenophobia* 2003, pp. 112. "This internet guide contains a selection of websites from organisations and institutions actively doing important work to combat racism, xenophobia, anti-Semitism or Islamophobia on international and/or national level in all Member States."

## EUROPE

### EU

## European imperialism?

Robert Cooper, a senior UK diplomat who advised Tony Blair, now works for Javier Solana the Secretary General of the Council of the European Union and the High Representative on defence and foreign policy. In April 2002, which still working for the British government, Cooper wrote an article entitled "Why we still need empires" in the *Observer* newspaper (7.4.02) which argues for intervention on behalf of "civilisation" against "chaos" (barbarism, "rogue states") and calls for a new "colonialism" or "liberal imperialism" to impose order.

Now Cooper works for Mr Solana and has written a follow up article, "Civilise or die" in the *Guardian* (23.10.03). His argument here is that the possibility of terrorists acquiring weapons of mass destruction means that: "We should all be in favour of regime change" because "our only defence against such a world is the spread of civilisation" which means:

*The domestic governance of foreign countries has now become a matter of our own security.*

Containment will not work and "empire" (direct rule) is unacceptable, he argues. The model he espouses is based on the incorporation of central and eastern European countries into the European Union where there has been a "kind of regime change". But this has been "chosen" by those countries and is therefore legitimate (how much real "choice" these countries had is a matter of debate). The accession of these countries:

*represents the spread of civilisation and good governance in lasting form*

This leads him to propose that there needs to be a regional settlement in the Middle East with "security guarantees" (military presence) by the USA or NATO and economic guarantees of aid and market access by the EU. The price would

be "good governance", that is that these states would not pose a security threat to the EU.

Of course Richard Cooper's views do not officially represent those of the EU, however they do reflect a real on-going debate. EU policymakers are very concerned that if the security situation in Iraq continues it will represent a long-term threat right on their "doorstep". Turkey is trying to join the EU and the new (immigration-driven) concept of the "EU's neighbours" includes Israel, Lebanon, Jordan, Palestine and Syria (COM 2003/104 and *Statewatch* vol 13 no 2).

Cooper's scenario, far-fetched though it may seem, is not far removed from the talk in the corridors of Brussels of creating a "wider Europe".

See also "A Secure Europe in a safer world" speech by Javier Solano on: [www.statewatch.org/news/2003/jun/SECURE.EUROPE.pdf](http://www.statewatch.org/news/2003/jun/SECURE.EUROPE.pdf)

## EU

### Major concerns on fundamental rights

*Statewatch* has submitted a dossier covering 22 concerns on civil liberties issues to the EU Network of Independent Experts on Fundamental Rights (the Network was set up to follow up the Charter on Fundamental Rights) for its report on the year 2003. The introduction to the submission says:

*It is our view that the effects of the "war on terrorism" is having a detrimental effect on peoples' rights and liberties and democratic standards both at the national and European levels. There has been a "sea change" since 11 September 2001 which is not temporary but permanent. The "war on terrorism" has replaced the "Cold War" as a legitimating ideology in the EU and the USA which requires the surveillance and control of those entering and the wholesale surveillance and control of their own populations.*

*There is no longer a balance between freedoms and liberties on the one hand and the demands of security on the other. The demands of security, the law enforcement and internal security agencies are dominant and "emergency powers" are becoming the norm.*

*Left unchecked basic freedoms and democratic standards - freedom of movement, freedom of expression and the right to protest, freedom from surveillance in everyday life, accountability, scrutiny and data protection - will be whittled away one by one threatening the very democracy being defended by the "war on terrorism". Your Network, together with many others in civil society, can play an important role in attempting to halt and reverse the present direction."*

The submission covers: surveillance and data exchange, the rights of migrants and refugees, policing and security, judicial cooperation, criminal law, constitutional issues and access to EU documents, accountability and scrutiny.

The submission is on: [www.statewatch.org/news/2003/oct/22swwsub.htm](http://www.statewatch.org/news/2003/oct/22swwsub.htm)

## EU

### Plans for biometric documents

The European Commission has produced two draft Regulations (25.9.03) to introduce two sets of biometric data (fingerprints and facial image) on visas and resident permits for third country nationals by 2005 (see *Statewatch* vol 13 no 3/4). The biometric data and personal details on visas will be stored on national and EU-wide databases and be accessible through the Visa Information System (VIS) held on the Schengen Information System (SIS II). The proposal is silent on whether the biometrics and data on third country nationals will also be held on the SIS, though it is clear that national registers of third country nationals resident in every EU member state will be created (a long-

standing demand by the German government will thus be put into practice). That this same information will also be held on the SIS is inevitable.

Another proposal for the inclusion of biometrics and personal data: "in relation to documents of EU citizens, will follow later this year"

What is particularly of concern about the two proposals is that the two groups who will be affected first are resident third country nationals who are largely migrants from the Third World and those needing visas to enter/visit. People from most Third World - 135 countries - need visas to enter, but the "white list" or countries who can enter without visas will not be affected - there are 33 countries on this list, 12 of whom are EU accession/applicant countries - the remaining 31 countries include USA, Canada, Australia, New Zealand, Japan, Israel, Switzerland, Croatia, South Korea, Singapore, Mexico and eight South American countries.

How is data protection possible when the present system cannot cope? Although the Commission says that the data held will come under the EC 1995 Directive on data protection it also highlights the inadequacy of the data protection regime at national level across the EU. These authorities are "under-resourced" as the first report on the 1995 Directive found (this first report took eight years to produce). Lack of resources "may affect independence" and there are "serious concerns" over their ability to carry out their existing roles.

To this might be added that the powers of investigation of national data protection authorities vary greatly from state to state, as does the size of their staff and budget. Most are under-resourced and few have "investigative powers" which are meaningful (ie: the power to arrive unannounced to carry out an inspection).

The EU has already undermined the principles of the 1995 Data Protection Directive in the Europol-USA agreement and the recent EU-US agreement on mutual cooperation on extradition and judicial cooperation - and looks set to follow this by conceding to US demands for access to data on airline passengers.

