

## Statewatch bulletin

Vol 4 no 6 November – December 1994

### IMMIGRATION

#### EU

##### Removal of records ordered

In a landmark decision the European Commission has ordered the UK and Belgium governments to remove the names of two brothers, Rhys and Gwilym Boore, from police records (see Statewatch, vol 3 no 2 and vol 4 no 5). The two brothers names were on the football hooliganism index at the National Criminal Intelligence Service (NCIS) in London and the files of the Belgium police. The names of the two brothers was first put on the index in 1990 when they were questioned, but not arrested or charged, by the police in Luxembourg while on their way to watch the Welsh football team. A Belgian police liaison officer passed erroneous information to the NCIS in London. Then in 1992 this same information was used to question them again and Rhys Boore was held, strip-searched and deported.

In a letter the European Commission says that under the EC Treaty there were 'special measures concerning the free movement of persons justified on public order grounds, as interpreted by the Court of Justice'. It goes on:

'The Court has held that a Member State may only rely on the public order exception to the Treaty provisions on the free movement of persons if the person concerned represents a real and sufficiently serious threat affecting a fundamental interest of society (Case 30/77 Bouchereau [1977] ECR 1999). Moreover, it follows from the judgement in Cases 115-6/81 Adoui and Comuaile [1982] ECR 1665 that, even where a person has been lawfully expelled from a Member State on public order grounds, that State is bound to give active consideration to an application lodged by him after a reasonable time for the review of his case on the basis that he no longer constitutes a threat to public order.

Consequently, Belgium and the United Kingdom are bound to give active consideration to the brothers' request to be removed from any "blacklist" on which they might appear. I have written to both Member States to this effect, asking them to delete your clients' names from any such "blacklist" and, if not, to give reasons for keeping them on such a list'.

Philip Leach, Liberty's Legal Officer who took up the case with the Commission commented: 'This could prove a landmark decision. If the government refuses to remove the names of the two men from the list then the European Commission could take it to the European Court of Justice. The decision could help ensure that false information is not held on people and not allowed to be passed around European police forces'.

Letter from the European Commission, Directorate General XV (Internal Market and Financial Services), 20.10.94.

##### EDU's mandate 'extended'

At the Summit meeting of EU Prime Ministers in Essen, Germany, on 9-10 December, it was decided to 'extend' the role of the European Drugs Unit (EDU) to cover: nuclear crime, the smuggling of people ('illegal' immigration networks), vehicle trafficking (car crime) and associated money-laundering operations. The Justice and Home Affairs Council was asked to expedite the 'appropriate legal instrument'. This followed the

failure to agree on the draft Europol Convention at the Justice and Home Affairs Council on 30 November, which also rejected the proposal adopted by the Summit (see Feature page 16).

The decision to tag onto the EDU these three new tasks was a 'face-saving' measure for the German Presidency of the EU. It was apparently agreed without the usual background reports from the K4 Committee and its Steering Groups. The Justice and Home Affairs Council will have to adopt a 'joint action' proposal under Article K.3.2.b of the Maastricht Treaty (the Treaty of European Union).

A civil liberties lawyer commented:

*This is a quite extraordinary move. The EDU was only set up as a temporary measure under a "ministerial agreement" in June 1993. It does not have to be ratified by national parliaments, has no mechanism for accounting to the European Parliament, for subject access or appeal to the European Court of Justice - many of the very problems which have stopped the signing of the Europol Convention. Giving new powers to the police "at a stroke" and in this manner is bad law-making and undermines democracy'.*

The meeting of the Justice and Home Affairs Council in Brussels on 30 November and 1 December did finally agree on the appointments to the European Drugs Unit (EDU) (see Statewatch vol 4 no 3). From the UK Chief Superintendent David Valls-Russell has been appointed to the five-strong management team. The Director of the EDU, appointed in June, is Mr Jurgen Storbeck (Germany). He is now joined by two Deputy Coordinators: Mr Willy Bruggemann (Belgium) and Mr Georges Rauch (Luxembourg) and two Assistant Deputy Coordinators: MM Emanuele Marotta (Italy) and Mr David Valls-Russell (UK). Together they will form the Board of the EDU (all appointments are until 31 December 1997).

The EDU is based in the Hague, Netherlands and its first budget for 1995 is 3.7 million ECUs. It operates under a Ministerial Agreement signed in Copenhagen in June 1993 (see Statewatch vol 3 no 3). There are now 7 UK police and customs officers in the EDU: two liaison officers, two analysts, one in the planning and development team, an IT trainer, and Mr Valls-Russell.

The Council meeting also agreed two resolutions: 1) 'on the admission of third-country nationals to the territory of the Member states of the EU for study purposes'. This allows third-country nationals to enter the EU for study proposes providing they have a firm offer and the money to support themselves for the period of study. The resolution emphasises that they must 'return to their countries of origin' at the end of their studies and steps will be taken to ensure this 'does not turn into permanent immigration'. 2) a resolution on 'travel facilities for third country nationals (school pupils resident in a Member state). The meeting did not agree the other resolutions on: 'burden-sharing with regard to the admission and residence of displaced persons' (a German initiative); 'minimum guarantees for asylum procedures'(this is required for the implementation of the Dublin Convention on asylum applications which is due to enter into force in the first half of 1995). No agreement on this was possible because of a Spanish amendment geared to stop asylum applications between member states of the EU on the grounds that any suggestion of persecution 'is obviously groundless'.

Another resolution affecting the rights of migrants was passed at the meeting of the General Affairs Council on 31 October. This resolution, 'Conditions for the readmission of persons who are illegally resident in a Member State but who hold a residence permit for another Member State (Article 8.3 of the draft External Borders Convention)'. This cover the 'voluntary' and non-voluntary return of people to other EU

states.

Press release, 1.12.94, ref:11321/94; Resolution for 'minimum guarantees for asylum; Note from the Spanish Delegation to the Asylum Working Party on minimum guarantees for asylum applications, ref: 10173/94, Confidential, 19.10.94; Resolution on entry for study purposes; Minutes of the General Affairs Council, 3110.94, ref: 10314/94; Note from the Presidency, 30.11.94 (on expanding the role of the EDU); Press statement, Essen, 10.12.94.

## **ECHR roundup**

Selected cases dealt with at Strasbourg June-September 1994:

In its 247th session (27 June to 8 July 1994) the European Commission of Human Rights declared 74 cases admissible and 175 inadmissible (either 'manifestly unfounded' or because of delay or failure to exhaust domestic remedies). Another 64 cases were communicated to governments for their comments. The Commission referred five cases to the European Court on Human Rights and reported on 86 cases.

Applications declared admissible included:

*Abed Hussein v UK and Prem Singh v UK* (21928/93, 23389/94) on the lack of review rights of detention 'at Her Majesty's pleasure' (Art 5(4), liberty).

*FN and BN v Netherlands* (23366/94): the refusal of entry to a Zairean orphan girl and her removal unaccompanied to Zaire (Arts 3, 8, 13: inhuman or degrading treatment, family life, no domestic remedy).

Applications held inadmissible included:

A case (21482/93 v UK) of alleged interception by the security services of telexes sent by eastern European trade unions to a Scottish trade union official.

The Commission referred to the Court:

*John Murray v UK* (Commission report 27 June 1994): adverse inferences from failure to answer questions, under the Criminal Evidence (Northern Ireland) Order 1988 did not infringe the right to a fair trial (Art 6(1)), but denial of access to a solicitor did.

The Court gave judgment in the following cases:

*Otto-Preminger Institut v Austria* (judgment 20.9.94): seizure and forfeiture of film adjudged blasphemous: no violation of Art 10 (freedom of expression) as the national courts had weighed this properly against others' right to respect for their religious beliefs.

*Fayed v UK* (judgment 21.9.94): the publication of a report of DTI inspectors on the Fayed brothers' conduct of a public company did not violate their rights under Art 6(1) (fair trial).

*Jersild v Denmark* (judgment 23.9.94): the conviction of a journalist for aiding and abetting the dissemination of racist statements, for conducting and broadcasting an interview with racist youths, was a violation of Art 10 (freedom of expression), bearing in mind that the purpose of the programme was information and not the dissemination of racist statements.

The Commission's reports on a number of old cases were also published.

These included:

*Ali Ouinas v France* (13756/88): respect for the family life of prisoners includes the maintenance of contacts with a prisoner to a prison closer to his home involves interference with the right to family life (Art 8) only in exceptional circumstances such as where an access order is in force. But where a prisoner is prevented from enjoying the right to receive access visits because of the distance, the interference may be considered necessary for the prevention of crime or disorder. Application inadmissible.

*Wakefield v UK* (15817/89): Refusal to transfer a prisoner closer to home to facilitate visits by his fiancée did not constitute inhuman or degrading treatment or punishment (Art 3) and was not an interference with the right to family life (Art 8) although it could interfere with private life (Art 8). But it could be justified as necessary for the prevention of disorder or crime. Application inadmissible.

*Bens and Ewert v Luxembourg* (13251/87): A virulent press campaign could render a trial unfair. Also, a fair trial demanded that no representative of the state declares a person guilty before trial. On its facts the application was held inadmissible. *A v France* (17262/90): a remedy which does not suspend the execution of an expulsion decision is not effective for the purposes of the European Convention (asylum-seeker's deportation to Zaire).

*Amedee Auguste v France* (11837/85): the appearance of the defendant in a glass cage did not violate the right to a fair trial as it was a permanent security measure used for other serious cases and it did not prevent communication with the lawyers in confidence, or with the court. No violation of Art 6.

