

Statewatch bulletin

Vol 3 no 6 November – December 1993

IN THIS ISSUE: * Special report on the Council of Interior & Justice Ministers * Feature: on the Western Europe's cordon sanitaire * Report on border tour of the New Walls of Europe * The deportation of Ms Nwokedi * Intelligence Services Bill

EUROPE

EU: new secrecy code

The General Affairs Council (comprising Foreign Ministers) of the EU (European Union) meeting on 6 December agreed a proposal to introduce blanket secrecy on a whole range of reports and documents produced for the Council (the Council is the body representing the 12 EU governments) and the European Commission. This follows the withdrawal of a proposed formal regulation in January 1993 after protests from the European Parliament, the International Federation of Journalists, and the European Trade Union Federation (see *Statewatch* vol 3 no 1). The new proposal is not being introduced as a regulation, which would have to be put to the European Parliament, but as an internal 'code of conduct' - drawn up in secret by state officials for endorsement, in secret, by EU Ministers. The move is being strongly opposed by the Dutch and Danish governments on the grounds that the EU is meant to be moving towards more 'transparency' (openness) not more secrecy, and in the interests of accountability to their national parliaments. In both countries measures to be considered, for example, by the new Council of Interior and Justice Ministers have to first be approved by their parliament before Ministers can attend the meetings and agree proposals (see *next story on Holland*).

The agreed proposal is contained in a 'code of conduct' to be followed by the Council and the Commission from 1 January 1994. The critical effect of the proposal emerged between two drafts of the report prepared by COREPER (the permanent representatives of each of the 12 governments based in Brussels). The first dated 4 November (9678/1/93 Rev 1 (f), Restricted) says that: 'The institutions (shall refuse)(may refuse) access to a document for one of the following reasons'. Put simply it left open the question of *shall* refuse and *may* refuse. A supplementary report dated 10 November (SN/4969/93) says that following a meeting of the General Affairs Council which considered the first report:

the Presidency [Belgium] proposes the following compromise formula: Rules of exception: "The Institutions shall refuse access to any document that could interfere with [porter atteinte, could also mean: damage]

The so-called 'compromise' came despite strong objections from the Dutch government (who said the policy of their parliament required approval of government actions before Council meetings), the Danish government (who have a parliamentary scrutiny committee prior to Council discussions) and the Greek government. The leading supporters of the proposal are the German and UK governments. The only concession gained was that it was agreed to 're-examine' the 'code of conduct' after two years.

The grounds on which access to documents can be refused are set out as: 'protection of the public interest (public safety, international relations, monetary stability, juridical procedures, inspection and enquiry activities); protection of the individual and of private life; protection of commercial and industrial secrets; protection of financial interests of the Community; protection of confidentiality demanded by any person, real or legal entity, who has given information, or required by the legislation of the member state which has given the information concerned; they [the Council and Commission] may also refuse such access to ensure the protection of the interests of the institution in relation to the secrecy of its deliberations'.

What happened to 'transparency'?

The proposal emerged from the Declaration on 'The right of access to information' attached to the Maastricht Treaty. This openness 'of the decision-making process strengthens the democratic nature of the institutions and the public's confidence in the administration'. It thus recommended that a report be prepared 'to improve public access to the information available to the institutions'. A number of bodies worked on following this up. The Commission prepared two reports, in May and June. At the meeting of the General Affairs Council (comprised of Foreign Ministers) on 25-26 October they adopted an 'Interinstitutional declaration on democracy, transparency and subsidiarity', including steps to make more information available to press and public. But the critical report was prepared by the Coordinators Group (now known as the K4 Committee, which services the Council of Interior and Justice Ministers). The first report (4 November) sets out the areas of concern as: 1) 'the rules of exception [to right of access] relating to the applicability of the right of access to headings V [Foreign Affairs and Defence] and VI [justice, policing and immigration] of the Treaty of European Union [the Maastricht Treaty]'; 2) 'Respect for secrecy of discussions' which is defined as: 'refusing access to ensure the protection of the institutions in relation to the secrecy of their discussions'.

The Schedule attached to the report starts, ironically, with the 'General Principle' that 'the public will have the widest possible access to documents held by the Commission and the Council'. It then goes on to define the rules of exception (above). An appeals procedure is set out where access is refused: an application for the reasons must be made within one month of refusal.

The comments of the International Federation of Journalists (European Group) in a strong letter on the proposal include: opposing the clause that if a document, or part of it, has come from one member state this state would have a veto on its disclosure; that Article 10 of the European Convention of Human Rights should be applied before classifying a document as 'secret' (this applies the concept of 'necessary' denial of access); and that there is no right of

appeal to an independent body.

The effect of this proposal is going to lead to the 'classification' of documents concerning policing, law, immigration, defence and foreign policy (covering the second and third 'pillars' of the Maastricht Treaty). It will also lead to the differential release of information as the Dutch government will continue to fully inform its parliament, while the UK and other parliaments will receive even less information.

Access of the public to documents of the Council and Commission, Report of the Committee of Permanent Representatives, 4.11.93, Restricted, 9678/1/93 REV.1(f); *Compromise proposal from the Presidency*, 10.11.93, SN/4969/93; *General Affairs Council* on 25-26 October, press release; letter from the *European Group of Journalists of the International Federation of Journalists*, 16.11.93; *Volkskrant*, 7.12.93.

Holland: democracy & secrecy

From last September the Schengen Executive Committee (the governing body of ministers from the nine Schengen countries) has been empowered to take decisions binding to national governments. However, the Dutch parliament agreed the Dutch Schengen Approval Act on the basis that every decision binding the government has to be approved by parliament first (the Italian Senate may also follow this example).

One of the first test cases was the adoption of the Schengen Executive Committee's rules of order on November 23, 1993. The Dutch government feels that these rules do not 'bind' it, and therefore has only informed parliament of their contents without asking for its approval. A majority of MPs disagree with this, but State Secretary Mr Piet Dankert has explained that this procedure has been followed to avoid precedents: 'In the European Community the regulations of order of the Ministerial Council have to be modified in relation to the implementation of the Maastricht Treaty. These regulations are now confidential.' Mr Dankert emphasized the aversion of nearly all EC governments towards greater openness, and said that no other European government supported his initiative for a European Freedom of Government Information Act at a recent meeting. 'Even the Danes did not dare to back it, and the rest didn't like the idea one bit.' Consequently, Mr Dankert withdrew the proposal. In parliament the Liberal Democrats pointed out that Holland had clearly got itself in an isolated position by pleading for openness and democratic controls in the European structures. Mr Dankert predicted that nothing would come of openness on the judicial part of the Maastricht Treaty. 'There are harrowing cultural differences between the European member states on the area of confidentiality of judicial information. At this moment it seems like a hopeless struggle'.

The 'Central Group', a body of senior civil servants appointed by the Schengen Executive Committee, plays a crucial role. It drafts the annual Schengen budget which is then presented to the Executive Committee for approval. Controls over spending also lie with the Central Group, with participating states held to stand surety for overspending. The Executive Committee's draft rules of order, now under discussion, make confidentiality of all policy documents mandatory, with openness being the exception.

While Mr Dankert says this situation is undesirable, he argues that the Dutch parliament will still receive all the confidential information pertaining to binding decisions. It can then invite the government for a debate 'in camera'. But Mr. Dankert claims that 'in practice it won't be all that bad, you know how it goes with parliament, it will soon leak the information anyway. The risks for openness of government are more substantial with the intergovernmental parts of Maastricht' (ie: cooperation in the

domains of policing and judicial matters, and foreign and security policy-making).

The Schengen Treaty itself already imposes wide-ranging limits to the national sovereignty of member states. In a recent case, a foreign journalist was evicted from Greece on charges of endangering the public order. The reporter had criticized the Greek government's decision not to recognize the state of Macedonia, while all other Schengen countries had done so. Under the new Schengen regime this individual would be registered in the Schengen Information System as an 'undesirable' alien in all nine countries. Another government would only be allowed to permit him entrance to its territory if this would serve a national or a humanitarian interest. Furthermore, this country would be expected to guarantee that the person concerned will not harm Greece's interests.

Vrij Nederland, 13.11.93.

EU, not EC but not all the time

On 8 November it was announced at a meeting of the Council of Foreign Ministers that in future the term 'European Union' or EU should be used when referring to matters decided under the second (defence and foreign policy) and third (justice, policing and immigration) 'pillars' of the Maastricht Treaty. In these areas the EU is not a legal entity in international law because the nature of agreements, policies and Conventions are intergovernmental, that is, they rely on each of the 12 EU states ratifying Conventions, acting on policies, and incorporating decisions into national laws.

However in economic policy, which usually involves the European Commission, such as trade agreements with third countries (those outside the EC) these are legally binding agreements in international law and the term 'EC' is still appropriate.

Statewatch will now use the term EU (not EC) as its interests lie in the second and third 'pillar' areas.

Official Journal, L 281, 16.11.93.

Europe - in brief

Swedish police investigated over Palme death: The Swedish state police, Sapó, are to be investigated following allegations of their involvement in the murder of former prime minister, Olaf Palme. The allegations will be investigated by an all-party Parliamentary Commission in the new year. This is the third investigation into his murder, the previous ones being inconclusive. Palme was shot dead while walking in the street with his wife. His killer has not been caught. *European* 19.11.93.

Sweden & Schengen: The Swedish Eurominister, Ulf Dinkelspiel, said that Sweden was ready to join the Schengen Agreement. However this could not happen while Denmark remained out of the Agreement. He said the government had been in contact with the Schengen Secretariat and that their parliament would soon be presented with a statement concerning Swedish membership of Schengen. Denmark together with the UK and Ireland of the 12 EU states are not in the Schengen Agreement. *Information* 25.10.93.

Europe: in the courts

ECHR in eastern Europe

As at 1.9.93 the following eastern European states had ratified the ECHR: Bulgaria (7.9.92); Hungary (5.11.92); Poland (19.1.93); Czech Republic (1.1.93); Slovakia (1.1.93). All five had accepted

the right of individual petition and the compulsory jurisdiction of the European Court of Human Rights (Arts 25 and 46). Apart from these five, the following had joined the Council of Europe: Estonia (14.5.93); Lithuania (14.5.93); Slovenia (14.5.93). In addition, the following states have applied for membership: Albania, Belarus, Croatia, Latvia, Moldova, Romania, Russia, Ukraine. These countries, and the former Yugoslav republic of Macedonia, have special guest status with the parliamentary assembly of the Council of Europe.

Human Rights Law Journal, vol 14, nos 7-8, 30.9.93.

ECHR cases: X v Malta

In December 1983 Mr X's home was raided after police received information that weapons were to be found there. Nothing was found, but Mr X was arrested and detained for 46 hours. The Constitutional Court of Malta upheld his complaint that he had been subjected to inhuman and degrading treatment during interrogation, and that his arrest and detention had violated his constitutional right against arbitrary arrest. But they found that the search of his home was not contrary to the constitution, which allows premises to be searched 'when reasonably required in the interests of public order'. Mr X complained in May 1991 to the European Commission on Human Rights, alleging a breach of his right to respect for family and private life. On 17 February 1993 the Commission declared his complaint admissible.

Human Rights Law Journal, vol 14, nos 7-8, 30.9.93.

Europe - new material

Crisis in Russia: facts and figures, people and data. Stockholm International Peace Research Institute Fact Sheet, October 1993, pp26. (Available from SIPRI, Pipers vag 28, S-170 73 Solna, Sweden). This fact sheet contains information on: 'Political institutions, actors and events'; 'Military forces and command structures'; 'Russia and post-Soviet conflicts' and 'Russia and international security'.

Arabicide in France: an interview with Fausto Giudice, Chris Woodall. *Race and Class* 35:2, (October-December) 1993.

European election round-up, *CARF* No. 17 (November/December) 1993, pp6-7. A look at racist trends in the lead up to the November elections.

European Race Audit No. 5 (October) 1993. *Institute of Race Relations*. Regular report on the rise of racism and fascism throughout Europe. Available from: IRR, 2-6 Leeke Street, London WC1X 9HS.

Parliamentary debates

European Parliamentary elections Bill, *Commons*, 6.7.93, cols 336-342 & 7.7.93 cols 343-412

Questions in the European Parliament

Passport control at the Community's internal borders (oral), 21.4.93, OJ no 3-340, pages 184-185 & 187-189.

Pressure of immigration in the Community and Greece (written), 21.4.93, OJ no 3-340, page 251.

Xenophobic attacks in Spain (written), 11.5.93, OJ C 132, page 21.

Community's home affairs policy and individual freedoms (written), 13.4.93, OJ C 101, pages 37-38.

A European approach to security after abolition of border controls on 1 January 1993 (written), 13.4.93, OJ C 101, pages 12-13.

Internal security in the Community member states (written), 15.5.93, OJ C 137, pages 25-26.

Job losses at border crossing points from 1 January 1993 (written), 8.3.93, OJ C 65, pages 20-21.

POLICING

Europol to be in the Hague

At the special EC Prime Ministers Summit at the end of October it was decided that the headquarters of Europol would be in the Hague, Netherlands. Europol HQ will be at: Raamweg 47, 2596 HN, the Hague, Netherlands; this is the building which was previously occupied by the Dutch central criminal intelligence service (CRI).

The first occupants will be the European Drugs Unit (EDU), signalling the operational start to Europol. The EDU is to have a budget of BF80 million in 1994 with a staff of around 80. The Council of Interior and Justice Ministers in Brussels on 29-30 November confirmed the interim appointment of Mr Storbeck (an official from the German Justice Ministry) as the Coordinator of the European Drugs Unit (EDU) and Colonel Bruggeman (currently a paramilitary police commander in Belgium) as Deputy Coordinator. In April 1994 applications will be invited for the permanent posts of those to head Europol.

The full Convention on Europol is expected to be ready for ministerial signature during the German Presidency of the EU in October 1994. This will then have to be ratified by the 12 national parliaments - some of whom will expect to see the Convention on Data Protection at the same time. It is therefore unlikely that the other Europol activities (in addition to drugs) like databases on serious crime (and criminals) will come into effect until 1995/6.

Holland: Organised crime

The Dutch media are giving great prominence to organized crime which shows all the characteristics of a government-orchestrated campaign. With the spring 1994 elections in sight and the Ministry of Justice annual budget on the parliament's agenda, there has been a week-long series of TV documentaries with 'live' footage of covert surveillance, house searches and arrests. Police chief Drs Eric Nordholt, of the Amsterdam force, disclosed that several political parties had experienced attempts by members with organized crime connections to infiltrate decision-making bodies on local and national levels. Also several employees at the Rotterdam public prosecutor's office and the Amsterdam court house were discovered to have underworld affiliations.

