

statewatch

monitoring the state and civil liberties in the UK and Europe

vol 16 no 2 March-April 2006



Europol-USA agreement: Was it really needed?

- no record of data transfers recorded by USA

- 2005 evaluation report still secret

In the aftermath of 11 September 2001 an agreement between the USA and Europol for the exchange of information and intelligence was rushed through by 6 December 2001. This was supplemented by a further agreement on 20 December 2002 to allow the exchange of personal data.

At the time of the adoption of these two agreements great concern was expressed: i) that the USA did not (and still does not) have a data protection law covering non-US citizens and ii) that the USA was unable to provide a list of all the agencies who could request or have access to data provided by Europol (said to be around 1,500 agencies at federal, state and local level).

The supplementary agreement of December 2002 said that a "joint evaluation" should be carried out within two years. The Management Board of Europol produced a "mutual evaluation" report on 13 July 2005, which was sent to the Council's Article 36 Committee (high-level interior ministry officials). However, this report still remains secret (EU doc no: 11502/05). The question is why?

Europol set up an office in Washington DC, USA in August 2002, to transmit requests from Europol and EU member states. The picture is complicated by the fact that seven EU member states have their own seconded officers based in the USA - Belgium, France, Germany, Italy, the Netherlands, Spain and the UK. Moreover, the USA has a network of attaches of US federal authorities based in EU member states.

In practice what is happening is that responses to requests from Europol in Washington go either to back to it or "directly to EU Member States with copies to the liaison officers". But requests from the USA's multitude of agencies are made through individual EU member states by established channels.

The Europol US Liaison Office sent requests covering 509 cases to US agencies and 266 case requests were sent to the Europol office by US agencies (these appear to concern requests for Europol itself particularly access to its Analysis Work Files, AWFs). But:

From the US perspective Europol remains to be of limited immediate value if its core function is to provide for making requests to the USA

on behalf of MS. The USA anticipated that Europol would provide EU wide analytical assessments about crime as well as information on particular transnational cases impacting on the USA

In reality:

operational information and law enforcement intelligence requests from US authorities reach EU MS [Member States] directly through long established bilateral channels

this is because:

US law enforcement agencies have well established liaison relationships with most if not all the EU MS.

and:

*the actual added value gained by US law enforcement authorities through the application of the cooperation agreements between Europol and the USA is **deemed to be limited** (emphasis added)*

and:

there appears to be uncertainty and even distrust concerning the information/law enforcement intelligence process applied by Europol among the law enforcement community in the US.

This "distrust" extends to information/intelligence concerning terrorism where Europol is viewed as a "police" agency (which it is) rather than a security agency (which it is not):

Original efforts following the tragedy of the terrorist attacks of 11 September 2001 in the USA aimed at enhancing cooperation between Europol and the FBI in the context of the Counter Terrorism Task Force (CTTF) at Europol were unsuccessful as MS - according to the assessment of the USA - were unwilling to share information with the USA via the Europol channel... Eventually, the FBI withdrew the liaison post it had assigned to the CTTF at Europol after three months.

Equally damning are the admissions that while Europol is able to provide figures of the number of "correspondences" (2,582 in 2004) which it handled the report gives no details on the number of requests made direct to the USA without going through Europol and:

No centralised statistics are collected by the USA on the number of

IN THIS ISSUE

EU: How EU police forces cooperate on football matters see page 18

Germany: Journalists, enemies of the state? see page 21

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transactions engaged in by agencies of the USA and Europol

Thus the USA, in this joint evaluation, is "not in a position to adopt" the figures in the Europol report.

Where the Europol US Liaison Office is able to give figures the largest crime category in the "correspondence" (almost a third) concern drugs, only 18.6% concern terrorism.

If bilateral channels through long-established agreements between the USA and individual EU member states was already working well why were the Europol-USA agreements needed? If the USA only really wanted access to, and to be "associated" with, Europol's Analysis Work Files why was an agreement on this precise issue not concluded?

Tony Bunyan, Statewatch Editor, comments:

This is a good example of the need for post-legislative scrutiny and review by parliaments. Why is this report not public? Have national and European parliaments seen it and, if not, why not?

The report includes the "handling codes" used by Europol (like other police forces) raise interesting questions: How are sources under C and D codes handled? What if sources under C and D are combined with "reliability" under no 4?

Evaluation codes (assessment of the source and of the information)

1. The source of the information shall be indicated as far as possible on the basis of the following criteria:

(A) Where there is no doubt of the authenticity, trustworthiness and competence of the source, or if the information is supplied by a source who, in the past, has proved to be reliable in all instances;

(B) Source from whom information received has in most instances proved to be reliable;

(C) Source from whom information received has in most instances proved to be unreliable;

(D) The reliability of the source cannot be assessed.

2. The reliability of the information shall be indicated as far as possible on the basis of the following criteria:

(1) Information whose accuracy is not in doubt;

(2) Information known personally to the source but not known personally to the official passing it on;

(3) Information not known personally to the source but corroborated by other information already recorded;

(4) Information which is not known personally to the source and cannot be corroborated.

alarmed civil rights observers. Now a student from Dresden has decided to take action as he does not want the serial number of his ID card to be kept in a database, simply because he bought a ticket for a football match.

Supported by the German Association for the Promotion of Mobile and Immobile Public Data Traffic (FoeBuD e.V. - *Verein zur Förderung des öffentlichen bewegten und unbewegten Datenverkehrs e.V.*), Stefan Hohensee lodged a complaint against the German Football Association (DFB - *Deutscher Fußball-Bund*) after his demand that his ID serial number be deleted from the DFB database remained unanswered. On 28 March, the administrative court in Frankfurt heard the case, but judge Volker Horn rejected the application for a temporary injunction arguing that due to the threat of terrorism, the collection of personal ID numbers was necessary to ensure a peaceful and safe visit to the World Cup. He adopted the argument of the DFB defence lawyers, that the data was necessary to ensure safety at the games because security personnel would have to check at the gates who was entering the stadia. This was only possible with the help of a serial number because the names of foreign guests, according to the DFB, often had numerous spellings.

However, not only the FoeBuD, but also the regional data protection officer, Thilo Weichert, points out that paragraph 4(2) of the German Identity Card Law lays down that the serial number cannot be used in a way that allows for "personal data [to be] extracted from a database or [in a way] that other data is linked to it". In collecting the number and making it searchable the DFB is clearly violating this data protection principle says the FoeBuD. The plaintiff has appealed against this first instance decision.

At a data protection congress on 16 March in Ulm, which discussed CCTV surveillance during the World Cup, experts warned about the abuse of new surveillance technologies: "The authorities' threshold to access sensitive data is disappearing", Hansjürgen Garstka from the European Academy for Information Security and Data Protection, and regional data protection officer for Berlin, said. Citizens and data protection officers should always ask themselves, he urged, what could happen to personal data and who has potential access to it once collected.

FoeBuD e.V.: <http://www.foebud.org/rfid/illegal-legal>; Background article: <http://www.heise.de/newsticker/meldung/71384>

UK

Amnesty says UK must act on Guantanamo Britons

In a report published on 6 February Amnesty International urged the government to intervene on behalf of the nine British residents being held unlawfully at the US detention centre at Guantanamo Bay, Cuba. The report, *Guantanamo: Lives Torn Apart - The Impact of indefinite detention on detainees and their families*, argues that the government's refusal to act on behalf of long-term UK residents is "shameful" and must change. It examines the long term effects on the 500 prisoners and their families who have been detained for four years, (see *Statewatch* Vol. 16 no 1). Amnesty also expressed its support for a report by a United Nations team of experts, published later the same month, which called for the US to close its Cuban torture centre. The Amnesty report summarises developments related to the ongoing hunger strike (Section 1) and the resulting suicide attempts (Section 2). It assesses the cases of nine men who have been deemed by the US to no longer be "enemy combatants", but remain detained (Section 3). In Section 4 the document discusses the continued plight of the detainees before assessing the impact on their families (Section 5).

CIVIL LIBERTIES

GERMANY

Student goes to law over World Cup data collection

Civil liberties groups and data protection officers have been following the World Cup preparations from a different perspective than most fans. Data protection infringements, through the uncontrolled extension and use of EU police databases on supporters, and widespread surveillance mechanisms implemented with regard to the competition, from buying tickets to watching matches at public screenings, have

The information released by the US authorities on the ongoing hunger-strike at Guantanamo has been minimal and, judging from independent sources, misleading. The US Department of Defense (DoD) even has problems admitting that a hunger strike for justice is taking place, claiming that there are 32 or 33 people participating in "voluntary fasting". This number was said to have conveniently increased to 131 around the fourth anniversary of the 11 September attacks on the USA. The DoD has also claimed that "the intravenous and nasogastric feeding methods being used are humane and within standards of medical care".

Lawyers representing the detainees have given much higher figures for those participating in the hunger strike and the contradiction seems to originate in the method by which the US authorities count the participants. It would seem that, according to the US, a detainee is only officially on hunger strike when they have missed nine consecutive meals; this conveniently excludes from consideration those hunger strikers who are accepting some meals in order not to be force fed. The US attitude was expressed by Guantanamo spokesman, Lieutenant Colonel Jeremy Martin, who said: "This [the hunger-strike] is consistent with al-Qaeda training and reflects detainee attempts to illicit media attention and bring pressure on the United States government." The report remarks that "Such attitudes call into doubt the veracity of official claims to be prioritising the physical welfare of the detainees".

In the UN expert report five independent investigators from the UN Committee on Human Rights call for the "immediate closure" of the US torture centre at Guantanamo Bay and for all of the illegally detained prisoners to be brought before an independent and competent tribunal or released. The call came after an 18-month study based on information from the US government and from interviews with former detainees in the UK, Spain and France; the UN representatives request for the right to carry out private interviews with prisoners was dismissed out of hand by the US. Among its other recommendations the working group calls for the US to "...refrain from any practice amounting to torture or cruel, inhuman or degrading treatment, discrimination on the basis of religion and violations of the rights to health and freedom of religion."

Amnesty International "Guantanamo: Lives Torn Apart - The Impact of indefinite detention on detainees and their families" 6.2.06.

<http://web.amnesty.org/library/print/ENGAMR510072006> ; United Nations Economic and Social Council, Commission on Human Rights "Economic, Social and Cultural Rights; Civil and Political Rights. Situation of Detainees at Guantanamo Bay. Report of the Chairperson of the Working Group on Arbitrary Detention" 15.2.06.

http://news.bbc.co.uk/2/shared/bsp/hi/pdfs/16_02_06_un_guantanamo/pdf

SPAIN

Detentions in operation against file-sharing

A nationwide police operation against file-sharing in defence of intellectual property rights in late March 2006 resulted in the detention and the questioning of 15 people who were later released. A request was made from the police to the judicial authorities for the blocking of 17 websites deemed responsible of allowing the illegal exchange of files by providing access to websites from which films, music, games and IT applications could be downloaded. The arrests took place in ten different cities as a result of investigations that began in October 2005 after complaints were submitted to the Spanish police's Technological Investigations Brigade by organisations working for the defence of intellectual property rights, including the *Sociedad General de Autores y Editores* (SGAE), whose campaign against the illegal copying of music and literature has

been particularly belligerent.

The arrested individuals were administrators or persons in charge of websites that provided access, through links, to file-sharing programmes such as Emule, Bittorent, Edonkey and Azureus. They are accused of drawing economic benefits from illegally providing free and open access to the possibility of downloading published works that are subject to intellectual property, as police consider that this attracted advertising revenue and helped to develop other commercial activities through the websites in question due to the large number of users these services attracted.

Victor Domingo, president of the *Asociación de Internautas* (Association of Internet Users), noted that file-sharing is not a crime in itself, unless it is done for financial gain, and described the attitude of the police as "worrying", and the operation as a "sinister kind of marketing in favour of the theses of the associations of authors and editors". He stressed that the websites in question merely provided links to file-sharing websites or networks without "trafficking" their content, and argued that the police acted "irresponsibly", considering that the same function of providing links is also carried out by leading search engines, such as Google.

On 12 April, Telecinco television news services revealed that the police press release on 8 April 2006 was published over ten days after the event, coinciding with an operation to combat child pornography, as well as citing one of the accused. He claimed that the circumstances of this delay were "suspicious" and that the operation sought to "frighten people". On 4 May, the *Asociación de Internautas* reported that some of the websites remained active and that in one case, a judge had already dismissed the request for a website to be blocked over a week before the police press statement was issued, on 29 March.

El País, 8.4.06; Informativos Telecinco, 12.4.06, available at:

*http://www.informativos.telecinco.es/detenidos/operacion-policial/descargas-ilegales-internet/dn_23619.htm ; Police press statement concerning the detentions, 8.4.06, available at: http://www.policia.es/prensa/060408_1.htm; *Asociación de Internautas considera "preocupante" la actitud de la policía, EFE, 8.4.06; <http://www.internautas.org/p2p/html/3587.html> ; *Asociación de Internautas, 4.5.06, <http://www.internautas.org/p2p/html/3647.html> ; for further information, see: <http://www.internautas.org/p2p/>***

UK/ISRAEL

Neither accountability nor justice for murdered Britons

The families of two Britons killed by the Israeli Defence Force (IDF) in the Gaza Strip have called on the Attorney General to bring those responsible for their deaths to justice. James Miller was killed in May 2003 whilst filming a documentary about the lives of Palestinian children caught up in the conflict with Israel. An Israeli soldier he was asking whether it was safe to leave the area shot him in the neck. On April 6 2006, an inquest jury found that he had been murdered. And four days later an inquest found that peace activist and photographer Tom Hurndall had been "intentionally killed" whilst shepherding children to safety (see *Statewatch* Vol. 15 no 2).

Both inquests have revealed a state of unaccountability in which attention is systematically deflected away from the IDF and no thorough investigations into the conduct of soldiers are held. Speaking days before the inquest returned its verdict, Mrs Miller said that it has been left to James' relatives to investigate and produce evidence in the hope of achieving any sort of justice. Further, she says the Israeli authorities gave them the distinct impression that "they would like us to leave and not continue with it", and that "they were hoping to grind us down in the hope that we would not carry on". The inquest heard both

how the Israeli authorities blocked British attempts to investigate the killing, and subsequently covered-up the details of events on the night of his death. The Israeli military initially argued that they had reacted to heavy fire from Palestinian gunmen, a claim shown to be false by another film crew who recorded the incident. A statement was also issued claiming Miller had been shot in the back, potentially by a Palestinian gunman, despite his autopsy clearly stating he had been hit in the neck. According to *The Independent* newspaper Mrs Miller was also offered £200,000 in "blood money" to settle the case before the inquest, which she rejected.

Although Hurndall's killer, Sergeant Wahid Taysir, was convicted of manslaughter and obstruction of justice and jailed for eight years, his family argue that responsibility lies with the chain of command that created an environment in which civilians are "fair game". Taysir, the first Israeli soldier to be convicted of manslaughter in a combat zone, claims he has been used as a scapegoat because he is a Bedouin Arab. Hurndall's father agrees: "Taysir was doing what his superiors told him to do, that is why he is so angry." Instead he is focused on bringing the five Israeli officers named during the inquest to account. "Jack Straw has been spineless but I believe the Government will eventually have no choice...They are obligated under the Geneva Convention to bring these men to justice and if they do not, then I will".

Mrs Miller similarly expects the government to take action: "when an innocent man is killed in cold blood there should be accountability. If the Israelis can't provide that then the onus is on our Government to do that." To this end on 5 May both families met the Attorney General, Lord Goldsmith, to discuss their cases. Afterwards he confirmed that he was considering initiating extradition procedures against the soldier named during the inquest as being responsible for Miller's death. He said afterwards: "I have assured them I will give this my personal consideration and that will be a consideration unaffected by political considerations."