Commission proposal for a Regulation on biometrics documents: COM (2003) 558. See: [www.statewatch.org/news/2003/sep/19eubiometric.htm](http://www.statewatch.org/news/2003/sep/19eubiometric.htm)

### Europe - new material

**Lo chiamavano impunitá.** Peter Gomez and Marco Travaglio, *Editori Riuniti*, July 2003, pp. 444, 14.50 Euro. This book, subtitled "The true story of the SME case and everything that Berlusconi is hiding from Italy and Europe", is a detailed study of the SME trial, a case in which Italian prime minister Silvio Berlusconi was involved until a tailor-made immunity law was passed to prevent high level institutional figures (including the prime minister) from undergoing criminal proceedings. The charges against Berlusconi, lawyer Cesare Previti (who was a former defence minister under Berlusconi), and judges including Renato Squillante the former chief of the *Gip* office in Rome (judges for preliminary investigations) are those of setting up a corruption ring and using it to influence trials, including one on the sale of the state food giant SME. Judges have gathered evidence tracing payments originating in accounts belonging to Fininvest ending up in accounts held by Squillante, via Previti, through a network of secret bank accounts held abroad by the accused. A detailed account of the persistent delays and efforts to derail the trial, intimidate witnesses and to discredit judges by the defence, leading up to the decree that granted Berlusconi immunity.

**The new EU Constitution:** The intergovernmental conference on the new Constitution for Europe is entering its final stages. The Italian Presidency of the Council of the European Union hopes to complete the process by the end of the year and to adopt it by May 2004 when the ten accession countries join the EU. Full details are on the *Statewatch* site on: [www.statewatch.org/euconstitution.htm](http://www.statewatch.org/euconstitution.htm)



## EU

### The criminalisation of migrants

Research published last month in the journal *Punishment & Society* shows that there exists a big overrepresentation of foreigners in European prisons. Dario Melossi, of the University of Bologna, has calculated the ratio of the percentage of foreign inmates to the percentage of resident foreigners from countries other than European Union in each EU member state (see column d). The ratios vary from 2.7 times for the UK to almost 20 times for Greece. The statistics reproduced below have been updated for *Statewatch* by Dario Melossi.

The percentage of foreigners in the total number of prisoners (column b) is no less staggering – they make up almost 60% in people in Luxembourg's jails, 48.4% in Greece, and over 40% in Belgium. More than one-fifth of the prison population are foreigners in Austria (30.1%), France (21.6%), Germany (34.1%), Italy (29.6%), the Netherlands (30.3%) and Sweden (21.3%).

Melossi makes a number of points in relation to these statistics. The ratios should be considered with caution because the figures on inmates were taken eight months after the figures on residents (1 September 2000 and 31 December 1999 respectively). The resident population of foreigners may have increased during this period, producing an inflated ratio. With

this in mind, it is suggested that the high proportion of foreigners in a prison population reflects "criminalisation" as much as "criminality". In Italy, for example, foreigners are ten times more likely to be stopped by police on foot and the ratio of convictions to imprisonment appears strongly related to social status. In addition, EU states have created specific criminal offences for foreigners, such as illegal entry and residence. While some immigrants have become involved in criminal activities this is hardly surprising given their circumstances. Melossi suggests that "the degree of involvement" and "its public representation" are "also obviously socially constructed" (p.379).

On the increased ratios in Greece, Spain and Italy, Melossi suggests that it may not be fair to compare southern European countries, where immigration is a relatively newer phenomenon, with countries with a colonial past. It is pointed out that there are black people in countries like France and the UK who are in prison because of social mechanisms not unlike those that those that lead to foreigners' imprisonment, but obviously they do not show up in the foreigners' statistics.

In a thoughtful and thorough analysis, Melossi situates his research within the "recurring process of forced inclusion, subordination and 'subjectivation' of recruits into a new draft of the European working class".

*Dario Melossi, "In a peaceful life": Migration and the crime of modernity in Europe/Italy', in 'Punishment and Society', Vol 5 (4), Symposium Issue of Migration, Punishment and Social control in Europe edited by Dario Melossi, October 2003 (Sage, <http://www.sagepub.co.uk/eaccess>).*

### Foreign population in the penal institutions of the EU on 1 September 2000

	Number (a)	% (b)	% (c)	Ratio (d)
Austria	2,077	30.1	9.2/8	3.8
Belgium	3,501	40.4	8.8/3.3	12.2
Denmark	557	17.0	4.9/3.9	4.4
Finland	168	6.2	1.7/1.4	4.4
France	10,553	21.6	5.6/3.5	6.2
Germany	26,839	34.1	8.9/6.7	5.1
Greece	3,892	48.4	2.9/2.5	19.4
Ireland	217	7.5	3.1/0.8	9.4
Italy	15,582	29.6	2.2/1.9	15.6
Luxembourg	233	59.1	36/4	14.8
Netherlands	4,196	30.3	4.1/3.0	10.1
Portugal	1,540	12.1	1.9/1.4	8.6
Spain	8,470	18.8	2/1.2	15.7
Sweden	1,211	21.3	5.5/3.6	5.9
United Kingdom	5,716	8.3	3.8/3.1	2.7
European Union			5.0/3.6	

#### Data categories

a) Number of foreign prisoners (data Council of Europe, SPACE 2000.3, as revised by ISTAT (2003:71)) at 1.9.2000.

b) Percentage of foreign prisoners of the total number of prisoners (data Council of Europe, SPACE 2000.3, as revised by ISTAT (2003:71)) at 1.9.2000.

c) Percentages of foreigners in resident population / percentage of foreigners from outside the EU in the resident population (my elaboration of data from CARITAS 2002:35) at 31.12.1999.

d) Ratio of % foreign inmates to % foreigners from outside the EU.

## Germany: Return to the lager system

### Actions against "departure centres" mark growing protests against refugee and migrant detention worldwide

Contemporary political thought increasingly identifies immigration detention in the industrialised world today as a "new" form of *lager*, a word typically used in connection with internment during European nazi regimes.