This has resulted in a behind-the-screens power play between the police and the BVD (the internal security service) over the question who will become responsible for keeping the civil servants and politicians honest and beyond temptation. While the BVD has the formal mandate to alert public authorities against 'subversion' attempts, in reality the organization lacks the contacts to properly monitor all potential threats. Most 'infiltrations' so far have been discovered in the course of police investigations. The police, and more specifically the Regional Criminal Intelligence Services

(RCIDs), do have the antennae and the contacts to detect potential threats. The CID however is carefully shielded from the public domain, and formally the police chiefs are not allowed to provide anybody outside the strict police and public prosecutor spheres with the 'soft' and often unverified CID information. The stakes in this 'turf' battle are obviously high: countering the organized crime threat appears to have replaced, in seriousness and magnitude, terrorist and espionage scares. The role of the Regionale Inlichtingen Diensten (the RIDs, the police intelligence services, ie: the BVD branches in the police that have replaced the PIDs under the current police regionalisation) could become crucial here as they combine the BVD affiliation with excellent contacts in the police world. The loyalty of the RIDs to either the BVD or their regional grass roots remains to be established.

The BVD meanwhile has taken up its task of detecting subversion with a familiar vigour reminiscent of days gone by: in Amsterdam, personnel of the local 'Maatwerk' bureau who coordinate programmes to get the unemployed back to work again have been asked to supply information on all of its clientele to the BVD in order to spot potential troublemakers. The BVD had obviously not anticipated the solidarity of some of Maatwerk's staff, themselves formerly unemployed, who have reported themselves on sick leave and are now considering ways to expose what they perceive as a new McCarthyism.

Policing - in brief

Batons: Home Secretary, Michael Howard, has given permission for trials of new 24 inch long expandable side-handled police batons. Thirteen police forces, including the Metropolitan Police, will begin the trials in January after being given 12 hours training in its use. Eight forces are testing three other types of baton. The tests will be completed in July.
Independent 24.11.93.

Belgium: 5% on police computer: in reply to a question from Green MP Hugo Van Dienderen the Belgian minister of Justice Mr Wathelet said that in November 1992 442,356 people were registered on the gendarmerie information system of whom 403,776 were suspects - nearly 5% of the total population. A control programme introduced in 1992 had reduced the total by more than 80,000 from the 1991 figures. The computer system only holds juridical information and will be playing a key-role for Belgium in the Schengen Information System (SIS).

HMI report: the annual report of Her Majesty's Inspector of Constabulary for 1992 (published in June, 1993) follows the pattern of the last few years - its is glossy, acres of white space, and with little information. The few facts that can be elicited show that the number of black and ethnic minority police officers in England and Wales has risen in five years from 1,105 in 1987 to 1,730 in 1992 out of a total police force of 128,045 (most of this increase has been in the Metropolitan Police, which has risen from 687 to 1,136). The National Criminal Intelligence Service (NCIS) has suffered a setback with the abandonment of the National Criminal Intelligence Computer System which 'did not obtain Treasury support and was abandoned during the year' (see *Statewatch*, vol 2 no 2). The number of recorded complaints against the police was 34,922 with 9,140 being 'informally' resolved (ie: the investigation is not pursued). *Her Majesty's Chief Inspector of Constabulary, Annual Report 1992*, HC 679, June 1992, 56 pages, £15.30.

Policing - new material

Multi-ethnic work groups in the Dutch police: problems and potential, Sjiera de Vries. *Policing and Society* 3:3, 1993, pp177-188. On affirmative action programmes and discrimination in the Dutch police.

A new police communications system in Barcelona, Francisco Javier & Emiliano Bengoa. *International Criminal Police Review* No. 440 (January-February) 1993, pp30-34. The Spanish police installed an integrated system to modernise police telecommunications and security cover for the 25th Olympic Games in Barcelona in 1992.

Police - new material

Policing: minutes of evidence, Home Affairs Committee. HMSO 1993, pp30, £5.95. Examination by the Committee of Paul Condon, Commissioner of the Metropolitan Police.

Her Majesty's Chief Inspector of Constabulary Annual Report 1992. HMSO 1993, pp56, £15.30.

The wrong side of the law, Cal McCrystal. *Independent on Sunday* 21.11.93. On the corruption - violence, drug-dealing and fabricating of evidence - at Stoke Newington police station in east London.

Plain clothes and pretensions, PAJ Waddington. *Police Review* 24.9.93, pp18-19. Waddington argues for the abolition of the CID.

Police questioning techniques in tape recorded interviews with criminal suspects, Stephen Moston & Terry Engleberg. *Policing and Society* 3:3, 1993. Discusses two questioning strategies, the first for gathering information, the second for a confession.

Learning the hard way, Michael Clarke. *Police Review* 22.10.93, pp16-17. On the lessons that the Metropolitan Police learnt from the Trafalgar Square poll tax riot of 1990 and how they led to the 'successful' policing of the anti-BNP demonstration at Welling in September.

Police behaviour in crowd situations - a recipe for violence?, Sergeant Brian Kingshott. *Police Journal* LXVI:4 (October-December) 1993. Asks whether the policing of crowds in public order situations 'can create a backlash of violence.'

Advising at the police station: answering police questions, Ed Cape. *Legal Action* October 1993, pp10-12. First of two articles on whether a client should be advised to answer police questions.

NORTHERN IRELAND

Extradition case

On 16 September, 1993 Gerard Power was arrested in Belfast and flown to London where he appeared at Bow Street court. German Government lawyers had applied for his extradition accusing him of the attempted murder of a British soldier in Germany in March 1980. Surprisingly he has just been granted bail. The soldier was shot by two people while jogging. He survived the attack and the day after provided a detailed statement describing his attackers. The first was 'blond... in his early twenties... a short man about 5 ft 4 ins... I don't think I could recognise him again. His second attacker

'was slightly taller... between 5 ft 6 ins and 5 ft 8 ins'. The following month he was shown 22 photographs and he picked out two as the man who first shot him because of 'the face and hair style'. The photographs were allegedly of Gerard Power. Three weeks later the soldier made further statements and now claimed that his first attacker was about 5ft 8-9ins - the same height as Gerard Power. In 1980 Gerard Power had a major skin complaint which caused large, noticeable boils on his face. Yet at no point in any of his statements did the soldier refer to these. When challenged about the extraordinary delay in making the accusation, the German lawyers claimed that Power had been in hiding. This was manifestly untrue. Every year he has registered his full name and address on the Northern Ireland electoral role. Moreover, in 1985 the RUC were able to find and arrest him, along with 26 others, when he was 'fingered' by the supergrass Harry Kirkpatrick. Power was convicted but was subsequently released on appeal in November 1986.

Gerard Power did work in Germany between April and December 1979. But he returned home and claimed unemployment benefit from 17 December. He then returned to Germany in September 1980 to look for work. After two weeks his money ran out and he contacted the Irish Consulate in Hanover who sent him to the local social services. They helped him with expenses to enable him to return home where he then signed on again. These dates are confirmed by the DHSS.

Since his arrest he has repeatedly said that he would be willing to be interviewed by the RUC, British or German police to answer any questions concerning the allegation. But, to date, he has not been asked a single question. As he has pointed out, if he had been interviewed a few months after the shooting he would have been able to prove his presence in Belfast and hence his innocence. He was now finding it extremely difficult to provide independent proof of his whereabouts thirteen years ago.

Notwithstanding all these factors pointing towards his innocence, Power is in an impossible situation. Under the European Convention on Extradition a request for extradition no longer requires to be accompanied by sufficient supporting evidence to establish a prima facie case. Extradition is now allowed simply on the basis of a request, an arrest warrant or a statement of facts (see *Statewatch*, vol 3, no 5). After five appearances and repeated demands for his release on bail, he finally been granted bail. This is almost unheard of in extradition cases, particularly of the serious nature of this one, and gives hope to Power and those campaigning for him that this miscarriage of justice in the making will be stopped before it goes much further.

Britain and Ireland Human Rights Centre

Compensation Costs

There has been a sharp increase in the cost of compensation for damage to property caused largely by the IRA. The total amounts of compensation paid out in Northern Ireland for terrorist related criminal damage claims which were settled in each year since 1982-3 were as follows:

Year of settlement Amount Paid
£million

1982-325.5
1983-422.3
1984-522.9
1985-616.7
1986-718.9
1987-810.6

1988-916.9
1989-9018.4
1990-118.9
1991-219.7
1992-340.2

Under Section 63 of the 1991 Northern Ireland (Emergency Provisions) Act, compensation can be paid by the Secretary of State for any personal property taken, occupied or destroyed by the RUC or British Army. In 1992-93, a total of £2.8 million was paid out under Section 63, an increase of 49% on the previous year. In the calendar year 1992, the Army searched a total of 751 dwellings while the RUC searched 3,415. Over a 24hr period on 18 and 19 October the RUC and Army raided 94 homes in West Belfast. This was just prior to the week which witnessed a total of 23 deaths, including those in the Shankill fish shop and the bar at Greysteel, Co. Derry.

The Law Society of Northern Ireland (which represents solicitors) has complained about 'draconian' proposals for changing the basis of criminal injuries compensation for which the government has already paid out £16.7 million this year. What has reportedly angered victims the most is the idea that compensation based on actual pain, suffering and financial loss should be replaced by a simple payment to mark 'society's sympathy and concern for the victim'. The proposals include abolition of the right to claim for wages lost, a once-off payment of between £20-25K to families who lose a breadwinner as a result of the conflict.

Commons Hansard, 1.7.1993, written answers col 581-2; *Commons Hansard*, 4.11.1993, written answers col 358; *Irish News* 27.8.93; *Belfast Telegraph* 10.11.93.

Censorship

Amidst revelations that the British government has been engaged in secret contact and dialogue with Martin McGuinness and other members of Sinn Fein, the debate on censorship is intensifying throughout Ireland. Regarding the North, Prime Minister John Major has ordered a review of the rules governing the ban on interviews with proscribed organisations and with representatives of Sinn Fein (a legal political party) which was introduced by Douglas Hurd on 19th October 1988. Opposition to the ban is widespread among journalists working in electronic media and Chief Executive of C4, Michael Grade, has approached the BBC, ITV and Sky News with a view to lobbying former NI Secretary State and current National Heritage Secretary Sir Peter Brooke to end the ban. Grade has described the ban as 'one of the most ludicrous, outrageous and pointless restrictions of free speech ever imposed on a democracy'. Major's review was sparked off by his objections to the practice of actors' voices being used to dub interviews with Gerry Adams, the President of Sinn Fein, and it is expected to result in a tightening of the ban. In addition to this, the Home Secretary, Michael Howard, signed an exclusion order against Adams to prevent him visiting London. While many reports have assumed that the exclusion was a response to the Shankill bombing, the order was in fact signed two days prior to this event.

In the South, the Minister for Arts and Culture, Michael D. Higgins, is coming under strong pressure to repeal Section 31 of the Broadcasting Act which bans interviews with representatives of Sinn Fein and proscribed organisations altogether. Higgins, a sociologist at University College Galway, has ordered a review of the operation of Section 31 under which an annually renewable order is made in January. The weight of opinion against Section 31 is expressed forcibly in a new book, *Let in the Light: Censorship, Secrecy and Democracy* (Brandon Books, ISBN 0 86322 173 4,

Price £7.95). The book is a record of speeches made to the Let in the Light conference held in Dublin in January 1993. It includes sections on business secrecy, political censorship, censorship and the arts, and publishing.

Political Vetting

In 1985, Douglas Hurd made a statement in the House of Commons setting out the grounds on which funds to voluntary organisations and community groups would be withheld. These included:

cases in which some community groups or persons prominent in the direction or management of some community groups, have sufficiently close links with paramilitary organizations to give rise to a grave risk that to give support to those groups would have the effect of improving the standing and furthering the aims of a paramilitary organisation, whether directly or indirectly.

Since then, some 28 groups have had funding withdrawn and many others have had funding refused. This policy has now, for the first time, been enshrined in law. Under the National Lotteries Act 1993, the Secretary of State for Northern Ireland has the power to direct that money from the lottery will not be distributed to 'a) a proscribed organisation for the purposes of the Northern Ireland (Emergency Provisions) Act 1991 or b) any other organisation that appears to him to be concerned in terrorism in Northern Ireland or in promoting or encouraging it, might directly or indirectly derive benefit from the distribution of money to the person specified'. Benefit is defined as both financial and 'enhancement of reputation'. Commenting in *Just News*, solicitor Geraldine Scullion writes, 'Political vetting offends principles of natural justice... the Secretary of State can prohibit a grant of lottery money on the basis of rumour and unchallenged suspicion. No evidence of wrongdoing is required. The information upon which the Secretary of State basis their decisions cannot be disclosed so the rejected applicant has no basis on which to appeal... The clause [24] also weakens available remedies as there is less opportunity to challenge the decision through judicial review.'

Just News, vol 8 no 10, p6)

Northern Ireland - In Brief

TV Anti-terrorism Campaign: On July 7th this year, the Northern Ireland Office launched three new films for TV which are part of its new campaign against terrorism. The films last 150, 80 and 40 seconds respectively and cost a total of £438,000 to make. The projected expenditure for screening the films in the 1993/4 financial year is put at £280,000. *Commons Hansard*, 21.7.1993, written answers col 264.

Total Costs of 'NI Emergency': In the Westminster adjournment debate of 22 October, Tony Benn stated: 'I asked the House of Commons research department to calculate the total cost of the emergency and, at current prices, the cost of the war has been £14.5 billion.'

Prevention of Terrorism: Kevin Macquillan is subpoenaed to appear in a trial at the Old Bailey on 22 November. However, he is currently subject to an exclusion order under the PTA and therefore is banned from travelling to Britain from Northern Ireland. If he enters Britain he will commit a criminal offence under the PTA and could face up to five years in prison for breaching the ban. On the other hand, if he fails to appear he could be jailed for contempt of court. The authorities are in a predicament because there is no

power under the PTA to suspend temporarily an exclusion order; it must be either revoked or maintained in force. *Guardian*, 20.11.93.

Smyth Extradition Hearing: The Jimmy Smyth extradition hearing in San Francisco has now ended (see *Statewatch*, vol 3 no 5). Both sides have until 17 December to submit their concluding briefs. It is expected that Judge Barbara Caulfield will announce her judgement before the end of the year. In the meantime, her decision concerning Smyth's application to be released on bail is expected before the end of November.

Mike Nolan: In early October Mike Nolan, the Chair of the Bristol Irish Society, was attacked by two men and seriously injured. He was counting some money early in the evening when the men entered the BIS premises in the centre of Bristol and beat him with baseball bats. During the assault he was constantly called a 'dirty Irish bastard'. No money was taken and the police have admitted that the attack was racially motivated. During the investigation the police requested the names, addresses and dates of birth of all BIS members. A spokesperson for the Avon and Somerset police said that 'nothing sinister should be read into what was a routine request' but he failed to explain why such personal information would assist the injury. The BIS did not hand over their records. Although there a reconstruction of the assault has been broadcast on HTV's Crimestoppers, none has yet been apprehended.