## **In brief**

EU: Central and Eastern Europe 'officially' renamed: the General Affairs Council of the EU has agreed a proposal from COREPER (the Permanent Representatives Committee, senior officials from each state based in the Council, Brussels) that the six central and eastern European countries - Poland, Hungary, the Czech Republic, Slovakia, Romania and Bulgaria - previously referred to as PECO's should be renamed PECs - central European countries. Eastern Europe however has not disappeared in EU-speak it has merely shifted east with the former Council working group on the Commonwealth of Independent States (CIS) now described as covering 'countries of eastern Europe and central Asia'. Reuters/Balkan News, 30.10.94.

Poland: Official State Secrets Bill rejected by Senate: the Polish Senate has rejected by 74 votes to 5 a proposal from the Sejm, the lower house, to introduce a secrecy law to limit reporting by journalists. This followed criticism from the journalists association and the Helsinki Committee which said in a statement: 'No control is envisaged over what information the government plans to embrace as an official secret'. President Lech Walesa, who has the power to veto the Bill, also came out against it 'in its current shape'. The Sejm can now overturn the Senate's decision by a simple majority leaving President Walesa with the final decision. Balkan News, 2.10.94 & 16.10.94; see Statewatch, vol 4 no 5.

EU: new Commissioner to cover the 'third pillar': among the new appointments to the European Commission is that of Anita Gradin, aged 61, from Sweden to Commissioner responsible for 'third pillar' matters - policing, immigration and judicial cooperation (a new post). She worked in the Swedish government from 1967; between 1982-1986 she was

Minister for Immigration, then Minister for Foreign Commercial Affairs, becoming the Swedish ambassador in Vienna in 1991. She is deputy chair of the Socialist International. During her period as Minister for Immigration there was controversy over the expulsion of Palestinians and the criminalising of PKK Kurdish people as terrorists - many were placed under municipal arrest on the advice of the Security Police.

## Europe - new material

Ripples or waves: the European Parliament in the European Community policy process, David Judge, David Eamshaw and Ngaire Cowan. *Journal of European Public Policy*, vol 1 no 1, 1994, pp27-52. Looks at the powers of the European Parliament and its effectiveness in different spheres.

Respect for human rights: draft annual report from the Civil Liberties and Internal Affairs Committee of the European Parliament: rapporteur Eddie Newman MEP. 13.10.94, 32 pages.

Schengen: Note de la Presidence Allemande: 9.11.94. Report from the German Presidency of the Schengen Agreement to the European Parliament (available in French and German), 26 pages.

## POLICING

### UK

#### 'Free market' comes to policing

The application of the government's 'free market' ideology is now being applied to policing in the UK through a combination of the Police and Magistrates' Court Act 1994, the Criminal Justice and Public Order Act 1994, the Home Office review of core police tasks, and changes in the financing of policing. Sir John Smith, Deputy Commissioner of the Metropolitan Police, recently commented that the overall effect could result in 'an increasingly centralised police service with growing powers, alongside an ad hoc emergence of unregulated quasi-police services (italics in original).

The Police and Magistrates Court Act 1994: cuts local police authorities off from their local government roots; makes them into independent quangos with the Chair and five out of seventeen members approved by the Home Secretary; and allows the Home Secretary to set 'key objectives' to be measured against 'performance indicators', with 'league tables'. Some critics say this turns remotely accountable police authorities into businesses. Critics like Sir John Smith see it as the central direction of policing combined with hiving off many of the police tasks in the community which bring them into contact with the public: 'The government accountants have failed to consider how these ancillary tasks [to be hived off] reinforce the law-enforcement arm of policing by building up public trust'.

The financing of local police forces is to break with the traditional provision of a 51% grant from the Home Office to be 'cash limited, formula based'. Ironically the 51% Home Office grant was introduced following the recommendations of the Desborough Committee in 1920 set up after the police strikes of 1918 and 1919.

The 'key objectives' and 'performance indicators' for 1995/6 were set out in a letter to the Chairs of local authorities in October by Mr Howard, the Home Secretary. The five 'key objectives', in a telling phrase, set out 'the main tasks the government wishes that the police should be tackling as

matters of priority across England and Wales'. The five objectives are: to maintain and if possible increase the number of detections of violent crimes; increase the number of detections for burglaries of people's homes; to target and prevent crimes which are a particular local problem, including drug-related criminality, in partnership with the public and local agencies; to provide high visibility policing so as to reassure the public; to respond promptly to emergency calls from the public.

Four of the 'performance indicators' are quantitative, the fifth is: 'Public satisfaction with the levels of foot patrols'.

Some local police authorities and Chief Constables are up in arms over the allied 'funding formulae'. This 'accountants' formula divided police work into 'categories' with 'resource allocation' and weighting according to the 'formula'. This divides police activity into: 'Call Management' 30%; 'Crime Management' 30%; 'Public order/reassurance' 13%; 'Traffic management' 12%; 'Community relations' 4%; Pensions and security 11%. Factors in the 'Call Management Index' include the proportion of people living in 'areas categorised as ACORN category F (largely council estates)' and proportion in one parent families. The 'Crime Management: Crime Index' factors include: 'unemployed; ACORN F; and long term unemployed'. While the factors in the 'Disorder Index' is defined by:

*proportion of people in one parent families; proportion in ACORN F; proportion unemployed; proportion of households with 1 adult; proportion living in terraced housing; and proportion of urban population.*

Letter from Home Secretary to the Chairs of police authorities, 17.10.94; Observer, 16.10.94; Report to AMA Police Committee, 9.11.94.

#### Order to hand over films

BBC, ITN, Sky News, the Daily Mail, the Evening Standard, the Daily Telegraph, the Daily Express, the Daily Mirror and Today were all ordered to hand over to the police film footage and still photos of the Hyde Park Criminal Justice Bill demo. The demo, on 9 October, ended in violence in which it was claimed that 400 police were injured, along with 50 members of the public, and 250,000 worth of damage done to shops. In a fiercely contested hearing in November, the news organisations argued that their journalists ran the risk of being targeted for violence as agents of the police by surrendering pictures taken on violent demos. The police argued that the material was necessary to enable them to bring offenders to justice. The judge agreed with the police that the danger to journalists was less important than the public interest in catching offenders. Meanwhile, following the updated guidelines giving Special Branch more of a public order role, observers were wondering how many of them will be seen playing a role in the filmed confrontation. Independent, 3, 9 & 10.11.94.

#### Racism charges

Three police in Manchester's community relations department face disciplinary charges of racism after complaints that racist attacks were trivialised and offensive language used against complainants. A community officer, Michael Reid, now retired, compiled a 14-page dossier of examples of racism among the community relations police, such as their description of Moss Side and Hulme residents as 'wall-to-wall shit'. In 1993 there were 172 complaints of racism, resulting in one recommendation for a disciplinary charge. The Police Complaints Authority (PCA) is investigating 17 complaints of racist and aggressive

policing arising from one incident outside a nightclub in January 1993. The disciplinary charges mark the drawing of the battle lines in Chief Constable David Wilmot's 'crackdown on racism', which has seen a police constable fined two days pay and given a warning for calling a prisoner 'nigger'. The Chief Constable's initiative involves logging all stops and searches carried out in Moss Side, which resulted in the finding that black people were stopped and searched twice as often as whites, and his acknowledgement that some policing of the area is 'heavy-handed', which has brought howls of protest from his own officers. Divisional Commander Andrew said the PCA's advice on rebuilding community trust in the police as 'naive nonsense'. Independent, 22.11.94; Guardian, 26.11.94; Police Complaints Authority press release, 21.11.91.

### **NCIS needs surveillance role**

A secret report by Mr Geoffrey Dear, HM Inspector of Constabulary, for the Home Office argues that the National Criminal Intelligence Service (NCIS) needs to have its powers increased to allow it to carry out the surveillance of targeted suspects.

When it was set up in 1992 the NCIS's role was limited to gathering and assessing information ('hard' facts) and intelligence (supposition or suspicion) and passing this on for action to the reorganised Regional Crime Squads (RCSs, in effect the regional branches of the NCIS) or to local police forces. The arguments against giving the NCIS any more than an intelligence-gathering role were strong ones. First, there was the traditional opposition to the creation of a 'national' police force, and secondly, the question of accountability - with officers drawn from a number of different police forces around the country. It was considered that any role which moved beyond gathering intelligence would require new legislation.

The Dear report says the restrictions on the NCIS which do not allow for 'mobile surveillance, use of technical equipment or intercept communications [telephone tapping and 'bugging'] mean they have to rely on the RCSs or local police. He argues the NCIS should be allowed to 'develop' intelligence by following suspects and using mobile surveillance: 'There is no demand for the NCIS to be in control of operations, but simply to be able to develop operations intelligence packages to the stage where they can be successfully taken over by the customer'. This distinction between intelligence-gathering and 'operations' (from which the NCIS is excluded at present) seems to beg questions. Where does one start and another finish, actively gathering evidence on the suspected criminals in the community would be viewed by many as 'operational' steps prior to arrest.

Police Review, 18.11.94; see feature on MI5 in this issue.

### **The 'injury potential' of batons**

The President of the Association of Chief Police Officers (ACPO) sent out a letter to Chief Constables in August giving the results of the trials of expandable side handled batons. The survey was carried out by Touche Ross Management Consultants for ACPO's Sub-Committee on Self-Defence, Arrest, Restraint/Physical Protection of Police. The survey found that police officers favoured the 'friction lock baton' to the 'expandable side handled baton'. The 'friction lock baton' was, says the report, likely to be the choice in covert operations and that the 21 inch version of the baton has an injury potential roughly twice that of the traditional truncheon and that the 24 and 26 inch versions would have

'significantly higher injury potential'.