Evening Standard 3.4.06, 13.4.06; *The Observer* 9.4.06; *The Independent* 15.4.06; *BBC News Website* 27.4.06

Civil liberties - in brief

■ **UK: Judges reject "irrational" ethnic cleansing of Islanders:** In May the High Court condemned the government's arguments for outlawing Chagos islanders from their homes as "repugnant" and "irrational". Families forced from the British-owned islands almost 40 years ago to facilitate a US military base were illegally banished two judges ruled. The Chagosians were removed from the Indian Ocean archipelago between the mid-1960s and 1970s when the British government acquiesced to US demands to use the island of Diego Garcia as a military base. It is widely considered to be one of the most important US military bases and many commentators believe that it is one of the "black sites" where some of its key rendition (kidnap) victims are sent to be tortured and interrogated. This High Court judgement follows an earlier ruling that also found in favour of the islanders right to return in 2000. However, then-Foreign Minister, Jack Straw, sought an archaic "royal prerogative" (Orders in Council) to overturn the court and bypass Parliament. It was this procedure that Judges Hooper and Cresswell found "irrational". The case was brought by Olivier Bancourt, who was forced from the island of Peros Banhos when he was 4 years old. He said: "This judgement brings us closer to a return to our homeland - a place that we, as the descendant of slaves, were packed on boats and banished from just like slaves", (see *Statewatch* Vol. 16 no. 1). For further information on the islander's long battle for justice see the excellent writings of John Pilger on the subject, most recently "Out of Eden" *Guardian*, 29.5.06; *Independent* 12.5.06; *The Times* 23.5.06.

■ **UK: Compensation for miscarriages of justice:** On 19 April then-Home Secretary Charles Clarke MP outlined a series of changes to the way in which the government compensates victims of miscarriages of justice. The discretionary compensation scheme will be scrapped. The statutory scheme will continue, but overall payouts will be restricted and the scheme will be capped to a maximum of £500,000. Plans will be brought forward to further limit compensation to applicants who have serious criminal convictions and/or whose conduct "contributed to the situation in which they found themselves." According to Clarke: "The Government is committed to putting victims' interests at the heart of the criminal justice system. These changes will save more than £5 million a year which we will plough back into improving criminal justice and support for victims of crime." A ministerial review would also examine the test used by the Court of Appeal to quash convictions, and examine whether an error in the trial process necessarily means a miscarriage of justice. *Home Office statement* 19.4.06.

Civil liberties - new material

Intelligent eyes, Gary Mason. *Jane's Police Product Review* Issue 12 (February/March) 2006, pp12-13. Article on Internet Protocol (IP) CCTV cameras, "a more intelligent and selective surveillance tool" than the dated analogue CCTV. It is being developed by BT's Broadband Applications Research Centre. Mason points out the "limitations" of old-style CCTV technology: "First, it requires human beings to interpret the events being displayed on the monitors and therefore does not compensate for lapses in concentration, tiredness and boredom. Second, the surveillance information can only be viewed at a set location by a relatively small number of users." These problems were, of course, raised prior to the launch of old-style CCTV, but were then dismissed as scaremongering; it would seem that the human fallibility argument has acquired a new value now that a more advanced technology needs to be groomed for its replacement. Mason describes the advantages of IP among which is the following: "The technology has also developed the concept that electronic surveillance no longer needs to be passive but can be "event driven" so that the cameras are activated by motion detection software or other systems that sense abnormal activity."

Esculca, January-February 2006, n.12. This issue of the bulletin of the Galician-based "observatory for the defence of rights and freedoms", includes documents and talks presented during initiatives by a coalition of civil society groups working for the eradication of torture (Coordinadora para la prevención de la tortura) in Spain. There are articles on proposals to reform the prison regime in Galicia, on anti-terrorist trials involving Basque social movements, on the violation of prisoners' data protection rights through the disclosure of information by prison authorities in Galicia and video-surveillance. An in-depth report about the death in custody of Diego Viña Castro, who committed suicide in a Guardia Civil station in Arteixo in September 2004 is also included, featuring details of the accusations that have been levelled at officers for failing to comply with the interior ministry's protocol for the prevention of suicides. In spite of assurances that the Spanish armed forces deployed in Iraq were involved in peace-keeping rather than military operations, an extract from a US Congress document detailing the ships that composed the USS Theodore Roosevelt Carrier Strike Group in Operation Iraqi Freedom, notes that these included the Spanish "Álvaro de Bazán" frigate. The *Esculca* bulletin is available at: <http://www.esculca.net>

Let my Father Go, Severin Carrell. *Independent on Sunday* 2.4.06, pp12-13. Interview with the family of Jamil al-Banna, a London based Palestinian who is being held illegally at Guantanamo Bay by the US military. Having been abandoned by the British government, this article records the impact of Jamil's "disappearance" on his children as well as discussing recent developments in the case of Bisher al-Rawi.

Planning Guide for Gypsies and Travellers. *Travellers' Times* 2006. This guide aims to help people from the Travelling community to get planning permission for their trailers, caravans, mobile homes or chalets

on a site. Currently a quarter of Gypsies and Travellers live on authorised sites, a situation that has got worse since 1994, when councils no longer had to provide sites. Available from Travellers' Times, Tel. 01432 344039, email: travellerstimes@ruralmedia.co.uk

EUROPE

CZECH REPUBLIC

Court to implement European Arrest Warrant

The Constitutional Court has dismissed the appeal against the parts of the Penal Code and the Code of Criminal Procedure related to the European Arrest Warrant. The Warrant simplifies the extradition of Czechs to EU Member States. MP's from the Civil Democratic Party (ODS) considered it unconstitutional, referring to the Charter of Rights and Freedoms which stipulates that Czech citizens must not be forced to leave the country without giving their consent.

At the beginning of May Ales Gerloch, professor of law and one of the leading lawyers in the Czech Republic, repeated the main criticisms made by the Civil Democratic Party (ODS) at the conclusion of the Constitutional Court's hearing into changes in the law to accommodate the introduction of the European Arrest Warrant. Gerloch said:

Even if the Constitutional Court decides that it's not necessary to alter the Charter of Rights and Freedoms with regard to the implementation of the European Arrest Warrant, it's necessary to bear in mind that the Warrant introduces principles which collide with the very foundations of a legally consistent state.

"It's unrealistic to assume that the citizen of the Czech Republic will be familiar with the laws of all 24 member states, alongside the Czech ones" Gerloch added in relation to the implementation. In the case of certain criminal acts, the principle of so-called "mutual (double) criminality" no longer applies. This means that a Czech citizen can be extradited to another Member State for committing an act that is regarded as criminal in foreign law, but which is not in his home country.

The move was defended by the Parliamentary vice-chair, Mrs Jitka Kupcova (Social Democrat, CSSD). "The House considered carefully and repeatedly the constitutional implications and reached a majority decision that it is possible to implement the European Arrest Warrant into the Czech legal system the way it did" she said. "It is not necessary to alter the Charter of Rights and Freedoms", she added. Judge Stanislav Balik asked her about the extend that members of Parliament had considered the practical impacts of the Warrant. "Do you have an idea how many qualified interpreters from Estonian to Czech with the specialization on new technologies there are in the Czech Republic?" was one of the questions that Balik asked Kupcova. She answered most of his questions evasively - "I don't know the number, but the parliamentary committee had all the available information at its disposal", reassured Kupcova.

The crimes which will become the basis for the extradition warrant are merely listed in the Czech rules of law, without any description of their legal definition. Terrorism, drug trafficking, computer crime and corruption are among the categories listed. Currently these crimes are judged differently by different Member States. Gerloch argued that Member States should agree a narrower list of generally accepted serious crimes for the purpose of the European Arrest Warrant, and subsequently implement their detailed legal definition into each member's state Penal Codes. The Constitutional Court's ruling has been awaited in the Czech Republic and closely followed abroad. The

European Arrest warrant has already come before constitutional courts in Germany and Poland. It raised serious concerns in Belgium, which has filed a preliminary inquiry to the European Court of Justice.

It remains unclear what would have happened if the court had granted the appeal by MPs and senators in full. The rules for the extradition of the Czech citizens will remain the same as before the implementation of the European Arrest Warrant, where the conditions required for surrender are mutually recognised crimes, the adjudication and the decision of an executive power. The surrender of foreigners would still be possible on the basis of European arrest warrant. The reaction of the EU, which expects all the Member States to adopt the warrant, remains in question.

internet portal: *Novinky* <http://www.novinky.cz/84418-.html> (in Czech) Constitutional Court findings, document no. Pl ÚS 66/04 <http://www.concourt.cz/scripts/detail.php?id=413&keyword=zat%FDkac%E D> (in Czech)

IMMIGRATION

UK

Immigration detainees treated like "parcels not people"

The Chief Inspector of Prisons, Ann Owers, has said that UK officials treat immigration detainees "like parcels, not people". Owers, in two reports into immigration holding centres at Heathrow Airport and at British-run centres in Calais, France, that were published in April, criticised the "inhumane" conditions and called for "urgent action" to improve the situation.

The first report, is based on unannounced visits to holding facilities at the port of Calais and at Coquelles in August 2005. The centres were established under international treaty on French soil by the Immigration and Nationality Directorate (IND). At Coquelles there are two short-term holding facilities, (Coquelles Freight and Coquelles Tourist) and at Calais seaport ferry terminal there is another holding centre located near passenger control. Those detained are held on an authority to detain form (IS91) under the Frontier Controls Treaty which allows the application of UK immigration law within these zones.

In her report Owers describes the Securicor (G4S)-run cells at Calais as being so small that staff called them "dog kennels". Questioning the safety of the facilities, Owers notes that Securicor's fundamental task is that detainees are held safely and notes:

It was therefore worrying that none of the facilities could appropriately separate men, women and children, nor were appropriate child protection arrangements in place. Basic safety was also compromised by staff uncertainty as to their powers under French law to use force to intervene in fights, prevent escapes or stop attempts at suicide and self-harm

Owers urges the IND to "resolve this issue as a matter of urgency in consultation with its French counterparts."

The Inspector also says that urgent liaison with the French authorities is also needed in the areas of health and safety, healthcare, child protection and disability obligations. The report points to the fact that there was little for detainees to do at the centres, that there was no hot food and "that accommodation at Coquelles Freight terminal was disrespectful and wholly inadequate and that hygiene arrangements were insufficient to cope with detainees who might have travelled in the backs of lorries in insanitary conditions." None of the centres were equipped to hold people overnight and all needed "some form of local independent monitoring".

Owers second report was into the Group 4 Securicor short term holding facilities at Heathrow, including the appropriately named Queen's Building, which handles the greatest number of forced removals from the UK. While praising the attitude of staff, Owers found "that none of the five facilities was fit to hold detainees overnight, or, in their present state, to hold children" and that staff lacked child protection training or adequate criminal records checks. Owers says that families and single men were held together and that basic requirements for overnight detention (blankets, toiletries and suitable sleeping berths) were not available in all of the centres.

The Chief Inspector reserves some her most damning criticism for the "dehumanising aspects of the immigration removal process itself". Of this process she writes:

Some of those we observed in detention had been dealt with by the immigration authorities as though they were parcels, not people; and parcels whose contexts and destination were sometimes incorrect. At Queen's Building, two of the files we examined contained paperwork belonging to a different person. We observed detainees asking for, and failing to get, legal advice and basic information about the reasons for their detention or removal. We came across two detainees, one a pregnant young woman and the other a young man summarily taken from a removal centre without any appropriate care or attention to their individual needs.

Owers also points to the use of force on reluctant "returnees" who cause a disruption in situations that risk their safety as well as that of staff. She also recommended that detainees should be allowed to have such basic facts as "full information about their situation, and the opportunity to seek advice" before they are removed from the country. Owers found that "there was little evidence of individual care within the immigration removal system itself, where decision-makers appeared to be focused on cases, files and targets, rather than people. This is neither humane nor, in the end, effective."

Chief Inspector of Prisons, "Calais Seaport, France, Coquelles Freight, France, Coquelles Tourist, France, 2-3 August 2005" http://inspectors.homeoffice.gov.uk/hmiprison/inspect_reports/irc/inspections.html/Calaiscoquelles.pdf?view=Binary; Chief Inspector of Prisons, Queen's Building and Terminals 1-4, heathrow Airport, 10-13 October 2005 http://inspectors.homeoffice.gov.uk/hmiprison/inspect_reports/irc/inspections.html/heathrow.pdf?view=Binary

GERMANY

Transition will prolong labour migration restrictions

The Accession Treaty, which was signed on 16 April 2003, sets out the conditions for freedom of movement for workers to and from the new Member States after the May 2004 EU enlargement. It lays down that: "The EU-15 Member States may allow total or partial freedom of movement for workers from the new Member States. Thus, they may restrict this freedom during the transitional period, which starts on 1 May 2004 and is due to last for a maximum of seven years". UK, Ireland and Sweden have refrained from applying the transition arrangements and Finland, Portugal and Spain are planning to lift bans from May this year. On 22 March this year the German cabinet extended the working ban until 20 April 2009.

The assessment of the economic impact of free labour migration is a rather ideological affair, whereby the current schools of thought in Europe range from nationalist conservatism (Germany) and liberal utilitarianism. The UK, a proponent of the latter, thinks that lifting the ban "will attract workers we need in key sectors and is part of our managed migration agenda. It will ensure they can work here without restrictions and not be a burden on the public purse" (Jack Straw, 2002). German Employment Minister, Franz Müntefering, in a

letter to MPs, says that "Germany needs to continue making sure that access to the German labour market, according to a sound labour market and economic policy, remains controlled".

The Green and Liberal parties have voiced some criticisms of this move, the main trade unions have welcomed it and industry representatives are pushing for free movement of workers to be implemented soon. However, none have commented on the improvement of substantive legal rights of migrant workers, which will ultimately determine the quality of their working and living conditions in Germany. In fact, not a single EU Member State has signed the *UN Convention on the Protection of the Rights of all Migrant Workers and Members of their Families*, which came into force on 1 June 2003. The 45 countries which have ratified or signed the Convention so far represent economically disadvantaged nation-states and therefore 'migrant-producing' countries.

Hamburger Morgenpost 22.03.06, The Independent 11.12.02, <http://www.december18.net>

FRANCE

Law introduces hand-picked, disposable migration

A controversial draft law to introduce a regime of hand-picked and disposable migration was approved in the French *Assemblée Generale* (parliament) on 17 May 2006 and is expected to start undergoing scrutiny by the *Sénat* on 6 June, after being fast-tracked as an "urgent" measure. One of its consequences would be to deny *sans-papiers* (undocumented migrants) the existing possibility of obtaining a residence permit after proving they have resided in France for ten years, obstructing the possibility for family regrouping, creating hierarchies among migrant workers depending on their skills and on the needs of French businesses, as well as linking residence permits strictly to employment. Thus, a seasonal worker would have a permit for seasonal workers, and a migrant worker with a temporary contract would have a residence permit for temporary workers. Permits (subject to the prior issuing of a visa) will be withdrawn once the conditions for which they were issued no longer apply, thus placing workers in a predicament in which they are at the mercy of their employers, as a complaint over working conditions or pay could result not only in dismissal, but also in expulsion.

A special three-year "skills and talents" residence permit will be created for foreigners who are "liable to participate in a significant and lasting manner, due to their skills and talents, in the economic development and to France's contribution in the world, notably in the intellectual, cultural or sporting fields, or to the economic development of the country of which they are nationals", based on the requirements of French business or the areas where there is a lack of labour force. Permanent residence permits for third-country spouses of French nationals will be subject to the requirement that they have entered or resided legally in France (previously only a requirement for temporary permits), meaning that if they are residing illegally they will have to travel back to their country and apply for a visa, hoping to be granted one and potentially disrupting their work as a result of the delay this would entail. Permanent residence permits and the renewal of temporary permits will also be subject to applicants demonstrating their integration into French society, their adoption of French republican values and their knowledge of the French language. As is true for several categories of third-country nationals, scrutiny of those whose children were born in France is also tightened because, after the issuing of residence permits for this reason was made subject to two years legal residence in 2003 (it was previously automatic), the new law now requires officials to examine "serious evidence allowing one

to presume that the recognition of an infant is fraudulent".