Tension over MI5: According to a report by the Belfast Telegraph's security correspondent, RUC special branch officers are becoming increasingly frustrated with MI5 interference. RUC Special Branch has primacy when it comes to intelligence work in Northern Ireland but special branch officers are increasingly concerned that MI5 is making a bid to take over, even though the RUC runs the vast majority of informers. One particular point of tension is that MI5 is trying to clamp down on sensitive communications between Belfast and London. MI5 is scrutinizing data before sending it on which is causing significant delays and reducing the value of the information. Special branch officers general resent 'young whizzkids' from MI5 who only spend six months in the North and lack the commitment and knowledge of local officers.

Northern Ireland - new material

Shoot to kill and collusion: violations of human rights by state forces in N. Ireland. A record of murders by Loyalist paramilitaries 1990-1992. Relatives for Justice, 1993, £3. (Available from: Relatives for Justice, 22 McBride Avenue, Mervue, Galway). This pamphlet documents sectarian killings by Loyalist paramilitaries over the past two years. It also includes an investigation of the deaths caused by South African weapons which reached Northern Ireland through UDA intelligence officer and British agent, Brian Nelson.

Independent commission for police complaints for Northern Ireland: fifth annual report 1992. HMSO 1993, pp42, £8.10.

Ireland: time for peace, Gerry Fitzpatrick. *Chartist* Nov-Dec 1993, pp16-17,

Public images of the police in Northern Ireland, John D Brewer. *Policing and Society* 3:3, 1993, pp163-176. Critique of the 'divided society' model of policing drawing on data from the 1990 Social Attitude Survey in Northern Ireland.

Crown Prosecution Service

The Annual Report of the Crown Prosecution Service for 1992-93 reveals that magistrates acquitted in only one-fifth of contested cases, while juries acquitted in just under half the contested cases in the Crown courts. The majority of defendants in both courts pleaded guilty (81.5% in the magistrates' court, 79% in the Crown court). Just over 20% of the 1.5m cases dealt with by the CPS were discontinued, over one-third of these after committal to the Crown court. In response to public and police criticism of the number of discontinued cases, the CPS has launched a review of the reasons for abandoning cases. The review in turn was criticised for not consulting police or victims of crime. The CPS cost £264 million in public money in the year.

Meanwhile Director of Public Prosecutions Barbara Mills denied allegations by the Campaign Against Racism and Fascism that the CPS is soft on racial attacks, investigating them inadequately and taking inexplicable decisions not to prosecute alleged assailants. 'Racial crimes are particularly abhorrent and we take them very seriously,' she said. CARF found that defendants in race cases (including racial murders) had been granted bail, that vital witnesses to racial attacks were not followed up, a clear racial motivation behind attacks was often denied, and described as 'territorial'. In addition, many victims of racial attack were prosecuted and the CPS continued the prosecutions.

CPS Annual Report 1992-93; Independent 9.11.93; CARF No 17 Nov/Dec 1993.

Criminal justice: no way forward

At a conference organised by the Legal Action Group on 6 November 1993, speakers including Mike McConville, Makbool Javaid, Lee Bridges and Anne Owers explained why the Royal Commission report was no bulwark against the erosions of justice proposed by Home Secretary Michael Howard. The tone was set by Ann Whelan, who has campaigned for fifteen years for the release of her son Michael Hickey and those wrongly convicted with him for the murder of Carl Bridgwater. The conference was reminded of the function of the Royal Commission when it was first announced: to remedy miscarriages of justice, and reminded of the betrayal of that task through what was described as 'institutional capture'.

Mike McConville pointed out that even the retention of the right to silence was not advocated by the Commission on principled grounds - that the calling on an accused to help prove his own guilt, and the use of his silence as part of the prosecution case, undermines the fundamental principle that the burden is on the prosecution - but on the ground that abolition increases the psychological burden on an accused.

Bridgwater Four Campaign

Supporters of the Bridgwater Four Campaign held a series of vigils outside the Home Office in London during the third week of November, to try to get the case referred back to the Court of Appeal so that the three surviving prisoners can be freed after 15 years in prison. During the same week, further discrepancies between police custody records and their reports of interviews with Pat Molloy, who died in prison in 1981, came to light. A Home Office official said that further inquiries would be made, but the Campaign points out that there have been enough secret police inquiries already into what has become one of the longest and most transparent miscarriages of justice still officially unacknowledged.

In a separate development, the High Court ordered the Home Secretary to refer Michael Hickey to the parole board. Since his 89-day rooftop protest at Gartree prison, Leicestershire in the winter of 1983-4, Michael suffered a breakdown and has been shuttled between prison and special hospital since. Michael Howard used his status as a mental patient to deny a parole hearing. *Guardian 23.10.93, 22.11.93.*

Ireland: New Public Order Bill

Justice Minister Maire Geoghan-Quinn introduced a new Criminal Justice (Public Order) Bill in the Dail shortly before the summer recess. The Bill appears to be a response to a widely reported spate of attacks on tourists and others in Dublin city centre over the summer. The fear is that the new offences designated in the Bill will be used, not to make the city centre safer, but to criminalise political activity. The Irish Council for Civil Liberties has described the Bill as having 'horrendous ramifications' for citizens' rights. The fourteen new offences detailed in the Bill make it 'the most crime creative weapon in the state's arsenal since the Second World War'.

When the Bill was first published, it included an offence, punishable by three months' imprisonment and/or IR£500 fine, to act in a disorderly manner at a public meeting, or to incite others so to act, 'with or for the purposes of preventing the transaction of the business of the meeting'. This has now been dropped. The following new offences, amongst others, remain in the Bill, however it will be an offence in any public place between the hours of midnight and 7am to engage in any shouting, singing or boisterous behaviour (including the playing of radios or musical instruments) such as would be likely to annoy anyone in the vicinity. It will be an offence for any person in a public place to distribute or display any writing, sign or visible representation which is threatening, abusive, insulting or obscene with intent to provoke a breach of the peace or whereby a breach of the peace may be occasioned. It will be an offence for any person in a public place to use or engage in any threatening words or behaviour with intent to provoke a breach of the peace or whereby a breach of the peace may be occasioned. It will be an offence to enter a building as a trespasser with the intent of committing an offence, and if the presence of a person in such circumstances gives rise to the reasonable conclusion that the person has the intention to commit an offence then it will be up to them to disprove it.

The Bill contains several clauses on 'riot' and 'disorder' which are so broad as to seriously compromise freedom of assembly. The United Nations Committee on Human Rights has expressed concerns about some of the provisions in the Bill.

The Sunday Tribune 29.8.93; APRN 18.11.93.

Law - in brief

Helpful eavesdropping inadmissible: The House of Lords has ruled that phone-tap material which might help to clear an accused cannot be disclosed or used. They decided that since the Interception of Communications Act 1985 imposed a duty to destroy intercepted messages 'as soon as its retention is not necessary for the prevention or detection of serious crime', there was no legal basis for retaining the messages for use in court, even when they might help an accused secure his innocence. *R v Preston, Independent 9.11.93.*

When protected documents can be disclosed: In a welcome ruling, not perhaps unconnected with the Matrix-Churchill affair, the High Court decided that the Crown Prosecution Service could voluntarily disclose documents covered by public interest immunity

with the approval of the Treasury Solicitor, who would weigh the public interests involved. The CPS did not have to refer the matter to a judge for a ruling. *R v Horseferry Road Justices ex parte Bennett, Independent* 12.11.93.

Law - new material

A law unto themselves, Edward Riley. *Police Review* 26.11.93, pp22-23. Commentary on the Crown Prosecution Service by a practising lawyer.

The case against the CPS, *CARF* No. 17 (November/December) 1993, pp4-5. Asks just how independent the Crown Prosecution Service is, and how well it does its job in the prosecution of racist attacks?

Civil actions against the police: recent developments in the law, Richard Clayton & Hugh Tomlinson. *Legal Action* October 1993, pp15-18. The authors review recent changes in the substantive law.

Racial discrimination in the criminal justice system, Marian Fitzgerald. *Home Office Research and Statistics Department Research Bulletin* No. 34 (Summer) 1993, pp43-47. Describes four main findings from a study of discrimination in the West Midlands.

Falling through the net, Joyce Plotnikoff & Richard Woolfson. *Legal Action* October 1993, pp8-9. On the Royal Commission for Criminal Justice provision of advice and information to prisoners.

An error of judgement?, Michael Zander; **A comedy of errors**, Mike McConville; **Give a dog a bad name**, Sybil Sharpe. *Legal Action* November 1993, pp6-9, 23. Articles on the Royal Commission on Criminal Justice; Zander takes issue with the comments by McConville in the previous issue of LA, and McConville replies.

Denial, neutralisation and disqualification: the Royal Commission on Criminal Justice in context: Phil Scraton. This paper was first presented at the 'Criminal Justice in Crisis' Conference at the Legal Research Institute, School of Law, University of Warwick. 12 pages, available from: The Centre for Studies in Crime and Social Justice, Edge Hill University College, St Helens Road, Ormskirk, Lancashire L39 4QP.

Parliamentary debates

Right to silence (Amendment), 7.7.93, cols 336-342

IMMIGRATION & ASYLUM

The deportation of Ms Nwokedi

The use of adhesive tape to restrain deportees being removed from the country has been banned after an internal Home Office inquiry. Adhesive tape has been used on deportee's arms, legs and mouths. This decision came after the use of tape on Joy Gardner, who died, and Ms Nwokedi who was deported to Nigeria on 9 July 1993 (see *Statewatch* vol 3 no 4). The case of Ms Nwokedi has been taken up by Barbara Roche MP who has written a series of letters to the Home Secretary to try and establish the exact circumstances.

The internal inquiry was based on interviews by an Immigration Service official with the ten people involved: an officer from the Immigration Department (who was present until the plane took off for Lagos), five members of a private security firm, Airline Security

Consultants (ASC) (three of whom went on the plane to Lagos), a police officer from the Sussex police, a police sergeant and a woman police officer from Hornsey police station, and an employee of Group 4 Total Security Limited. This was the second attempt to remove Ms Nwokedi from the country. On 14 February the attempt was abandoned when the captain of the plane refused to carry her because of her protests.

The inquiry report says that the immigration officer 'made it plain' that 'she was to be deported to Nigeria'. In her statement Ms Nwokedi says: 'They told me I had a choice; either go to prison or be deported. I chose to go to prison. Myself and my four year old daughter [Nkechi] were put in a van. We were in the vehicle for hours...at about twelve noon I found myself brought to Gatwick airport'.

Ms Nwokedi says she: 'I was handcuffed and the officer made phone calls for me which I was allowed to say that I had been taken to the airport for deportation'. At midday Ms Nwokedi and her daughter were put into a Group 4 van and driven to the plane in advance of the other passengers. Ms Nwokedi was forcibly taken from the van onto the plane.

A contradiction, in the internal inquiry, emerges as to when Ms Nwokedi was first 'restrained'. The immigration officer says that he 'authorised the use of tape' on her legs before she entered the plane, other participants said it was not until she was on the plane. The inquiry report says:

The handcuffs were applied by two of the ASC escorts after Ms Nwokedi had been taken to the back of the aircraft. Prior authority for their use, if needed, had been given by an Assistant Director in Immigration Service Headquarters. The ASC escorts also wrapped adhesive tape which they carried and which was normally used for securing luggage, around her ankles.

She was then placed in one of the two seats at the back of the plane which were curtained off. The Port Medical Inspector was called to examine Ms Nwokedi and said that she was fit to travel. The internal inquiry questioned the Medical Inspector who was by then working in the United States, the investigating officer spoke to him 'on the telephone'. It appears no attempt was made to contact Ms Nwokedi by telephone in order to supplement her statement.

Ms Nwokedi's account said:

When I started crying they forcibly put me down. One of the men, (the big one) sat on my back, another sat on my legs while they tied my legs, knee to my ankle with a broad sellotape. In the struggle my thumbs were broken, and I was bruised all over...about two hours after take off, they removed the handcuffs and removed the sellotape.

The internal inquiry report says the handcuffs and tape was taken off when the No Smoking sign went off.

One of the ASC men said to her: 'Don't think I am enjoying this, I am human you know'; he gave her £20 which was all the money she had. When the plane landed at Muritala Mohammed airport in Lagos Ms Nwokedi realised that four deportees were on the plane. 'The officials threatened to send me to 'Kirikiri' (the worst hard labour prison in Nigeria) unless we gave them some money, so I gave them the £20 note the official gave me on the plane. So they let me go.' Ms Nwokedi went to a friend's house with her daughter.

Home Office Minister, Charles Wardle, in his letter to Barbara Roche says that 'I am myself satisfied that...there is no evidence to suggest that the degree of force used to restrain her was unreasonable and went beyond what was necessary given the violence of her resistance'. However, he accepted that it was

'unfortunate there was no more suitable form of restraint immediately available that the adhesive tape...ASC and the Immigration Service have been instructed that in future adhesive tape is not to be used...'

ASC had been used in 240 deported cases over the previous 12 months, and there had been four complaints alleging excessive use of force by ASC employees. The firm is not affiliated to either of the private security industry's professional associations. Mr Wardle said the total cost of the deportation was £7,700.

After receiving the report Barbara Roche wrote to Mr Wardle asking a number of questions: why, if the use of luggage tape was 'unfortunate', had Ms Nwokedi not been offered compensation for its use and the injuries she sustained? Given that Ms Nwokedi was handcuffed and taped when the plane took off did this not contravene airline safety regulations? *Correspondence between Barbara Roche MP and Mr Wardle, Minister of State* dated: 24.9.93; 27.10.93; 2.11.93.

Euro-visas

The European Commission has put forward a list of 129 countries whose citizens will require visas to come to any EU country in future. Most of the 129 countries are in the Third World, and most of these in Africa. Visa controls have been the most effective mechanism for keeping out refugees from Europe, since refugees do not qualify for visas until they have left their own country, and once they have left they will be refused on the ground that they can stay where they are.

Visa controls are the only part of the K4 Committee's work which is under Community competence. The rest of its work on immigration and asylum is intergovernmental, a continuation of the work of the Ad Hoc Group on Immigration (AHI). K4's programme of action on asylum includes further work to implement the Dublin Convention and to prepare a parallel Dublin Convention for central and eastern European countries to sign (see Features in this issue), continuing discussion of common assessment of asylum-seekers' countries of origin and transit, and continued consideration of setting up a European system for electronic comparison of fingerprints (EURODAC). On immigration, it will work further on the resolutions on family reunification and on entry for employment approved by ministers on 1 June 1993, on further measures of monitoring and expulsion of non-EU nationals working or living illegally in the EU, and on improvement of training in detection of forged documents.