*The Lager is an administrative space in which men and women who have not committed any crime are denied their right to mobility. In this sense, it is perfectly legitimate to identify present-day detention centres as Lagers. It is also valid to point out that such spaces, which are associated with one of the blackest periods in European history, have not disappeared from the contemporary political scene. On the contrary, they have experienced a general diffusion throughout the*

*so-called West .- Sandro Mezzadra (University of Bologna)*

The ongoing debate looks at state practices that "criminalise" non-citizens and imprison and/or deport them in the context of globalisation, migration and labour. It is increasingly informing the protest movement against immigration detention, where different forms of detention are seen to serve different functions in the state's attempts to control "irregular" migration and labour markets. With the increase, privatisation and diversification of immigration detention worldwide, there has also been a growth in protests against, and some break-outs out of, immigration prisons and victims of immigration detention increasingly resort

to hunger strikes and some are driven to self-harm. At the beginning of this year, for example, refugees and migrants detained in the Berlin-Köpenick deportation prison conducted several hunger strikes and some tried to commit suicide or harmed themselves to force their release.

In August and September, days of action were organised nationally, by refugees, migrants and activists, against a relatively new form of "lager", which, according to the state is neither a prison, nor a home, but a "departure centre". These measures are used against people who the state cannot deport - usually because they lack identity documents - but who are legally obliged to leave, came from Holland. This form of indefinite quasi-detention is not yet enshrined in law but practised by four German *Länder* with the intention of enforcing deportation targets by averting the social integration of refugees and migrants and by exerting psychological pressure to force them to leave.

The restriction of movement for asylum seekers and refugees in Germany takes the following forms. First time asylum applicants are housed for a maximum of three months in a "Central Admission Centre" (*Zentrale Aufnahmestelle* - ZASt). After that, those undergoing the asylum procedure are usually housed in so-called communal houses, that is mass accommodation which can range from regular houses to containers in harbours or former military barracks. During the asylum procedure, asylum seekers are subject to a "residency obligation" (*Residenzpflicht*) which makes it illegal for them to leave the administrative district the authorities have housed them in. In practice, this results in the wide-scale criminalisation of asylum seekers who move outside their district and makes them subject to criminal charges. There are numerous court cases challenging this "apartheid law" (*The Voice* - German refugee organisation) where asylum seekers refuse to pay the fine that they have received for travelling. Refugees and migrants who no longer possess a regular residency title can be imprisoned if a court has certified that there is a danger of escape. This form of "deportation detention" can last up to six and in special cases up to 18 months. Between 10,000 and 20,000 people are subject to deportation detention every year. Finally, the *Länder* have recently invented "departure centres" to close the legal loopholes and safeguards that exist against indefinite and arbitrary immigration and deportation detention.

"Departure centres" (*Ausreisezentren*) first came into operation in the beginning of 1998 in Braunschweig and Oldenburg (Lower Saxony) and were a reaction to a ruling by the Federal Constitutional Court in 1995 which laid down that imprisonment with view to deportation could be ordered only if a deportation was enforceable in the foreseeable future. If this was not the case, the imprisonment would constitute a disproportionate encroachment on a persons right to freedom according to Art. 2(2) of the German Constitution (*Grundgesetz*). The authorities reacted by creating detention centres in which non-citizens who are legally ordered to leave Germany (*Ausreisepflichtige*) - but cannot be deported because they lack identity documents or are accused of falsifying their identity - are not technically "imprisoned". Although they live behind a fence, with restricted visiting rights and other restraints, they can - theoretically - leave. Currently, these quasi-prisons exist in Trier (Rheinland-Pfalz, around 100 places), Bramsche-Hesepe (Lower Saxony, 200 places) and Halberstadt (Sachsen-Anhalt, 100 places). The most recent was created in September 2002 in Fürth/Nuremberg (Bavaria, 50-100 places). With the opening of Fürth, the Bavarian Interior Ministry published a "concept paper" which details its intentions and the functioning of its "own brand" of centres. The Ministry has announced it wants to build three more. Hamburg is planning a combined "entry and departure centre".

However, some *Länder* (Berlin, Schleswig-Holstein,

Mecklenburg-Vorpommern, Thuringia and Saxony) have said they are not planning to follow suit as the centres have proved to be "unsuccessful". This failure refers to the fact that more than 50% of inmates, rather than taking up the state's offer to be flown out of Germany, go underground, thereby becoming "illegal". According to Günther Beckstein, the Bavarian Interior Minister, this is not exactly a failure because the main problem with rejected asylum seekers is that the state has to pay for them, so that their disappearance into illegality means that "social service costs are not longer incurred by these people". The "successful" deportation rate remains as low as 10%.

According to the Bavarian concept paper, *Ausreisezentren* will soon be the central element of the regional government's aim to "deal with the alarming trend that after a negative decision on their asylum procedure, an increasing number of asylum seekers want to achieve a permanent stay by not cooperating in the preparation of their deportation or by deceiving the authorities." More emphasis should therefore be given to "repatriation advice" and organisational bases should be created to facilitate deportation. The basic principle of *Ausreisezentren* is to "increase the efficiency of measures that discontinue residency" through central accommodation. These measures include intensified attempts to ascertain identities and to achieve increased cooperation through the use of specialised staff who are "innovative":

*In the daily work, it is made clear to the occupants that there is no alternative to departure and that it is high time to rethink the obligation to return and to plan the return, which after the exhaustion of all legal measures, is unavoidable.*

This is called a "wearing down tactic" by Christoph Hammer, manager of the Fürth centre. Mr. Steiner, head of the foreigner's law section of the Bavarian interior ministry agrees that "nothing works without pressure". Special attention here is given to achieving cooperation in deportation particularly from "non-cooperative foreigners". Criteria to be "accepted" to a "departure centre", which takes place on order of aliens authorities, are:

\* *evidently false allegations with regards to identity,*

\* *evidently false allegations with regards to citizenship, which has been shown up by negative checks through representations of the alleged countries of origin,*

\* *conscious and alleged non-cooperation with regards to passport acquisition measures (e.g. not turning up to group summons),*

\* *total refusal of any cooperation in the determination of identity and citizenship.*

The measures applied to put pressure on "occupants" are weekly interrogations conducted by staff who have undergone special training, (preferably in interrogation methods and with knowledge of the mother tongue of the refugee or migrant), regular searches of cells and of people's personal belongings, the reduction or withdrawal of the meagre sum of monthly cash (40 Euro) received under the foreigners social security regulation, a practically enforced obligation to stay in the centre by way of daily (instead of weekly, as in asylum seeker homes) food parcel handouts, enforced restriction of movement to the city district, regular attendance checks, a strict work ban as well and a ban on any communal activity, German lessons or other training, the 24-hour presence of private security personnel, an obligation to report back to the centre and the withdrawal of any form of identity document issued by German authorities, making people vulnerable in police controls.