Text of adopted text TA n.786, adopted by the Assemblée Nationale on 17.5.06:

<http://www.assemblee-nationale.com/12/ta/ta0576.asp>;

Provisional analysis by the Ligue des Droits de l'Homme, available at:

<http://www.ldh-france.org>; *Analysis by FASTI (Fédération des Associations de Solidarité avec les Travailleurs Immigrés):*

http://www.contreimmigrationjetable.org/IMG/pdf/analyse_2006-03-29_fasti.pdf

Immigration - new material

Asylum: from deterrence to criminalisation, Frances Webber. *European Race Bulletin* No 55, 2006, pp.20. This edition of the bulletin reviews major developments in asylum law between 2002 and 2005, charting the EU's criminalisation of the act of seeking asylum. Webber examines these developments within the context of more than 100 cases from across Europe and draws attention to "the new ways in which the criminal law is being used in the asylum process, as well as against migrants generally." Available from the Institute of Race Relations, 2-6 Leeke Street, London WC1X 9HS, email: info@irr.org.uk

Immigration Law Update, Alan Caskie. *SCOLAG Legal Journal* Issue 343, May 2006, pp101-105. This article reviews significant court cases from Scotland and England in the field of Asylum, Immigration and Nationality law.

Illegal Migrants: proposals for a common EU returns policy: Report with evidence. *House of Lords European Union Committee* (HL Paper 166) 9.5.06, pp. 230.

Workers Control not Immigration Controls: a programme for Trades Unions proposed by No One is Illegal. *No One is Illegal* 1.5.06, pp. 30. "The aims of this pamphlet are four-fold. First to show that there cannot be such an animal as fair or just, or benign or reasonable or non-racist controls. All controls are by their nature oppressive and racist. Second it is to show that immigration controls effect trade unions and trade unionists in the workplace. There are a whole series of issues which hitherto have largely gone unaddressed by both campaigners against controls and by trade unions but which are detrimental to all workers. Trade union resolutions and activities need to get beyond generalities and address these. Third we highlight examples of good trade union practice. Fourth we present a model trade union resolution. Altogether this amounts to a trade union programme of opposition to controls." Available by donation from: c/o Bolton Socialist Club, 16 Wood Street, Bolton BL1 1DY, email: info@noii.org.uk

"Cine y migraciones" (Cinema and migrations), *Mugak*, n.34, January-March 2006. *Mugak* magazine celebrates its ten-year anniversary with an issue that examines the role played by films in the portrayal of immigration, with in-depth reports on immigration, "race" and gender in contemporary Spanish cinema, on the portrayal of migrant women, at the international immigration film festival held in Donosti San Sebastián and on the camera as a means of reporting the misery and exploitation suffered by migrants in their efforts to improve their lives in the work of Valencian director Llorenç Soler. The editorial team notes how, ten years on, *Mugak* has become a well-established and useful tool which has a varied audience and has made it possible to establish relations, including "friendships" with "people who have the same wishes and goals as ourselves".

Kein Flüchtlingsschutz in der EU. Die verheerende Wirkung der Dublin II Verordnung am Beispiel tschetschenischer Flüchtlinge [No refugee protection in the EU. The devastating impact of the Dublin II regulation - the example of Chechnyan refugees], *Brandenburg Refugee Council*, September 2005, pp 26. The Dublin Regulation lays down the specific criteria that determine the Member State responsible for dealing with an asylum claim and obliges signatories to accept returned refugees if these criteria apply; it is therefore aimed at stopping asylum seekers from choosing their country of asylum. This booklet by the Working Group Chechnya of the Brandenburg Refugee Council demonstrates the devastating impact this asylum policy has on refugees,

with the example of Chechnyan refugees fleeing via Poland to Germany, where they are returned again to Poland under Dublin II. In 2004, less than 10% of Chechnyan asylum seekers in Poland were granted Geneva Convention refugee status, the lesser status of "toleration" strips refugees of social security entitlements in a country with an unemployment rate of around 20%. As Polish citizens already face an underfunded health system, traumatised refugees have also little chance of receiving treatment. The Dublin II regulation ignores family and community bonds that define a refugee's choice of country of asylum; this personal choice, however, is supported by the Geneva Refugee Convention. Also highlighted is the situation in other relevant transit countries such as Austria, Slovakia, Czech Republic, Lithuania and Finland, including case studies of returned families and the treatment they suffer at the hands of asylum authorities and lacking social provisions. A result of the findings is a damning indictment of the Dublin II Regulation, an outline of its shortcomings and a list of demands to improve the situation, namely, the financial support and capacity building of eastern European asylum systems, the careful assessment of individual applications and the choice of refugees with regard to a country of asylum, special protection of victims of torture, the liberal use of family reunion regulations laid down in Dublin II and the application of the humanitarian clause in Dublin II which supports the individual choice of asylum seekers. Available from *Flüchtlingsrat Brandenburg*, Eisenhartstr. 13, 14469 Potsdam, Tel./Fax: +49(0)331-716499, info@fluechtlingssrat-brandenburg.de.

MILITARY

UK/AFGHANISTAN

British take command of Helmand from US forces

British soldiers officially took over control of one of the most dangerous regions of Afghanistan from United States forces in May as part of the US-led "war on terror". Over the next few months thousands of soldiers will be deployed to the volatile southern Helmand region where they will engage in offensive operations against the Taleban and will attempt to eradicate opium crops, which have proliferated for export under the US-backed Karzai regime. There are currently 2,000 British troops in Afghanistan, but this number will increase to 5,700. The 3,300 strong deployment to Helmand, led by 16 Air Assault Brigade is expected to be completed by the end of June. A force of 1,400 Dutch troops will be deployed to the mountainous Uruzgan province by the beginning of August; this figure will increase to 1,600 between November 2006 and May 2007 when the Netherlands will lead the regional ISAF headquarters in Kandahar. The Dutch contingent will take over from the Dutch Deployment Task Force, which is already carrying out preparatory logistical and reconnaissance missions.

The UK troops will take over the Provincial Reconstruction Team (PRT) from the US and the government hopes that their deployment will free-up US forces to assist the unpopular President Karzai to travel outside of Kabul and extend the Afghan government's remit beyond that city. The PRT is a small (usually between 60-100 personnel) operating base from which civilian and military specialists work on small reconstruction projects or provide security for others engaged in it, much in the "hearts and minds" tradition of military intervention. As in Iraq, the soldiers are likely to be in Afghanistan for a considerable length of time and Defence Secretary, John Reid, has acknowledged that they face "massive risks", (see *Statewatch* Vol. 15 no 6).

The risks have been prefigured in recent months by an increase in violence. At least 31 foreign soldiers were killed in the first three months of 2006 while in July 2005 16 US navy

seals died after their helicopter was attacked. There have been a number of roadside bomb attacks on foreign soldiers and Afghani security forces, including one in neighbouring Kandahar province in April that killed four Canadian soldiers. The British are particularly concerned by Taleban threats to utilise suicide bombers; a local Taleban spokesman told the BBC that they had trained hundreds of suicide bombers to target British troops. In a satellite telephone interview with *The Times* newspaper Mohammed Hanif Sherzad, the spokesman for Taleban leader Mullah Omar who has a \$10 million US bounty on his head, warned that his fighters "Will turn Afghanistan into a river of blood for the British."

VD AMOK, Utrecht; BBC 25.4.06, Independent 2.5.06, Times 5.5.06

SPAIN

Guardia Civil officers press for demilitarisation

On 22 April 2006, thousands of officers of the *Guardia Civil* (GC), Spain's paramilitary police force, marched in Madrid in a demonstration organised by the *Asociación Unificada de Guardias Civiles* (AUGC) to demand the demilitarisation of the force and for the recognition of rights including the right of association. The claims voiced by the organisers (the AUGC represents 25,000 officers, a third of the total, who stated that over 10,000 took part in the demonstration), include the placing of the GC under the exclusive control of the interior ministry rather than the defence ministry, a review of its military nature, exclusion from the military sanctions regime and that rights of association and expression should be applicable to them. The demonstration was part of an ongoing campaign which included the presentation of a "Manifiesto for the rights of *Guardia Civil* officers" in January 2004 (see *Statewatch* Vol. 14 no 1), prior to the election which brought the Socialist party (PSOE) to power. In spite of support from the PSOE prior to the election, the AUGC has been critical of the government's failure to implement its electoral promises, particularly the appointment of a general, Gómez Arruche, as director of the GC. The AUGC voiced its concern over Gómez Arruche's hostility to officers associations, describing the resistance by *Guardia Civil's* General Council to government plans for the development of a new disciplinary regime and the recognition and regulation of the right of professional association within the GC, as "insubordination".

Following a government re-shuffle in which José Antonio Alonso (previously interior minister) took over from José Bono as defence minister and Javier Pérez Rubalcaba (formerly the government spokesman) became interior minister, Gómez Arruche was replaced by the *Guardia Civil's* first-ever civilian director, Joan Mesquida Ferrando, on 28 April. Nonetheless, on 4 May, Rubalcaba and Alonso ruled out altering the military nature of the GC although, a fortnight later, Rubalcaba stated that draft legislation would be presented to regulate officers' right of association and to modify the GC's disciplinary regime.

On 28 April, the head of the Army High Command José Antonio García González was also replaced, reportedly due to his luke-warm response to statements by Lieutenant General José Mena Aguado, who suggested in a public speech in January 2006 that the army may be forced to intervene if the new Catalan statute for regional autonomy, whose approval is underway, went beyond the framework of the Constitution. Claiming to be talking of the "concerns and worries" afflicting members of the armed forces for the "unity of the Spanish nation", Mena warned that the so-called *Estatut* would have serious implications for the nature of the Spanish nation, the administration of justice, and that its aspirations for the Catalan language were "disproportionate". He added that:

Fortunately, the Constitution sets out a set of unsurmountable limits for any Statute of Autonomy... However, if these limits were to be passed, which fortunately appears inconceivable at this time, article 8 of the Constitution would be applicable: "The Armed Forces, comprising the Army, Navy and Air Force, have as their mission to guarantee the sovereignty and independence of Spain, to defend its integrity and its constitutional order"

The new head of the Army High Command is General Carlos Villar Turrau.

El País, 23-24, 28, 30.4, 5.5.06; For further information, see the AUGC website: <http://www.augc.info> Letter from the head of the AUGC to the prime minister, 27.12.05; *Como la Guardia Civil elude los controles del estado de Derecho*, April 2006, both available in the website's "Documentos de interés" section; Speech by lieutenant general Mena Aguado at the Military Easter act, on 6 January 2006; full-text available at: <http://www.elmundo.es/elmundo/2006/01/06/espana/1136570580.html>

Military - in brief

■ **EU: Congo mission planned:** The EU is planning to send military and police missions to assist during elections in the Democratic Republic of Congo (DRC). The EU council on 22 March approved the concept of sending troops to support the 17,000 strong UN Mission in the DRC (MONUC) for the 18 June elections. The military planning will be conducted by the German Armed Forces Operations Command in Potsdam: one of five operation headquarters available for EU operations. According to *Jane's Defence Weekly* the concept foresees the deployment to Kinshasa of a forward element of 400-500 military personnel led by a French force commander. It will be backed up by a battalion-sized force on call just outside the country (probably in Gabon). The EU has a wider involvement in the DRC: EUR 800 million in economic and financial aid, helping draft the constitution and European Security and Defence police and security sector reform missions. Armed forces reform is led by France and police training by Portugal. The EU force in the DRC will be smaller than originally conceived. In January, the United Nations (UN) asked the EU to send a battle group of up to 1,200 soldiers. The decision to send troops was postponed several times. The background is that the EU wants to appear as a global security player, while several of its bigger armies are over-stretched due to other international obligations and military interventions. The elections are boycotted by the main opposition party UDPS. *www.euractiv.com*; *Reuters* 21.2.2006 (Mark John); *Jane's Defence Weekly* 5.4.2006 (Nicolas Fiorenza)

Military - new material

Von der Pflicht zum Frieden und der Freiheit zum Ungehorsam, 8, 1 EUR. This booklet explains the decision of the German Administrative Court from June 2005, which decided in favour of an army major who refused to follow orders related to the logistical or technical support of the Iraq war, on grounds of his conscientious objection to a war that was illegal under international law. This booklet represents an excellent handbook to all those that want to clarify their stand against the war in Iraq and who seek a clear explanation of the legal decision and its relevance to the anti-war movement and civil disobedience to war in general. It goes beyond legalistic reasoning, recognises the limits of constitutional defences and suggests more avenues of civil engagement and disobedience, which have to be applied when legal possibilities have been exhausted. It outlines the decision of the court, which sets down several principles, amongst others, that soldiers retain a civil status and basic and human rights are consequently directly applicable to them as persons, this implies they enjoy freedom of conscience and they can refuse orders under specific circumstances; the army institutions and representatives are ruled by the Basic Law in every respect and at any time; according to the Basic Law,

the army may only be deployed for the purpose of self-defence; in its function as a UN partner, it may only be deployed if the conflict is sanctioned under international law; the army and the government have violated international law by granting its territory, its institutions and technical support for the Iraq war. Available as a pdf and print under http://www.grundrechtekomitee.de/ub_showarticle.php?articleID=186

Defence Against Terrorism, Herbert Daume. *Europäische Sicherheit* 3/2006 pp. 64-68. Detailed outline of the Program of Work for Defence Against Terrorism (DAT) of the Conference of National Arms Directors of NATO.

Consultation Paper on the Intra-Community Circulation of Products for the Defence of Member States. *European Commission*, Brussels, 21.3.06. The document proposes to facilitate the movement of military goods within the Community by phasing out the national export control regimes for weapons.

Iran's Nuclear Program, Karel Koster with Barbara Brubacher. *IKV/Pax Christi*. Background Paper March 2006.

Did American Marines Murder 23 Iraqi Civilians? Raymond Whittaker. *Independent on Sunday* 26.3.06, pp42-43. This article examines another US atrocity in Iraq. Last November US military sources claimed that 15 civilians had been killed in an insurgent roadside bomb attack in Haditha. When investigated it was revealed that the only victim of the remote control device was a combatant, a US Marine; the death of 15 civilians, including seven women and three children, who were murdered in their homes, and not in the roadside bomb as the US claimed, is blamed on the US by local residents. At an inquiry into the incident a US colonel concluded that the deaths were "collateral damage"; as a result of the slaughter the USA says its troops will now undergo a course of "ethical training".

RACISM & FASCISM

GERMANY

Anti-Radical Decree applied against teacher

A left-wing activist, who took legal action against the refusal by the regional authorities of Baden-Württemberg to employ him, has received a negative first instance decision from the regional administrative court in Karlsruhe. The regional ministry of culture, and by its decision also the court, are of the opinion that Michael Cszakóczy, who has recently completed his teaching degree in History and German language, belongs to an anti-fascist group (*Antifaschistische Initiative Heidelberg - AIHD*) which "attacked and defamed the Federal Republic of Germany" and "transgressed the border of legitimate critique of our state and its constitution". The AIHD is under observation by the regional internal security services in Baden-Württemberg for its allegedly 'radical' left-wing activities. In reply to these allegations, Cszakóczy says:

I was shocked that this was formulated and said in such a frank and audacious manner. In my opinion, by now even within mainstream society, it is no longer questioned that there have been continuities between national-socialism and the Federal Republic of Germany or that racist attacks have become an everyday occurrence. To try and codify such facts as an illegitimate critique of the state, is a questionable attempt to prescribe political history from above

The authorities are basing their decision on the so-called "Anti-Radical Decree" from 1972, according to which "an applicant [to a civil service position] may only be appointed into public service [if he] guarantees that he is committed at any time to the liberal democratic constitutional structure [as laid down in] the German constitution [*Grundgesetz*]". Article 2(2) of the decree

lays down that

If a civil servant belongs to an organization, which pursues anti-constitutional goals, then this membership justifies doubts about whether he will be committed at any time to the liberal democratic constitutional order. As a rule, these doubts justify a refusal of the application for employment.