Work programme of Ad Hoc Group on Immigration, Confidential, SN 3675/WGI 1566, June 1993.

Welcome and goodbye

The third European conference on the reception of asylum-seekers, held in Interlaken in October and attended by representatives from 17 European states including the UK, devoted much of its time to discussion of how to send them back. A session on admission and social assistance was followed by a debate which concentrated on problems 'in relation to mandatory returns, such as the retrieval of identification documents, detention possibilities and cooperation with countries of origin to ensure readmission'.

Final document of the Third European Conference on Reception of Asylum-Seekers, Interlaken. Federal Office for Refugees, 22.10.93.

Deportation of refugee upheld

A Sikh who was subjected to detention and severe torture in India has been ordered to be returned there on national security grounds

after the Home Secretary said that he had been involved in fund-raising for terrorist activities while in the UK. Mr Chahal fled India for the UK in fear for his life. He produced documentary evidence from Amnesty International indicating that he was sought by the Indian authorities and that he was likely to be detained and subjected to further torture if returned there. He was not allowed to know the detail of the allegations against him, but the Court of Appeal held that the Home Secretary was entitled to deport him so long as he had weighed his fear of persecution against the interests of national security.

R v Secretary of State ex parte Chahal, Independent 10.11.93

Woman is not illegal immigrant

Naheed Ejaz, a Pakistan-born British woman with four children born in Britain, has been vindicated in her claim against the Home Office, who attempted to remove her and the children as illegal immigrants. Naheed was granted naturalisation on the basis of her marriage to a British husband. Some years later, it transpired that he was not British but had falsely obtained a British passport. The Home Office then declared that Naheed, who by this time had left her husband because of his violence, was not British either, despite her naturalisation certificate, and neither were the children. They were all illegal immigrants. The Court of Appeal said on 3 December that the Home Office attempt to remove her as illegal was unlawful.

R v Secretary of State ex parte Ejaz 3.12.93.

Finland: to close northern borders?

The Finnish Minister of the Interior, Mr Mauri Pekkarinen, announced, on 11 November, that new regulations would keep many asylum seekers out of the country. He said they were considering declaring Estonia and Russia 'safe [third] countries' to which asylum seekers could be returned.

Finland is linked with the former Soviet territories through numerous rail and ship connections with many refugees from Somalia and Kurdistan entering Finland and Western Europe, usually by train from Moscow or by ship from the Estonian capital Tallinn. In a revision of its Alien Act in July 1993, Finland legalized instant refoulement at its borders. This denial of entry can be carried out by a quick procedure at border stations. The new legislation is intended to fight Russian criminality in Finland, where prostitution and minor crimes are seen as being linked to a 'mafia' establishment in St Petersburg, 150 kilometres away. Finnish alien policies have been sharply criticized by the Finnish Ombudsman for Aliens Affairs, Mr Antti Seppl. Pakolaisneuvonta (Refugee Counselling), an independent organization in Helsinki that provides legal assistance for asylum-seekers, said they fear that third-country applicants will be affected if the new regulations are implemented. As there is virtually no policy for normal migration, people from the neighbouring, relatively poor Russia and Estonia seek residence in Finland by claiming political asylum. In Finland there is also no central authority for asylum and immigration matters, so a refugee case can be dealt with at several governmental departments and by municipal authorities. The number of refugees still relatively low, last year 3,600 people applied for political asylum in Finland. The largest group of people who have been granted asylum in Finland are some 1,500 Somalis.

Jan-Erik Andelin, Finland.

France: new asylum law passed

A joint session of the French National Assembly and Senate in

Versailles on 19 November adopted a constitutional amendment bill on international agreements concerning asylum rights by 698 to 157 votes (more than the two-thirds majority needed of 513) (see *Statewatch* vol 3 no 5). The session followed the rejection of key clauses in previous bills by the Constitutional Council on the grounds that they did not conform to the French constitution. The Prime Minister, Mr Balladur, attacked the Court saying that their decisions were 'sometimes more philosophical and political than legal'.

Balladur said that whereas the preamble to the constitution only recognised the 'right' of the 'persecuted' individual, from now on 'the granting of political asylum will be the sole prerogative of the state, not an individual right any more'.

The debate on the new law took place as widespread media coverage was given to police round-ups of 101 'suspected' members of the Kurdistan Worker's Party (PKK) - 80 of whom were released the next day - and 88 people 'suspected' of working with the Islamic Salvation Front (FIS), a banned group in Algeria - 84 of whom were released.

Le Monde, 21 & 22.11.93.

Dublin Convention

The ratification process of the Dublin Convention by the 12 EU parliaments, agreed by the governments in June 1990, is unlikely to be completed before the end of 1994 (see *Statewatch* vol 2 no 2 & 5). The Convention says that asylum-seekers can only apply to enter one EU country, with the decision of this country being binding on all. It cannot come into effect until at 12 EU states have completed ratified and lodged legal instruments.

A report given to the Council of Interior and Justice Ministers on 29 November gives the following picture: *Belgium*: ratification expected at the end of 1993; *Denmark*: completed on 13 June 1993; *Germany*: 'probably' completed by June 1994; *Greece*: completed 16 December 1991; *Spain*: ratification procedure has not started as Spain is awaiting confirmation from Ireland on an amendment to Article 12 in the Spanish version; *France*: 'probably' in first half of 1994; *Ireland*: 'expected' to be completed by end of 1993; *Italy*: ratified on 23 December 1993; *Luxembourg*: completed 20 April 1993; *Netherlands*: 'ratification procedure has been initiated'; *Portugal*: completed 18 December 1993; *UK*: completed 1 July 1992.

Austria: asylum policies criticised

Amnesty International has strongly criticised the Austrian government's refugee policies and its failure to observe international conventions. The group centres its criticism on the application of the new law affecting asylum-seekers introduced on 1 June and the application non-application of 'non-refoulement'. The principle of 'non-refoulement' is contained in the Geneva Convention on Refugees, the European Convention on Human Rights and the Austrian law on alien citizens (see *Statewatch* vol 3 nos 4 & 5). It is intended to prevent anyone from being turned back at the Austrian border and guarantees an asylum-seeker legal entry to Austria and protection from deportation while their case is being considered.

The Amnesty reports says that Austrian border patrol (border police) usually turn back refugees without any regard to 'non-refoulement', which they are not trained or qualified to judge. Many refugees are taken into police custody and papers prepared for their deportation. Those whose applications are rejected by the Federal Asylum Office find they are deported on the grounds of the negative decision again without reference by the police to the

principle of 'non-refoulement'. This policy has led to the deportation of Kurdish refugees from Turkey, Albanians from Kosovo, and refugees and deserters from the former Yugoslavia. The Austrian authorities argue that every neighbouring state is a 'safe third country' to which a refugee can be returned even if their only contact with this country was a few hours rest in airport transit. Decisions by the Federal Asylum Office 'are mainly made up of prefabricated text-blocks that are supplied by the Austrian Interior Department. They do not reflect the individual story..' Amnesty says that decisions to deport often do not take account of the individual's right to exercise political and civil liberties in their own country.

In the case of a Tunisian citizen the authorities stated:

'The convictions and prison terms were imposed due to your membership of the Al Nahda organisation which is illegal in Tunisia...You did not flee from your trial although you were detained and tortured...Since you are a member of this illegal organisation it is the legitimate right of your country to determine your role in this organisation and - in a procedure before a court of law - impose a prison term on you.'

Amnesty International, Vienna, 11.11.93.

France: racist practices denounced

The Ligue des Droits d'Homme have published a dossier containing numerous examples of abusive and racist implementation of immigration laws which, it says, is endangering the principles which have governed the Republic for two centuries. One example cited was the summary deportation of a pregnant Mauritius woman who was told to report to the police following her marriage to a French national and was put on a plane to Mauritius the same evening. She suffered a miscarriage as a result.

Migration Newssheet November 1993.

Spain: Moroccan children repelled

Ten Moroccan children who stowed away and landed in Spain were prevented from claiming asylum and sent back to Morocco by deception, anti-racist groups claim. The ten children were at first prevented from landing, but then were admitted only to be detained immediately by the Spanish authorities. In response to queries from church and union groups, the authorities claimed that the ten were merely mischievous children whose parents had been in contact, were worried about them and wanted them to come home. The ten were duly shipped back to Morocco, where no parents were waiting for them. The children were instead questioned for a day by Moroccan officials and were then detained in a juvenile detention centre.

IRR European Race Audit No 7, December 1993.

Sweden: asylum-seekers seized: on 24 November police raided a nunnery near Uppsala in central Sweden and arrested 40 asylum-seekers sheltering there. Twenty five adults and fifteen children from the former Yugoslavia, the Middle East and Bangladesh were taken in for questioning. Immigration Minister Birgit Friggebo, who recently made \$12 million available to track down deportation 'dodgers', criticised the local police. *Inter Press Service*, 27.11.93.

Immigration - new material

Statement of changes in immigration rules. HMSO, 1993, pp9, £3.10.

'Provide comfort' and Turkey: decision making for refugee assistance, Kemil Kirisci. *Low Intensity Conflict & Law Enforcement* 2:2 (Autumn) 1993, pp227-253

Why did she die? *The Joy Gardner Campaign* (Available from the Joy Gardner Campaign, c/o 3 Devonshire Chambers, 577 High Road, London N17 6SB). This is the first information bulletin of the Campaign which is seeking to uncover the truth about her death.

The death of Joy Gardner. *Runnymede Bulletin* No. 269 (October) 1993.

Recent developments in immigration law, Rick Scannell & Jawaid Luqmani. *Legal Action* November 1993, pp19-22.

The Council of Europe and the protection of the rights of migrants, refugees and minorities, John Murray and Jan Neissen. Churches Commission for Migrants in Europe, Briefing Paper no 13. 240 BF: 174 rue Joseph II, B-1040 Bruxelles, Belgium.

SECURITY & INTELLIGENCE

The Intelligence Services Bill

The Intelligence Service Bill introduced in parliament on 23 November is intended to legitimise MI6 (also known as the Secret Intelligence Service (SIS), or the Intelligence Service). It is the UK's overseas intelligence agency (similar to the CIA) founded in 1909. The Bill also covers Government Communications Headquarters (GCHQ), founded in 1946, at Cheltenham, which together with the American National Security Agency (NSA), monitors telecommunications throughout the world. This Bill, which has been introduced in the House of Lords, supplements the Security Service Act 1989 which covers MI5's activities. The provisions are in many ways the same as in the 1989 Act with the proposed appointment of a Commissioner (a senior judicial figure) reporting to the Prime Minister and a Tribunal to which complaints can be made. Neither of which has engendered much public confidence. The Bill does not cover the activities of the Defence Intelligence Staff (DIS) or the Joint Intelligence Committee (JIC), which is in the Cabinet Office.

Section 1 of the Bill sets out the role of MI6. Its functions are defined as:

(a) to obtain and provide information relating to the actions or intentions of persons outside the British Islands; and (b) to perform other tasks relating to the actions or intentions of such persons...[in relation to] the interests of national security, with particular reference to defence and foreign policies...the interests of the economic well-being of the UK...or in support of the prevention or detection of serious crime.

Or in plain language to: spy on 'hostile' foreign countries; to subvert and or undermine organisations or political parties opposed to governments the UK supports; to gather economic intelligence in 'hostile' and 'friendly' countries in order to further the interests of UK businesses and capital; and to act in support of MI5, the Special Branch and the police in countering terrorism, drugs, money laundering and illegal immigration.

GCHQ role covers exactly the same objectives - national security,

economic well-being and serious crime - and its functions are to:

monitor or interfere with electromagnetic, acoustic and other emissions and any equipment producing such emissions and to obtain and provide information derived from or related to such emissions or equipment and from encrypted material (Section 3).

In other words the interception, transcription or interference with the communications of foreign governments, military forces, international companies and private individuals.

The actual activities of MI6 and GCHQ are only set out in regard to the 'Authorisation of certain actions' which are defined in Section 5. This says that if the Secretary of State (the Foreign Secretary) issues a warrant: 'No entry on or interference with property or with wireless telegraphy shall be unlawful...'. The only limit to the issuing of warrants is that actions should be of 'substantial value' in MI5, MI6 and GCHQ carrying out their defined (vague) functions. MI5 can execute warrants in the UK on behalf of MI6 & GCHQ (except in the detection of serious crime which is the preserve of the police).

The Bill also sets out 'Authorisation for acts outside the British Islands' (in other countries). Section 7 states that if an agent or official of MI6 acts, outside the UK, in a way that would normally make them liable to prosecution under the criminal law, they will not be liable if their actions are authorised by the Secretary of State. The Secretary of State can authorise potentially 'illegal' activities if they are in pursuance of the functions of MI6. The Secretary of State is given a general power to authorise these actions which can include a 'particular act or acts, acts of a description specified in the authorisation or acts undertaken in the course of an operation so specified' and these may be limited to a particular person, or persons, or they may not.

After years of speculation about the need for parliamentary oversight of UK security and intelligence agencies (along the lines of the US, Canadian and Australian models) the Bill introduces the Intelligence and Security Committee (Section 10). This committee, on the face of it, will be able to examine 'the expenditure, administration and policy' of MI5, MI6 and GCHQ. It will comprise six members drawn from either the House of Commons or the House of Lords (excluding government Ministers). They will be appointed by the Prime Minister, after consulting the Leader of the Opposition. In practice the members of the committee are likely to exclude critics and be comprised of trustworthy figures. Moreover, they will all be bound by the Official Secrets Act 1989 and its predecessors. Schedule 3 of the Bill sets limits on the information to be given to the committee: all information passed to the committee will be approved by the Secretary of State and may be refused if it is 'sensitive information'. 'Sensitive information' (Schedule 3, section 4) covers the identification and details of 'sources of information', 'operational methods', 'particular operations' which have been carried out or are being planned by the agencies, and information which another government refuses to disclose. The only information for which it appears there is a positive right is that covered by the Public Records Act 1958 - that is, information that is at least 30 years old.

In the run up to the publication of this Bill two official publications have appeared, one on the 'Security Service', the other on the 'Central Intelligence Machinery'. Both provide very basic, state-oriented, information.

The head of GCHQ is Sir John Ayde, it has a staff of 9,500 and an estimated budget of £550 million. The head of MI6 is Sir Colin McColl, with a staff of 2,000 and an estimated budget of £150 million. The head of MI5 is Stella Rimington, with a staff of just over 2,000 and an estimated budget of £200 million.

Intelligence Services Bill (H.L.), 23.11.93, 20 pages, HMSO, £3.80; *The Security Service*, 36 pages, HMSO, £4.95; *Central Intelligence Machinery*, 28 pages, HMSO, £4.95; *Commons Hansard*, 30.11.93; *Guardian*, 25.11.93.