On 23 November the Home Secretary announced that he was giving the go-ahead for police across the country to use the 'rigid side handled baton', this follows authorisation to use the 'expandable side-handled baton' in June. The Metropolitan Police, for which the Home Secretary is the police authority, were to be allowed to use 24" and 26" in addition to the 22" ones already issued. The 24" baton is available in hollow and solid versions. The traditional wooden truncheon is 16" long. Plainclothes and undercover police officers in the Met are testing an extendible three part, friction lock baton because they have 'operational difficulties with the long baton'.

Home Office press release, 23.11.94; Personal Safety, Metropolitan Police, no 1, November 1994.

### **Women win strip search case**

The Commissioner of the Metropolitan Police has agreed to pay £20,000 in damages and expressed regret for the trauma caused to Helen Yaffe and Madlyn Ray-Jones when his officers strip searched them in a ladies toilet at a pub in Tufnell Park, north London.

On 9 November 1992 police officers raided the pub on a drugs search warrant and searched 88 young people. The two women, who are now 17, were taken to the ladies toilet and made to remove most of their clothes in front of five other people. No drugs were found. They were both traumatised by the experience and sued the police Commissioner for false imprisonment, assault and unlawful inducement to remove their clothes. The women said they were selected for no good reason.

David Yaffe, Helen's father, said: 'That dreadful hour of two years ago still haunts Helen and Madlyn. They took these proceedings in order to prove to themselves and to others that young people can stand up for their rights, and win. The Commissioner's offer vindicates their position'.

Statement, 25.11.94.

## **NETHERLANDS**

### **Call for inquiry into police team**

Journalists Bart Middelburg and Kurt van Es of Het Parool newspaper published a book 'Operation Delta' on 21 October in which they detail how in 1993 the IRT (Interregionaal Recherche Team, an inter-regional semi-permanent detective squad shut down in December 1993) allowed a key informant (a shipping agent) to export very large shipments of up to several thousands of kilos of Ecstasy and Colombian marijuana to the UK, Belgium, Scandinavia and Latvia, in most cases without keeping control over further distribution of the contraband on the markets. The Dutch justice department was largely kept in the dark about the operations, as were all foreign officials. Only when UK Customs and Excise in Sheerness discovered a tank lorry loaded with 1.5 million Ecstasy pills and their liaison officer in Holland began to ask awkward questions were they briefed about the nature of that particular shipment, thus narrowly avoiding an diplomatic incident.

Also on 21 October, the Van Traa parliamentary commission, set up in June 1994 after the IRT disaster forced two ministers to give up office, published its findings on whether or not there is a need for a full parliamentary investigation into the working methods of the police. The commission concluded that such an investigation ("parlementaire enquête") is required because of the present vagueness and confusion

about which methods are allowed and which are not.

Commission members believe they have obtained information on about 85% of all the covert intelligence-gathering methods presently in use; the report gives a comprehensive but superficial overview of them. Tactics and techniques such as the application of electronic location devices, 'fishing' in private mail boxes, the clandestine monitoring of conversations in houses by use of the telephone and the wide and 'creative' use of criminal informers and infiltrators have all been reported to the commission. It appeared that those public prosecutors known to be reluctant to use sensitive methods were avoided by police detectives who in such cases sought out more sympathetic prosecutors to give formal backing, a practice referred to as 'officer' shopping.'

The commission stresses that it will be necessary to interview witnesses under oath, since several justice and police functionaries they questioned were thought to have withheld information or dodged sensitive issues. Also the commission wants to come to a reliable assessment of the actual level of threat of organized crime in Holland, since the various experts that were consulted held widely diverging views on this issue. Parliament is expected to decide soon whether or not the commission's recommendations will be carried out.

### **Change of policing policy?**

The new Minister of Justice, Mrs Winnie Sorgdrager, in the new 'purple coalition' government in Holland, composed of the Social Democrats and two Liberal parties (excluding the Christian-Democrats for the first time since 1945), has some markedly different views from the former Christian Democrat Minister Mr Ernst Hirsch Ballin. Together with Minister of the Interior, Mr Hans Dijkstal (VVD, Liberal Conservatives), she has managed to limit the influence of police chiefs and attorney generals on policy - taking the lesson of the IRT affair to heart. Mrs Sorgdrager has voiced her concern over threats to privacy posed by certain proactive police methods such as 'inkijkoperaties' in private homes (peeping operations, ie: burglarizing without a search warrant), and has announced her intention to withdraw some bills which would introduce wider police powers, including bugging by microphones and deals with crown witnesses.

The new Minister has come up through the ranks as a public prosecutor and an attorney general and has warned against an arms race between the police and professional criminals. One of her first initiatives was to start a debate and encourage local experiments to supply longtime drug addicts with heroine under strict medical guidance, a novelty in Holland. She has expressed the desire to stop the building of new prison cells in 1996 while bringing more prisoners into alternative punishment programs including social work during the second half of their detention.

On Monday 21 November, a The Hague chief police inspector testified to the Amsterdam court how the team he led in a major cannabis investigation had executed no less than six 'inkijkoperaties' in the 1990/1991 period without informing the public prosecutor who was in charge of the investigation. The chief inspector stated that the permission of public prosecutor Mr J Van Eck was not sought as 'he would never have approved the methods'. He added that such sensitive methods were never put down in writing to avoid discovery by the suspects' lawyers. Also his superiors in the police force were kept unaware under a strict need-to-know doctrine to avoid embarrassment. The president of the court Mr J Willems voiced his strong disapproval of the modus operandi. The result may be that the imprisonment of three detainees will have to be overturned and considerable damages paid. Police chiefs fear that these developments may create a domino effect, in which one big trial after

another will have to be reconsidered, ending in the discrediting of Dutch law enforcement in serious crime cases and police credibility.

### **Journalists 'suspected'**

The Hague public prosecutor's office has stated that two journalists, members of the Opstand collective (see Statewatch vol 4 no 5), are under suspicion of being involved in 'Rara' activities.

The journalists are outspoken critics of the government's asylum policies. The 'Rara' is an anonymous Dutch group (or groups?) which over the past nine years has claimed several fire settings and bombings against Apartheid-related corporations, immigration authorities' offices, the Ministry of the Interior and others.

Investigation of the materials confiscated during the raids on 28 September are said to have produced 'indications' that the journalists have contributed to writing 'Rara' letters. In a rather unusual move, the prosecutor has warned the two that they can be arrested, but that he had no intention of doing so immediately.

Observers assume that the manoeuvre is meant to cause confusion among activists, which in turn could produce new leads. In this scenario, the unfortunate journalists simply serve as a decoy to elicit a reaction by the 'real' activists. In the present situation, they are tarnished as terrorists with no solid evidence being brought against them and without the opportunity of building up a legal defence. Several of the publications and broadcasting companies they were working for have already broken off contacts under the assumption that where there's smoke, there's fire.

### **SPAIN**

#### **Police cooperation**

French Minister of the Interior, Charles Pasqua and the Spanish Minister of Justice and Interior, Juan Alberto Belloch, agreed at a meeting in Madrid on a package under which Spain would control and place under surveillance Islamic fundamentalists in return for French collaboration in the fight against ETA.

Pasqua said that members of the Algerian Islamic Salvation Front expelled from France were entering Spain illegally. Sources in the Civil Government of the Province of Gipuzkoa (the Basque border province to France) said that the 'Security Forces' had been increasing border controls strictly applying the provisions of the Law on Aliens. The Civil Government represents the central Spanish government in province and working to the Ministry of Interior and Justice oversees so-called 'public order'.

Kontrola Kontrolpean, Donostia, Euskadi (State of Spain).

#### **In brief**

Melvin retires: Detective Chief Superintendent Melvin retired in November, four months after his acquittal on charges of fabricating Winston Silcott's 'confession' to the killing of PC Blakelock at Broadwater Farm in 1986. Melvin had been on suspension since November 1991. Observer, 27.11.94.

Joy Gardner: Three police officers from the Deportation and Extradition Squad, DS Linda Evans and DCs Colin Whitby and John Burrell, were sent for trial on manslaughter charges for the death of Joy Gardner after being restrained during an attempted deportation in July 1993. Independent, 24.11.94.

Damages for fit-up: A black man fitted up for possession of crack cocaine was paid 70,000 pounds damages in settlement of his claim for assault and battery, false imprisonment and malicious prosecution. Anson King, a taxi-driver, was stopped by Stoke Newington police, arrested, strip searched, locked up and falsely charged with possession of crack on fabricated evidence, a silver foil package planted on him. The case was the eighth of 31 civil cases arising out of the corruption at Stoke Newington police station in east London. Hackney Community Defence Association says it knows of over 90 cases against the drugs squad. *Guardian*, 8.11.94.

Danish 'bugging' scandal: the latest twist in the 'bugging' scandal at the University of Copenhagen is a claim by Victor Ostrovsky, an Israel-Canadian author and former agent for Mossad, that the Israeli intelligence service did 'bug' the office and home of Professor Hans Gammeltoft-Hansen (he is now the ombudsman of the Danish parliament). Ostrovsky says that Mossad considered Gammeltoft-Hansen to be a Palestinian spokesman and that Danish police installed a microphone in his office in 1984 handing over the recordings to Mossad's Danish agent every other week. In February 1986 the agent put a 'bug' in his home as well. *Times Higher Educational Supplement*, 28.10.94; see *Statewatch* vol 3 no 3.

Italy: Police arrested: Two police officers, who are brothers, have been arrested on charges of being linked with the extreme rightwing Falange Armata after a cache of rifles, sub-machineguns and hand grenades were found in their apartments. The two officers are believed to be linked to 15 unsolved killings and a series of violent robberies. The Falange Armata has targeted immigrants and police in attacks. *European*, 2.12.94.