The decree was brought in by Chancellor Willy Brandt and the regional premiers in January 1972, as a response to the militant group *Rote Armee Fraktion* and in an attempt by Brandt to counter an internal political crisis he was facing at the time. Between 1972 and the late 1970s, around 3 million people were checked for their "commitment to the constitution", thousands were refused entry into the civil service and hundreds were dismissed from their jobs. There has since been a broad campaign to stop the so-called employment bans, and over 10,000 persons, including many members of parliament, have signed a petition (www.gegen-berufsverbote.de). The campaign against the Anti-Radical Decree, which supports Cszakóczy, writes that:

All in all there were 11,000 official "ban" proceedings, which resulted in the rejection of 1,250 applicants (for civil service positions), some of which [...] took over 20 years. After 1979, this instrument of repression has been only partially or sporadically applied. In spite of that, it is still embedded in the laws of many German States, for example in the "Civil Service Law of Baden-Württemberg". This form of political intimidation is unique in Europe and has been condemned by many international civil liberties organizations as a clear violation of human rights. In 1995, the European Court of Human Rights decided accordingly in the case of a high school [...] teacher affected by the "ban".

The ECHR case cited above refers to *Vogt v. Germany* (26.9.95), which decided that Germany was in breach of Article 10 (right to freedom of expression) and Article 11 (right to freedom of assembly and association) of the European Convention on Human Rights. The teacher Dorothea Vogt had been dismissed from the civil service in 1987 on account of her political actions on behalf of the German Communist Party (DKP). The government subsequently settled with her, providing compensation for her time without full earnings and other modest damages and costs. Cszakóczy announced he will appeal to the regional court decision and, if necessary, go to the European Court as well.

Jungle World 29.3.06, *Süddeutsche Zeitung* 14.3.06. *Ministerialblatt Nordrhein-Westfalen*, 1972, p 342;

Chronology of events in the Michael Cszakóczy case: <http://www.gegen-berufsverbote.de/lib/international/chronoenglish.html>

Campaign to stop the employment bans: <http://www.gegen-berufsverbote.de/>

ECHR decision Vogt v. Germany, published by the defence lawyers:

http://www.rae-dammann.de/aktuell/vogt_germany.shtml

GERMANY

Vicious attack sparks racism debate

The brutal attack on Ermyas M., a German engineer of Ethiopian origin, has sparked public debate over the high level of racist violence, particularly in eastern parts of the country. Anti-racist and victim support groups, who have worked for decades to fight neo-nazi violence in many German cities, have finally received national media attention. Ermyas was waiting for a tram in Potsdam on 16 April, when two young men started shouting racist abuse at him, attacked him with a bottle and beat him to the ground. They ran away when a passing taxi driver stopped to intervene. Ermyas sustained life-threatening head injuries and is in intensive care in a Potsdam hospital. Two arrests were made.

The attack was followed by a political debate on racism in Germany, also triggered by Federal Public Prosecutor Kay Nehm taking over the investigation from the regional public prosecution. He argued that the attack was a potential threat to the internal security of the Federal Republic which, under the Court Constitutional Act, gives the Federal State powers of competency. Two regional ministers known for their ultra-conservative opinions, Federal Interior Minister, Wolfgang Schäuble, and Brandenburg's Interior Minister, Jörg Schönbohm, have since claimed that the attack could not yet be said to have a right-wing extremist background and accused Nehm of giving Brandenburg a bad name. The latter is a typical official response even if evidence points to a racist background: part of the attack on Ermyas was recorded on an answering machine, as Ermyas was leaving his wife a message when he was attacked. The assailants called him a "dirty nigger". Even if perpetrators turn out not to be active in the skinhead scene, the violent racism directed against black people in Germany can be described as structural.

Also in April, a 29-year-old man from Togo was attacked in the east German city of Wismar by three men who surrounded him and beat him up, leading to severe head injuries. In Munich, an 18-year old man from Congo was attacked and suffered severe head injuries after a woman attacked him by throwing beer bottles at him, with the words "piss off you dirty nigger". According to victim support groups, 28 right-wing extremist criminal acts are committed every day in eastern Germany alone, two of which are of a violent nature.

In all of the above cases, the first reaction from the prosecution was to claim that a right-wing background could not yet be established. Before Federal Public Prosecutor Kay Nehm took over the investigation of the case of Ermyas M., the responsible regional prosecutor described the attack as a "particularly gross, extreme, isolated incident". Victim support groups point out that "isolated incidents" such as this occur every day.

One of the most shocking denials of racial motivation was the case of Algerian asylum-seeker Farid Guendoul (alias Omar Ben Noui), who died after being chased and beaten to death by 11 German youths in February 1999, (see *Statewatch* Vol. 9 no 2). After a confrontation with a black man in a night-club, witnesses said that the gang said they would embark on a "foreigner hunt" in the small town of Guben in eastern Germany. The insistence that the accused were "normal" youths with criminal tendencies characterised the ensuing court proceedings. Only three of the perpetrators were given sentences of between two and three years. All of the defendants were sentenced for bodily harm, not murder or even manslaughter (see *Statewatch* Vol. 10 no 6).

The denial of structural racist violence in Germany, however, is also increasingly challenged in more official quarters. After the recent attack, former government spokesman Uwe-Karsten Heye said in a radio interview with *Deutschlandfunk* that certain areas around the capital of Berlin were high-risk zones, and he explicitly warned black visitors to avoid places where they could be the target of racist attacks during the World Cup. "There are small and mid-sized towns in Brandenburg and elsewhere where I would advise anyone with a different skin colour not to go," said Heye, who now runs an anti-racist action group called *Gesicht zeigen* (figuratively, Speak Up). Needless to say, Heye's comments were not well-received by most politicians in Germany, whose official World Cup slogan is "Time to make friends". They accused Heye of giving Germany a bad name, or even of playing into the hands of racists.

Most victim support groups, however, have voiced relief that the reality of racism in Germany is finally being spelt out. But not only the 'regular' racism is to be expected at the World Cup: the far-right from other countries such as Poland, have been

mobilising. Neo-nazis have announced that they will be present at the game between Iran and Angola, which will take place in east German city of Weimar. The far-right NPD has announced demonstrations in several World Cup cities and in Thuringia. As MEP Daniel Cohn-Bendit said: "the reality is, that school classes with many migrant kids ask themselves if it is safe to go camping in Brandenburg or Mecklenburg-Vorpommern". It remains to be seen if institutional court racism will define this case, or if the racist motivation of the attack will be reflected in the judgement.

Süddeutsche Zeitung 18-19.4.06, 24-25.4.06.

German warns World Cup guests, BBC Sports News, 17.5.06

Background article on neo-nazi mobilisation to the world cup: <http://www.heise.de/tp/r4/artikel/22/22628/1.html>

UK

BNP makes gains at local elections

The British National Party, which fielded more than 350 candidates in May's local elections, gained 32 new councillors and had one re-elected across 14 local authorities in England. The results mean that the organisation has the largest number of councillors in its history, 48. Their biggest gains were in Barking and Dagenham where it took 11 of the 13 seats that it contested to become the second biggest party, (another is being challenged in a High Court petition). The journalist Andrew Gilligan noted that "at least six [other] British National Party candidates...are standing under false addresses to get round electoral law" in what has become a long-standing practice by the organisation over the last two decades. The party also won three seats in Epping Forest and another in Redbridge.

The BNP's success in east London was boosted by the unwelcome intervention of Labour MP, Margaret Hodge, who - in what turned out to be something of a self-fulfilling-prophecy - announced that 80% of white families in the Barking area were tempted to vote for the neo-nazis. Her attempt at crying wolf only succeeded in further alienating the working class voters that her party has abandonment for wealthier friends in the business community. Even the revelation that the BNP's campaign organiser for the Barking campaign, Richard Barnbrook, was the director of a gay pornographic film (*HMS Discovery, A Love Story*) could not sway the voters back to Labour.

Outside of London the BNP picked up three seats in Stoke-on-Trent, where Labour lost overall control and three more in Sandwell. They won single seats in Solihull, Redditch, Pendle, Leeds and Burnley. Later in May, in Lincolnshire, a Conservative councillor, the Rev. Robert West, defected to the BNP. The party lost a seat in Bradford.

Metro 2.5.06; *Evening Standard* 13.4.06 (Andrew Gilligan), 19.5.06; *Times* 15.5.06; *BBC News*

Racism & fascism - new material

Informe annual 2006 sobre el racismo en el Estado español, SOS Racismo, Icaria editorial, pp. 277, Euro 16. SOS Racismo's annual report on racism in Spain, which inevitably focuses on the tragic deaths during attempts to cross the border fences in Ceuta and Melilla (resulting in at least 14 deaths) and to reach the Spanish coast by sea. Its ten chapters deal with issues including the treatment of Roma and immigrant minors, the discourse adopted by mainstream media on immigration and the impunity enjoyed by members of the public and private security forces when abuses are reported, featuring insightful analysis and details from significant incidents in each field. Available from: SOS Racismo, Bou de Sant Pere, 3, 08003 Barcelona, or: <http://www.icariaeditorial.com/libros.php?k=2&o=2&id=748&pg=1>

2006 local elections analysis, Nick Lowles. *Searchlight* No 372 (June)

2006. pp.4-14. Detailed look at the performance of the far right in May's local elections.

Touching the Void, Stuart Weir. *Red Pepper* Issue 142 (June) 2006, pp. 28-29. Article on the local election gains made by the British National Party and how to combat them.

LAW

UK/CUBA

Ten of 60 children still held in Guantanamo

Of the estimated 60 children who have been detained in defiance of international law, without trial or access to legal representation at the US torture centre at Guantanamo Bay, at least 10 are still being detained there according to the Clive Stafford Smith, a legal director of the London based human rights organisation, Reprieve and a lawyer who represents a number of detainees. Some of the children seized by the US were only 14 or 15 years of age at the time, and have been held in solitary confinement, where they were subjected to repeated interrogations that is alleged to have involved the use of torture. According to the *Independent* newspaper "Whitehall" sources have said that the allegations "contradict" what they have been told by the Bush administration; "We would take a very dim view if it transpires that there were actually minors in there" a spokesman told the newspaper. The US admits to holding three child detainees at their special facility, called Camp Iguana.

One of those detained is Canadian born Omar Khadr who was 15-years old when he was arrested in Afghanistan in 2002, and accused of killing a US soldier. The US refused to acknowledge his juvenile status and he has been kept in solitary confinement and faces a so-called "military tribunal" rather than being tried before a court of law. The human rights organisation, Human Rights Watch, has said that the Pentagon violated international criminal justice standards by refusing to separate him from adult detainees, failing to provide him with opportunities for education or to allow him with direct contact with his family while in detention.

Mohamed al-Gharani is accused of al-Qaeda membership and involvement in a plot to bomb London in 1998, when he was 12 years old. He was living with his parents in Saudi Arabia at the time of the attack and was arrested in Karachi in 2001, aged 14. He also has spent several years in solitary confinement.

Stafford Smith said that the US actions "broke every widely accepted legal convention on human rights...including US law". He added: "There is nothing wrong with trying minors for crimes, if they have committed crimes. The problem is when you either hold minors without trial or in shocking conditions, or try them before a military commission that, in the words of a prosecutor who refused to take part, is rigged". He continued: "Even if these kids were involved in fighting - and Omar is the only one who the military pretends was - then there is a UN convention against the use of child soldiers. There is a general recognition in the civilised world that children should be treated differently from adults."

The children's section of the Human Rights Watch organisation have pointed out that international standards recognise that children under the age of 18 are a vulnerable group and entitled to special care and protection because they are still developing physically and mentally. The use of detention should be a last resort and prompt determination of their cases should be a priority. Trials of young offenders should take place before authorities trained in juvenile justice standards and they

should protect the best interests of the child and consider a wide range of sentencing options that will prepare the child to reenter society.

For more information on the Guantanamo Bay detainees see the excellent *Cage Prisoners* website: <http://www.cageprisoners.com/> *Independent* 28.5.06; *Human Rights Watch*: <http://hrw.org/>

UK

No government help for "severely tortured" Guantanamo prisoners

Three of the British residents, detained without trial or access to unfettered legal assistance at Guantanamo Bay for more than three years, will lodge an appeal after the High Court ruled that the government had no obligation to come to their assistance. In May, lawyers for Bisher al-Rawi, Jamil al-Banna and Omar Deghayes told the High Court that there was "compelling evidence" that the men had been "severely tortured and suffered inhuman and degrading treatment" at the hands of their US captors. The copious evidence ranges from the accounts by released detainees and their lawyers' statements to medical evidence of torture and even the testimony of US government documents, some of them annotated by the US Secretary of Defence, Donald Rumsfeld. The lawyers argued that given this plethora of evidence the government had an obligation and a duty to act on their client's behalf and that they were entitled to receive assistance similar to that given to the British nationals (who were eventually returned to the UK after the Foreign Office belatedly made a formal request).

The government, and Foreign Secretary, Jack Straw, maintain that as foreign nationals, the men have no legal right to expect any representation. To put their statements in context it should be recalled that Bisher al-Rawi had lived in Britain for 20 years while Jamil al-Banna had refugee status and Omar Deghayes fled the Gaddafi regime in Libya some 20 years ago. None of the men are in a position where their national governments will represent their interests. Mr Justice Tugendhat and Lord Justice Latham rejected these arguments stating that because they were unable to evaluate what was happening in Guantanamo they would not interfere with Straw's decision that he was "under no obligation to act" on the men's behalf.

UK

ASBOs "demonise" children

The Anti-Social Behaviour Order (ASBO) is "demonising" children according to the government's chief advisor on youth crime. Speaking to *The Independent* newspaper, Professor Rod Morgan, chairman of the Youth Justice Board, argued that "we are sucking into the criminal justice system behaviour which should be capable, and used to be capable, of being dealt with by informal, non-criminal means". Further, he warned "we should not forget the lessons of the 1960s and 70s of the labelling effect. The argument is that if you give a dog a bad name then the dog may live up to the bad name."

Morgan's comments reflect growing criticism of the government's flagship measure designed to restore a culture of "respect" to British society. In March Barnardo's chief executive, and former high level civil servant, Martin Narey criticised the "entirely routine" issuing of ASBOs to children (see *Statewatch Vol 16 no 1*). And in April Dr Jo Brayford, a senior lecturer in criminal and community justice, argued that the vagueness of what constitutes "anti-social behaviour" has potentially led to ASBOs "causing more problems than they solve and making the situation worse for some people". This, he claims, is amplified by

the fact that the behaviour the government seems intent on clamping down on is "not what surveys reveal to be people's main concerns such as speeding, illegally parked cars and rubbish." These all top the list of what the public considers to be anti-social behaviour yet all the negative publicity is about young people and the homeless."

These concerns were reflected in a recent High Court ruling on the case of a teenager referred to as "T". Paragraph one of his two-year order forbade him from acting, or encouraging others to act, "in an anti-social manner in the city of Manchester". The two judges found the order to be "plainly too wide" and "plainly invalid" and emphasised the need to "carefully match prohibitions in an Asbo to the type of behaviour which it is necessary to prohibit".

It is the generality of ASBOs that has enabled them to often be used as a blanket solution, beyond their initial remit of dealing with low-level nuisance behaviour. In a recent example of this Merseyside Police have used one to combat organised crime. Magistrates made an order against David Turner, an influential figure among Liverpool's crime bosses and leader of the unruly and violent "Turner gang", banning him from the city centre between the hours of 6pm and 6am for ten years. According to Chief Inspector John Roy, this "innovative use of the Asbo" was necessary because "witnesses were too scared to go to court, but the Asbo application allowed them to give hearsay evidence, which we could use".