GCHQ talks collapse

Talks between civil service union leaders and the Cabinet Secretary, sir Robin Butler, about the restoration of trade union rights at the Government Communications Headquarters (GCHQ), the intelligence gathering centre in Cheltenham, have broken down. The Cabinet Secretary suggested that the staff federation, a powerless body that was created in the wake of Margaret Thatcher's ban on trade unions at GCHQ in 1984, should be made less dependant on the GCHQ director. Civil service union leaders maintain that GCHQ members should have a right to belong to a trade union of their choice. The International Labour Organisation has threatened to condemn the British government for breaching its convention on freedom of association.

Independent 11.11.93.

Conference on security agencies

A one-day conference on the issue of 'National Security in a Democratic Society', in London in October, heard speakers from the US, Canada and the UK on different mechanisms for making intelligence accountable. The conference was organised by Liberty and the Quaker Committee on Truth and Integrity in Public Affairs.

Jeff Richelson from the US said that congressional committees had been effective in the oversight of technical intelligence collection systems, but less so when they sought to reorganise the intelligence community or indulge in 'micro-management'. Reg Whitaker spoke about oversight in Canada which is restricted to the Canadian Security Intelligence Service under a 1984 Act of parliament. Oversight, he said, is institutional not functional (ie: not operations), and that there were signs that the Security Intelligence Review Committee had lost some of its early dynamism.

The second major theme of the conference was government secrecy. In the US journalist were able to publish any material they could get hold exemptions to the Freedom of Information Acts limited the release of information. Laurence Lustgarten said that in the UK the Official Secrets Acts had largely fallen into disuse since the prosecution of Clive Ponting. But the civil law on confidentiality was increasing being used by the state to limit the exposure of information.

Security & Intelligence - new material

France: a new intelligence community. *Intelligence Newsletter* No. 226, 14.11.93, p1, 3-4. On the new French government's recent intelligence appointments and their dubious CVs.

The early years of state surveillance of Labour and the Left in Canada: the institutional framework of the Royal Canadian Mounted Police security and intelligence apparatus, 1918-26, Gregory S. Kealey. *Intelligence and national Security* 8:3 (July) 1993.

Counter intelligence and security, Daniel P. King. *Police Journal* LXVI:3 (July-September) 1993, pp307-309.

Meet Pat Daly: MI5's man in the west. *The Phoenix* 19.11.93, pp14-15. Pat Daly was initially involved with the Official IRA before infiltrating the Irish Republican Socialist Party, the political

wing of the INLA. It has been alleged that he has received £400,000 for his role as an agent provocateur over the past 14 years.

The spy who slipped through the net, Lawrence Donegan & Richard Norton Taylor. *Guardian* 19.11.93. Piece on Michael Smith, who was recently jailed for 25 years for spying for the Russians, and the MI5 blunders that allowed him to remain active for so long.

PRISONS

New members of Prisons Board

Two new members of the Prisons Board have been appointed. They are Brian Landers, as Financial Director, and Geoffrey Keeys who joins the board as a non-executive director. Landor, who takes up his post in December, will be seconded to the Prison Board from Price Waterhouse. Keeys was formerly director of personnel at Chubb & Son and is currently Director of Personnel at Prudential.

HM Prison Service, press release 2.11.93.

Prisons condemned

Judge Stephen Tumim, the government's Chief Inspector of Prisons, has described Wymott prison as verging on anarchy in a report following the third major disturbance at the jail in seven years. The disturbances, in September, left the prison in ruins and caused damage estimated at £20 million. Violence had broken out the previous weekend, and in the year leading up to the riot 87 prisoners had been admitted to hospital following assaults.

After the disturbances Home Secretary, Michael Howard, ordered the removal of privileges for the 780 prisoners, whether or not they were involved in the rioting. Governors at the seventeen prisons holding former Wymott prisoners were instructed not to grant them home leave or temporary release. This blanket ban lasted for at least a month.

The previous disturbances at Wymott were in April 1986, when 58 prisoners were injured and the prison was damaged by fire and flooding. Six months later violence flared again and several prison officers were injured.

Judge Tumim also criticised Liverpool Prison where severe overcrowding has led to prisoners spending 20 hours a day locked in their cells. At the time of Tumim's inspection of the prison, last May, it held 1,231 prisoners, nearly double its official capacity. He also expressed concern at the prisons health care centre which was unfit for patient care while the operating theatre was structurally unsafe.

Guardian 21.10.93., 23.11.93.; *Independent* 22.10.93;

Prisons - new material

Report of the Committee of inquiry into the death in Broadmoor Hospital of Orville Blackwood and a review of the deaths of two other Afro-Caribbean patients. Special Hospitals Service Authority, 1993, pp87. Available from SHSA, Charles House, 375 Kensington High Street, London W14 8QH. Report, chaired by Professor Herschel Prins, into the deaths of Michael Martin, Joseph Watts and Orville Blackwood at Broadmoor.

Racism in the Mental health system. *Labour Research* 82:10 (October) 1993, pp17-18. This piece examines how racial

stereotyping in the mental health system leads to faulty diagnosis and misdirected treatment.

Women leaving prison, *NACRO* 1993, pp24. This report concludes that women are still leaving prison with nowhere to live or work and with no-one to turn to for advice and suggests a strategy for changing this.

Opening the doors: the resettlement of prisoners in the community, *NACRO* 1993, pp 28. This report sets out five recommendations to ensure that prisoners are equipped to successfully resettle into the community.

Prisons - new material

The prison service: minutes of evidence, Home Affairs Committee. HMSO 1993, pp26, £7.70. Includes a memorandum from the Prison Service and examination of Peter Lloyd (Home Office) and Derek Lewis (Director General, Prison Service).

Report of the Parole Board for 1992. HMSO 1993, pp38, £9.85.

Report of the Parole Board for Scotland, 1992. HMSO 1993, pp23, £5.65.

Restraint or punishment?, *Labour Research*, 82:11 (November) 1993, pp19-20. Examines the increase in the use of body belts, handcuffs and other prisoner restraints.

Private prisons: profits of crime, Phil Smith. *Covert Action Quarterly* No. 46 (Fall) 1993, pp26-30. Piece on US private prisons and their vested interests in locking people up. Includes a section on Corrections Corporations of America (CCA).

RACISM & FASCISM

UN Committee slates Holland

In August 1989 LK, a partially disabled Moroccan citizen living in the Netherlands, went to look at a house he and his family had been offered by the council. He was met by a 'reception committee' of local whites shouting 'No more foreigners'. They threatened to burn the house and damage his car if he moved in.

LK demanded that the police prosecute the racists for incitement to racial hatred. The police refused. He went to the Court of Appeal and then to the Prosecutor-General, who all declined to act.

He complained to the UN Committee on the Elimination of all Forms of Racial Discrimination, set up to monitor the Convention of the same name. In a judgment delivered on 16 March 1993, the Committee said that it was not enough to pass laws outlawing racial discrimination; the laws should be used. 'When threats of racial violence are made, and especially when they are made in public and by a group, it is incumbent on the State to investigate with due diligence and expedition,' it said. It found that the authorities of the Netherlands had not done this and had responded inadequately, and recommended that they review their policy and procedures concerning the decision to prosecute and that they compensate LK for the 'moral damage' he suffered.

Human Rights Law Journal, vol 14 nos 7-8, 30.9.93.

Anti-BNP rally attacked by police

In the largest anti-fascist demonstration seen in a decade, nearly

40,000 people took part in a 'unity' march demanding the closure of the nazi British National Party (BNP) headquarters in Welling, southeast London, during October.

Prior to the march there were unprecedented warnings, issued by the police and media, that 'extremist groups' were planning to infiltrate the march in order to cause violence. In reality these warnings seemed designed to exacerbate the tension that followed on from the racist attack on Quaddas Ali, who is still in a coma, and other violence that accompanied the election of BNP by-election candidate, Derek Beacon, in September (see *Statewatch* 3:5).

The decision by the police to re-route the march away from its planned route past the BNP headquarters, the presence of vast numbers of police in riot gear and extensive police filming of demonstrators, was undoubtedly confrontational. The fact that the alternative route, selected by the police, was also closed off to the march resulted in mayhem.

Following minor confrontations between police and some demonstrators, police snatch squads made repeated baton charges into the front of the march. Few arrests followed and the objective appeared to be to cause as many injuries as possible. Many protesters attempted to escape the charges but found themselves trapped by the police cordons at the front and thousands of demonstrators at their rear. Some attempted to scale a large wall into the cemetery alongside the route and dozens of people were led away with heads bleeding from baton wounds. Others, outraged by the police assault, fought back.

Before the march the BNP had promised, in their literature, to attack it. While this was never likely to happen, because of its huge size, it was predictable that they would launch attacks on small groups of demonstrators as they left.

Throughout the day their members were drinking at public houses in nearby Abbey Wood guarded by the police. They were, effectively, locked into the pubs for about six hours. When their police guard left they carried out a number of drunken attacks on small groups of demonstrators as they made their way home. One man had his jaw broken and his eye kicked out of its socket; others were attacked when BNP/Combat 18 members went on the rampage on a train leaving Welling.

Since the march there has been a concerted campaign to collect information on the anti-BNP demonstrators on the march. One tabloid newspaper has offered rewards of up to £1,000 for information on the 'troublemakers'. Anti-racist groups have pointed out that none of these papers has offered such a reward for the attackers of Quaddas Ali.

Two days after the march another black man was seriously injured in a particularly brutal racist attack in nearby Ilford, east London. Kevin Harris stopped to fill his car at a petrol station. There he was stabbed with a screwdriver and repeatedly run over with his own car sustaining a fractured skull.

Three jailed for refugee murder

Three white youths have been jailed for life after being found guilty of beating an Afghani refugee, Ruhullah Aramesh, 24, to death in Thornton Heath, south London in July 1992 (see *Statewatch* 2:5).

Ruhullah had gone to a nearby shop with family and friends and had objected when one of a gang of white youths sexually assaulted a female companion. The youths followed the family home. Outside the Aramesh house they were joined by other gang members from a nearby public house, The Bricklayers Arms, who shouted racist abuse. Believing that one of his friends was trapped by the gang, Ruhullah left the house to assist him.

Outside he was confronted by about twenty youths armed with iron bars, bricks and wooden clubs. The gang attacked him and beat

him to the ground where his head was smashed by several deliberate blows. Ruhullah suffered severe brain damage and died two days later in hospital.

The three convicted youths are Joseph Curtin from Wallington, and brothers Barry and Paul Hannon from Thornton Heath. A fourth, youth, Thomas Hogan, from Bensham Lane, Thornton Heath, was found guilty of indecent assault on a friend of Mr Aramesh. Following his conviction Barry Hannon leapt from the well of the court and attacked a policeman before being restrained.

Paul Hannon, along with other members of the gang, had been involved in earlier racist attack in nearby Croydon, in which a 64-year old man was hit over the head with a bottle. He required several stitches.

Sutton Guardian 25.11.93; *Croydon Advertiser* 25.11.93.

Austria: letter bomb attacks

On 5 December Helmut Zilk, the Social Democrat mayor of Vienna was badly injured by a letter bomb and underwent emergency surgery. On 4 December a Austrian police anti-terrorist squad, assigned to protect people prominent in refugee affairs, intercepted a letter bomb sent to Helmut Schueller, the president of the Austrian Caritas Roman Catholic humanitarian organisation. Schueller, a priest, is an outspoken human rights activist. Also on 5 December another letter sent to the parliamentary leader of the Austrian Green Party, Madeleine Petrovic. There have been a series of third letter bomb attacks on people and groups working with refugees.

On 3 December two letter-bombs exploded. One wounded August Janisch, a Catholic priest in the southern province of Styria who campaigned to improve the conditions of refugees. He suffered injuries to his hands and face when he opened the letter at home. Croatian-born television presenter, Silvana Meixner, sustained similar injury when she opened a letter addressed to her at the Austrian state television network in Vienna. She presents a weekly programme about Austria's Czech, Slovak and Turkish minorities and refugees from former Yugoslavia, broadcast in their own languages and in German. The letter-bombs ended a lull in attacks on foreign residents and refugees and those concerned with helping them. Police said all three bombs were made the same way with nitroglycerine. *Reuters*, 4.12.93; *Guardian*, 6.12.93.

Racism & fascism - in brief

Nazi 'joke' at Holme House prison: Prison officers at Holme House prison, Cleveland, have been displaying nazi paraphernalia in the reception area of the prison. The display, which included a swastika, a skull and crossbones and an SS flash was used to intimidate new prisoners. The display came to light when a black prisoner at the jail complained to the prison governor and contacted Labour MP, Bernie Grant. Two prison officers received a verbal warning for the display, which was described as an 'in-house joke'. The leniency with which they were treated has been criticised by Mr Grant who pointed out that prison officers have been recruited to fascist organisations in the past. The most recent example of this was at Ashworth top security psychiatric hospital in 1992 where prison officers, connected to the British National Party, were involved in the psychological and physical torture of patients. *Independent* 15.11.93.

Riot film surrender ordered: The BBC, ITN, Sky News and London News Network were ordered to give the police untransmitted film of scenes of disorder which occurred in Whitechapel on 10 September after the stabbing of Quddus Ali by a racist gang. A group of 300 mainly Asian demonstrators were

protesting outside the Whitechapel hospital, where Ali was in a coma, and were involved in scuffles with police. The police have also asked 25 news media organisations to hand over all photographs and videos of violence at Welling on 16 October during the abortive march to protest at the BNP headquarters operating there. *Guardian* 26.10.93.

BNP memorial to Rudolph Hess: A memorial to Hitler's deputy, Rudolph Hess, located in a field in Scotland, near where he landed in 1941, has been smashed by members of the Glasgow Anti-Nazi League. The memorial was erected by a British National Party member, Tom Graham, who claimed that Hess was a 'great man'.

Romania: the International Federation of Human Rights has called on the German government to suspend an Accord it has signed with Romania. The Accord allows the expulsion of Roma living in Germany to Romania. The IFHR says that events in Haradeni, Romania have shown lynchings, manhunts and the burning of homes. It argues that the compulsory deportations to Romania can be described as 'repression' which is proscribed under article 33 of the 1951 Convention on the rights of refugees. *IFHR Newsletter*, November 1993.

Racism & Fascism - new material

Isle of Dogs 0 BNP 1 (Own goal); The attack on Quaddas Ali, *Runnymede Bulletin* No. 269 (October) 1993, pp3-5. On the British National Party by-election victory in the Isle of Dogs and the vicious racist attack on Quaddas Ali.

Maastricht and its acceleration of racism, Mark Baimbridge, Brian Burkitt and Marie Macey. *Runnymede Bulletin* No. 270 (November) 1993, p8.

Newham Monitor, Issue 3 (Autumn) 1993. Latest update on the Oliver Campbell appeal against his conviction for murder and other campaigns in the Newham area.