The psychological effect of these measures is described by the Dietmar Matini-Emden, head of the "departure centre" in Rheinland-Pfalz (Trier) as follows:

*The considerable reduction of services, the exclusion from work as well as the gradually developing consciousness that their perspective for life in Germany is hopeless leads to the accommodated people*

starting to develop a certain mood of hopelessness and disorientation.

He openly admits that the aim of departure centres is to force people to "capitulate". The refugee Hasta Bahadur Rai who was imprisoned in the Braunschweig "departure centre" in 2002 commented in an interview:

Rai: "We have a four square metre room which we share with four people. It houses four beds and two cupboards. [We have] no [private space] at all. They come at 6 o'clock in the morning with the police and interpreters and confiscate our things: mobile phones, papers, notepaper. They say they are looking for evidence...[of when we leave the centre] they always ask "where were you", "what did you do?". We are interrogated, sometimes twice a week. Sometimes they scream at us. They always ask the same question: where do you come from? What is your name?"

Interviewer: And do you answer?

Rai: Of course. I'm from Bhutan, but my tribe was declared non-Bhutanese and persecuted. Now no embassy feels responsible for me, not Bhutan, nor India or Nepal.

Criticism of the centres is directed in particular at the all-encompassing control measures, psychological pressure, lack of privacy and restriction of movement and in some cases inadequate nutrition. Asylum support groups, self-organised refugee organisations as well as the Bavarian branch of the German trade union umbrella association DGB (*Deutscher Gewerkschaftsbund*) have protested against Fürth and other centres. They demand their immediate closure. They argue that the purpose of the centres is a violation of the right to personal freedom and the aim to force capitulation constitutes coercive detention, which is unconstitutional in Germany. Further, the detention is arbitrary as the aliens authorities decide without any proof or court verification whether a person conceals his or her identity. People without identity documents are automatically accused of concealment, however, case studies have shown not only that stateless persons are kept in "departure centres" but that there have also been cases where people deported to their country of origin have been imprisoned and tortured. The fact that the German authorities work closely together with the embassies of presumed countries of origin (a practice to be intensified, according to the Bavarian concept paper) directly endangers the refugee or migrant who is then finally deported with the knowledge of their former "torture state".

As immigration detention is increasing and diversifying, so is the protest against it. In September 2002, anti-detention groups in Germany formed a national network (*AAA Kampagne*, see <http://www.abschiebehaft.de>) and on 30 August this year they initiated a national day of action against deportation and detention. They chose 30 August because, on the same day 20 years ago, deportation practices led to the first known victim on German soil when the Turkish asylum seeker Kemal Altun committed suicide by jumping out of a window of the administrative court in West Berlin where his case was to be decided. A year earlier the Federal Crime Police had asked the Turkish authorities if they were interested in an extradition of the 23-year old Turk who was active in the democratic opposition movement in Turkey. Turkey consequently lodged an extradition request which received much public attention and criticism in Germany, whilst Kemal spent 13 months in deportation detention (23 hours a day alone in his cell).

Other deaths followed. On 30 August 1994 Kola Bankole suffocated on his deportation flight with *Lufthansa* whilst being restrained by Federal Border Guards. In 1999 Rachid Sbaai died in his detention cell in Büren/Berlin; officers claim he set fire to his cell, but an inmate says he heard Rachid screaming for help for 15 minutes before he died. In 2000 Altankhou Dagwasoundels died trying to escape from the sixth floor of the Berlin-Köpenick deportation prison. These are only some of the many deaths resulting from deportation practices and

imprisonment in Germany. At the beginning of 2003 there was an unprecedented wave of hunger strikes, suicide attempts and self-harm by refugees and migrants in detention, in particular in the Berlin-Köpenick deportation prison.

Between 11-14 September this year, self-organised refugee organisations such as *The Voice* and activists from anti-detention groups and the *no one is illegal* network organised a camp against the Fürth *Ausreisezentrum* on its first anniversary. Several street actions, demonstrations with up to 700 people, centre visits and attempts to dismantle fences were organised and called for its immediate closure. Police stopped refugees before, during and after the event, presumably with the aim of checking their travel permits. A bus from Jena, where *The Voice* has a strong representation, was stopped before it had left the city. After the events another bus with asylum seekers was stopped and 15 people who lacked a travel permit are now facing fines which, unless they refuse, they will have to pay out of their meagre monthly allowance.

### Opposition to detention camps

But there is also a growing trend towards more radical opposition to immigration detention. The most prominent protest saw demonstrators breaking down the fences of the notorious Woomera detention camp in Australia, which led to the successful escape of numerous refugees and migrants; fifteen people are still free from 2002 breakouts. On 4 February this year, six inmates were freed from Woomera prison by masked activists who overpowered the guards. Woomera has been criticised by human rights groups including Amnesty International for prison guard brutality and inhumane conditions. It was closed in April this year, only for inmates to be transferred to the newly opened Baxter detention centre.

Italy has also seen growing anti-detention protests. Apart from the demonstrations against *Via Corelli* in 2000 (see *Statewatch* vol 10 nos 3/4) which led to its closure (but not to the freedom of those imprisoned), a large demonstration took place against the Corso Brunelleschi *centro di permanenza temporanea* (detention centre) in Torino on 30 November 2002. Several refugees and migrants were freed from the Bari Palese detention centre on 28 July this year when activists from the *noborder* camp which was held nearby cut the fences. On 24 August, around 60 Dutch activists cut the fences at Delden deportation centre which imprisons young migrants and refugees. Inmates there have made repeated suicide attempts. Protests against the Dungavel "removal centre" in Scotland this year, which also imprisons children, have also received wide public support. In the UK the *No One Is Illegal Group* says that:

*We should argue for campaign slogans to reflect a position of opposition to controls, not that refugees are our friends or refugees are welcome, but slogans which recognise that we are in favour of freedom for all as a right, not a charity: "No One Is Illegal - Free movement and No immigration controls. (www.noii.org.uk)*

analyse & kritik Nr. 474, 20.6.2003, *Ausreisezentren - Der Reader* (<http://lola.d-a-s-h.org/~rp/az/index.php?link=Kampagne/Reader6.pdf>);