The Independent 23/4/06; The Times 10/4/06; Daily Mail 5/4/06; ic Wales website

Law - in brief

■ Italy: Prosecutor deems student protest "subversive": The public prosecutor, Paolo Giovagnoli, is investigating an action by the Rete Universitaria (a network of student activists) on 19 April 2005 in Bologna, during which around 100 students paid a symbolic price of 1 euro for a meal in the canteen rather than the normal 5.80 euros. He has filed charges against nine people for "private" violence with the aggravating circumstance of seeking to "subvert the democratic order", and against 11 others for taking part in an "unauthorised demonstration"; He has also accused the Rete Universitaria of being a political organisation with subversive aims. The Bologna prosecution service is already investigating activists for "subversion" in relation to four other protests (a self-imposed lower price at the Capitol cinema, the occupation of a building and two trains during a demonstration in November 2004 in Rome and during the Euro Mayday demonstration in 2005). The student network has responded by stressing that the action was peaceful and did not result in disturbances, as well as dismissing the charges of "subversive" activity as unreasonable. Activists claimed that the canteen was the most expensive in Italy, since it had been privatised, and was being run by the same company, Concerta, that serves food in the Bologna CPT (immigrant detention centre) in via Mattei. Ongoing trials in which charges of "subversion" have been filed include the one against the activist network Rete del Sud Ribelle in Cosenza, for which proceedings began in November 2002 (see *Statewatch* vol. 13 nos. 2, and 3/4; and *Statewatch* news online, November 2002). Rete Universitaria Bologna statement, 18.4.06 For further information see: <http://www.indymedia.org/features/bologna/>

Law - new material

Illegal samples, Terry Homer. *Police Review* 14.4.06, pp22-23. The author asks the question: "How many police forces are retaining DNA samples and fingerprints of children under 10, and under what legal

authority" and suggests that "Evidence from various forces suggests that DNA samples are being retained without the legal backing to do so." Citing the exemption of children (under the age of 10) from criminal responsibility under the Children and Young Persons Act (1933, 1963) Homer argues the provisions of Section 37 of the Police and Criminal Evidence Act do not allow the lawful retaining of his/her DNA sample or fingerprints, suggesting that forces could face a civil claim based on Section 6 of the Human Rights Act. Given this evidence he concludes: "I would strongly recommend that custody officers take a closer look at their responsibilities and the forces that are retaining DNA and fingerprint samples of juveniles under the age of 10, and reconsider their force policy or force orders."

War Crime or Just War? The Iraq War 2003-2005: The case against Blair. Nicholas Wood. *South Wood Press*, 2005, pp. 264. This fine volume presents the case against Tony Blair for multiple international war crimes in his complicity in supporting the US invasion of Iraq to liberate its oil and impose regime change. Wood begins by considering a number of factors that Blair might have done well to consider before the debacle, such as Iraq's history, the "laws and customs of war" and the theories of Clausewitz; he also provides a timeline of events, and an examination of the working of Blair's cabinet (if "working" is an accurate term for such a supine body). The most damning part of the book, however, is the section of case studies which range from the military destruction of some of the most ancient of Mesopotamian archaeological sites and museums to the obscenity of Abu Ghraib and the war crimes inflicted by US forces in Fallujah and elsewhere. Wood concludes his book with a "hypothetical scenario": "A group of farmers in the Hilla region (whose farm houses have been trashed by cluster bombs and aggressive patrols and whose children have been maimed or killed during a war that has been declared illegal by the Secretary General of the United Nations), determine that the compensation offered by the British government (£500-£800 per family) is inadequate to cover their loss and decide to sue Mr Blair personally. Mr Blair, meanwhile, has retired and lives in a townhouse valued at £3.6 million in Connaught Square. In 2014, Mr Blair takes his family on holiday in Petra. In the intervening time the Hashemite Kingdom of Jordan has signed an extradition treaty with a legitimate sovereign state called Iraq with a sympathetic Shia government. The principles of extradition have in the meantime been extended to include not only torture but also grave breaches of the of the Geneva and Hague Conventions. While viewing the beauty of Petra, Mr Blair is surprised to see a detachment of Jordan police approaching on camels..." Here the scenario stops, perhaps because we all know that in the real world justice will not see the light of day.

POLICING

UK

Man accidentally shot in police terror raid

At the beginning of June Metropolitan police officers shot and wounded one man and injured another during a raid on two houses in Lansdown Road, Forest Gate, east London, when searching for chemical weapons. The wounded man, Mohammed Abdul Kahar was shot in the shoulder in circumstances that remain unclear; his brother, Abul Koyair was also detained by police officers. Both were later released without charge. A family living next door to the brothers were also held, but have since been released without charge. The neighbours allege that they were assaulted, and one of the men had a deep gash to his head which he said was inflicted by a policeman with his automatic weapon. No incriminating chemical materials were recovered by the police. The shooting, almost one year after that of the innocent Brazilian, Jean Charles de Menezes, at Stockwell

underground station, was an accident according to a statement made by the firearms officer in charge of the raid. It has caused serious concerns in the local community and raises questions concerning the police use of firearms.

The Forest Gate operation was the biggest anti-terror raid of the year and involved around 250 police officers, some wearing protective biological and chemical suits, acting after receiving "very specific" intelligence concerning an imminent cyanide or sarin attack; the plot was said to have involved a "chemical vest" which was either being prepared or was "primed and ready to go".

Solicitors acting for the arrested brothers have been forced to deny newspaper reports, based on comments from the armed officer who led the raid, that Kahar was shot during a struggle between policemen and his brother. Kate Roxburgh, a solicitor representing Kahar, said:

He was woken up...by screams from downstairs, got out of bed in his pyjamas obviously unarmed, nothing in his hands and hurrying down the stairs. As he came towards a bend in the stairway, not knowing what was going on upstairs, the police turned the bend up towards him and shot him and that was without any warning.

She added:

He wasn't asked to freeze, given any warning and didn't know the people in the house were police officers until after he was shot. He is lucky still to be alive.

The claims were also denied by Koyair's solicitor, Julien Young, who said:

There was a bang and a flash. He went down on to the next floor where his brother's room is and saw his brother on the floor. The client was upset, trying to find out what was happening. He was frightened. He saw a man with a gun and, after a few seconds, the man with the gun shouted to get on the floor and pulled him away. A second gunman pulled the client to the ground.

A family, including an infant, who live next door to the brothers were also raided by the police and have complained of being assaulted by them during the course of their arrest. They said that they had been questioned for 12 hours before being released without charge. The injured man said: "My family members and I were physically assaulted. I received serious head injuries that required hospital treatment. We are liaising with our legal team on the course of action to take." The family, and other residents affected by the massive raid, are being supported by the Newham Monitoring Project (NMP), which was founded in 1980 to defend the community against racist violence and to monitor an institutional racism in the police force. A demonstration is planned to express anger at the police actions which target and scapegoat Asian communities.

In a statement the NMP said:

We are all, across the communities, opposed to terrorism and have stood against it repeatedly, not least when 50 people were killed on London's tube and busses last July. But there are very disturbing questions about this case and about the treatment of the Muslim community generally.

** Why was it necessary to shoot one of the suspects even though there was no evidence he was armed?*

** Were the police following a similar policy to that last summer when the young Brazilian Jean Charles de Menezes was shot on the tube?*

** Was the evidence against the two men about their appearance or religious devotion? If so, this is a worrying development.*

** Why are Muslims, especially young Muslim men, subject to stop and search six times as great as their white counterparts.*

The NMP also recall that this raid is only an extreme version of hundreds of similar actions "against innocent people". many of which the Institute of Race Relations has documented, along with and the small number of prosecutions that have resulted

from them. The NMP warn that such actions, combined with the government's policies in Iraq and Afghanistan, are "creating the basis for terrorism to flourish". They saliently compare the experience of the Irish community during the 1970s, "where the vast majority of those arrested under the terror laws were later found to be innocent."

In the days since the operation the police have failed to provide any evidence of a viable device and the Independent Police Complaints Commission has been called in to investigate the shooting of Mohammed Abdul Kahar. The Muslim Council of Britain have already warned that trust between the Muslim community and the police could be "damaged" in the wake of the raid. If it emerges that anti-terrorist police have shot another innocent member of the public it will increase the pressure on the Metropolitan police commissioner, Sir Ian Blair, to resign. It has been reported that he may yet face charges in relation to last July's slaying of Jean Charles de Menezes, who was killed by plainclothes policemen who mistook him for a terrorist and fired seven dum-dum bullets into his head as he made his way to work on the underground.

Newham Monitoring Project, <http://www.nmp.org.uk/>; Muslim Council of Britain, <http://mcb.org.uk/>; Independent 5.6.06 and (see http://www.irr.org.uk/pdf/anti_terror_arrests.pdf)

ITALY

Carabinieri hold an illegal DNA database

A lawyer from Bolzano has filed a complaint to the Italian data protection ombudsman's office alleging that the *carabinieri's* *Reparto Investigazioni Scientifiche* (RIS, scientific investigative unit) in Parma holds an illegal DNA database. A DNA sample, taken in connection with an investigation into a robbery, tested positive for an Albanian man whose sample had been taken during a rape investigation in 1999. In court, the man's lawyer, Francesco Coran, appealed on the grounds that there is no legal basis for the maintenance of a database, and said that he would present his case to the Ombudsman.

During the trial, a *carabinieri* major from the Parma RIS explained that "as a general practice, we receive everything ...and then, we have software that we have developed in-house, where we store this data...which relate to possible suspects in different cases". The DNA identification of the three possible suspects derived from samples obtained from cigarette butts collected at the crime scene. "These three profiles...were inserted into the software which does not do anything other than compare their [reference] numbers and check whether there are matching pairs of numbers". The Albanian man's DNA matched samples collected in relation to two previous investigations. One of these was an investigation of a rape in which none of the 400 samples collected from suspects matched the culprit's genetic profile. The man's lawyer noted that "the RIS did not destroy the results of the tests as it should have in accordance with what the law on privacy establishes" but rather, entered them into the software "to use them again whenever it needed to identify a suspect's DNA".

The report, published in *L'Unità* newspaper on 16 May 2006, cites *carabinieri* sources revealing that "apart from the software that manages the genetic profiles of at least 15,000 people, on the second floor of the RIS office in Parma, there are at least five or six fridges where the test tubes with watery solutions of biological matter are preserved...Inside these freezers, there is genetic matter that has yet to be tested, but also some that concerns cases that have already been shelved".

This is precisely one of the main concerns of the president of the data protection ombudsman's authority, Francesco Pizzetti, who stresses that if it is a case of biological DNA

samples being stored "it would be a lot more serious", giving rise to important concerns due to the amount of information that can be discovered about someone, than if it only concerned alphanumeric identification codes. Pizzetti also says that "if it is confirmed, that the RIS *carabinieri* is doing the collection, and especially the storage, of biological samples, it is illegal". He claims that the EU is pressing for regulations to be introduced in this field, referring to the Prüm Treaty, to which Italy is not a party, and to the possibility that the SIS II database may include DNA identification functions.

L'Unità, 16.5.06.

GERMANY

UK police get power of arrest at World Cup

Uniformed British and Welsh police officers will have arrest powers and be able to use "reasonable force" during the World Cup in Germany this summer. Forty four UK officers, including some from the British Transport police, will be given the same powers as German federal officers a Home Office news release says; the visiting British police have been granted special powers to operate in a foreign country. The spokesman added that the German federal police force had requested that the British officers be given the "appropriate powers". Although Germany is being turned into a fortress for the competition, British police will be armed with batons and handcuffs but will not carry tasers or other controversial equipment. They will mainly be attached to German federal officers policing borders, railway stations, airports and trains, but some will be deployed in city centres. The operation involves 78 police officers in all, 44 of whom will be based in Germany and eight who will be located in transit countries; there are also 23 intelligence officers. Three officers will be work with the Crown Prosecution Service, which will have four representatives present in order to "build packages of evidence that can be used in British courts." *Home Office "World Cup 2006 Policing and Security Arrangements Unveiled"*, 10.3.06.

Policing - in brief

■ **UK: "Identity management" database tested.** The Police Information and Technology Organisation's (PITO) Biometrics Team is evaluating two US facial recognition systems to create a searchable national database. The organisation has "been given a mandate" by the Association of Chief Police Officers (ACPO) "to develop a business case for the deployment of face recognition technology on a national basis for the police." PITO has awarded two contracts, to Aurora Computer Services and Geometrix, for their "Active-ID 3D face recognition application", which will be installed in their London office to demonstrate the technology to the [police] service and the government. The Aurora eGallery model "can store hundreds of thousands of digital images from custody suites and can automatically sort them, creating a searchable database of facial images with the ability to return the most likely matches to any inquiry image." The Geometrix system "uses both 3D and 2D data to improve recognition. This identity management system uses a fusion of single or multiple biometric technologies including fingerprint, 3D and 2D face recognition and iris recognition...". The evaluation is being carried out as part of PITO's Facial Images National Database (FIND) project which "aims to create a national database of facial images to which still/video facial images, marks, scars and tattoos can be stored, retrieved and shared between [police] forces". *Jane's Police Product Review issue 12 (February/March) 2006*

Policing - new material

Police station law and practice update, Ed Cape. *Legal Action* April 2006, pp10-14. This update follows developments in law and policy affecting police station practice and covers policy and legislation, legal advice and case-law. It also includes extracts from *Police Station Advice: Advising on Silence*. Available from LAG, 242 Pentonville Road, London N1 9UN, email: legalaction@lag.org.uk

WM 2006: Die Welt überwacht von Freunden [World Cup 2006: the world under surveillance by friends]. *CILIP* 83, 1/2006, pp 112, ISSN 0932-5409, 7,50 EUR (for individuals). This excellent edition of the German language journal published by the police and civil liberties watchdog *Bürgerrechte & Polizei/CILIP*, focuses on security measures and police cooperation implemented prior to, during and after the World Cup. It contains an overview and analysis of police powers and surveillance methods and a critical football fans report on the repression they face. Non-theme articles include an analysis of the current trials taking place in Genoa, dealing with the 2001 summit violence, and how Morocco is taking on the role of a police assistant in Ceuta and Melilla. Available from CILIP, Tel: +49(0)30-83870462, Fax: +49(0)30-7751073, info@cilip.de.

Under fire, Claire Haynes. *Police Review* 21.4.06, pp16-21. This article looks at the Police Service of Northern Ireland (PSNI, until 2001 the Royal Ulster Constabulary) and its "sophisticated public order training regime". It discusses the PSNI's centre for combined operational training in Steeple, Co. Antrim, the force's permanent standing tactical support groups and the "vital" role of the water cannon.

Police misconduct and the law, Stephen Cragg, Tony Murphy and Heather Williams. *Legal Action* April 2006, pp26-30. This is a six monthly review of developments in police misconduct law and considers amendments to the powers of arrest under PACE 1984.

PRISONS

UK

Long Lartin anti-bullying procedures "inadequate"

Long Lartin is one of the five high security dispersal prisons in the UK. An unannounced visit by HM Prisons Inspectorate has found inadequate anti-bullying procedures (with most prisoners stating they had felt unsafe at some point) and a "grossly inadequate" night sanitation system. "The grounds were littered with parcels of excrement thrown from cell windows by prisoners who did not even have access to hand washing facilities. This was not merely degrading for prisoners and staff, but, on occasions, had even led to outdoor exercise being cancelled because of the health hazard." Policies and provision for foreign nationals were underdeveloped and the arrival of a number of prisoners detained under anti-terror legislation had drawn these failings into sharp relief. At the time of the inspection nine detainees were being housed separately in what had once been the segregation unit, with another held in health care. The inspection also highlighted failings in the segregation unit, with the great majority of incidents of use of force taking place in the unit, with disproportionate use of force against black and ethnic minority prisoners.

None of this will come as a surprise to prisoners who have served time at Long Lartin. Concerns though have long been raised about the treatment of prisoners in the segregation unit, with one prisoner-correspondent highlighting that, contrary to Long Lartin's suicide prevention policy, he was on three

occasions denied access to a listener in the unit, and another prisoner currently engaged in litigation over injuries caused through the use of handcuffs while he was unconscious. The Inspectorate report states that the incentives and earned privileges scheme is fair, but many prisoners fighting to have their convictions overturned report that they are unable to progress to the enhanced level of IEP at Long Lartin unless they attend offending behaviour classes. One prisoner whose conviction was held by the European Court to have been obtained in breach of his Article 6 rights has been told by Long Lartin management that "the ECHR doesn't run our IEP scheme"!

"Report of unannounced visit to HMP Long Lartin", HM Prisons Inspectorate, 14 March 2006

UK

Muslim prisoners' trial preparations

There are a large number of Muslim prisoners at HMP Belmarsh facing trial in the coming months on serious charges. It is alleged that there is constant interference with legal mail, refusal to facilitate effective legal visits, and most recently, the removal of laptops from the prisoners - even though the laptops are essential for their trial preparation. Prison Service Instruction 05/2002 provides that "any prisoner who requests access to IT facilities and demonstrates a real need for this (i.e. in order to prepare effectively in relation to legal proceedings) must be granted access to the IT provided for this purpose for the period specified." Circumstances where the request is to be granted include where the defence is complex and where documents relating to preparation of the defence are held on disc. In such circumstances, the use of a computer is fundamental to the right to a fair trial.