Attitude, Autumn 1993. Latest issue of the magazine of Leeds Anti-Fascist Action. Available from: Box 151, 52 Call Lane, Leeds LS1 6DT.

Bengali youth connections, *CARF* No. 17 (November/December) 1993, p3. Following the escalating BNP attacks on the Bengali community in Tower Hamlets thirty Bengali youth groups have come together to form Youth Connection.

CIVIL LIBERTIES

Civil liberties - new material

When they come for you in the morning. *Agenda* Summer 1993, pp6-7, 9. This article describes the ordeal of Sarah Cohen who was arrested under the Prevention of Terrorism Act in March when police raided the wrong house. In August she won £12,000 damages after being strip-searched and physically assaulted.

Domestic violence: the government reply to the third report from the Home Affairs Committee session 1992-93 HC 245. HMSO (Cm 2269) 1993, pp23, £5. The government response to the Home Affairs Committee report on domestic violence. Also includes a CPS Policy group statement of prosecution policy as Annex A.

Ninth report of the Data Protection Registrar June 1993, The Data Protection registrar. HMSO 1993, pp108, £13.25. Includes sections on Europe and the Police and Criminal Justice system.

Peaceful protest - do we have the right?, Conor Foley. *Agenda*, pp8-10, No. 8 (November) 1993. Interview with two environmental activists currently serving a prison sentence for defying an injunction banning them from protesting at Twyford Down.

Human rights special issue. *Socialist Lawyer* No. 20 (Autumn) 1993, pp26. Includes pieces by Mike Mansfield, Bill Bowring and Stephen Cragg.

Identity cards: in reply to a question in the House of Commons Home Office Minister Mr Jack said that in 1989 it had been estimated that the cost (excluding initial capital costs) of issuing identity cards to all British citizens aged 12 or over would be around £350 million, and that the annual cost would be between £50-100 million. *Commons Hansard*, 10.5.93.

Parliamentary debates

Prevention of Terrorism, *Commons*, 10.3.93, cols 955-999
Prevention of Terrorism (Temporary Provisions) Act 1989 (Continuation) Order 1993, *Lords*, 11.3.93, cols 1202-1216
Human rights 27.5.93, *Commons* cols 1024-1034

The Council of Interior and Justice Ministers: Brussels, 29-30 November

The first meeting of the new Council of Interior and Justice Ministers of the EU was held in Brussels on 29-30 November. This new Council has taken over the work of the Trevi Group and the Ad Hoc Group on Immigration and is serviced by the new K4 Committee (the old Coordinators Group) (see *Statewatch*, vol 3 no 4).

The meeting had an enormous agenda of 44 items (including 14 'A' points, namely items on which there is already agreement) but no new conventions emerged and there was only one declaration (with provisionals views on extradition). The lack of decisions was partly due to the new structure only coming into place with the final ratification of the Maastricht Treaty on 1 November and partly because this area was not a priority for the Belgian Presidency.

The new structure

One of the reports dealt with concerned the future structure of work under this Council. All the reports for this meeting had been prepared by the 'old' working groups as none of the new K4 Committee steering groups (and their working parties) had met. The K4 Committee had met in mid-November but its work now also comes under COREPER (a French acronym), the Committee of Permanent Representatives from each EU state. The future structure looks like this:

Council of Interior & Justice Ministers (meeting six monthly)

Informal meetings of Interior and Justice Ministers (six monthly before the Council meetings)

COREPER: agrees the agenda and negotiates of consensus

K4 Committee (one official from each country plus the Commission) with three steering groups (each with a number of working parties):

1) *immigration & asylum* with working parties on: 1) migration (previously called 'expulsion and admission'); 2) asylum; 3) visas; 4) external frontiers; 5) forged documents, plus two permanent bodies, the 'clearing house' on asylum, CIREA (Centre for Information, Discussion and Exchange on asylum), and the 'clearing house' on immigration, CIREFI (Centre for information, discussion and exchange on the crossing of borders and immigration). 2) *security, law enforcement, police and customs cooperation* with working parties on: 1) terrorism; 2) police cooperation (operational and technical); 3) organised crime and drugs; 4) customs; 5) Ad Hoc Group on Europol. The inclusion of the mechanisms set up under the Police Working Group on Terrorism, for example the Trevi Secure Fax Network (TSFN), is still being discussed. 3) *judicial cooperation* with working parties on: 1) criminal judicial cooperation; 2) civil judicial cooperation.

In addition the K4 Committee will oversee the two planned EU-wide computer systems: 1) the *European Information System (EIS)* (covering immigration, asylum, security, and policing). A Convention on the EIS is expected to be ready for ministerial signature in October 1994 (under the German Presidency) (see *Statewatch* vol 3 no 5). 2) the *Customs Information System (CIS)*. A Convention on the CIS is being prepared for signature in June 1994 (under the Greek Presidency). The interface between the two system is still being discussed. The first stage for adopting Conventions is 'ministerial signature' by each of the 12 EU states, then ratification by each country's parliaments, followed by the official deposit of ratification documents.

Spanish and Dutch 'reservations'

All the decisions reached by the Ministers during the Council meeting were subject to either a Spanish or Dutch 'reservations' - which have to be withdrawn before measures can be agreed at the 'summit', the EU Council meeting of Prime Ministers on 10-11 December. The Spanish delegation objected to the refusal of the Belgian state to extradite two alleged ETA members who they say were part of its infrastructure (providing mail drops and transportation). However, the two people have applied for asylum in Belgium and its Commission for Refugees has accepted their application but has not yet made a decision on it. They are currently being held in prison but under Belgian law will soon have to be released while awaiting a decision. As the Commission for Refugees is a judicial body independent of the government the Belgian Interior Minister, Mr Tobback, is unable to authorise their extradition and says that he is not confident that an appeal to a higher court, the counsel of state, would necessarily support an action by him. The Spanish delegation position is that if there cannot be inter-state cooperation on matters like this there is little point in taking others decisions which might also be unenforceable.

The Dutch reservations were lodged because the reports and papers for the Council meeting were not provided in time for their parliament to see and discuss them before Ministers went to the Council agree new measures. This procedure in the Netherlands has been introduced when its parliament was discussing the ratification of the Schengen Agreement - the government and parliament agreed that in future no intergovernmental measures (whether under the Schengen Agreement or the European Union) would be undertaken without parliamentary approval. The only other EU country to have a similar procedure is Denmark where a parliamentary committee is briefed on proposals. Mr Wathélet, Deputy Belgian Prime Minister, told a press conference on behalf of the Belgian Presidency that there were only 'two countries with this problem' (see story in Europe section).

Immigration and asylum

Association agreements: it was announced the Ministers had agreed that in future 'association agreements' (economic and trade treaties) with 'third' countries in Central and Eastern Europe, North Africa, and the Middle East would contain provisions to ensure their cooperation in readmitting refugees and asylum-seekers. Mr Tobback, for the Presidency, said these agreements would take into account the 'past behaviour of that country' on immigration matters. According to other sources it is intended that these agreements will also include provisions on terrorism and drugs.

The work programme of the Coordinators Group, agreed on 28 June (CIRC 3653/93), set out the rationale for the 'deportation and readmission of persons living or working illegally in the Community'. It goes on to say that:

the increase in migratory pressures goes hand in hand with the economic crisis. Uncontrolled immigration could in the end destabilise our societies and undermine the integration of third country nationals who are legally resident in the Member states.

Visas list: The European Commission presented two reports to the Council meeting under its new, but limited, right of initiative under the Maastricht Treaty. No decision was taken on either as the European Parliament has to be 'consulted' on its views. The first of the proposals put forward by the Commissioner in charge of judicial and immigration matters, Mr Pdraig Flynn, is a list of 129

countries whose nationals would require visas to enter the EU. It is intended that there should be one 'common visa' which would be valid throughout the EU. Another Commissioner, Mr Raniero Vanni d'Archirafi in charge of the internal market wanted to include a list of countries whose nationals would not need visas but this was rejected by others in the Commission. One of the problems of such a list is that the member states cannot agree on the inclusion of former colonies with whom they have trade and immigration links. By presenting a list of 129 countries the Commission has chosen the longer Schengen countries rather than the shorter, some 85 countries, previously agreed in the Trevi setup. The list also presents a problem for the UK as the longer list includes many Commonwealth countries.

The second report is a revised version of the External Borders Convention (which covers external border controls and surveillance and a common list of 'undesirables' to be denied entry). This report fails to take up the demand of the European Parliament on the complete removal of internal border controls (retained by the UK, Ireland and Denmark) over which it is taking the Commission to the Court of Justice in Luxembourg. Observers suggest that the new role of the Commission in the field of immigration is leading it to adopt positions acceptable to the Council representing the 12 EU governments thus opening up a rift between it and the European Parliament.

Extradition: the meeting issued a declaration on extradition following the informal meeting in Limlette in September (see *Statewatch* vol 3 no 5). A working party has been set up to look at a number of issues. The primary issue is the exclusion of 'political offences' as grounds for refusing extradition, which will either require the amendment and ratification of the Council of Europe's Convention on Extradition (which all EU states have signed except Belgium), or a new Convention applicable only to the EU. Mr Wathelet, for the Belgian Presidency, said at the press conference that: they did not have any statistics on the number of extradition cases turned down but that there were 'numerous examples'; seven member states

were committed to the extradition for trial of its own nationals; that tax fraud would be included as a extraditable offence; and that extradition would apply to offences for which the minimum period of imprisonment is only 1 year in the country making the request - this suggests that it is intended to extend extradition to a range of minor offences in addition to those concerning terrorism and drugs.

Other points of interest included: *European Convention on Human Rights:* the accession of the EU to the ECHR was raised on the initiative of the Belgian Presidency, but did not receive much support. Following the informal meeting of Justice Ministers in September the Council has called for an opinion from the European Court of Justice in Luxembourg. *Refugees:* the Council is seeking a common definition and application of article 1A of the UN Convention on Refugees. *Friends of Trevi:* this meeting between the Troika of Interior and Justice Ministers (from Denmark, Belgium and Greece) and Third Countries no longer has this name (because the Trevi Group no longer exists) but the meetings remain the same. Separate briefings were held for: 1) applicant countries - Austria, Finland, Norway and Sweden; 2) USA and Canada; 3) Morocco; 4) Switzerland. Mr Wathelet said it was intended to maintain these meetings and to 'make them more intensive'. He added that they had received detailed reports for discussion from the USA and Canada on: 1) drugs; 2) crime in Central and Eastern Europe. *Organised crime:* a network of contact points (police or magistrates) is to be set up and 'a common approach to telephone tapping' was to be established so that 'the result of legal phone tapping in one country can be used in legal proceedings in another country'. *Europol:* see Policing section in this issue. *Yugoslavia:* for the first time in two years refugees from Yugoslavia was not on the agenda.

The only papers released from the Council meeting were: *Press statement*, 26.11.93 (English); *Situation on the Dublin Convention* (see Immigration section in this issue); *Declaration du Conseil sur l'extradition; Recommandation du Conseil concernant la responsabilite des organisateurs de manifestations sportives; Conclusions du Conseil concernant le racisme et la xenophobie; Recommandation du Conseil concernant la criminalite contre l'environnement; Final statement*, 20.11.93 (French). Copies are available from Statewatch.

Out of sight, out of mind: Western Europe's cordon sanitaire

The countries of the EU have succeeded in recruiting the states bordering on them to the south and east as willing partners in the project of keeping refugees out of western Europe. By means of mutual readmission agreements and with western European technical and financial assistance, the numbers of refugees entering the EU states are declining dramatically, and the refugee 'problem' is being passed to the states on Europe's periphery - when they are not being re-exported out of Europe altogether.

Since the amendment of the constitutional right to asylum and the introduction of the new asylum law in Germany on 1 July 1993, asylum applications have dropped by half. This is because the new law enables the authorities to refuse asylum-seekers without considering, or registering, their asylum claim, and return them to a 'safe' country of origin or transit. In Europe, as well as all the EU and EFTA states, Poland, Bulgaria, the Czech Republic, Slovakia and Romania are deemed safe. In addition, under a bilateral agreement with Poland, all asylum-seekers who arrive at the German border with Poland are returned to Poland. No-one coming

from or through any of these countries is allowed to apply for asylum unless he or she can rebut the presumption that the country is 'safe'. In the first four days after the new law came into force almost 500 people were turned away at the Polish and Czech borders.

The constitutional amendment which enables Germany to reject asylum-seekers at the borders, and which France is now processing since the decision of its Constitutional court in September 1993 that such an amendment was necessary to enable France to follow the 'safe third country' practice, had been on the agenda since the signing of the Schengen supplementary agreement and the Dublin convention in 1990. These agreements stipulated that asylum-seekers should not be allowed to make consecutive claims in Europe. However, they envisaged that one western European state would take responsibility for the claim; under normal circumstances that state would be the Schengen country, or the EU country, where the asylum-seeker first arrived. That assumption of responsibility within western Europe has now been discarded. A 'parallel' Dublin convention is being prepared for signature, with the aim of

extending the 'country of first asylum' principle to EFTA and central and eastern European states - not all of which are signatories to the UN Convention on Refugees.

But the countries of western Europe are not even waiting for that agreement to be signed; in the meantime they have signed their own bilateral and multilateral agreements relieving them of the 'burden' of refugee processing. Thus, the Schengen states signed an agreement with Poland in 1991 which obliged Poland to take back refugees transiting through its territory who arrived in a Schengen country. Austria has signed mutual readmission agreements with Hungary, Poland, Romania, Slovenia and the Czech republic, and has since 1990 deployed 2,000 military personnel on its borders. 77,000 people were turned away at Austria's borders in the first half of 1993. Belgium has signed agreements with Poland and Slovenia, and in June 1993 was negotiating with Romania, the Czech republic and Slovakia. Denmark has agreements with Latvia and Lithuania, and is negotiating with Estonia. France has agreements with Poland and Slovenia. Italy provides financial and technical aid to Albania by an agreement hastily entered in the wake of the summary removal of thousands of Albanians in 1991, and has signed an agreement with Poland and is negotiating with Slovenia, while the Netherlands and Luxembourg were negotiating in June 1993 with the latter two countries. Norway has an agreement with Lithuania, Sweden is negotiating with Poland and Romania, while Switzerland is negotiating with Romania. On Europe's southern borders, Spain has agreements with Poland and with Morocco; under the latter, 2,000 Moroccan troops guard the Moroccan coastline to prevent the departure of the small fishing-boats which used to take asylum-seekers on the hazardous and frequently fatal crossing of the Straits of Gibraltar into Europe.