Bavarian state ministry of the interior press release 10.9.03; *junge Welt* 29.8.03;

[www.noborder.org](http://www.noborder.org); For more information: Short video clips about the Fürth action days (many in English): <http://kanalb.de>;

Documentation on the Fürth action days: [http://lola.d-a-s-h.org/~rp/az/index.php?link=ATFuert/Docs/\\_Docs.htm](http://lola.d-a-s-h.org/~rp/az/index.php?link=ATFuert/Docs/_Docs.htm);

"What is a camp?" by Suvendrini Perera:

[http://www.borderlandsejournal.adelaide.edu.au/vol1no1\\_2002/perera\\_ca mp.html](http://www.borderlandsejournal.adelaide.edu.au/vol1no1_2002/perera_ca mp.html); For the political debate around analysing immigration detention as *Lagers*: "Né qui, né altrove-Migration, Detention, Desertion: A Dialogue" (Sandro Mezzadra & Brett Neilson);

[www.borderlandsejournal.adelaide.edu.au/vol2no1\\_2003/mezzadra\\_neilso n.html](http://www.borderlandsejournal.adelaide.edu.au/vol2no1_2003/mezzadra_neilso n.html); *Woomera detention camp*:

<http://melbarchive.indymedia.org/woomera-archive.php3>

## The alternative "2002 annual report" on surveillance

The reports by the government on surveillance activities for the year 2002 are now available. In *Statewatch* vol 13 no 3/4 the latest figures for the size of the Special Branch were given together with an account of their relationship with MI5. This showed that **the Special Branch, which with MI5 forms the "political police" in the UK, has doubled in size - from 1,638 in 1978 during the Cold War and the conflict in Northern Ireland to 4,247 in 2002.**

The annual report of the Interception of Communications Commissioner for 2002 gives figures for warrants issued for the surveillance of communications and show that on a conservative estimate this has more than doubled since Labour came to power in 1997. These figures are a gross under-estimate as no figures are given for Northern Ireland, MI5 (the internal Security Service), MI6 (the external Secret Intelligence Service) or GCHQ (Government Communications Headquarters). Until the Labour government came to power in 1997 the previous highest figure for the number of warrants issued for surveillance was 1,682 in 1940 during the Second World War. In 2002 a total of 3,748 were issued/modified/or renewed.

The annual report of the Chief Surveillance Commissioner (2002-2003) reveals for the first time an overall figure for the number of agents/informers - known as "covert human intelligence sources", CHIS - were employed by the law enforcement agencies (excluding MI5 and MI6). In the year April 2002 to March 2003 **over 11,000 "covert human intelligence sources" were active.**

There have been a number of significant changes to the way that the number of warrants for telecommunications interception are presented which disguise its true extent. Prior to 1998 the highest annual number of warrants was 1,682 in 1940 during the Second World War. In 2002 the number of warrants (and "modifications") was 3,748 - and **the surveillance of telecommunications has more than doubled since Labour came to power in 1997.**

**It can be simply stated that the UK population is under surveillance as never before in its history.**

### Intelligence Services Commissioner annual report

The annual report of the Intelligence Services Commissioner (2002) gives no figures at all. Moreover it highlights that changes brought about under the Regulation of Investigatory Powers Act (RIPA 2000) which deleted obligations from the main Acts covering MI5 (Section 4 of the Security Service Act, 1989) and MI6/GCHQ (Section 8 of the Intelligence Services Act 1994) mean that previous obligations to produce "annual reports" on their *overall* activities is now replaced by reports covering (with virtually no information) only their surveillance activities under RIPA - representing another, unreported, loss of (theoretical) democratic accountability.

The Rt Hon Lord Justice Simon Brown was appointed the Commissioner under the 1989 and 1994 Acts on 1 April 2000 and changed roles on 2 October 2000 to work under RIPA - his three-year term of office has been extended by the Prime Minister until 2006.

The annual report for 2002 contains a description of the Commissioner's role and very little (if any) detail. It does contain a definition of "covert human intelligence sources" (CHIS) as:

*Covert human intelligence sources are essentially people who are members of or act on behalf of one of the intelligence services to obtain information from people who do not know that this information*

*will reach the intelligence service*

CHIS are undercover agents or people recruited by them to spy on a group or organisation.

Like all the other Commissioners no complaints to the Tribunal, also headed by Lord Justice Mummery, were upheld.

### Commissioner for surveillance

The Chief Surveillance Commissioner deals with: "all covert activities, except phone-tapping, carried out by all public authorities, except the intelligence services"

This Commissioner thus deals with covert activities excluding the interception of telecommunications and activities carried out by MI5, MI6 and GCHQ. His report covers England, Wales and Scotland under Part III of the Police Act 1997 and Parts II and III of RIPA 2000.

#### Number of authorisations

	Property (PI)	Intrusive (IS)	CHIS	DS
1999-0	2,459	- -	-	-
2000-1	2,567	312	-	-
2001-2	2,519 (2,956)	493 (595)	5,400	28,000
2002-3	2,511 (3,054)	475 (555)	5,900	26,400

1. PI = property interference [figures in () are real total including renewals] This is defined in Section 92 of the Police Act 1997 and involves the "entry" to or "interference with" property. These euphemisms refer to entry to a property without the knowledge of the owner in order to search it or to place a "bug" to monitor conversations or to leave behind items (see *Statewatch*, vol 6 no 6). "Authorisations" to "interfere" with property can be issued in relation to "conduct by a large number of persons in pursuit of a common purpose".

2. IS = intrusive surveillance [figures in () are real total including renewals] Intrusive surveillance is defined in Section 26 of RIPA 2000. Surveillance is "intrusive" if it involves either a surveillance device (bug and/or video) or an officer hiding in a residential premises or private vehicle (see *Statewatch*, vol 10 no 1).

3. CHIS = covert human intelligence sources recruited.

4. DS = directed surveillance. Surveillance is "directed" and not intrusive if a tracking device is attached to a vehicle or if conversations inside a home are surveilled from outside or if conversations are recorded in an open place (eg: park) (Section 26 of RIPA 2000).