Moreover, a few days after Eid six prisoners began to pray on the exercise yard because the time of prayer was entered while they were there. A Senior Officer and a number of guards challenged the prisoners' right to pray on the yard, with the SO ordering "Fucking drag them one by one and take them inside" and grabbing one prisoner by his arm. One prisoner said that they had never been told they could not pray on the yard and was told "Shut your fucking mouth." All the prisoners involved were put on the basic regime, locked in their cells and denied phone calls. Letters from their solicitors received no reply. PSO 4550 confirms that the Prison Service "recognises and respects the right of prisoners to participate in worship and other religious activities and to receive pastoral care."

Fax/write letters of protest to Governor Claudia Stuart, HMP Belmarsh, Western Way, London SE28 OEB. Fax: 020 8331 4401

UK

Double punishment for foreign prisoners

An admission from the Home Office, in the run-up to the May local elections, that over 1,000 foreign prisoners had been released from jail without consideration of deportation and without any subsequent monitoring meant that the tabloid newspapers were able to claim the scalp of the Home Secretary, and boosted the election campaign of the British National Party. The irony that the climate of racialised hysteria was one the government had itself cultivated, appeared to be lost on most of the parties concerned, as was the fact that of the 1000-plus prisoners identified, only 150 were serious offenders.

For ex-prisoners though the impact was immediate and terrifying. In the attempt to head off the tabloid campaign, police and immigration officers carried out morning raids on ex-prisoners all over the country, many of them Jamaican nationals with family lives long-established in the UK, and no history of offending since release from jail. One ex-prisoner, detained in Leeds, was four years out of jail, had indefinite leave to remain, a home, a job, and a child in the UK. Anecdotal evidence confirms the furor has impacted on sentences handed out to foreign nationals too, with non-UK offenders receiving disproportionate sentences, and, at Belmarsh Crown Court, one Judge Karroll, stating in open court that he had long refrained from issuing recommendations to deport on the basis that the Home Office would ignore him.

Prime Minister Tony Blair has gone on record pledging to seek to deport all foreign prisoners at the end of their sentence automatically. The double punishment of foreign national prisoners has meant that large numbers of prisoners whose sentences have ended have remained in jail while the Home Office decides what to do with them. In many cases prisoners agree to be returned to countries where their safety is at serious risk, rather than face further extended periods in custody. The reality is the opposite of that reported by the tabloids - far from large numbers of foreign prisoners being released - most foreign prisoners are denied access to sentence planning and resettlement advice, offending behaviour courses etc, while going through their sentence unsure of their fate, often being held for immigration detention at the end of their sentence, with their family life in shreds.

The Guardian, BBC News, Home Office press department 1-8 May 2006

PORTUGAL

Prison death statistics for 2005

In response to a parliamentary question asked by *Partido Ecologista dos Verdes* (Green party) MP Francisco Madeira Lopes concerning the death in mid-December 2005 of three prisoners undergoing drug rehabilitation treatment using methadone in Porto's Custódias prison, and prison deaths in general, on 11 April 2006 the ministry of justice supplied parliament with official prison death figures for 2005, including a breakdown of the circumstances and places in which these occurred.

There was a total of 93 deaths in Portuguese prison establishments in 2005, of which nine were suicides, all by hanging. Information was not supplied about a large number of cases for which the cause of death was yet to be ascertained (35), although a large proportion of the deaths were caused by AIDS (25) and other health problems (18). In two cases, an inmate was killed by fellow detainees. The prisons in which the largest number of deaths (4) took place were Sintra and Porto. The overall figure is higher, by ten, than the one for 2004, resulting in the rate of deaths per 10,000 inmates rising to 72, one of the highest in Council of Europe member countries notes the *Associação Contra a Exclusão e para o Desenvolvimento* (ACED). ACED, which runs an observatory on prisons and has posted the ministerial written answer on its website, criticises the state's persistent failure to react to this situation, or to make the high rate of deaths in prison a key issue in its prison reform policy. Madeira Lopes followed up his question with another, on 3 June 2006, in which he notes that in spite of Portugal's pioneering role in the abolition of the death sentence, sentences depriving people of their liberty, in effect, often "become...death sentences".

Associação Contra a Exclusão e para o Desenvolvimento

<http://www.sociofonia.net/aced/>

Deaths in custody

<http://iscte.pt/~apad/ACED/ficheiros/obituario.html>

Observatory on prisons

<http://iscte.pt/~apad/ACED/ficheiros/observatorio.html>

Madeira Lopes follow-up question, 2.6.2006;

Written answer detailing deaths in custody in 2005,

<http://iscte.pt/~apad/ACED/textos/obitos%202005.pdf>

Statewatch, vol.15 no1.

Prisons - in brief

■ **UK: Government fails to meet prison education commitments:** The charity Forum on Prison Education (FPE) has warned that, a year after a damning report by a select committee on prisoner education, nothing has changed. The committee found that only a third of inmates had access to formal education, lasting on average nine hours a week, and just 31 out of 75,000 prisoners had access to the internet as a learning tool. When the report was published in 2005, the Chair of the Education Select Committee, Barry Sheerman, said the government had failed to meet its manifesto commitment to "dramatically increase the quality and quantity of education provision." Since then only four of the Select Committee's 55 recommendations have been met. In December 2005, the Adult Learning Inspectorate condemned skills programmes in prisons, stating that over half of jails offered inadequate provision. Steve Taylor of FPE said "Prisoners are still punished by lower pay for taking part in education than for work. Government would close a failing school or college if improvements took this long, so why is it acceptable in prisons?" Forum on Prisoner Education website: <http://www.fpe.org.uk/>

■ **UK: "Institutional meanness" at HMP/YOI Doncaster:** Doncaster, a privately-managed local prison, was condemned by HM Prisons Inspectorate following a recent inspection. The inspectorate noted that a well-managed and innovative suicide prevention programme was undermined by inadequate procedures and environment in the early stages of custody. The "first-night centre" was a wing of poorly-maintained, often dirty cells, where no support was available for newly-received prisoners. Combined with inadequate and unsafe detoxification procedures, these deficits presented significant risks to prisoner safety. There was no effective personal officer scheme, which translated into a lack of support in relation to resettlement and sentence-planning. Conditions for prisoners were found to be squalid, with many prisoners lacking pillows, adequate mattresses, toilet seats, working televisions, notice boards or places to store belongings. Some cells, especially on the young prisoners' wing, were dirty and festooned with graffiti. The inspectorate commented on the "institutional meanness" which meant no unemployment pay was available for prisoners for

whom no work was available. Prisoners were made to pay to change their PIN numbers. *Report of an announced visit to HMP/YOI Doncaster, HM Prisons Inspectorate 12 April 2006*

SECURITY & INTELLIGENCE

Security - new material

"CIA chiama, ROS esegue" and "Proposte indecenti", by Fabrizio Gatti & Peter Gomez, *L'Espresso*, 18.5.06, pp. 60-65. Interesting article about the involvement of a *carabiniere* from the Milan ROS unit (special operations) in the kidnapping of Abu Omar, a terrorist suspect who was transferred to Egypt by the CIA in an "extraordinary rendition". Recruited by a CIA operative for the operation, he used his *carabinieri* badge to order Abu Omar to stop and identify himself, thus leading the way for the kidnapping, during which he heard the men who came out of a van "cursing in Italian, without an accent". The second article notes how the head of the Italian military intelligence service, Nicolò Pollari, admitted to the European Parliament investigating committee that requests had been received to carry out kidnappings, adding that "My answer was no, and if someone had ordered me to do it, I would also have resigned". Pollari also claimed that he had refused an offer for Italy to be unlawfully handed a fugitive from abroad.

Report into the London Terrorist Attacks on 7 July 2005. Intelligence and Security Committee (Cm 6785), May 2006, pp45.

Report of the Official Account of the Bombings in London on 7 July 2005. Home Office (HC 1087), May 2006, pp. 38. In most European countries some sort of public inquiry would have been expected following the events of 7 July 2005 - but all we get is an official list of the events.

Informationen. *Komitee für Grundrechte und Demokratie*, German, 2/2006, March, pp 4. This monthly newsletter of the German civil liberties watchdog includes news articles on security measures implemented around the world cup, the start of a campaign against the threat of war against Iran, the internal security service's involvement in the Iraq war, data protection violations around electronic health cards, amongst others. All newsletters can be downloaded from www.grundrechtekomitee.de/index.php?typ=Rundbriefe

Errata: In *Statewatch*, Vol. 16 no 1, on page 12, in the article "Electoral alliance between governing coalition and far right", we mistakenly reported that the *Nuovo MSI Destra Nazionale* party would be running alongside the outgoing governing coalition in the general elections held on 9 and 10 April 2006. In the event, MSI-DN ran separately, obtaining 1,086 votes for the parliament in the Abruzzi region.

EU Roundup

Visa "facilitation", European Arrest Warrants 2005, "Check the Web" and the "principle of availability"

EU: "Visa facilitation" - bribe to non-EU states to agree readmission agreements

At a meeting of COREPER (the permanent Brussels-based committee of high-level representatives of the 25 EU governments) on 20 December 2005 a position was adopted on a "Common approach on visa facilitation" setting out the line to be taken by member states (EU doc no: 16030/05).

"Visa facilitation" is a euphemism for bribing non-EU (especially third world) countries into agreeing to readmission

agreements - that is, to take back anyone an EU state decides it wants to deport. The document has not been made public. *See background: Statewatch News Online: October 2002: EU seeking readmission (repatriation) agreements with 11 countries.*

It appears that COREPER adopted this "Common approach" for the Council of the European Union to "avoid a piecemeal response" to "pressures from third countries". EU governments are reminded that a:

Community visa facilitation agreement takes precedence over any bilateral agreement between one or more Member States and the third country (Point 9)

"Visa facilitation" is described as the "simplification of visa issuing procedures for nationals of third countries who are under visa obligation" - that is, those from the all the countries in the world on the EU's "black" list who cannot enter without a visa.

The intention of the EU is bluntly stated:

In principle, a visa facilitation agreement would not be concluded if no readmission agreement were in place (Point 4)

Further:

the existence of a readmission agreement.. does not automatically or routinely lead to the opening of negotiations on a visa facilitation agreement

Moreover, the EU will make:

use of other instruments to achieve the conclusion and implementation of a readmission agreement, eg political, economic, commercial or development policy related

Even before negotiations are opened on visa facilitation other "factors" come into play such as:

issues in the area of justice, freedom and security (e.g. border management, document security, migration and asylum, fight against terrorism, according to the standard counter-terrorism clause agreed by COREPER on 6 March 2002, organised crime and corruption); and security concerns, migratory movements.

Those to be returned/deported include refugees, rejected asylum applicants, those who have transited the country in question and stateless people who came from it.

European Arrest Warrant - for the year 2005

The compilation by the Council of the European Union of the practices of EU member states following legislation is rare and when it does happen the reports are not usually made public. It might be remembered that the European Arrest Warrant (EAW) was one of the two measures rushed through following 11 September 2001. In May the Council prepared a report on the "practical operation of the European Arrest Warrant - Year 2005" but, although listed on the Council's register of documents, it is not accessible to the public.

The report is based on replies by member states to a questionnaire with responses from 12 states - though it should be remembered that proceedings may be ongoing in other cases.

The first question asks how many EAWs were issued in 2005:

Poland	1,448
Netherlands	373
UK	131
Italy	121
Finland	86
Slovenia	81
Denmark	64
Slovakia	56
Latvia	44
Estonia	38
Ireland	29
Malta	1

How many arrest warrants resulted in the effective surrender of the person sought?

Poland	112
--------	-----

Italy	57
UK	43
Finland	37
Netherlands	30
Denmark	19
Slovakia	14
Slovenia	10
Latvia	10
Estonia	10
Ireland	6
Malta	-

How many arrest warrants have been received by your member state in 2005?

UK	5,986
Netherlands	434
Poland	218
Italy	69
Ireland	67
Denmark	33
Slovakia	33
Latvia	31
Slovenia	29
Estonia	25
Finland	10
Malta	4

The figure for the number of EAWs received by judicial authorities in the UK is extraordinary and clearly - from the previous figures - includes requests from member states who had not replied to the questionnaire.

The Netherlands commented that there were 26 cases where the person sought had been arrested only to find that the EAW "was withdrawn at a later stage".

How many people have been arrested under a EAW in your country?

Netherlands	164
UK	154
Poland	100
Slovenia	25
Estonia	24
Denmark	22
Ireland	18
Slovakia	17
Latvia	17
Finland	7
Malta	4
Italy	-

Of those surrendered under a EAW a number of people did not consent to the surrender: Netherlands: 153, UK: 42, Poland: 39.

How many have effectively been surrendered?

Netherlands	229*
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Poland	80
UK	77
Italy	18
Estonia	17
Denmark	15
Slovenia	15
Slovakia	13
Latvia	13
Finland	10
Ireland	7
Malta	2

The Netherlands notes that this figure of 229, compared to 164 arrested, is because "more than one EAW came from different judicial authorities of the same Member State" which were received and executed.

The report covers only 12 of 25 member states but raises important questions as to how the EAW is working in practice. A report from all 25 should be made public so that parliaments and people can take stock of implementation.

"Check the Web"

Another secret report from the German delegation to the Article 36 Committee proposes EU cooperation "to prevent terrorist use of the Internet ("Check the Web")" (EU. doc no: 9496/06). It says that terrorists use the internet for:

a variety of purposes, such as radicalisation, recruitment, training and covert transmissions of information. "Terrorist handbooks" contain directions for making bombs and explosive devices and preparing attacks and hostage-taking.

The aim is to prevent "unlawful content" being published on the internet.

The German delegation says that monitoring the internet is

difficult because there are:

numerous internet sites in a wide variety of languages to be monitored, evaluated and, if necessary, blocked or closed down. This requires enormous technical and staff resources.

To monitor all "suspicious" sites needs to be coordinated and tasks shared, and "joint action against illegal content". To achieve this a:

methodology should be developed for implementing the necessary legal and operational counter-measures

The joint approach should include sharing legal and actual options for "blocking or closing down internet sites", reporting on "operational measures taken against specific information providers", "planning and carrying out concerted actions", and cooperation with providers.

Tony Bunyan, Statewatch editor, comments:

It is clearly legitimate and necessary to take action against those planning or committing terrorist acts. However, if the EU's terrorist list were the basis of such actions then there are many who would question the inclusion of some groups and individuals on that list. Furthermore, to block or close down sites said to be guilty of "radicalisation" (or "glorification") could easily cross the line and censor legitimate democratic debate.

The "principle of availability"

On 12 January 2006 the EU Presidency (Austria) announced that discussion on the proposal establishing the "principle of availability" (all data/intelligence held by law enforcement agencies could be accessed by all) had been "postponed". However, an Ad Hoc Group on Information Exchange (experts) has been set up to work on DNA data, finger-prints and access to national vehicle registration databases.

This Ad Hoc Group is being guided by a report from the "Friends of the Presidency" on "the principle of availability" - which has "taken into consideration the proposal contained in the Prum Treaty".

So the discussion on the general principle has been postponed, while the Council works away on the detail.

Faster, further, higher: How EU police forces cooperate in football matters by Heiner Busch

Heiner Busch is the editor of Bürgerrechte & Polizei/CILIP and member of the "Komitee für Grundrechte und Demokratie", which is one of the founding organisations of the European Civil Liberties Network. This article first appeared in CILIP 83 (1/2006).

More data, more comprehensive situation reports, controlled borders and restriction of movement: police forces in EU member states are expanding their cooperation with all of the enthusiasm of a football supporter.

At the end of August 2004, a few weeks after the European championship, Portugal presented its report on Euro 2004 to the EU Council's Police Working Party (1). Around 1.2 million people had followed the games in the stadiums and 600,000 people had travelled to Portugal from abroad for the competition. There were few incidents with the police arresting only 261 people (of whom 99 were British and 26 German) during the four week operation; they collected the personal data of around 100 more. Complaints mainly concerned the sale of tickets on the black market and public order offences. It was largely uneventful due to the Portuguese police force's successful strategy, which practised restraint; the police said that while there were many

plainclothes officers on the ground the riot police were kept in the background.