### **Policing - new material**

Report of the Commissioner of the Police of the Metropolis 1993/4. Metropolitan Police, July 1994, 20 pounds, 122 pages. Includes Appendices on: crime figures; complaints against the police; deaths in custody; civil actions and damages; stop and searches and road blocks.

Talking cop shop? A case-study of police community consultation groups in transition, Gordon Hughes, *Policing and Society*, vol 4 no 3, 1994, pp253-270. Looks at 'community policing' and police-community consultative arrangements in Britain and examines whether they are part of local democratic participation in policing or emergent inter-agency corporatism.

First the verdict and then the trial, Dr Jenny Hocking. *Policing and Society*, vol 4 no 3, pp219-236. Looks at the implications of the increasing use of electronic surveillance by police and intelligence agencies in Australia resulting in 'a highly politicised and largely unaccountable form of criminal investigation'.

Police Complaints and Discipline, England and Wales, 1993. Home Office Statistical Bulletin, 6 June 1994, 24 pages. Details complaints received: 22,300 of which 70% were withdrawn or resolved 'informally', and of which 750 complaints were substantiated. Lists all deaths in custody excluding the Metropolitan Police (for which see the Commissioner's annual report).

Annual Report of the Police Complaints Authority 1993. HMSO, House of Commons Paper 305, March 1994, 10.15p, 68 pages.

Triennial Review of the Police Complaints Authority 1991-94. HMSO, House of Commons Paper 396, 19 May 1994, 5.75p, 24 pages.

Riot control, Tim Malyon & Steve Platt. *New Statesman and Society* 14.10.94. pp14-15. On the 'policing' of the march against the

Criminal Justice Bill last October.

Covert police operations and the discretionary exclusion of evidence, Sybil Sharpe. *Criminal Law Review* November 1994, pp793-804. This article considers judicial attitudes towards evidence obtained through informants and surveillance and concludes that there should be a Code of Practice to regulate the use of such evidence.

Forensic science evidence after Runciman, Paul Roberts. *Criminal Law Review* November 1994, pp780-792. 'A critical review of the Royal Commission's modified procedure for adducing forensic science evidence.'

Regionalisation: the Dutch police forces after their reorganisation, Hans Bevers. *Police Journal* LXVII(4):326-333, 1994. On the Police Act, which came into force last April, and the creation of 25 regional police forces.

Yugoslavia: police violence in Kosovo province - the victims. Amnesty International report on police treatment of ethnic Albanians in Kosovo. September 1994, 27 pages.

Pepper spray and in-custody deaths. *The Police Chief*, June 1994, p64. Argues that of 22 deaths in custody examined in the USA the pepper spray was not responsible. 18 of the deaths were apparently caused by 'positional asphyxia' - resulting from handcuffing subjects behind their backs, having them on their stomachs, using ankle restraints, 'hog-tying', 'subjects' with 'big bellies' transported in the prone position making it 'very difficult for individual to breathe'.

A look at French Criminal Procedure, Helen Trouille. *Criminal Law Review* (1994), pp735-744.

Not much to rave about, Ray Newman. *Police Review*, 25.11.94, pp22-24. Examines effects of the Criminal Justice and Public Order Act 1994.

Reinventing the CID, Ian Will. *Police Review*, 25.11.94, pp14-15. Argues that the National Criminal Intelligence Service (NCIS) is an unsatisfactory half-way house to the creation of a proper national investigation department.

Parliamentary debate

Policing of London Commons 2.12.94. cols. 1437-1510

### **PRISONS**

#### **Repatriating European Prisoners**

A report from the Penal Affairs Consortium calls for reforms to enable more prisoners from other European countries in British prisons to be transferred to their own countries. The UK ratified the Council of Europe

Convention on the Transfer of Sentenced Prisoners in 1985 but in the intervening eight years only 92 had been successfully repatriated. In September 1993 there were 846 prisoners from EU states in British prisons. 529 of these were Irish nationals but the Republic of Ireland is the only EU state not to have ratified the Convention. The report says:

Prisons in England and Wales are often ill-equipped to meet the social, educational and welfare needs of foreign nationals. Foreign nationals tend to be alienated from the main cultural environment of the prison, are not adequately catered for by training and educational services, experience the breakdown of family ties and are denied home visits outside the UK to help them reintegrate into their communities before their release. Allowing foreign nationals to return to their own countries to serve their sentence would seem the obvious solution.

Repatriating European Prisoners: the repatriation of sentenced prisoners from England and Wales to other member states of the European Union, November, 1994, 8 pages, available free from: The Penal Affairs Consortium, c/o 169 Clapham Road, London SW9 0PU.

## SPAIN

### 'Bugging' prison declared illegal

The Audiencia Provincial (provincial high court for criminal civil cases) in Madrid has upheld the decision in May by Francisco Romero, judge of the Chamber of Execution and Punishment, who decreed that the 'permanent and hidden system to record conversations, which has been installed in the visiting rooms of the Alcala-Meco prison in Madrid' should be closed and removed.

Marti Mingarro, Dean of the Bar Association of Madrid, said he was asking the Minister of Justice and Interior, Juan Alberto Belloch, to order that the decision of the courts was complied with. Mr Mingarro said 'it has been an intolerable and untenable situation for the right of the defence, as the interception of conversations between a lawyer and his client is illegal and is only allowed to be carried out with judicial authorisation in cases where the lawyer is suspected of committing a crime'.

The court judgement arose when the Audiencia Nacional (national high court) acquitted the lawyer Txemi Gorostiza on 10 February because of lack of evidence after the state prosecutor had called for six years in prison on charges of collaborating with ETA. The case against the lawyer was based on recordings of a conversation made in the prison visiting room with three ETA defendants he was representing. The court declared that the recording was null and void because it 'gravely infringed' the right of immunity and had not been judicially authorised.

Kontrola Kontrolpean, Donostia, Euskadi (State of Spain).

### Deaths in prison

The prison monitoring group, Prison Watch, has published a list of 45 deaths in prisons in England during 1994. The list includes 15 remand and 25 sentenced prisoners (the status of the others is not given). Four of the deaths occurred at Brixton prison, while Liverpool and Long Lartin both had three fatalities. The report notes that 'in a year when the Prison authorities have launched a major initiative in suicide prevention the figures are heading towards a 20% increase.'

Prison Watch, 23.10.94.

## Prisons - new material

The case against the secure training order. Penal Affairs Consortium October 1994. The Criminal Justice and Public Order Bill will empower courts to make secure training orders, under which juveniles can be held in secure training centres. This report describes the secure training order as 'an expensive mistake.'

Scottish Prison Service annual report 1993-94, Scottish Prison Service. HMSO (Edinburgh) 1994, pp62, 13.20. Glossy annual report with brief sections on 21 Scottish prisons and 11 statistical appendices.

Prison statistics: England and Wales 1992. HMSO (Cm 2581) 1994, pp166, 19.50. Statistical analysis of the prison population during 1992.

Outside help: practical information for the families and friends of people in prison. NACRO 1994. This short booklet gives practical advice to people who have a relative or friend in prison. It is available from: NACRO, 169 Clapham Road, London SW9 0PU.

The Mandatory life sentence. Penal Affairs Consortium October 1994. This report proposes that life imprisonment should not be the automatic penalty for murder, but the maximum sentence with discretion for judges to pass fixed sentences when appropriate.

Prison Watch press releases. No 103 (19.11.94.) No. 104 and No. 105 (30.11.94.). These press releases cover the deaths of Mark Evans at Leicester Prison on November 16; Andrew Batey at Low Norton remand centre on August 9; and Ian Buck at Doncaster prison. Mark Evans' death was the seventh death at Leicester prison in 2 years. Available from Pete Moore, 24 Rochester Close, Derby.

Prison Information Bulletin, Council of Europe, no 16 June 1992. This bulletin is just out - it is always produced very late - but contains useful information on prison population statistics (total numbers; detention rate; percentage of unconvicted prisoners, percentage of women prisoners; percentage foreign prisoners) plus articles (eg: European prison rules) and new law in Council of Europe member states.

## SECURITY & INTELLIGENCE

### BELGIUM

#### State Security violates privacy

The Belgian intelligence and security services routinely violate the privacy of thousands of citizens each year. That is the conclusion of an annual report written by a permanent committee established by the Belgian parliament to oversee the activities of the security forces in the wake of the Gladio affair. The report argues that tighter legislation is needed.

The report states that most of the people investigated by intelligence services have no connection with any 'subversive organisation' but are ordinary citizens who apply for jobs within sensitive areas, such as the NATO headquarters in Evere. The people who are vetted stretch from top civil servants through to cleaners. The committee complains that for the most part the secret services carry out these investigations without any legal framework or proper political supervision. The report also calls for a clear definition of the secret services' general tasks, as opposed to the use of such terms as 'internal security of the state' and 'subversive activities' which the committee describes as vague and potentially in conflict with a citizen's constitutional civil rights.

De Morgen 24.10.94.

### **In brief**

Bulgaria: 'CIA' man held: An engineer from a North Sea service company found himself in a Bulgarian prison after being detained at Sofia airport. The man, from Chandlers International (Aberdeen), had put the initials of his employers - CIA - on immigration forms. He was seized by immigration officials on arrival and held overnight on suspicion of being an agent of the US Central Intelligence Agency. Balkan News, 13.11.94.