Under the Spanish-Moroccan agreement, ten children aged between 10 and 17 were summarily returned from Spain to Morocco in October, having stowed away in a boat from Casablanca. Despite protests by anti-racist groups and unions, the authorities at first refused to let the children off the ship, and then claimed that they were not asylum-seekers and their parents wanted them to return home. The children were sent back to Tangier, where no-one claimed them and they were detained by the Moroccan authorities.

The readmission agreements represent the formal and public tip of the iceberg of 'Greater European' cooperation against asylum-seekers. In October 1991 ministers from 33 European countries met in Berlin to discuss ways of coordinating immigration control and, in particular, combatting illegal immigration across Europe. The Berlin group, so called after its first meeting, met again in Budapest in February 1993, and discussed enlarging the Schengen-Poland agreement to cover more eastern European states such as Hungary, the Czech republic, Slovakia and Romania. The Vienna Group, set up in 1978 to combat terrorism by interior ministers of Austria, France, Germany, Italy and Switzerland, called a ministerial conference in January 1991 to discuss migration movements from east to western Europe, to which it invited EC and central and eastern European ministers. From that conference emerged the Vienna Group (Immigration), which in turn produced the 'Working Party on a Solidarity Structure (Burden-sharing)' with a brief to examine 'collective European cooperation with respect to the movements of people'.

The Vienna Group working party first met in March 1993. A report for its second meeting in June 1993, said by the author to represent the general thrust of what was agreed at the first meeting, makes it clear that the solidarity referred to is not for refugees but for the prevention of the 'disorderly movements' across Europe which they represent. Refugees travelling without visas (almost all, since refugees cannot obtain visas as refugees) are declared

'irregular'. The report reveals that, in the spirit of solidarity, Austria has sent patrol cars to Hungary and is training immigration officers in the Czech republic; Sweden and Finland have sent patrol boats to the Baltic states; Germany, France, Norway, Switzerland and even Ireland are training immigration officers in central and eastern Europe, and the USA has sent computer equipment to Hungary. Training has concentrated on 'border control practices, detection of forged documents etc'. 'Information campaigning' includes broadcasts on Albanian radio, operated jointly by the IOM and UNHCR and financed by the receiving states in western Europe, warning would-be migrants not to come. A similar programme is beamed to Romania from Switzerland.

The report gives an indication of the way the immigration procedures of the buffer states themselves are being tightened up in response to western Europe's agenda, in accordance with the maxim it expresses that 'pressure will always be exerted on the weakest link of the chain'. Russia has requested 'significant assistance' with a view to training immigration officers, computerising border controls and developing an exchange system with western states on inadmissible aliens, law texts and identity documents. Hungary requires '200 automated travel document scanners and 300 UV-IR lamps', and the Czech republic wants 'security laminate verifiers and video-spectral comparators'.

In exchange for undertaking the policing of immigrants and asylum-seekers on Europe's periphery, the buffer states have been offered some crumbs from the EU table. The EU has signed or is planning to sign Association Agreements with Poland, Hungary, the Czech republic, Slovakia, Bulgaria and Romania, and has had such agreements for years with the Maghreb countries and Turkey. The agreements give these states limited access to EU markets and limited opportunities for work in the EU for some of their nationals. The central and eastern European states also receive financial assistance through the PHARE programme.

Human rights in the buffer states

Hand in hand with cooperation in immigration and asylum policing - and at least in part necessitated by this - the EU has encouraged the buffer states of central and eastern Europe to apply for membership of the club of 'civilised' nations which is the Council of Europe, and, once the state concerned is considered sufficiently democratic, to sign the European Convention on Human Rights. So far, Bulgaria, the Czech Republic, Estonia, Hungary, Lithuania, Poland, Slovakia and Slovenia have been allowed to join the Council of Europe, while Albania, Belarus, Croatia, Latvia, Moldova, Romania, Russia and Ukraine have applied to join and, with the unrecognised former Yugoslav republic of Macedonia, have been granted special guest status with the parliamentary assembly of the Council of Europe. Bulgaria, the Czech republic, Hungary, Poland and Slovakia have signed the European Convention on Human Rights and have accepted the individual's right to petition the Commission on human rights abuses. This, and not the treatment of refugees (or anybody else) on the ground, is considered the hallmark of 'safe' countries.

The function of the bilateral agreements and the 'safe third country' rule which return refugees to countries of transit is to place the burden of deciding on their applications for asylum on the buffer states. However, not all the buffer states are signatories to the Geneva Convention on Refugees. Some which are, like Hungary, only recognise refugees from Europe. Even among those countries which are signatories, there are no common criteria on how the Convention should be interpreted or on asylum procedures. The result is that many of those returned have no opportunity to claim asylum anywhere, but are shipped back, directly or indirectly, to the

country they fled in the first place. Germany's Federal Constitutional court ruled in September that Greece is not a 'safe' country for Iraqis and Iranians, since there is no guarantee that the Greek authorities will not return them, either directly or through Turkey, back to those countries.

On the ground in the buffer states, more and more asylum-seekers are being detained and expelled, or denied entry. Under the Spain-Morocco agreement signed in 1992, the Moroccan authorities imprison Africans suspected of wanting to cross to Europe. Hungarian border police turned away a million people at its borders in 1992, and use sniffer dogs to search for humans in the freight carried by trucks. Hungary regards all non-European asylum-seekers as illegal immigrants. There are periodic roundups of Africans, Arabs and Chinese as well as of Roma from Romania, who are considered less refugees than vermin. Over 1,100 so-called 'illegal immigrants' were detained in one roundup in 1992, of whom 400 were held in detention while 740 were immediately expelled on charter flights to Damascus, Hanoi and elsewhere. Amnesty International was refused access to one of the detention camps where there were allegations that detainees were beaten unconscious and that tear gas was used to quell riots. Slovakia refused entry to nearly 20,000 people in the first half of 1993; they were from Europe, China, Vietnam, other parts of Asia and Africa. The Czech republic demands visas from an ever-increasing list of countries, including the former Yugoslavia, and proposes to expel the many Roma from Slovakia who are debarred from taking out Czech citizenship. Poland has imposed harsh new restrictions on visitors from Romania, Bulgaria and most countries of the former USSR. And five countries, Hungary, Poland, the Czech republic, Slovakia and Slovenia, together with Austria, have agreed to sign accords on mutual readmission of inadmissible immigrants.

The cooperation process between the states of western and eastern Europe deliberately blurs the line between 'illegal migrants' and 'refugees' by describing refugees without papers as 'irregular'. A recommendation adopted at the Budapest ministerial meeting was that: 'To the extent that those concerned have no right of residence in the country to which they are sent' there should be cooperation 'in organising the transport of illegal migrants to be readmitted to their country of origin or last stay, in particular into countries which are far away.' This give-away line (my emphasis) indicates the true priorities of the European agreements: to keep refugees out of sight and out of mind by getting them out of Europe altogether.

The creation of the buffer states in eastern Europe has been designed by and large to prevent the entry into western Europe of immigrants and refugees from further east, and to return those who slip through with the minimum of delay and formality. The readmission agreements also remove from western Europe the burden of dealing with refugees from the middle east and Asia who have travelled overland to claim asylum, while the cooperation of Morocco has been obtained to prevent the arrival of refugees travelling by sea from the African continent. But what of refugees from the rest of the world who travel neither through central or eastern Europe nor through Morocco to the country of asylum? The states of the EU have addressed this problem and have come up with a

**Report on the: Border Tour of the New Walls in Europe
organised by Bündnis 90/Die Grünen, 29 October - 3 November 1993**

The tour was organised by the office of Claudia Roth MEP to investigate the situation at the new walls of Europe on the borders between Germany, Poland and the Czech Republic. Visits included the detention centre for deportees at Berlin airport, the central

solution: the extension of the 'safe country' policy to the rest of the world.

'Intercontinental movements are seldom necessary for protection.' This was the ideology behind the resolutions passed by the EU's immigration ministers in London in November 1992, which, when translated into laws in the member states, will make it incumbent on refugees to seek protection in their own countries first, and then in neighbouring countries [see Statewatch Vol 2 no 6 and Vol 3 no 1]. Refugees and asylum-seekers will be behaving unlawfully by leaving countries where they have been granted protection or have had a genuine opportunity to seek such protection (which can simply mean going through the airport of the country of transit), and can be returned speedily and without consideration of their application to such a country. The twelve denied the immediate intention of drawing up a common list of safe countries, but one of the tasks of CIREA (the Centre for Information, discussion and Exchange on Asylum, set up in 1992) is to compile and collate country information designed to assist the receiving EU state in deciding whether the country of origin or transit is 'safe'. Their reports are confidential. NGOs have no access to CIREA to check the accuracy of the information relied on.

Switzerland's list of 'safe' countries includes Bulgaria, Hungary, India, Poland, Romania and, since October 1993, Albania, the Czech republic, Gambia, Senegal and Slovakia. Under the new German law, Senegal, Ghana and Gambia are non-European countries deemed safe. Any asylum-seeker who has come from or through those countries must rebut the presumption of safety before being admitted to the asylum procedure. When the other western European states follow suit, there will be no need for readmission agreements: most of the world will be deemed 'safe' and the refugee 'problem' will disappear from Europe with the expulsion of the refugees.

reception camp for asylum seekers at Rostock (Hinrichshagen); the working conditions of foreign contract workers in southern Germany. Information was collected on the militarisation of the borders from interviews with police, border guards and town officials in the three countries. The final visits were to Usti nad

Labem and Prague where members of the tour saw the appalling conditions in which Roma people live in the Czech Republic and learned of the effects on their lives of changes to citizenship laws. This is a summary of the full report which is available from Statewatch. A *Statewatch* contributor reports.

Germany

The economic infrastructure of eastern Germany has been devastated and the five new Länder of eastern Germany are struggling to cope with the reorganisation of local and regional government. Privatisation of former state owned properties and industries has resulted in a massive rise in unemployment, with the loss of thousands of jobs in rural and urban areas. Large areas are polluted by heavy industry and brown coal extraction. Many villages, including those near the borders are not connected to the telephone system. These economic and social conditions have provided a breeding ground for racism which has been whipped up by the debate over asylum seeking and the changes to the German constitution in July 1992. There has been racist violence against black people, asylum seekers, migrant workers, Roma people and east Europeans in many of the areas visited.

Rostock

In Rostock the producers of a video, "*The Truth Lies in Rostock*" showed film taken from inside the flats of Vietnamese residents during vicious attacks by gangs on 24 August 1992. Over 3 days concrete blocks were thrown at the building and the residents were put in fear of their lives. The attacks culminated in the burning of six floors of the building. One man was filmed carrying a gun, then with others scaling the walls, setting fire to curtains and flats in which people were living and attacking the police. Residents had returned to the burnt flats after 14 days and were given a month free of rent. Two newspapers, the *Ostsee Zeitung* and *NNN*, had been anonymously informed about the events before they happened. The *Ostsee Zeitung* supported the right of the former contract workers to stay. There had also been an attack 2 weeks before our visit, after which people who were attacked were not allowed back in the building and the attackers were released.

There are about 350 Vietnamese former contract workers in Rostock, more are men than women. Only single people were given contract work. They are "allowed to marry", but if women are pregnant they have to 'go home' or have an abortion. A change to the law on 17 June 1993 has allowed some rights to family reunion. Roma organisations say the Roma are not allowed even these rights to stay although it has been difficult for them to prove this.

The head of the workers council of a shipping firm gave his account of living and working in Rostock. Born in Rostock in 1938 he hadn't been aware before of the latent xenophobia and racism in the town and felt powerless to react in August 1992 to the racist attacks. Police had taken the residents to Hinrichshagen, the centre for asylum seekers outside the town, but he said that the same thing could happen at the camp which is isolated and marginalised geographically from the town. He had been shocked at the sight of the ordinary people applauding in the streets whilst the attacks were going on.

In GDR times ships crews were instructed to check for people who were trying to emigrate. Now the same job is carried out checking for people trying to immigrate, mostly from Poland and FSU. The ships' captains don't want to risk allowing people on board, so there is no water or food. This had resulted in refugees in orbit on ships. There have been cases in which people have been thrown

overboard because of penalties on shipping companies. This has happened in the Indian ocean and in another case, eight people had drowned in an IKEA container in transit from a Polish IKEA factory.

The (Baltic) Eastern Sea Council is currently discussing a convention on "illegal people", described as a kind of Schengen agreement for ships.

Hinrichshagen - central reception camp for asylum seekers

This is the central asylum seekers camp for the Land Mecklenburg Vorpommern. It takes half an hour to reach the former army camp from the town of Rostock. The neighbouring flats are still inhabited by the relatives of former army personnel who asked the authorities to put a police station there. The camp is surrounded by walls, barbed wire and fences. It is patrolled by officers with dogs, and police cars and police officers were visible. The accommodation for asylum seekers is in dormitories of 6 and 8 beds. The washrooms, showers and toilets are signposted for men and women together. The tour members were told that there's no point providing separate facilities because 'the refugees don't want them'. There is one television, no radios or newspapers, and one shop in which goods are exchanged for vouchers. There is no school and there appeared to be no opportunity for obtaining legal advice, although social workers including a former asylum seeker are employed in the camp. The men tend to go into town at 8 am on the bus to 'look for work'. The last bus back about 6.30 pm, giving no opportunity to mix socially in the town. In addition to vouchers for food, asylum-seekers gets DM70 per month for toothpaste, soap etc. At one time there had been about 1,000 people in the buildings and in tents. The accommodation holds up to 850 people, now there are about 250 waiting for their applications to be processed. Whilst the city administration pays for and provides the accommodation, private firms are contracted to organise it and to supply the food packages. They are cashing in on the opportunity (in Bavaria it had been found that the contents of packages distributed could be bought for half the price in local supermarkets). In May 1993, the (Land) Ministry of the Interior decided not to give money to asylum-seekers. Material goods only are distributed. Under the new law, refugees who have been there more than a year are supposed to be 'up-graded' and receive money, but Mecklenburg Vorpommern is said to be trying to avoid that, and has been accused of using organisational 'tricks' to refuse to give money. Legal action will be taken against this practice.

Griefswald

Griefswald is a town south-east of Rostock, near the Polish border. During a visit to the town hall, where a judge spoke about social and health issues. Since 1991 there have been asylum-seekers in the area, mostly Roma people. The number had increased to 2,000 then dropped. Here too the system changed from giving money to giving packages. The head of the department of Health and Social Security said that in the GDR 'we were obliged to be "friends" and have solidarity only with socialist people. Some we had to hate and some to love. - this was part of the ideology of the GDR. The task is now to change this attitude'.

They had had to find new places quickly because people were coming from persecution in Western Germany. But here the city decided to give the organisation of provision for refugees to the churches and charities, not to private companies. The vouchers or coupons issued to asylum seekers have their names on them so they can't be swopped or used by others. Asylum seekers have to show

their ID in order to use them.