The number of authorisations for "property interference" (under the Police Act 1997) in the year was 2,511 but - like for the interception of telecommunications - this figure excludes renewals. This year's report does give the figures for renewals as 543 for 2002-3 and 437 for 2001-2. The accurate figures for "property interference" are thus 2,956 for 2001-2 and 3,054 for 2002-3.

The apparent drop in the number of authorisations for "directed surveillance", from 28,000 to 26,400, is explained by a change in "practice by one authority" which authorises "operations" rather than "subjects" (people). Indeed the real figures are probably much larger because, as the Commissioner notes, "there are no rule of thumb answers as to when authorisations are required". For example, at so-called "crime hotspots" surveillance may be carried out without the naming of a particular person(s) in advance.

### CHIS: Covert human intelligence sources

Covert human intelligence sources (CHIS) are mainly paid or "induced" (a possible criminal charge is threatened or

embarrassing personal information held) informers/agents who are recruited from within a target group or who are encouraged to join a group and act undercover.

The figures for CHIS are provided for the first time:

*About 5,900 CHIS were recruited.. 5,400 ceased to be used; and about 5,000 were active at the end of the year. The figures for the previous year were 5,400, 4,900 and 5,400 respectively*

The figures exclude CHIS recruited by MI5 or MI6 - see Statewatch vol 13 no 3/4 on the "Special Branch" which includes the practice of MI5 recruiting CHIS on behalf of the SB. The "rounded", exact, numbers - "5,000" and "5,400" - suggest that the real figures are slightly different, eg: 5,083.

However, it is the impression created by the overall figures which is misleading. The figures given for informers/agents seem implausible when the total number of police forces and agencies is taken into account. The Commissioner's brief covers 52 police forces in England, Wales, Scotland and Northern Ireland plus the National Crime Squad (NCS), the National Criminal Intelligence Service (NCIS), "HM forces in Northern Ireland, HMCE, the British Transport Police and the Ministry of Defence Police". In addition CHIS are used by eight government departments - "some make significant use of covert surveillance and CHIS powers" - local councils (who make limited use of CHIS) and national health authorities.

A more accurate figure - but still an underestimate - may perhaps be found by looking at the figure another way. The overall figures are:

CHIS	Recruited	Ceased to be used	Active at year end
2001-2	5,400	4,900	5,400
2002-3	5,900	5,400	5,000

This means, for example, that during 2002-3 a total of 5,900 were recruited and 5,400 were active during the year but "ceased to be used" over the same period. This would give a total of 10,300 active during a year in 2001-2 and 11,300 during 2002-3 and probably represents a more accurate picture.

## Inspections

Last year the Commissioner complained of lack of staff to properly do inspections. This time he notes "modest changes to the complement" - which suggests he is not very happy. The Commissioner is responsible for inspecting 66 authorities annually, 16 authorities every other year, 441 local authorities ("as frequently as the first two categories allow") and 19 other government departments and agencies (for which no inspections are provided for). Moreover, many of these 542 authorities "have many branches or departments".

## The surveillance of communications - highest ever

The annual report of the Interception of Communications Commissioner for 2002 was published in September 2003. Like the one for 2002 the report appears to show that the number of warrants issued looks to be the lowest for years. However, the true picture is quite the reverse.

On the face of it the number of warrants issued to conduct communications surveillance (telephones, mobiles and letters) fell in England and Wales in 2002 to 1,446 compared to 1,763 in 1998 and in Scotland from 292 in 2000 to 139.

## Interception warrants issued in 2002:

	England & Wales	Scotland	total
1990	515	66	581
1991	732	82	815
1992	874	92	966
1993	998	122	1,120

1994	947	100	1,047
1995	997	138	1,135
1996	1,142	228	1,370
1997	1,456	256	1,712
1998	1,763	268	2,031
1999	1,734	288	2,022
2000	1,608	292	1,900
2001	1,314	131	1,445
2002	1,466	139	1,605

From these figures it would seem that warrants for the surveillance of communications (telephones etc) and mail-opening have dropped significantly after 2000.

However, from July 1998 a major change in the interpretation of the 1985 Interception of Communications Act (IOCA) meant that where previously any change to the initial warrant (eg: a person moved or changed phone numbers), known as a "modification", led to a new warrant being issued for all instances concerning serious crime. This means that in order to get *historically comparative total figures* the number of "modifications" carried out each year need to be added to the number of initial warrants. The additional figures, post July 1998, for "modifications" are:

	England & Wales	Scotland	Total
1998	172	not applied	172
1999	565	not applied	565
2000	722	not applied	722
2001	1,788	194	1,982
2002	1,885	258	2,143

Thus the correct figures for the extent of admitted communication surveillance (warrants plus modifications) is as follows:

	England & Wales	Scotland	total
1990	515	66	581
1991	732	82	815
1992	874	92	966
1993	998	122	1,120
1994	947	100	1,047
1995	997	138	1,135
1996	1,142	228	1,370
1997	1,456	256	1,712
1998	1,935	268	2,203
1999	2,299	288	2,587
2000	2,330	292	2,622
2001	3,102	325	3,427
2002	3,351	397	3,748

(see Footnote on p22)

No figures have ever been provided on Northern Ireland and these figures do not include warrants issued to MI5, MI6 and GCHQ. Until 1996 the highest annual number of warrants issued was 1,682 in 1940 during the Second World War. **Since the Labour government came to power in 1997 communications surveillance has more than doubled.**

The Commissioner says he has visited the Security Service (MI5), the Secret Intelligence Service (MI6), the National Criminal Intelligence Service (NCIS), the Special Branch of the Metropolitan Police (MPSB), Strathclyde Police, the Police Service for Northern Ireland, HM Customs and Excise, the Foreign Office, the Home Office, the Scottish Executive and the Ministry of Defence (MOD) in the course of the 2002.

However, he then notes that the figures provided only cover warrants issued by the Home Secretary and the First Minister for

Scotland - *not* those issued by the Foreign Secretary or the Secretary of State for Northern Ireland. This means that the figures provided do not include those for Northern Ireland nor those for MI6 and GCHQ (Foreign Office).