UK 'diplomats' set up 'sting operations': Evidence of a 'sting' operation organised by the UK High Commission and 'officials' in Pakistan came to light as the case of two men, sentenced to 10 years in prison, goes to the Court of Appeal. The case involves 9 kilograms of heroin, with a street value of £675,000, being held at the High Commission in Islamabad then flown in diplomatic bags on a British Airways flight to Manchester. Telexes between the High Commission and UK Customs officials show that an informant was paid £6,000. The two men are appealing on the grounds that they were set up by the undercover customs informant and that Home Office guidelines on the use of informants had been breached. Sunday Times, 20.11.94.

### **Security - new material**

My mother, the CIA and LSD, Elizabeth Nickson & Max Ellis. Observer Magazine 16.10.94. On the MKUltra project, in which thousands of people were experimented on with hallucinogenic drugs in tests to control human behaviour.

Hanky panky that thrilled the KGB, Yuri Modin. Guardian 29.10.94. Modin was the KGB minder for Burgess, Maclean, Philby and Blunt; here he claims that John Cairncross was the fifth man.

Scargill and the spooks, Seamus Milne. Guardian Weekend 19.11.94. pp35-43. Piece on the role of MI5, and Stella Rimington, during the 1984-84 miners' strike.

Not the Scott report: Thatcher, Major, Saddam and the merchants of death. Private Eye (November) 1994. A Private Eye supplement on the arms to Iraq scandal.

## **NORTHERN IRELAND**

### **Northern Ireland - new material**

Peace and then what? Alternatives. Irish Reporter 16 1994. This edition focuses on the IRA ceasefire and includes pieces by Bill Rolston, Mitchel McLaughlin and Mike Tomlinson.

Peace and the Provo, Kevin Toolis. Guardian Weekend 19.11.94. pp 12-22. Profile of Sinn Fein spokesman Martin McGuinness.

Return to an address of the honourable the House of Commons dated 30 June 1994 for a report of the inquiry into the circumstances surrounding the convictions arising out of the bomb attacks in Guildford and Woolwich in 1974: Final report, Sir John May. HMSO (London) 1994, pp309 + appendices, £30.50. This is the third and final report into the

miscarriages of justice that led to the convictions of the Guildford 4.

Regions and borders: controversies in Northern Ireland about the European Union, Paul Bew & Elizabeth Meehan. Journal of European Public Policy 1(1):95-113, 1994. On the effects on Northern Ireland of European integration.

Bloody Sunday researched, Marie Smyth. Common Ground 1(3) 1994. Account of research into the aftermath of the Bloody Sunday massacre, when British soldiers of the Paratroop regiment shot dead 13 civilians attending a peace march in Derry in 1972, that shows the long term psychological effects on surviving relatives.

H-block submission to Sinn Fein peace commission. An Glor Gafa/The Captive Voice 6(1):11 & 22, 1994. This paper is based on discussions between Republican prisoners in Long Kesh between December 1993 and January 1994.

Parliamentary debates

Northern Ireland: recent developments Lords 17.10.94, cols 11-25 & 33-35. Northern Ireland Commons 27.10.94 cols. 1018-1105

## **IMMIGRATION**

### **SWITZERLAND**

#### **Data bank to register visitors**

The Minister of Justice and the police have amended the law on the Central Data System of all foreigners, the ZAR (Zentrales Auslander-Register). The amendment allows the authorities to register all (Swiss) people who invite foreigners to come to the country because they now need - in order to get an entry visa - an invitation from a person living in Switzerland. This will affect everyone visiting Switzerland from outside the EU, especially those from the Third World.

The ZAR will hold information on those visiting and the Swiss people who have invited them. The computer data field 'Invitation letters' contains the name and address and the 'relationship' of the person inviting the visitor. This covers family relationships and political, cultural or business connections. All the key state authorities - the Border police, all cantonal foreign police sections and the Federal (political) Police will have on-line access to the ZAR data system. The police will also be empowered to search the homes of third persons who are in contact with a 'suspected' foreigner.

Komitee Schluss mit dem Schnuffelstaat, Bern, Switzerland.

### **BELGIUM**

#### **Rewards for rejecting refugees**

A leaked document has revealed that the Belgian Commissioner-General for Refugees, Marc Bossuyt, is rewarding his lawyers with bonus points for every rejected request for asylum. The internal memo, published by the League for Human Rights shows that any lawyer working for the government can expect to be rewarded with 1.2 bonus points for rejecting a request for asylum. If on the other hand the claim is upheld the best the lawyer can expect is 0.6 points. Bossuyt explains in the memo that the points system will allow lawyers to see how well they are performing in comparison with others, and goes on to congratulate those who have earned most points.

The League for Human Rights argues that what this amounts to is a bonus system for turning down asylum applications without taking any account of the rights and wrongs of each particular case. This system is underpinned by the fact that very few lawyers working for the Commissariat-General have permanent contracts and therefore are in constant danger of losing their job. 'It's not surprising taking this precarious work situation into account that lawyers are actively fighting for points', Pierre Hebecq, the general secretary of the league stated. 'The competition between lawyers working for the commissariat is increasing. In the last few years the commissariat has employed more and more lawyers in order to cope with the growing mountain of asylum requests. There used to be 50 lawyers working for the commissariat in 1990... now there are over 250'.

Whilst freely admitting the existence of the points system Mr Bossuyt denies that the aim is to reduce the number of asylum seekers. He claims that the system is nothing more than an internal method for measuring productivity. The only reason that rejected asylum requests get more bonus points is because rejected applications require written explanations.

The league however claims that this is a untrue. According to them the only difference between acceptance of a claim and rejection is that the written explanations are made open in the event of rejection. The league describes the whole system as 'unworthy for somebody entrusted with the even-handed application of the Geneva Convention, especially if that person is representing Belgium on the UN sub-committee for Human Rights'.

De Morgen 17.11.94.

## **UK Bombers 'not refugees'**

The Court of Appeal continued the trend towards drawing the definition of 'refugee' ever narrower so as to exclude more and more people from the protection of the Geneva Convention in a judgment in November. T, an Algerian, sought asylum in Britain on the basis that, as a member of the FIS, he would be persecuted by the Algerian authorities. T admitted to having participated in a raid on an army post in which one person was killed, and to having known about a plan to bomb the airport which went ahead and killed ten people. In order to exclude T from protection the Home Office had to show that he had been guilty of 'serious non-political crimes'. The court said that the crimes T was involved in could be characterised as 'non-political' since the more violent and atrocious the crime, the more disproportionate to its purpose, the harder it was to show that it was calculated to promote the purpose of the group who did it in a coherent way.

The ruling followed hard on the heels of the decision by the European Commission on Human Rights to admit the claim of Karamjit Singh Chahal against the UK for further investigation. Chahal, a Sikh activist, has been detained for deportation to India for over two years on the ground that he is a terrorist and that national security considerations override his claims to refugee status.

However the Commission, declaring his case admissible, is understood to have indicated that at the very least more detailed reasons ought to have been given to overrule his asylum claim. Chahal's case differs from that of T in that he denies involvement in armed struggle.

The European spokesman for the PKK, Kani Yilmaz, who was admitted to Britain on 23 October for a series of meetings, found himself arrested by 12 police officers as he approached the Palace of Westminster three days later. Yilmaz has come to Britain twice before from Germany, where he

has refugee status, but on this occasion the Home Office said he should not have been allowed in. He is detained at Belmarsh maximum security prison pending deportation on national security grounds, against which he has no appeal, only the right to a hearing before the 'three wise men', a national security advisory panel. Liberal Democrat peer Lord Avebury, a human rights activist who has been banned from Turkey on public order grounds, believes that the decision by the Home Office to ban Yilmaz came about as a result of a meeting with the Turkish ambassador in October. Since Yilmaz's arrest Kurdish supporters have maintained a vigil for him. 1,200 marched in mid-November, when there were five arrests.

## **GERMANY Asylum applications down**

Official government figures show that the new asylum law which entered into force on 1 July 1993 has led to a dramatic drop in the number of asylum applications - from 37,000 a month during the first half of 1993 to 16,000 a month during the second half of 1993, and 10,000 in the month of October 1994.

Of the 322,599 asylum applications in 1993 only 3.2% were granted. Between January to October 1994 there were 102,968 applications of which 8.2% were granted of this much lower figure.

The new law excludes all those asylum-seekers coming via so-called 'safe' third countries from the asylum procedure. As all the countries neighbouring Germany have been declared 'safe' by law in theory nobody seeking asylum and arriving by land at the German border or at airports can apply through the procedure. In order to implement this new legal concept Germany has concluded readmission agreements with the two main countries of transit to Germany from the east - Poland and the Czech Republic - obliging them to back any person who crosses illegally into Germany via their territories. For those asylum-seekers who arrive in Germany by plane there is going to be an accelerated so-called 'airport-procedure' during which the asylum applicant will remain at the airport. The new law also introduced so-called 'safe' countries of origin. Under this provision Ghana, Senegal, Poland, the Czech Republic, Slovakia, Bulgaria, Romania and Hungary are considered 'safe' with the effect that asylum applicants from these countries can be rejected as 'manifestly unfounded' and subjected to the acceleration procedure.

It has also become more difficult for asylum-seekers whose application has been rejected but who might nevertheless be in danger of human rights violations if returned to their countries to get protection from deportation. The meeting of the Ministers of the Interior of the Federal States in November could not agree to stop or delay deportations for Kurds from Turkey, Kosovo-Albanians, Armenians, conscientious objectors from the Republic of Yugoslavia, Zaire, Angola or Togo. The only stop on deportations agreed was for those from Bosnia.

### **Compromise on citizenship**

Under current legislation a child is granted automatic citizenship if one of its parents is German - citizenship is based on a German blood-connection not on residency or birth in the country. This excludes over 6 million resident immigrants.