In the Police Working Party, the Portuguese delegation explicitly praised the cooperation with its foreign partners. It said that the information provided prior to and during Euro 2004 had ensured that violent fans could not travel to the games. All of the participating countries had sent police delegations to Portugal, but the biggest one came from the UK, with 22 police officers; Germany sent 18, France, the Netherlands and Spain sent 11. Liaison officers, stationed in a specially created control centre, ensured coordination; plainclothes officers familiar with the football scene, so-called "spotters", advised the police on-site in the cities where the games took place and in the stadiums. They helped their Portuguese colleagues assess the supporters and if necessary they identified familiar faces or arbitrated conflicts arising among their national fans. They therefore carried out a typical mix of coercive and preventative tasks.

This is how the German police would like the World Cup to be this year. Police delegations are expected from all the countries whose teams have qualified for the finals. The British delegation, with 44 officers, will probably be one of the biggest, if not the largest (2). According to the German government

around 550 foreign police officers will be deployed in Germany during the games. The Federal Police Force (the former *Bundesgrenzschutz*) will be supported by 318 foreign colleagues (3). At the beginning of 2005, the interior ministers conference expected an additional 220 foreign police officers to be deployed within the remits of regional police forces. Their food and lodging will be paid for by German taxpayers, costing around 1.6 million euros. Before the "spotters" swarm to the locations where their teams are playing and their fans could create problems, the German police's Central Sports Information Point (ZIS) will provide communications technology, so they can stay in contact with each other and liaise with the German operations control centre. This time, officers from the UK, but presumably also from other states, will not only put rioting fans under observation, but they will also be given powers of arrest (5). This development represents a qualitative shift in European police cooperation in football matters.

An intricate system

It began in the 1980s - at a time when police cooperation within the then EC was taking place in the informal structures of the TREVI network. In 1987, one year before the German European championship, the TREVI Working Group 2 began setting up the correspondents' network, through which German officers started communicating in the form of a questionnaire. Because the replies only resulted in a general, rough analysis, German police chiefs travelled to the Netherlands, the UK, Italy, Spain and Portugal, to receive detailed information on the expected arrival of possible trouble-makers. "After the evaluation of the information on groups of violent foreign fans, [we saw] an increasing necessity to get experts from foreign police forces as advisors to the operations control chiefs of the eight cities [in which the games took place]", Walter Sperner from the Federal Border Police wrote a year later in his evaluation report (6).

Meanwhile, these informal seeds have grown into an intricate system that is not only put into motion at big matches, but also during national games and the UEFA Cup. In May 1997, the Council passed a common measure "relating to cooperation in the area of public order and security"; under it information exchange prior to bigger gatherings and events (i.e. not only prior to football matches), the dispatch of liaison officers and the creation of central offices in Member States gained their first binding legal basis (7). Then, in 1996 and 1997, the Justice and Home Affairs ministers passed two non-binding, but much more consequential, texts relating only to football matches: in their decision "on the prevention and restriction of football hooliganism" they declared it was "desirable", amongst other things, to firstly, institute an annual situation report on "football hooliganism" and a yearly "expert meeting". Secondly, it was thought that a "guideline for the prevention of public order disturbances during football matches" would help standardise information exchange practices in the form of a "uniform questionnaire for reports containing police intelligence on known and suspected groups of trouble-makers" (8). The guidelines were replaced in 1997 with a comprehensive "manual", which was revised and extended in 2001(9).

On risk analyses and academic categories

"In an ideal case scenario, the national football information point functions as a central and single contact point for the exchange of relevant information on football matches with an international dimension", the 2001 manual informs us. The manual, which is intended to assist police officers in their tasks, thereby anticipated a 2002 Council Decision which declared the creation of "National Football Information Points" (NFIP) obligatory (10). In several Member States - including the UK and the Netherlands - such information points had already existed for a long time. The German ZIS has functioned as an NFIP since

1992.

Although all Member States have NFIPs by now, they do not all function in the way the Council's Police Working Party would like them to. In its 2004 survey, the group complained that "it is sometimes difficult to receive precise and on-time information from Member States, whose NFIP apparently does not have the necessary high profile and full support of police stakeholders" (11). This is not surprising, because information exchange channels relating to football matters are supposed to be independent from regular police reporting channels - "not hindered by the division of remits between the different authorities and offices", it says in the Council Decision.

NFIPs should centralise and analyse all relevant information so that prior to the match or competition, they can provide NFIPs from other Member States with a "risk analysis relating to their own clubs and national teams". This analysis - the Police Working Party warns in its survey - has to arrive "well in advance" and contain "sufficient details".

The 1996 guidelines had asked for details on the structure of supporter's groups, their travel routes, en-route stops and overnight stays, but compared to the forms contained in the 2001 manual, they could be described as moderate. The latter already contains the language of intelligence concepts and demands that the national information points categorise information prior to, during and after the games, into strategic, operational and tactical intelligence.

Despite the language, information and situation reports still follow the fan-category codes from the 1996 guidelines: "A = peaceful; B = certain potential for confrontation and public order disturbance, especially in combination with alcohol consumption; C = violent, or organisers of violent acts". The fact that these distinctions do not entirely work, is explained by the Police Working Party in its "Working Programme" for 2004-2006 by the "increasingly disparate interpretation of these categories" (12). Other Member States, however, know of other reasons. In the statistical annexes of the annual situation reports, German police football specialists report with consistent regularity that they find the differentiation between group B and C fans during national teams' away-games "academic" and irrelevant to the planning of police deployments (13).

In two contributions from April 2005, the Dutch delegation to the Police Working Party demanded a "dynamic risk analysis". Risk, say the Dutch, is a continuum. Whether the risk emanating from a fan group is high or low depends "in the first instance" on the interaction between fans and different institutions, in particular the police. This is why a different approach is needed: instead of the traditional focus on riot control, a strategy should promote a "balanced", careful approach, such as the one used during Euro 2004 in Portugal. The Netherlands thereby reacted to changes in fans behaviour, in which hooligans play only a minor role. A "dynamic risk analysis", however, does not require less information than the traditional one. On the contrary: the mere categorisation of risk fans is not sufficient. It is necessary, say the Dutch, to identify the situation and behavioural patterns - also those of the police - which lead to problems: this requires a thorough analysis of recent events and the situation prior to each game (14).

Free flowing data

According to the 2002 Council Decision, NFIPs should not only exchange situation reports but also personal data on "risk" fans. The transfer should take place "in accordance with existing national and international regulations" - a limitation which sounds humane but which is, to a large extent, meaningless. This is because inclusion in the databases - in Germany this is the "violent offenders sport" database - and classification as a "risk fan", as well as the transfer of this data to other Member States' police forces, takes place at the discretion of the police: the

exchange of data "can in particular concern the individual who may pose or actually poses a threat to public security and order", it says in Article 3(3) of the Resolution. **The decisive factor is therefore not if the relevant persons have been convicted of a specific criminal offence, but inclusion and classification rest on the prognosis provided by the police.**

Excepting France and Italy, who say that they do not transfer data to other countries because of national legal restrictions, almost all old EU Member States whose football clubs or national teams are successful in European competitions or matches, take part in this personal data exchange (15).

One year after its Resolution on the NFIPs, the Council passed a Resolution in which it called on Member States to extend this data exchange to persons who had been affected by stadium bans nationally (16). Between 1999 and 2003, the number of people affected by these bans in the 15 old Member States increased from 3,500 to 6,200. In its annual situation report the police expected that by the time of the World Cup this figure would grow to 10,000 for the whole of the EU (17). The bans, which are mainly imposed under civil law on the initiative of football clubs or associations, will thereby have to be reported to the relevant NFIPs and then "passed on to the country in which a match with an international dimension takes place". This data should "only" be used for the implementation of stadium bans "or in order to take other relevant measures for the maintenance of public order and security". What other aims could they serve?

The press officer of the North-Rhine Westphalia regional criminal police force (LKA) confirms that the ZIS has received such information for the World Cup, but would delete it once it was over. It is doubtful that this will happen, if a fan behaved "conspicuously" during a match, for example. In 1993, *Statewatch* reported that a Welsh fans who, after being caught up in a random police operation at a match in Belgium, had encountered harassment at every border crossing since. He had to fight over a period of years for his data to be deleted first by British National Football Intelligence Unit, and then from databases held by various EU states (18).

Closed border

Although it is not laid down in any of the Council Decisions or manuals, border controls play a central role in policing football events. The Schengen Implementation Agreement, in Article 2(2), allows for the temporary reinstatement of internal border controls, which were abolished within the EU under the Single European Act, except in cases of severe threats to "public order" or "national security". Portugal suspected such a threat on the occasion of Euro 2004 and applied the exceptional clause. 3,815 persons were stopped at the border and refused entry, 692 were stopped within the country and sent back. For the World Cup, Germany will follow the example of the cautious Portuguese authorities (19).

Dealing with a European football catastrophe, however, does not only involve entry restrictions but also exit restrictions. For some time now, representatives of the police and interior ministries have been announcing that, together with their colleagues from abroad, they will stop dangerous fans from leaving their country. So far, in the framework of EU regulations, so-called "banning orders" only exist in the UK, which confiscated the passports of 3,500 people for the last World Cup, and Germany, which has been trying for several years to put the issue of banning orders on the agenda of the Council's Police Working Group. The latter's working programme only promises to tackle the subject in the "medium- to long-term" (20). The Federal Ministry of the Interior (BMI) is seeking to bridge the gap in EU regulation on this matter through bi-lateral agreements. There are already agreements "with Great Britain and some other states", a BMI press officer said, and the ministry is seeking agreements with all states participating in the World

Cup. Furthermore, "transit and accession countries" should help to prevent "risk" fans from entering Germany.

Testing ground

Football has proven to be an ideal testing ground for policing big events, internally as well as at the level of EU cooperation. Since the summits at Gothenburg and Genoa of the summer of 2001, those opposing capitalist globalisation will also have realised that the instruments developed for and used against football fans can also be applied to them. In 2003, the Council passed a Resolution on summit security, a year later it passed a relevant police guideline (21). Both documents use essential elements from football-specific cooperation between Member States: cooperating through national contact points, dispatching liaison officers, reinstating internal border controls and travel restrictions, creating risk analyses and an almost uncontrollable exchange of personal data.

What we can learn from football is that once the wheels have been set into motion they cannot be easily stopped. Although fans today cannot be compared to the hooligans of the 1980s or 1990s, situation reports continue to grow in size, the number of individuals whose personal data is kept in police databases increases, as does the number of stadium bans and entry refusals at borders. The welcome insight that the number of violent incidents at football matches largely depends on the behaviour of the police has not led to a demobilisation of the police force. Instead, police cooperation against "risk" fans has itself become a risk factor.

Footnotes

- (1) Council Document 11963/04, 30.8.04
- (2) *Frankfurter Rundschau* 3.4.06
- (3) *BT-Drs. 16/1114*, 3.4.06, S. 1 f.
- (4) *BT-Innenausschuss, Protokoll 16/57*, 9.3.05
- (5) *Berliner Zeitung* 10.3.06
- (6) Sperner, W.: *Nachrichten- und Informationsbeschaffung zur Euro 88*, in: *Die Polizei* 1989, issue 11, pp 302-305
- (7) *Official Journal (OJ) L 147*, 5.6.97
- (8) *OJ C 193*, 24.6.1997 and *C 131*, 3.5.96
- (9) Council Document 8743/99, 31.5.99; *OJ C 22*, 24.1.02
- (10) *OJ L 121*, 8.5.02
- (11) Council Document 7151/1/04, 11.3.04
- (12) Council Document 7017/1/04, 12.3.04
- (13) *Annual report on football hooliganism in the Member States of the EU*, Council Document 8023/99, 31.5.99; 9559/1/00, 6.7.00; 8873/03, 5.5.2003; 15997/1/04, 4.2.05
- (14) Council Document 8241/05 and 8243/05, both from 20.4.05
- (15) See also survey in Council Document 7151/1/04, 11.3.04
- (16) *OJ C 281*, 22.11.03
- (17) See also annual reports in fn. 12; *Frankfurter Rundschau* 30.11.05
- (18) *Statewatch Bulletin* 1993, vol 3 no 2, p 10
- (19) Council Document 11963/04, 30.8.04; *Berliner Zeitung* 30.3.06
- (20) Council Document 7017/1/04, 12.3.04
- (21) Council Document 13915/03, 4.11.03 and 5744/1/04, 13.2.04

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Journalists, enemies of the state? in the EU

I am personally, deeply disappointed. I only carried out my job, I did not commit a criminal act. But the [secret service] spied on me, had me under observation and exploited me like an enemy of the state - Josef Hufelschulte, Focus journalist and victim of BND spying activities

In 2005, the public learnt that Germany's foreign intelligence service (*Bundesnachrichtendienst* - BND) was spying on journalists to ascertain the identity of their sources. It has now been revealed that far from being an isolated incident, or representing the act of a few over-zealous state guardians acting without the knowledge of their superiors as was claimed until recently, the practice of following journalists, tapping their phones and recruiting others as informants, is a regular BND activity. An unpublished report by a former High Court judge, submitted to the parliamentary committee overseeing BND activities, has confirmed the extent of this blatant violation of press freedom and has triggered another scandal in government, journalist and civil liberties circles (see *Statewatch* Vol. 15 no 6 & Vol. 16 no 1). However, because journalists have been willing helpers in this information market place, the revelation has also called into question journalistic ethics in Germany.

The latest revelations come in a detailed, 170-page report on BND surveillance operations, spanning the early 1980s to the present. The report was written by former High Court judge Gerhard Schäfer, who repeatedly describes the extent of BND spying activities as "clearly unlawful". Not only did he reveal that surveillance operations on journalists were more numerous than had admitted by the BND, but also that the BND recruited fellow journalists to spy on their colleagues. The secret report, the contents of which were partially disclosed by the *Süddeutsche Zeitung* on 12 May, was commissioned by the Parliamentary Control Commission (*Parlamentarisches Kontrollgremium* - PKG) and presented on 11 May.

The PKG had demanded a special investigation into allegations made last year, following evidence that the BND had informants in press circles and had placed journalists under observation. These claims become impossible to ignore when, last November, raids on journalists' houses were followed by a BND whistleblower admitting he had been observing Erich Schmidt-Eenboom (who wrote two books on the BND) on order from the BND (see *Statewatch* vol 16 no 1). Then it was thought that these activities ended in the late 1990s and that the BND acted without informing the government, or even its president, of the activities. The information contained in the Schäfer report, which is based on interviews with former BND presidents, journalists and government representatives, reveals that this is unlikely. It shows that journalists were spied upon until as late as December last year.

From Schäfer's report, it appears that at least five journalists were spied on by their colleagues within the last decade and that the informants sold this information to the BND. The papers affected are *Der Spiegel*, *Focus*, *Stern* and *Süddeutsche Zeitung*; the reason given for the surveillance was the need to find leaks within the ranks of the BND. According to the *Süddeutsche Zeitung* (15.5.06):

The service wanted to know everything: why the journalist Hans Leyendecker left the news magazine Der Spiegel in 1997 and why he started working with the Süddeutsche Zeitung. What his new salary was. Which stories Spiegel journalists Georg Mascolo and Günther Latsch were working on. Who the secret service employees were that were in contact with Stern journalist Karl-Günther Bartsch, who was

researching the Elf-Aquitaine affair [French oil company involved in large-scale fraud]. Who the sources were that provided information to the then Stern editor and present SZ editor Wolfgang Krach. What Spiegel editor Stefan Aust was doing in his spare time [...]. The most intensive spying operation, however, targeted Josef Hufelschulte... At times, the journalist from Munich was observed by eight BND persons in three cars.

The surveillance of *Focus* journalist Josef Hufelschulte became known last year, however, the Schäfer report reveals that two of Hufelschulte's friends and fellow journalists had spied on him between 1993 and 1998. He is demanding that all the information be disclosed to him. One former *Focus* journalist, Wilhelm Dietl, operating under the code name "Dali", apparently wrote 856 reports for the BND over more than a decade and received 653,000 DM in total.