The Commissioner, like last year, is much exercised by the: "possible suspicions that some members of the public may have that their telephone conversations are being unlawfully intercepted by the security intelligence or law enforcement agencies" and states he is satisfied that:

*deliberate unlawful interception of communications of the citizen does not take place*

As Statewatch observed on last year's similar assertion the Commissioner "shows a touching faith in the strict implementation of the law" and has little comprehension of the historical practices of the agencies (see *Statewatch*, vol 12 no 6). It is the same touching faith that allows him to assert that when signing warrants: "the Secretaries of State do not act as a "rubber stamp""

The same naivety on the part of the Commissioner is evident in the short section on "Communications data". Under the Regulation of Investigatory Powers Act 2000 (RIPA) the Commissioner is required by Section 57 to "keep under review the exercise and performance by persons" exercising the powers of "acquisition and disclosure". The powers to retain communications data (phone-calls, e-mails, faxes, mobile phone calls and internet usage) have been the subject of major critiques by civil society (and the industry) because under the Anti-Terrorism, Crime and Security Act 2001 (ATCS) data can only be retained for purposes of "national security" not for crime in general. As a result the necessary Statutory Orders are not in place. But does this mean that communications providers are not retaining communications data and that law enforcement and security agencies are not being given access to it? Of course not.

The Home Secretary is riding rough-shod over all the objections by much of the industry and civil society because he is keen to put in place a measure which will legitimate, and make lawful, the long-standing practice of those "longer-established" communications providers who have been retaining data at the request of the law enforcement agencies (since well prior to 11 September 2001). This is confirmed in a submission by the National Criminal Intelligence Service to the Home Office on 21 August 2000:

*"certain CSPs [are] proposing to delete data after very short periods. This will rapidly undermine the **voluntary agreements** achieved so far which now appear to have an increasing fragility. (emphasis added) (Source: Recommendation 3.3.3. in the NCIS submission on Communications Data Retention Law to Home Office, 21.8.00).*

Thus communications providers have been retaining data for periods longer than is necessary for billing purposes (ie: a few weeks) under "voluntary agreements" for years.

Moreover, the same NCIS submission cited above says:

*Most Police Forces and HM Customs and Excise retain such data obtained electronically on their own individual databases, in particular subscriber identities and itemised billing*

An on-going practice of the law enforcement agencies (police, customs etc) plus MI5 to themselves retain communications data gathered on their own databases is not covered by any legislation. The same NCIS submission says that in the 12 months prior to August 2000 the Metropolitan Police Service alone had required access to 63,590 subscriber details and 4,256 billing accounts.

The Commissioner seems blissfully unaware of these practices.

For the first time the Commissioner visited five prisons to examine their practices and his "overall impression":

*has highlighted a number of inconsistencies in the approach to interception work in prisons, and that the Prison Rules are not always strictly complied with*

As usual the Commissioner reports that the "Investigatory Powers Tribunal", under the Presidency of Lord Justice Mummery, to investigate complaints has, yet again, not uphold a single complaint from the public. Indeed since the Tribunal was first set up in 1985 not a single complaint about interception has been upheld.

#### **Footnote:**

The figure for the number of initial warrants disguises the fact that i) "modifications" are excluded; ii) that the periods for warrants in the most numerous category, serious crime, have increased by 50% (initial warrant) and 100% (renewals); iii) where previously between one and five warrants were issued to communications service providers now only one is issued to cover a person or premises (which also has a knock-on effect on the number of renewals).

#### **Sources**

*Statewatch, vol 7 nos 1 & 4 & 5; vol 8 nos 5 & 6; vol 10 no 6; vol 11 nos 1 & 2; vol 12 nos 1 & 3/4; vol 12 no 6*

*The most complete available figures for interception warrants in England, Wales and Scotland from 1937 onwards is available on the Statewatch website: [www.statewatch.org/news/2003/jan/telap01.htm](http://www.statewatch.org/news/2003/jan/telap01.htm)*

*Annual Report of the Chief Surveillance Commissioner for 2002-2003, HC 1062, September 2003.*

*Report of the Interception of Communications Commissioner for 2002, HC 1047, September 2003.*

*Report of the Intelligence Services Commissioner 2002, HC 1048, September 2003/*

## **Northern Ireland: Britain's Force Research Unit**

### **It is now impossible to deny systematic collusion with loyalist paramilitaries**

In April 2003, Sir John Stevens, Commissioner of the Metropolitan Police Service, gave the first official description of the British Army's Force Research Unit (FRU). In his brief 24-page report of 17th April, FRU was described simply as 'the Army's agent handling unit in Northern Ireland'. This came as part of the only public report on Stevens' fourteen years of investigation into collusion between the official security forces and unofficial loyalist armed groups.

The significance of the Stevens Report and its public acknowledgement of FRU should not be underestimated. FRU was at the heart of a counter terrorist strategy in which

intelligence, police and military operatives actively supported loyalist paramilitary groups and dramatically increased their killing capacity. That support included the sourcing of weapons, the provision of surveillance, the identification of targets and the facilitation of murder operations. Over many years, and especially since the murder of lawyer Pat Finucane in February 1989, a range of evidence has come to light which makes it impossible to continue to deny the reality of systematic collusion. Stevens was obliged to reveal that his inquiries 'have highlighted collusion, the willful failure to keep records, the absence of accountability, the withholding of intelligence and

evidence, and the extreme of agents being involved in murder. These serious acts and omissions have meant that people have been killed or seriously injured.'

It is no surprise that it took Stevens fourteen years to reach this conclusion and to air it publicly. The only surprise is that he has been able to withstand the pressures and has not had his career ruined. Stevens' investigations have been obstructed on several occasions and he devotes a chapter to the subject in his report. Stevens writes, 'throughout my three Enquiries I recognised that I was being obstructed. This obstruction was cultural in its nature and widespread within parts of the Army and the RUC.'

FRU was central in obstructing Stevens, once it was clear that Stevens wanted to arrest Army agent Brian Nelson who was acting as head of intelligence for the largest loyalist group, the Ulster Defence Association, at the time of Finucane's murder. FRU took Nelson's intelligence records (which FRU itself had been instrumental in creating and organising) into 'safekeeping' in an effort to prevent Stevens finding out the significance of Nelson's role. FRU also tipped Nelson off that Stevens was about to arrest him:

*There was a clear breach of security before the planned arrest of Nelson and other senior loyalists. Information was leaked to the loyalist paramilitaries and the press. This resulted in the operation being aborted. Nelson was advised by his FRU handlers to leave home the night before.' (Stevens Report, p. 13)*

A fresh date was set for Nelson's arrest but the night before, there was a fire in Stevens' incident room which was 'never properly investigated' and which Stevens regards as 'a deliberate act of arson'.