During the German election campaign the FDP called for dual nationality to be made available but in 'horse trading' after the election the governing coalition (FDP and Chancellor Kohl's Christian Democrats) compromised on only giving very limited citizenship rights to third generation immigrants. Under the proposal a 'quasi' citizenship would become available to children with at least one parent born in Germany and if both parents have lived in Germany for at least ten years. Such citizenship

would only be valid up to the age of 18 - at which point the 'foreigner with German child nationality' (to use the official terminology) would revert to being an ordinary foreigner unless they renounce their original nationality within a year. The liberal *Sueddeutsche Zeitung* newspaper commented: 'How nice. The child may call itself German - but legally it is not German. It is quasi-German'.

The German Commissioner for immigrants, Comelia Schmalz-Jacobsen, has been joined by Amnesty International, Pro-Asyl and churches in protesting at the 15 deaths in (pre-expulsion) detention of deportees since 1990, the conditions in which deportees are detained and the rising level of enforced deportations - 40,000 this year up to August.

*International Herald Tribune*, 15 & 16.11.94; *Independent*, 15.11.94; *Guardian*, 28.10.94, 15.11.94; *Financial Times*, 6.6.94; see *Statewatch* vol 4 no 5.

## FRANCE

### France and Algeria

A similar process of criminalising dissent is being conducted by the French authorities in relation to Algerians seeking asylum or simply living in France. In a second wave of coordinated pre-dawn raids, 300 special police arrested 95 suspected Islamic activists, and claimed to have found an arms cache in a south-east Paris suburb. Interior minister Charles Pasqua, known for the virulence of his anti-Arab policies, claimed that links had been discovered with the Armed Islamic Group, of which those arrested were allegedly members, and fundamentalist groups in the UK, Germany, the Netherlands, Italy and Canada. 77 of those arrested were later charged with terrorist-related offences.

If Pasqua's government is anti-fundamentalist, though, it offers little comfort to secular Algerians trying to flee the country. All consulates in Algeria are closed in response to the war there and the fear of a flood of refugees. Applications for visas have to go to a special office in Nantes. Academics and journalists have been assassinated, either by the government forces or by hard-line fundamentalist group members, while awaiting visas to enable them to get out of Algeria. *Independent*, 4, 9, 15 & 18.11.94.

## NETHERLANDS

### Police 'recruit' asylum seekers

One of the issues the new Minister of Justice, Mrs Sorgdrager, will have to deal with is the growing concern of solicitors and refugee organizations over security service and police intelligence branches activities in debriefing and recruiting asylum seekers. Under the last government such concerns were brushed off, but refugee organisations now insist on clear guidelines and assurances for refugees that their case is not affected by refusing to supply intelligence. Surinamese asylum seekers almost as a matter of course are visited by the police seeking information on cocaine traffic. Algerians are extensively questioned on Hamas, and claim to have been put under pressure to cooperate with the BVD security service. Iranian refugees recently recounted how they were approached for recruitment as they arrived on the airport, in return for a promise of legal status. Anonymous Justice department functionaries have reported that BVD officers frequently drop by to pick up dossiers, and that the formal procedure of first obtaining the Minister's permission is simply ignored.

## NETHERLANDS

### Targeting 'illegal' migrants

On 1 November 1994 new legislation came into force enabling registry office officials to refuse to cooperate when a fake marriage is suspected. Justice department sources say that they have made the assumption that between 510% of all marriages involving a foreign partner are fake - the new law is aimed at preventing migrants from using a marriage to acquire a residence permit. Under the new law, a declaration of approval of the Aliens Department is required for those migrants wanting to marry. The public prosecutor can block a suspected marriage or annul a marriage believed to be fake.

This new law forms part of a wider policy of intensifying domestic surveillance of migrants currently taking shape. Two new 'presenting centres' at the German border in Rijsbergen and Zevenaar were opened in October. They will channel all asylum seekers through a central intake procedure: Justice department officials then establish within 24 hours whether the applicant has any chance of being granted asylum. Those rejected have to leave the country the following day. Special refugee centres are being created for those for whom return is problematic because their assumed country of origin refuses to take them back. About 10,000 rejected asylum seekers are expected to be lodged in prisonlike camps in the near future. A third intake centre (in which a selection is made between 'genuine' and 'chanceless' asylum seekers within 24 hours) will be opened at Schiphol airport soon.

Mobile patrols behind the borders carried out by the Koninklijke marechaussee (gendarmerie) have been intensified and around 700 new police officers are being assigned to the surveillance of foreigners throughout the country. Their priorities are: (a) criminal aliens, illegal or not; (b) aliens who disturb the peace or who otherwise cause trouble; (c) expulsion of unwanted aliens or those having been denied a legal status; (d) individuals and groups who profit from the illegal status of aliens, such as employers of illegal aliens, those providing housing, and organizations that engage in the smuggling of humans or trafficking of women; (e) aliens who in the course of investigations or controls based on other legislation come into contact with the police.

Another initiative is the introduction of a Bill, expected to be passed in early 1995, to formalise the current practice that asylum seekers coming through safe 'third countries' (such as Belgium and Germany) will no longer be allowed to apply for asylum in Holland. Only a few years ago such a policy would have been unacceptable to the majority of Dutch politicians and public, now only refugee organizations and solicitors representing asylum seekers are opposed to the measure.

## SWITZERLAND

### Voters back new immigration laws

Two months after the national referendum on the ratification of the UN Anti-Racism Convention (only 54% voted for ratification) there was another on 4 December on 'Coercive measures in the foreigners' law'. The new, restrictive, measure were approved by 73% of those voting and comes into effect on 1 February 1995. The Federal Minister of Justice said the vote would help negotiations with the EU concerning adherence to Conventions - Schengen and Dublin - on immigration and asylum.

The 'Coercive measures' introduce the German practice of 'detention for expulsion' for up to 9 months (until now this could only be 1 month). 'Preventative detention' will be introduced for people who do not cooperate with the authorities or those to be expelled (any immigrant or tourist living 'illegally' in Switzerland or asylum seekers whose application

has been refused at the first stage). New prisons are to be built for this initiative. Under the new law the police will be able to search any premises - homes, church sanctuaries, or offices (NGOs, lawyers) - of third persons in contact with the 'illegal' immigrant/visitor and suspected of hiding the person or documents concerning them. Also introduced under the new law is the so-called 'area restriction' order to remain with a specific locality. Originally it was intended that only 'criminal' foreigners and drug dealers could be subject to 'area restriction' on pain of arrest and imprisonment for up to one year if ignored - now it will also apply to all foreign people 'disturbing public order'. The government's argument for introducing these 'Coercive measures' was to present them as the solution to the drugs problem. Lawyers, churches and asylum groups have strongly opposed their introduction as all immigrants and asylum seekers will be affected. Similar referenda in the past have led to at least a third of those voting to do so in defence of the rights of immigrants and asylum-seekers; this time only 27% voted no. Erica Burgauer, head of the Swiss Refugees' Coordination Office, commented:

The outcome of this vote shows that the "understanding" of anti-racism of the Swiss is only half-hearted.. a lot of members of the so-called left were afraid of offering the extreme right a forum for their xenophobic attacks.. In times of the reduction of social security and unemployment any "solution" that offers a scapegoat for at least some of the problems seems to be welcome. The result of this vote must be considered a total capitulation of the up until now solid opposition to the view that Europe must be sealed off from asylum-seekers and foreigners.

Komitee Schluss mit dem Schnuffelstaat, Bern, Switzerland.

EU

### **Euro asylum resolution thwarted**

A tough new Resolution on procedures for determining asylum claims would have been approved by the interior and justice ministers' meeting in Brussels at the beginning of December but for the simmering dispute between Spain and other EU states such as Belgium over the issue of refugees of European origin. The draft resolution was widely believed to include the abolition of suspensive rights of appeal in 'fast-track' cases, which would mean that if the authorities deemed the application for asylum 'manifestly unfounded', the asylum-seeker is removed before the appeal in which the court decides if the expulsion was lawful. Several countries have already removed suspensive appeal rights, and have been condemned by UNHCR, Amnesty International and human rights and refugee groups; the draft Resolution is said to propose extending the erosion of due process Europe-wide as well as deeming various countries 'safe'.

### **In brief**

Immigration detainees' march: A four-day march to mark the first anniversary of the opening of Campsfield detention centre ended on 4 December with the handing in of a petition to Downing Street protesting at the inhuman rules and practices awaiting those claiming asylum in Britain. Over 650 asylum-seekers are detained every day and there are no statutory time limits on detention, so that some have been in detention for over a year. 129 of those currently detained have been in detention for over six months. Immigration minister Nicholas Baker admitted that it cost 21 million pounds per year to keep the asylum-seekers locked up. The percentage of asylum claimants allowed to remain in Britain, either as

refugees or with exceptional leave to remain, has fallen from over 75% to around 20% in the fifteen months since the Asylum Act came into force.

Gagging allegation: The Home Office was investigating reports that rejected Ghanaian asylum-seeker Valerie Senoo was gagged while being restrained by ten male and two female officers at Campsfield detention centre. Ms Senoo, who had been in Britain for nine years and was an asthma sufferer, had been detained since January 1994 and was allegedly taken from the detention centre in the early hours of 25 November and deported. Independent 26.11.94.