The first large-scale operation targeting journalists started in early 1995, triggered by a *Spiegel* report entitled "The BND's bomb fraud", which revealed sensitive internal BND information and exposed undercover BND officers who had staged a plutonium smuggling operation. The former BND head of security, Volker Foertsch, was ordered to uncover the leaks in the service, receiving the go-ahead from then chief of chancellor's office and BND coordinator Bernd Schmidbauer as well as then BND president Konrad Porzner, and to begin setting up contacts within journalist circles. Over the following three years, he maintained close professional contacts with around 20 journalists, finding out about ongoing research and sources. Because other BND colleagues were not supposed to know who Foertsch had contacts with, most documents were kept secret and informants were given code names; a system of "give and take" developed, whereby, according to Foertsch "the stupid and the vain ones were easy to crack".

It was under Foertsch that *Focus* journalist and Middle East expert Wilhelm Dietl provided a wealth of information, although the *Süddeutsche Zeitung* reports that he worked with the BND from as early as 1982 and until 1998. He allegedly disclosed the sources of the *Spiegel* story on the staged plutonium smuggling operation, amongst others. He says, however, that most of his paid work for the BND concerned setting up a network of spies in the Middle East. Moreover, Dietl is annoyed that his identity as a BND informant was revealed, and he is demanding a "declaration of honour" from current BND president Ernst Uhrlau promising that the BND will not disclose any more information. Dietl is now threatening to disclose internal BND information if Uhrlau does not respond to his demand. Dietl has worked with the BND for more than a decade and his knowledge of its activities and employees was seen as a security risk by some; others, however, contended that he was a "jewel" with regard to the information he provided (Ramelsberger & Leyendecker, *Süddeutsche Zeitung*, 18.5.06). The BND calls his demand a "crude blackmail attempt" and points to existing treason and disclosure of official secrets legislation.

Foertsch left the BND in 1998 and the second stage of the spying activities was authorised by an "operational plan" passed by the BND on 1 March 2001, to investigate "unauthorised information leaks" from within the service. The tender went to "news trader" Uwe Müller, who, amongst others, spied on Andreas Förster, editor of the newspaper *Berliner Zeitung*, until last December. The political consequences of this affair are more far-reaching, because the president of the BND from 1998 to 2005 was August Hanning, who is now Secretary at the Federal Interior Ministry. He became known for attempting to increase

transparency within the BND and, ironically, closer cooperation with journalists. Hanning is denying any knowledge of the "operational plan" and the operation against Förster in particular.

Political consequences?

The revelations have been followed by allegations being thrown back and forth between former and current BND staff, who deny ever having issued direct orders to spy on journalists. Hansjörg Geiger, the BND president until 1998, was incriminated in the spying affair by the former head of the chancellery office, Bernd Schmidbauer, who then coordinated the work of the German intelligence services. Schmidbauer, however, made these allegations in his current, rather different function, as a member of the BND parliamentary oversight commission (PKG). Geiger denies the allegations against him and lays responsibility with former BND head of security, Volker Foertsch, who maintained contacts with journalist informants. With regard to political accountability, however, the *Süddeutsche Zeitung* points out:

Schmidbauer is protecting Foertsch, Geiger is accusing him but they all want is to keep one man out of the line of fire: August Hanning, BND president from 1998 to 2005 and Secretary at the Federal Interior Ministry. He is the only one still politically responsible. Foertsch and Geiger are both retired.

August Hanning worked closely with Bernd Schmidbauer after German unification and succeeded Hansjörg Geiger as president of the BND in 1998. Despite the fact that Hanning is known for having attempted to show more transparency within the BND, particularly in opposition to Stasi practices, his last days in office and his current position within the government are tainted by accusations of unlawful BND practices. These concern not only the spying operations against journalists, but also the BND's

collaboration in the illegal US military occupation of Iraq (see *Statewatch Bulletin* vol 16 no 1).

The Iraq affair, and possible unlawful practices by the German law enforcement authorities in the "war against terrorism" (i.e. outsourcing torture by collaborating with foreign police and intelligence services in supporting CIA kidnapping of German citizens) are currently under investigation by a special parliamentary investigation committee, where Hanning is expected to be called as a witness.

Although the government is reluctant to find its own officials responsible, Thomas de Maizière, gave the BND an official instruction on 15 May forbidding the service from targeting journalists for the purpose of identifying information leaks in its own ranks. BND chief Ernst Uhrlau said that "in the past we also had regulations", a comment which does not exactly encourage trust in the democratic oversight process. Internal BND code of conduct regulations, however, can be expected to be tightened as a result of this affair. The use of journalists as informants in general, however, was not forbidden, or even viewed as unlawful by Schäfer in his undisclosed report: he only found only the disproportionate use of journalist informants to be a problem.

Süddeutsche Zeitung 12-22.5.06

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Spain: UN Convention on Torture (Optional Protocol) ratified as claims of ill-treatment continue

The Spanish foreign affairs minister, Miguel Ángel Moratinos, filed Spain's ratification instrument of the Optional Protocol to the UN Convention against Torture in New York on 4 April 2006, almost a year after it was signed by Spain on 13 April 2005. The Optional Protocol (art.1) seeks to establish a

system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.

This would involve the establishment of a Sub-Committee on Prevention in the UN Human Rights Committee whose members would be elected for four-year terms:

among persons of high moral character, having proven professional experience in the field of the administration of justice, in particular criminal law, prison or police administration or in the various fields relevant to the treatment of persons deprived of their liberty (art.5.2).

It would be responsible for visiting places of detention, issuing recommendations and giving advice to national authorities. At a national level, the Protocol requires signatories to establish "one or several independent national preventive mechanisms for the prevention of torture at the domestic level" (art.17), whose "functional independence" they must guarantee (art.18.1). It must be given "necessary resources" to conduct their work (art. 18.3) and must be allowed unlimited access to information, detention establishments, and the possibility to interview any detainee it chooses (art. 20).

To come into force, the Optional Protocol required 20 countries to ratify it, a threshold that was reached on 23 May 2006 when Honduras and Bolivia submitted their ratification

instruments, meaning that it will come into force a month later, on 23 June. Of the 25 EU member states, only six have ratified it (Denmark, Malta, Poland, Spain, Sweden and the UK) out of the 17 that have signed the protocol (the last one was Portugal in February 2006), whereas eight others have neither signed nor ratified the Optional Protocol (namely Germany, Greece, Hungary, Ireland, Latvia, Lithuania, Slovakia and Slovenia).

The signing of the Optional Protocol by Spain was welcomed by the *Coordinadora por la prevención de la tortura* (Cpt, a coalition of 41 civil society groups campaigning on the issue of torture in Spain, including one from Portugal), which had been pressing for Spain to sign and ratify the Optional Protocol. During a series of public events on torture organised by the coalition in February 2006, one of its representatives, Jorge del Cura, stressed the importance of the national mechanism resulting from the Protocol coming into force being independent, rather than being based on "political appointment". In response to the ratification, the Cpt issued a statement noting that "The entry into force of this Protocol must turn into an important mechanism to achieve the eradication of torture in the Spanish state...". It stressed the need for the prevention mechanisms "at a national and local level that it envisages to be real", rather than a mere declaration of intent, and noted that recommendations by UN bodies monitoring compliance with guidelines for the prevention of torture have largely been ignored in the past. The statement includes recommendations for the eradication of torture, largely based on those issued by the Special Rapporteur on Torture, Theo van Boven, in February 2004.

The UN Special Rapporteur on Torture Manfred Nowak

published a report in February 2005 in which he mentions some shortcomings in the Spanish authorities' follow-up of the recommendations made by van Boven, (see "The UN Special Rapporteur on Torture criticises the undermining of the non-refoulement principle and the use of terrorism as a pretext to justify torture", *Statewatch* news online, November 2004) to eradicate torture following his last mission to Spain in October 2003. The Aznar government vehemently denied allegations that torture was practised "more than sporadically" in spite of not being "systematic", and that remedies against it were "ineffective". The new Zapatero government supported the previous government's position by stating that it "maintains its disagreement with the report resulting from the visit (E/CN.4/2004/G/19)", adding that the UN Commission on Human Rights did not "back or assume" it, in spite of the fact that it is not its normal practice to assume or adopt country reports, according to van Boven.

The follow-up report (E/CN.4/2005/62/Add.2) cited an interview given on 10 June 2004 by the current Justice Minister, Juan Fernando López Aguilar, arguing that the torture allegations "are false, not in an immense majority, but rather in 100% of the cases", as well as being a tactic employed by ETA to undermine state authorities. A report presented by the current UN Rapporteur on Torture, Manfred Nowak from Austria, at the 61st session of the UN Commission on Human Rights in April 2005 contains details of new allegations involving 13 people who claimed they were subjected to torture or ill-treatment after being detained and placed in *incomunicado* detention for suspected involvement in terrorist offences. The follow-up report for 2006 (E/CN.4/2006/6/Add.2) includes claims by NGO sources that a sizeable portion of people placed in *incomunicado* detention, "which creates conditions that facilitate the perpetration of torture", alleged torture and ill-treatment (57 out of 70 in 2004 and 46 out of 50 in 2005 the figure is not the year's total). It also states that the Spanish Justice Minister reportedly informed Amnesty International of his intention to shorten the maximum period of *incomunicado* detention from 13 to 10 days by 2008.

Continuing reorts of torture

Allegations of torture in Spain continue, and a number of reports on this issue were published over the last year. The *Coordinadora para la prevención de la tortura* published a report for 2004 on 13 May 2005 documenting 276 claims of torture or ill-treatment by police or prison officers filed in 2004 involving 755 persons. An interesting aspect of the report is that it includes allegations made by members of different groups (migrants, trade unionists, etc.) and regions (La Rioja is the only autonomous community from which there are no allegations). The debate on the issue of torture in the past has mainly focused on Basque terrorist suspects. The report refers to alleged abuses that occurred not only in police custody, but also in the streets or minors' centres, as it uses the UN Convention on Torture definition which refers to acts committed by public officers exercising public duties. The report includes allegations of violence by police taking place in the streets (508 cases), in prison (128 cases), in police stations (124 cases), in vehicles (23 cases), in detention centres for minors (16) and others (13). The vast majority of the complaints came from five regions: Andalusia (237), Catalunya (113), Euskadi (100), Navarra (95) and Madrid (87), and the people who made the complaints belonged to different groups: 31% from the trade union movements, 18% from social movements, 17% from prisoners, 6% from migrants, 5% from people involved in antiterrorist proceedings and 2% from minors.

The southern region of Andalusia (237) was the region where the highest number of complaints were reported, and the group that filed most allegations were trade unionists (231).

These two facts may be related, as a result of industrial conflict in Andalusia (as well as Galicia and Euskadi), to the crisis of the *Izar* shipbuilding consortium, which led to shipyard workers and police clashing repeatedly (see *Statewatch* Vol. 14 no 2).

In the Cpt report for 2005, whose publication is imminent, the number of claims rises slightly, to 289, with a lower number of persons filing lawsuits (598). Two thirds of the complaints were from four regions: the Basque Country (22.2%), Andalucía (20.8%), Catalunya (12.1%) and Madrid (12.1%), and the group that presented the most complaints were social movements (23%), followed by migrants (19%) and people held in *incomunicado* detention (11%). The report also monitors proceedings involving police officials and public servants who have undergone legal proceedings related to alleged instances of torture or ill-treatment, noting that in 122 cases (16.51%) members of the national police (34), local police (57) or *Guardia Civil* (24), among others, were found guilty in 2005. In almost twice as many cases (231, or 31.26%), they were acquitted.

The prisoner support organisation *SalHaketa* has monitored conditions, and allegations of abuse against female detainees, in Nanclares de la Oca prison in the province of Álava (Euskadi), publishing a dossier that documents its activity and conditions in the prison. Apart from reporting problems such as overcrowding and infestations of mice in the prison, *SalHaketa* also provided legal support to detainees alleging ill-treatment and abuse of a sexual kind. Its interest began with a telephone call in May 2004 alleging that a female detainee was being "forced to prostitute herself", followed by claims by inmates in November 2004 that it was common knowledge that "strange" things were happening in the women's block. In February 2005, the claims became more concrete, referring to "pressure and blackmail by the sub-director for security to obtain direct or indirect sexual favours in exchange for benefits". A letter from an inmate in March 2005 confirmed these claims, stating that a formal complaint had been filed by one of the women, leading *SalHaketa* to become involved in the legal proceedings. To date, the investigations have resulted in the official in question, Mariano Medina, resigning in April 2005. In a court case eight detainees (five women and three men) have testified against Medina, claiming that he mistreated them through threats, sexual advances and blackmail. They also claimed that he punished people who filed complaints. One of the male prisoners also claimed that he was abused sexually by prison officers with a truncheon and suffered psychological pressure to commit suicide. The man was found hanged in his cell on 9 March 2006, two months after confirming his allegations against Medina in court. Although Medina is the only person facing charges, the prisoners have claimed that other prison officers were also involved in the abuses, which included beatings.

Sources

Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment New York, 18 December 2002, UN Doc: GA Resolution A/RES/57/199 of 9 January 2003;

The status of ratifications of the Optional Protocol can be consulted at: http://www.ohchr.org/english/countries/ratification/9_b.ht

62nd session UN Commission on Human Rights, addendum. "Follow-up to the recommendations made by the Special Rapporteur", 21 March 2006, UN Doc. E/CN.4/2006/6/Add.2;

Statement by the Coordinadora por la prevención de la tortura: <http://www.apdha.org/comunicados/2006/040406protocolotortura.asp> ;

Cpt Report: La tortura en el Estado español 2004, full-text: <http://www.prevenciontortura.org/InformeCPT.pdf>

Cpt Press summary of the report: La tortura en el Estado español 2005, May 2006;

SalHaketa dossier on Nanclares de la Oca prison:

<http://www.nodo50.org/tortura/varios/Nanclares-Mujer-2005.pdf> ;

El País, 14.4.05; Diagonal, 27.4-10.5.06.

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CONTENTS

Europol-USA agreement- was it really needed?	1
Civil liberties	2
Germany: Student goes to law over World Cup data collection	
UK: UK must act on Guantanamo Britons	
Spain: Detentions in operation against file-sharing	
UK/Israel: Neither accountability nor justice for murdered Britons	
Europe	5
Czech Republic: Court to implement European Arrest Warrant	
Immigration	5
UK: Immigration detainees treated like "parcels not people"	
Germany: Transition will prolong migration restrictions	
France: Law introduces hand-picked, disposable migration	
Military	7
UK/Afghanistan: British take command of Helmand from US forces	
Spain: Guardia Civil officers press for demilitarisation	
Racism and fascism	9
Germany: Anti-Radical Decree applied against teacher	
Germany: Vicious attack sparks debate	
UK: BNP makes gains at local elections	
Law	11
UK/Cuba: Ten children in Guantanamo	
UK: No government help for "severely tortured" Guantanamo prisoners	
UK: ASBOs "demonise" children	
Policing	12
UK: Man accidentally shot in police terror raid	
Italy: Carabinieri illegal DNA database	
Germany: UK police get power of arrest at World Cup	
Prisons	14
UK: Long Lartin procedures inadequate	
UK: Muslim prisoners' trial preparations	
UK: Double punishment for prisoners	
Portugal: Prison death statistics 2005	
Security & intelligence	16
FEATURES	
EU Roundup	16
Faster, further, higher: How EU police forces cooperate on football matters	18
Germany: Journalists, enemies of the state in the EU?	21
Spain: UN Convention on Torture Protocol ratified as claims of ill-treatment continue	22

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Statewatch bulletin

Subscription rates: 6 issues a year: UK and Europe: Individuals and voluntary groups £15.00 pa; Institutions and libraries: £40.00 pa (outside Europe add £4 to the rate)

Statewatch does not have a corporate view, the opinions expressed are those of the contributors.

Published by Statewatch and printed by Russell Press, Russell House, Bulwell Lane, Basford, Nottingham NG6 0BT

ISSN 0961-7280

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