At the time of Stevens first investigation he sought to examine certain documents (most likely the contact records of agent handlers) but was told in writing that these did not exist. This was a lie and some of the records were eventually handed over to Stevens as recently as November 2002.

### **FRU: hidden from public scrutiny**

Alongside this obstruction, the Ministry of Defence and successive governments have worked hard to prevent any information about FRU from reaching the public domain. As recently as 16th May 2003, the Secretary of State for Defence refused to answer a parliamentary question which merely asked when FRU was established, when it was disbanded and what its mission was. No answers were given and all that exists as a 'mission statement' is the FRU's motto – 'Fishers of Men'. FRU has now been renamed as the Joint Support Group. While most of the recent revelations about FRU have come in the context of Finucane's murder, FRU's activities, or those of similar units, extend back to the early 1970s and the well-documented attempts to overthrow the Wilson government as part of the Clockwork Orange operation (see Paul Foot's book, *Who Framed Colin Wallace?* Macmillan 1989).

The only point of substance to have emerged from parliament was that Stevens had by May 2000 interviewed 15 former members of FRU. In December 2000, the Defence Secretary was asked about the number and costs of legal proceedings against newspapers designed to prevent information about FRU being published – information supplied by ex-agents who have been campaigning for better treatment (eg pensions) by the MoD. At the time five court hearings had been held preventing the Mirror Group Newspapers and specifically the Sunday People and the Sunday Times from printing stories about FRU.

### **Secret, undercover and "independent"**

Former foreign editor of Mirror Group Newspapers, Nicholas Davies, succeeded in publishing 'Ten Thirty-Three, the inside

story of Britain's secret killing machine in Northern Ireland in 1999 (Mainstream Publishing), but only after a delay of two years and the deletion of material from several chapters at the insistence of the MoD. The book claims that its title Ten Thirty-Three refers to Nelson's secret code number but this is not the case. Part of the game of obfuscation is to set up false leads of names – Stakeknife or Steakknife; Force Reaction Unit, Force Reconnaissance Unit, Field Research Unit; Joint Services Group or Joint Support Group are all examples.

Davies claims that FRU was set up in the early 1980s. One of its forerunners was the Mobile Reaction Force, a unit that was quickly disbanded 'before questions could be asked as to why the squad appeared to have a licence to kill'. MRF's functions were taken over by 14th Intelligence Company, a unit under the control of, and largely staffed by, the SAS. FRU was established as an elite military intelligence unit and operatives were trained by 14th Intelligence and the SAS. FRU had up to 80 officers and about 100 support staff. It became the most important source of high grade human intelligence and the products of its work were passed upwards to the Joint Irish Section and on to the Joint Intelligence Committee in London. FRU, the SAS and 14th Intelligence were operationally coordinated by the Tasking and Coordinating Group, in theory linking MI5 with Army intelligence and RUC Special Branch information. In practice, FRU often acted independently. It often put out 'restriction orders', cleared by the TCG, which meant that all police and military personnel had to leave the designated area. Loyalist gunmen were thereby free to move into republican districts, carry out shootings and escape.

It is tempting to regard the whole FRU scandal as belonging to the 'dirty war' in the decades prior to the mid-1990s but special intelligence-led operations continue to dominate policing. As one member of the Stevens' investigation team commented to the Guardian in June (14th ) 2002, the agencies are so obsessed with gathering intelligence that 'there's no attempt to keep law and order. That is the story of what is going on in Northern Ireland at the moment, not what happened more than ten years ago.'

The present government seems determined to delay for as long as possible the holding of a public inquiry in to the role of FRU or any aspect of its involvement in a substantial number of killings in Northern Ireland. It is incomprehensible why, for example in the Finucane and Lambert cases, the government delays holding a judicial public inquiry, given Stevens' conclusion that 'there was collusion in both murders and the circumstances surrounding them'.

### **Conclusion**

For the past eighteen months, Canadian Judge, Peter Cory, has been looking through documents relating to six controversial killings in which collusion has been alleged. This exercise, carried out at the behest of the British and Irish governments, is widely seen as a further delaying tactic. On 7th October (2003), Cory presented his findings but even his recommendations will remain secret for several months until the British and Irish government decide on the information that can be published. It may be that Cory recommends the holding of a 'truth commission' as a way of making the acknowledgement of state killings reliant on voluntary testimony. Alternatively, an inquiry held along the lines of the Bloody Sunday inquiry would provide immunity from prosecution for the key operatives involved and give the MoD similar scope for defending them.

There is a long way to go before the governments and ministers who presided over FRU's activities are brought to account for the murders it colluded in. The fact that the FRU scandal has not shaken the British political establishment suggests the long hard fight to expose the true nature of secret counter terrorist intelligence units is far from over.

# Statewatch News online

See:

[www.statewatch.org/news](http://www.statewatch.org/news)

EU - Mandatory retention of telecommunications data would be unlawful

EU: "health cards" and 10 year driving licences pose privacy questions

Statewatch submission to the EU Network on Independent Experts on fundamental rights raises 22 major civil liberties concerns

UK: Government trying to slip through "voluntary" data retention rejected by consultation process

EU: Parliament wants to halt air passenger data transfer to USA

Casualties in the so-called "war on terrorism"

IGC Launch: European NGOs Publish Concerns Over Justice and Home Affairs and Fundamental Rights Provisions in Draft Constitution

EU issues updated list of "terrorist organisations and persons"

Italian Presidency proposes that officers in plainclothes drive unmarked police cars across the EU to deport migrants

Italian EU Council Presidency: Plan to put protestors under surveillance and deny entry to suspected troublemakers

Afghanistan: UNHCR imposing compulsory iris-scans on returning refugees over six years old

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## Statewatch website

Statewatch's website carries News online and has a searchable database. The url is: <http://www.statewatch.org>

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