At home in Croatia: The Home Office proposed to 'return' large numbers of Bosnian asylum-seekers to Croatia on the strength of passports which are admitted to be false. The Bosnians, of whom over 20 are appealing against the decision, say they could not leave the territory of the former Yugoslavia without passports, and Croatian passports were obtainable to anyone with a certificate of Catholicism or £600. The Home Office says that, despite the Bosnians' lack of ties with Croatia, they can rely on that territory's protection. This is despite evidence from Amnesty International that Bosnians cannot stay in Croatia. By the end of 1993 370 of the 7,590 applications for asylum from nationals of the former Yugoslavia had been processed, of which 5 were granted, 255 refused and the rest allowed a year's temporary stay.

Child's deportation thwarted: A Home Office attempt to deport to Bangladesh an 11-year-old boy, to parents who ill-treated him, has been stopped by the High Court pending further investigation. The case has highlighted the conflict between immigration and children's law. By virtue of the latter, it is the child's interests which must have priority in any decisions about his future; but Britain entered a reservation to the UN Convention on the Rights of the Child saying that immigration control took priority over children's welfare. The Home Office does, however, have a policy that unaccompanied children should not be deported unless adequate arrangements for reception are in place, and it was the flagrant flouting of this policy which was under challenge.

No safe harbour: People who harbour illegal immigrants by giving them somewhere to live or by employing them will be targeted for arrest and increased penalties, according to the Home Office. 'Harbouring' illegal immigrants has been a crime since 1971, but the offence has very rarely been used. Church and sanctuary groups are very concerned that humanitarian action to prevent unjust deportation will become more difficult if the law is strictly applied.

'Bogus refugee' claims undermined: The widespread use of detention for asylum-seekers in Britain (as in the rest of Europe) is part of a package of deterrent measures predicated on the premise, often repeated by politicians, that the vast majority of asylum-seekers to Europe in recent years have not been genuine refugees at all but poverty-stricken economic migrants seeking material gain. The ideology of 'bogus refugees' has in turn fuelled the rapid increase in racist attacks on asylum-seekers. It was revealed in July that research showing the 'economic migrant' theory to be false has been suppressed. The Home Office conducted - and then buried - research which shows that most of those granted either refugee status or exceptional (humanitarian) leave to remain were well-educated and highly skilled, and were under-employed in Britain. The Home Office denied suppressing the research and claimed that the methodology was faulty. Guardian 4 & 6.7.94.

Czech Republic: German aid to fight 'illegal' immigration: the German government is giving DM 60 million in financial aid to the Czech Republic to help combat 'illegal' immigration. The funds will be used to improve surveillance of the joint border and improve the exchange of data on migration. The grant will be paid over three years. Prague Post, 14.9.94. Under the law on Czech citizenship passed on 1 January 1993 Roma people in the country have to obtain Czech citizenship or a residence permit. The Tolerance Foundation says this ignores undertakings by the government when it became a member of the Council of Europe which said that all former Czechoslovak residents should have full citizenship. FIDH Newsletter, November 1994; see Statewatch vol 3 no 6.

Romania: Bill to curb foreigners: the Romanian Senate is to consider new legislation, the Foreigners' Status Bill, which would require visitors to register with the police within 48 hours of entry. The Bill would also give the Ministry of the Interior powers to limit foreigners' movements 'for reasons linked to national security, public order, public health or public morale'. Balkan News, 13.11.94.

### **Immigration - new material**

Review: Women's movement: women under immigration, nationality and refugee law. Jacqueline Bhabha and Sue Shutter, Trentham, 1994. 300pp, £12.95.

In the fourteenth century, we are told, the nationality of a British father's foreign-born child depended on whether the mother had travelled abroad with or without her husband's consent. 'Women's Movement', first published in 1985 as *Worlds Apart* and substantially rewritten since then, moves through six centuries to Fortress Europe to show how, from virginity testing to the primary purpose rule which keeps foreign husbands out, to the one-year probation rule which keeps women trapped in violent marriages on pain of deportation, to the sole responsibility rule which stops their children from joining them, women have suffered under the double oppression of racism and sexism in Britain's immigration control. What emerges loud and clear from the book is that campaigns which adopt the theme of sexual equality inevitably result in rights being levelled down and barriers formerly erected for men only being re-erected as gender-neutral. Both the devious history of immigration control and the responses to it by campaigns are traced in an extremely well-informed and valuable resource.

Review: "Het Recht Op Dromen, ontwikkelingen naar een onafhankelijk Koerdistan" (The Right to Dream; Moving towards an independent Kurdistan)

The Dutch anti-militarism campaigning group AMOK has published a book about the Kurdish liberation struggle which aims to bring some clarity to the complicated political picture of the Kurdish movement in Iraq, Turkey and Iran. By providing an insight into the historical and political structures which lie at the heart of this issue the authors hope to make the new conflicts, including those within the Kurdish community, easier to understand. This book also discusses why it has proved so difficult to organise any solidarity movement with the Kurds. Although the Kurds were the first people to be helped in the age of the New World Order, they now, face a battle against being forgotten. *Het Recht op Dromen* is written by Joost Jongerden in co-operation with Guido van Leemput, with photographs taken by Judith Scheltsema. Jongerden, an occasional contributor to the AMOK magazine, has visited Free Kurdistan four times in the last few years, speaking both to the political leaders of the

Kurdish movement and many 'ordinary' Kurds. Guido van Leemput, the editor of *VeeDee AMOK*, has also visited Free Kurdistan and has written a chapter on the developments in Turkish Kurdistan. The book costs 28 Dutch Guilders plus p&p and is available from: AMU/Ravijn, PO Box 76116, 1070 EC Amsterdam, Netherlands or Papieren Tijger, PO Box 2599 4800 CN Breda, Netherlands.

Control of immigration: statistics UK 1993. HMSO (Cm 2637) 1994, 20.00. Control of immigration: statistics UK. First and second quarters. 1994. HMSO Issue 25/94, 20.10.94.

Campsfield Monitor 3 & 4, July-August, September-October 1994. Contains articles on Elizabeth Blanchard who is to press charges against the Immigration Service after she was bound and gagged by them, the cost of hunger-strike last March (163,000) and Group 4. Available from Box C, 111 Magdalen Road, Oxford OX4 1RQ.

Okolo Family Defence Campaign Newsletter #2. Florence Okolo and her two daughters came to the UK in 1989 to join her husband. He later deserted the family who now face deportation to Nigeria. The Okolo Family defence Campaign can be contacted c/o St Philip's Primary School, Loxford Street, Hulme, Manchester M15 6BT, Tel. (061) 226 2050.

Workers' control not immigration controls: why trade unionists should oppose immigration restrictions, Steve Cohen. Greater Manchester Immigration Aid Unit 1994. This pamphlet looks at the tradition of struggle against immigration controls and presents proposals for trade union action against them. Available from: GMIAU, 400 Cheetham Hill Road, Manchester M8 9LE, Tel. (061) 740 7722.

Report of the first hearing of the People's Tribunal on Immigration and Asylum: the British government on trial for violations of human and civil rights under racist immigration and asylum laws. Campaign Against Immigration Act Detentions 1994, pp46. This report brings together testimony of a wide range of abuse in immigration and asylum legislation to document the struggles of black, migrant and refugee communities for justice. Available from Campaign Against Immigration Act detentions, c/o 6-20 John's Mews, London WC1N 2XN.

Recent developments in immigration law, Rick Scannell, Jawaid Luqmani & Chris Randall. *Legal Action* November 1994, pp18-22.

Germany: assault on the constitutional right to asylum - Part II, Christian Wisskirchen. *Immigration and Nationality*, vol 8 no 4, pp136-143.

Family migration and the new Immigration Rules, Werner Menski. *Immigration and Nationality*, vol 8 no 4, pp112-123.

The new Immigration Rules: visitors and students, Jim Gillespie. *Immigration and Nationality*, vol 8 no 4, pp126-128.

France - an imperial power? CARF 23 1994, p.11. This piece argues that the French government is using 'fundamentalism' as a cover for its attack on multiculturalism and immigrant's rights.

Asylum-seekers detained in the UK. Amnesty International, October 1994, 70 pages, 7.99 from: Amnesty International British Section, 99-119 Rosebery Avenue, London EC1R 4RE. Based on a 14-month study of 50 asylum-seekers held in detention in the UK. 'Current immigration laws

provide officials with sweeping powers to subject asylum-seekers to indefinite administrative detention, without reference or accountability to any court or independent review body'.

## CIVIL LIBERTIES

### Civil liberties - new material

Who lobbies whom: register of members' interests. Independent on Sunday 30.10.94. Supplement that contains 'the fullest and latest details from the Register of Members Interests [that] covers every member of the House of Commons.'

Human Rights in East Germany. Society for the Protection of Civil Rights and Human Dignity, Karl-Lade-Str.26, 10369 Berlin, Germany, cost DM 5 plus postage. Collection of articles dealing with the post-1989 situation including: Berufsverbot in the United Germany; Political prosecution and the rule of law; the Human Rights of Academics in East Germany; Human Rights in East Germany.

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

Solicitors and the European Community Union: making EC law work for your client, Alison Baigent et al. The Law Society, 1994.

How convincing is DNA evidence?, David J Balding and Peter Donnelly. Nature, vol 368, pp285-286.

Policy on gypsies in the Criminal Justice and Public Order Bill, Christopher Barclay. House of Commons Library, 1994, 14 pp.

Canadian security and intelligence service public report, 1993. Ministry of Supply, Canada, 1994.

Bail: the law, best practice and the debate, Paul Cavadino and Bryan Gibson. Waterside Press, 1993.

Human rights and pre-trial detention: a handbook of international standards relating to pre-trial detention, Centre for human rights, crime prevention and criminal justice branch, UN, 1994, 54pp.

Article 6 of the European Convention on Human Rights: the right to a fair trial, Andrew Grotian (Human rights files no 13). Council of Europe, 1994, 88pp.