Questions about the application of the new asylum law were answered by an administrative law judge. His view was that since 1945, following liberation from an oppressive regime, there had been a fundamental right of asylum. In 1990 with the liberation of the GDR, the reverse effect happened, with the creation of a cordon of third countries to stop people getting into Germany. He had heard many complaints from Roma people in his court. They are not allowed to claim asylum because it is assumed that Romania is a safe third country. He expressed his doubts about this assumption, but spoke of pressures on court time, the backlog of cases, and the requirement to decide quickly on cases. In many instances the decision made will be to defer the decision.

Militarisation of the borders - tooling up

Policing of the eastern German borders is becoming increasingly militarised whilst the legislative and administrative frameworks to control migrants are put rapidly in place in central and east European countries (see the article above). On the German/Polish border in the towns of Slubice and Frankfurt-am-Oder there are all these components together with heightened problems of racist violence and xenophobia. The Polish Consul from Berlin expressed worried about racist attacks in the towns and border areas, especially those on Polish tourists since the abolition of visa requirements. There were 100 attacks on Poles in Germany in 1992 and more recently there have been 15 attacks in the Frankfurt-am-Oder area. One incident on 25th October 1993 was at the European International University in Frankfurt. Four students (three Poles and one Finn) were attacked and severely beaten. Few Germans will stay in the Polish town of Slubice at night, and few Poles will stay in Frankfurt.

The German frontier police work closely with their Polish counterparts and work from the same blocks of offices on the border. If they catch people attempting to cross the border illegally, they impose a penalty of DM500. Romanians are charged another DM1000 to pay for their own deportation on flights to Romania. The Roma National Congress has reported that refugees sometimes try to swim across the River Oder which forms the border, some people have drowned and others have been made to swim back. The border guards claim that people are turned back and return overland through the forests.

The history of relationship between the border guards and the army is not new, having begun in the 1950s. At this time the border police were the nucleus of the army. Federal border guards developed as modern riot police, with less important functions on the borders. In the 1970s the border police became a federal reserve force for intervention in riots (on the orders of the Land Ministry of the Interior). In Frankfurt am Oder, the tour met the head of the German border police, the representative of the German Police Federation (and town officials). The personnel on the eastern border of Germany now comprises 2,500 permanent guards (including 1,300 from the west of Germany on a rotating basis). There will also be between 1,500-1,700 GUKS by the end of 1993. These auxiliary police, the Grenz Polizeiliche Unterstuehtungskraefte (GUKS) will serve 3 year contracts. There are, in addition 1,300 customs officers under the control of the Finance Ministry.

Further new developments in control of the border include the use of military personnel in police uniforms, initially to operate

the heat-seeking equipment, and the secondment of French border officials to monitor what is happening and to improve the flow of information between states. (It is expected that these personnel exchanges will spread between all Schengen and other West European states).

There are three types of heat-seeking equipment in use to detect potential asylum seekers as they try to cross the border. The tour visited one site near the river where an example of each kind was mounted in vans. The equipment has been lent to the border guards by the army. In fog they can detect body heat at a 3,000 metre distance, in the dull mist/fog at 500m - although in complete fog they don't work. There are two types called MIRA, one with ocular sight, second with a monitor. The third type is an ANTAS system. When all the equipment is in operational use on the German/Polish border there will be 66 of these monitors in cars and vans, 4 on boats, 6 in helicopters, 20 independent of transport, and 10 in reserve. They will also be bought for the Czech borders and the equipment from the army will be integrated into the daily operational duties of the border guards. They will first be used by army officers in border guard uniforms (with 465 seconded officers). This was described as a voluntary choice of individual officers who may chose to have "a holiday from the army".

Czech Republic

The Czech Republic's principal aim, according to its Foreign Office, is to become one of the 'developed European countries'. In pursuit of this aim it would like to 'participate in the activities of the Schengen Group as an observer' and is implementing a migration policy which includes: the establishment of a standardly guarded border with Slovakia; a new visa regime; simplification and speeding up of asylum proceedings; co-ordination and harmonisation of Czech migration policy with those of other European countries. In addition, changes in Czech citizenship laws have had, and will have a specific impact on Roma people who are now suffering from attacks on every aspect of their human rights. Roma people have little scope to demand rights in law, as they are, in effect, being denied the right of citizenship of the Czech Republic. The problem arises from the obstacles placed in front of citizens of former Czechoslovakia, who are now deemed by Czech Republic officials to hold Slovak citizenship. The Czech Citizenship Law 40/1992, although making no specific reference to Roma people is being implemented in ways which discriminate against them individually and as members of the Roma community.

The effects of this law are compounded by racist attitudes and practices in the administrative offices which process citizenship applications. The hostility towards Roma people which is prevalent in Czech society leaves little room for individuals to pursue claims for the right to citizenship, and consequently to housing, education and protection from intimidation and violent racist attacks.

The Tolerance Foundation reported in October 1993 that the 'vast majority of Romanies living in the territory of the Czech Republic (on 31st December 1992) - are deemed to hold Slovak citizenship, and.. have to make a special application if they wish to instead take Czech citizenship'.

Usti nad Labem

Roma people in this town, as in others, are marginalised from Czech society, many live in derelict housing, in buildings without electricity and water. The children, when they can attend school, are

escorted to classes by their parents for protection against attacks. Town officials express openly hostile attitudes towards them in discussion about human rights, claiming that there is no discrimination, and that no-one cares about the "ordinary Czech citizens". Democratic Roma organisations are campaigning to improve the situation, but on 1st January 1994, this will become an even more difficult task. Those people who do not have Czech citizenship will lose any rights to state support, and the pressures on them to leave the country will increase. The criminalisation of the Roma people has imposed an insurmountable obstacle, as new applicants for Czech citizenship must have clean criminal records for the previous five years. Crimes which disqualify applicants include minor offences. In addition, to claim Czech citizenship, an applicant must renounce Slovakian citizenship. This is only possible if a Slovak citizen has no debts. As there is no work, especially for Roma people, in the new economy, there is no opportunity to earn the money required to return to Slovakia and repay debts. They will become, effectively stateless.

Documents: *Der Domino Effekt: Materialien zum Export der Politik der Inneren Sicherheit und der Flüchtlingsabwehr nach Osteuropa* Initiative gegen das Schengener Abkommen c/o Büro Claudia Roth MdEP, September 1993; *Report on the Conference "Civil Society between the Reality of a Nation State and the Vision of the United States of Europe*, Prague. 20th-23rd May 1993. Katharina Lump, Amnesty International, German Section (2nd June 1993); *Information on the migration policy of the Czech Republic* Information from the Czech Foreign Office circulated at the HCA seminar, Prague, 20th-23rd May 1993; *The Czech Republic: Citizenship Research Project*. A report on the way in which the citizenship law of the Czech Republic is being implemented, with particular regard to the Romany (Gypsy) population; Report for the Tolerance Foundation. Tom Gross (auth) 1st October 1993, Prague; 'Nazi Echo: Germany for the Germans', Michael Hahn. *Covert Action* Summer 1993; *The Truth Lies in Rostock*, video. Copies of these articles are available from Statewatch.

BOOKS RECEIVED

Gubbins and SOE, Peter Wilkinson & Joan Bright Astley. Leo Cooper 1993, pp254, hb, £18.95.

Making violence sexy: feminist views on pornography, Diana EH Russell (ed). Open University Press 1993, pp302, pk, no price given.

The Flying Squad: a dramatic account charting the first 75 years of the real life 'Sweeney', Neil Darbyshire and Brian Hilliard. Headline 1993, pp248, £18.99 hd.

Making the Peace: public order and public security in modern Britain, Charles Townshend. Oxford University Press 1993, pp264, £17.95 hd.

Tony Benn: a biography, Jad Adams. Pan 1993, pp536, £7.99, pk

Lord Denning: a life, Iris Freeman. Hutchinson 1993, pp449, £25 hd.

Penal Policy and social justice, Barbara A. Hudson. MacMillan 1993, pp222, (no price).

Double Jeopardy: the retrial of the Guildford Four, Ronan Bennett. Penguin 1993, pp71, £4.99 pk.

Ambushed, Judith Ward. Vermilion 1993, pp184, £9.99 pk. This is the autobiography of Judith ward, who was sentenced to 18 years for the bombing of an army coach in 1974. Judith was found innocent on appeal in May 1992.

Western responses to terrorism, Alex P Schmid & Ronald D Crelinsten (eds). Frank Cass 1993, pp363 (no price).

THORP: the Whitehall Nightmare, Crispin Aubrey. Jon

Carpenter Publishing 1993, pp86, £5.99

Low intensity democracy: political power in the new world order. Barry Gills, Joel Rocamorra & Richard Wilson (eds). Pluto Press 1993, pp264, £9.95 pk.

The Cold war, Martin Walker. Fourth Estate 1993, pp404, £18.99 hd.

Eve was framed: women and British justice, Helena Kennedy. Vintage 1993, pp285, £6.99 pk.

Race and racism in Britain, John Solomos. MacMillan 1993, pp279, (no price).

The internment of aliens in twentieth century Britain, David Cesarani & Tony Kushner (eds). Frank Cass 1993, pp252, (no price).

RESEARCH & INFORMATION NOTICEBOARD

Peace and Security into the 21st Century: 21st Annual Conference of the Department of Peace Studies at the University of Bradford. 28-31 March 1994. Four days of plenary sessions and workshops. Details from: Pauline Kollantai, Project Officer, Department of Peace Studies, University of Bradford, Bradford, West Yorkshire BD7 1DP. Tel: 0274 385298. Fax: 0274 385240.

EC: seminars on racial attacks and racial discrimination: seminar to look at legal remedies in respect of racial attacks and racial discrimination, looking at national and international law and European Convention. *Germany:* 28 January in Bonn, contact: Ms C Frosch, Europäische Rechtsakademie Trier, Dasbach 10, 5500 Trier, Germany.

Crime and corruption in Russia and the New Europe: 15-17 April 1994 at University of Kent at Canterbury. Organised by the University of Keele and Middlesex University. Details from: John Lea, Centre for Criminology, Middlesex University, Queensway, Enfield EN3 4SF. Fax: ++ 081 805 0702.

Sustainable security: The International and National Steering Committee of Nuclear Free Local Authorities (ISC & NSC) in collaboration with the wider peace movement are planning to host events in a Peace Pavilion at the forthcoming Global Forum '94 to be held in Manchester: 24

June - 3 July, 1994. The theme for the Pavilion is "Sustainable security". Details from: National Steering Committee of Nuclear Free Local Authorities, Nuclear Policy and information Unit, Manchester Town Hall, Manchester M60 2LA. Tel: 061 234 3222. Fax: 061 236 8864. Contact Officer: Stella Whittaker

CONTENTS

Europe.....	1
EU: new secrecy code	
Holland: democracy & secrecy	
EU, not EC but not all the time	
In the courts	
New material	
Policing	3
Europol to be in the Hague	
Holland: organised crime	
New material	
Northern Ireland	4
Extradition case	
Compensation costs	
Censorship	
Political vetting	
New material	
Law	6
Crown Prosecution Service	
Criminal justice: no way forward	
Bridgwater Four Campaign	
Ireland: New Public Order Bill	
New material	
Immigration & asylum	7
The deportation of Ms Nwokedi	
Euro-visas	
Welcome and goodbye	
Deportation of refugee upheld	
Woman is not illegal immigrant	
Finland: to close northern borders?	
France: new asylum law passed	
Dublin Convention	
Austria: asylum policies criticised	
France: racist practices denounced	
Spain: Moroccan children repelled	
Sweden: asylum-seekers seized	
New material	
Security & intelligence	10
The Intelligence Services Bill	
GCHQ talks collapse	
Conference on security agencies	
New material	
Prisons	11
New members of Prison Board	
New material	
Racism & fascism	12
UN Committee slates Holland	
Anti-BNP rally attacked by police	
Three jailed for refugee murder	
Austria: letter bomb attacks	
Civil liberties	13
New material	
Report on the Council of Interior & Justice Ministers	14
Out of sight, out of mind: Western	

Europe's cordon sanitaire..... 15
Report on Border Tour of the New Walls of Europe..... 17

Statewatch is produced by an independent group of journalists, researchers, lawyers, lecturers and community activists. Statewatch does not have a corporate view, the opinions expressed are those of the contributors.

Published by Statewatch, PO Box 1516, London N16 0EW. Tel: 081-802-1882 Fax: 081-880-1727.

Printed by Russell Press, Radford Mill, Norton Street, Nottingham NG7 3HN
ISSN 0961-7280

Statewatch briefings

The Schengen Agreement: *Statewatch briefing* full text of the Agreement plus an introduction, European Parliament resolutions, and a select bibliography. Cost: £5.00 inc p&p (Europe £6.00; outside Europe \$15 or £7.00 sterling).

Official secrecy in the European Community? *Statewatch briefing*, May 1992. Cost: £3.00 inc p&p (Europe £3.50; outside Europe \$10 or £4.00 sterling).

Statewatching the new Europe: a handbook on the European state: 208 page paperback, £4.50 from Statewatch, PO Box 1516, London N16 0EW.

Gladio briefing: introduction and background country by country. Total: 16 pages. Cost £2.00 inc p 7 p.

Back issues of Statewatch: Back issues are available at £2.00 each. Six issues pa. Volume 1 had five issues, nos 1-5.

Contributors

Editor: Tony Bunyan, Co-ordinator: Trevor Hemmings, Reviews Editor: Brenda Kirsch; Lee Bridges, Unmesh Desai, Nadine Finch, Marcelle Fletcher, Pete Gill, Paddy Hillyard, Stef Jansens, Peter Klerks, Ida Koch, Steve Peak, Phil Scraton, Joe Sim, Ann Singleton, Mike Tomlinson, Frances Webber; the Centre for Studies in Crime and Social Justice (Edge Hill College, Lancashire), Jansen & Janssen (Amsterdam), the Institute of Crime, Justice and Welfare Studies (Liverpool Polytechnic), CILIP (Berlin), Legal Action Group, Liberty and the Northern European Nuclear Information Group (NENIG).

**Subscription rates -
Bulletin (6 times a year)**

Individuals £12 pa (UK & Europe),
Unwaged (unemployed & students) £8 pa
(UK & Europe), outside Europe \$35 pa;
Voluntary groups £16 pa (UK & Europe);
outside Europe \$35 pa; Institutions £20 pa
(UK & Europe); outside Europe \$50 pa

The Statewatch on-line database: The on-
line database includes references to books,
pamphlets, articles, Hansard written
answers, and the full text of selected Acts of
Parliament. Write, phone or fax for
subscription details.

Overseas subscriptions: Europe: must
paid by Eurocheque or international money
order or with a sterling cheque drawn on a
UK bank. **Outside Europe:** in US dollars
(\$); the bulletin will be sent by Air Mail at
printed paper rate.

Please make cheques payable to:
Statewatch.