Police and Criminal Evidence Act 1984: Codes of practice draft revision for consultation. Home Office, HMSO, 1994, 105pp.

Independent committee of inquiry into the role and responsibilities of the police. Police Foundation and Policy Studies Institute, 1994, 25pp.

Immigration: the law and practice, Michael Supperstone and Declan O'Dempsey. Longman, 1994.

## MILITARY

### SPAIN

#### Campaign against military service

Between 29 October and 21 November there was a hunger strike of 50 'Insumisos' ('unsubmissives') in different Spanish prisons (46 of them in Euskadi) demanding an immediate end to compulsory military service. 'Insumisos' ('unsubmissives') are objectors who refuse military service and community/substitute service. There is a big solidarity movement in support of this action, especially in the Basque country where there have been large demonstrations and student strikes. The movement unites those young people who declare themselves conscientious objectors under the Law on Conscientious Objection and the 'Insumisos' who reject this law and want an end to compulsory military service. There is widespread backing for the protests, in the Basque country the Basque Parliament and the Foral Parliament of Navarre have passed motions of support.

In 1985 the number of objectors to compulsory military service was 12,170, by 1993 it was 68,209 - a figure already surpassed by October this year. In October the number of 'Insumisos' was 9,300. The movement is strongest in the Basque country where 58% of those called to do military have refused, compared with 40% in the rest of the country. In addition, there is a massive backlog of 200,000 who want to do community service.

The government still supports the imprisonment of the 'Insumisos', there are currently 182 in prison, but is faced with the impossibility of imprisoning thousands of young people (the usual sentence is 2 years, 4 months and 1 day). It is now planning alternative sanctions removing the threat of prison sentences and replacing them with a kind of 'Berufsverbot' (ban) on jobs in public administration and prohibition on getting a driving licence.

Kontrola Kontrolpean, Donostia, Euskadi (State of Spain).

#### Arming NATO's partners

The United States and other NATO members are planning major arms transfers to selected Central and Eastern European countries - Poland, Hungary, the Czech Republic and Slovakia. This development is being implicitly encouraged by the terms set out in NATO's Partnership for Peace (PfP) and a new US law - the NATO Participation Act - signed by President Clinton in November. This Act, which is intended to 'assist the transition to full NATO membership', links PfP and arms transfers. The four countries are recognised under the Act for the transfer of excess defence equipment and aid under the Foreign Military Financing Programme.

These 'Partners' have already begun upgrading their existing equipment to meet the standards of Western technology especially in the areas of electronics and communications. The Pentagon has announced that excess F-16 aircraft are available for transfer to Poland; the Czech Republic has asked Belgium for 24 F-16s and is seeking US help to upgrade the army's T-72 tanks; in September the US Air Force delivered an identification 'friend-or-foe' system to Hungary.

One effect of these arms transfers will be to encourage an increase in arms exports from the four countries to finance the modernisation of their military forces - the Czech Republic is planning to export recently decommissioned MIG-29 fighter planes.

BASIC Papers no 6, December 1994; AMOK, Utrecht, Netherlands.

## **Military - new material**

NATO, peacekeeping and the United Nations. British American Security Information Council (BASIC) and Berlin Information Centre for Transatlantic Security (BITS). Report 94.1, September 1994. Critical study about the struggle for power and influence in the realm of 'peacekeeping' between the UN, NATO, CSCE, WEU and their member states.

Schattenseiten Sudostasiens, Restung und Militarisierung der ASEAN-Länder (Dark Side of South-East Asia, Armament and Militarisation of ASEAN countries). August 1994. BUKO-Kampagne 'Stoppt den Rüstungsexport'. Buchtstrasse 14/15, 28195 Bremen, Germany. Documentation about the military build-up with German support in South-East Asia; some English-language material included.

Italian GIS Anti-Terrorist Unit, Marco Varese. RAIDS-Magazine no 37, December 1994. Collectors Press Ltd, 12 Ricketts Street, London SW6 1RU. Description of the Special Intervention Group of the Carabinieri.

The Special Operation Platoon of the Portuguese Republican Guard, Miguel Silva Machada. RAIDS-Magazine no 34, September 1994, pp4-10.

Eurocorps' quest for identity. International Defence Review. November 1994. Overview of history and organisation of Eurocorps and French-German Brigade as the latter becomes operational in January 1995.

Anywhere, anytime: rapid-deployment forces and their future, David Miller. International Defence Review, Special Report, October 1994. Chapters about the French experience. NATO's Multinational Division. Spain's emerging intervention force, NATO's air and naval options, deployment problems and amphibious forces.

Whither South Africa's Warriors? Jane's Intelligence Report, no 3, July 1994. Study about the restructuring of the South African armed forces and police after the general election of 1994 with a chapter on the future of the extreme rightwing.

Our lads on LSD, Rob Evans. New Statesman and Society 14.10.94. pp20-21. Article about drug tests, carried out by the MOD at Porton Down, Wiltshire during the 1960s, on soldiers. The MOD - disingenuously - claims they were necessary to discover how soldiers could be protected against the drug.

A higher regard for life, John Pilger. New Statesman and Society 11.11.94. pp16-17. On the British government's role in arming the world.

## **LAW**

### **UK**

#### **Criminal Justice Act**

The movement of opposition to the Criminal Justice Act (CJA) gained rather than lost momentum after the coming into force of the Act's public order provisions at the beginning of November. By the end of the first month of operation anti-CJA groups were springing up and engaging in

trespass campaigns all over the country, while senior police spokesmen were denouncing the provisions as 'unenforceable' and discriminatory.

The existing law gave police powers to remove people and vehicles from land, and was used to split up convoys of over 12 vehicles. Under the Act, these powers are extended, and trespassing on land becomes an offence in various situations. Failure to leave after a lawful order is an offence, or returning to land once removed from it. Aggravated trespass - trespass which obstructs, disrupts, intimidates or deters lawful activity on land - is the offence hunt saboteurs can now be charged with, and by the last weekend in November 65 arrests for aggravated trespass had been made in hunts. The offence carries a maximum penalty of 3 months' prison and/or a fine of £2,500.

Saboteurs say that hunts are hiring security firms and using increased violence on them since the Act gave them the green light; they have been hospitalised in North Yorkshire, Northamptonshire and Sussex.

Mass trespass, or 'trespassory assembly' occurs where a chief police officer obtains a banning order to prevent a gathering of more than 20 people on private land, to 'prevent serious disruption to the life of the community' or 'significant damage to land, buildings or monuments'. The police can stop people or vehicles within a five-mile radius of such an assembly if they believe the people intend to defy a ban, and it is an offence not to obey. Organisers of a banned assembly face a maximum of 3 months and £2,500 fine; participants can be fined up to £1,000.

Campaigners from the Freedom Network and the Criminal Injustice Act network began mass trespasses at road construction sites on the M11 in east London and the M77 in Scotland. Coalitions of anti-road protesters, squatters, new age travellers, ravers and others stalled eviction from a front-line road in east London for several days before leaving peacefully.

#### **Protests**

Other protests against the Act included a group invasion of the Folkestone home of Home Secretary Michael Howard. The group held a mock trial of his policies in his garden. Another group, Justice?, held a rooftop demo on the abandoned courthouse building in Brighton occupied by them for the past year after lying empty for five years. The Act will also criminalise squatting as 'criminal trespass' if squatters stay for over 24 hours after being served with an interim possession order. These provisions, which also penalise returning to a repossessed squat, are expected to come into force within the next few months.

There has been strong criticism of the public order provisions from police. Police Federation chair Mike Bennett said they were unenforceable. 'It appears to be legislation against a certain section of the population', he observed. 'It's a recipe for disaster.' Manchester's chief constable and ACPO public order spokesman David Wilmot, not known as a liberal, added that justice 'must be seen to be fair and not to discriminate against particular groups in society'. He warned that the wholesale criminalisation of caravan dwellers and travellers could lead to a cycle of urban and rural violence.

#### **Child jails**

The creation of five secure training centres or 'child jails' for 'persistent offenders' aged from 12 to 14, also provided for under the Act, came in for criticism from Sir John Smith, deputy Commissioner of Police for the Metropolis. He said that child jails 'don't work'. The idea that prison works to prevent crime was, he said, a non-starter, and should be seen only as a stop-gap until other alternatives were found.

His criticism was confirmed by a report on the model 'secure training unit', Lithevin in northern Ireland, which revealed that the recidivism rate for child 'graduates' was much higher than for those who had received

other forms of punishment. 95% of Lithuanian ex-inmates had reoffended within five years of their release, compared with 83% of juveniles who had been dealt with differently. The report revealing that the units turn out criminals languished unpublished for fifteen months until finally seeing the light of day a couple of weeks after the Act came into force.

Other punitive provisions contained in the Act, such as restrictions on bail, the abolition of the right to silence and the creation of a DNA database, are expected to be in force within the next twelve months.

## DENMARK

### **Criminalising HIV sufferers**

The Danish criminal code (para.252) has been amended following the acquittal in the Supreme Court of a man suffering from HIV who had unsafe sex with 23 women (none of whom were found to be HIV positive), and who did not tell them of his condition.

The amendment to the code says that a person who several times, and in a reckless way, endangers another person with a life-threatening or incurable disease can be sent to prison for up to four years. Opponents of the change - lawyers, gay communities and their organisations - argue that the change is discriminatory, unenforceable and dangerous.

They say it is discriminatory because it puts all the responsibility for safe sex on the shoulders of HIV-positive people and implies that they are potential 'killers'. It is unenforceable because it is often impossible for the police to gather evidence, and it is dangerous because potential sufferers may refrain from being tested for fear of being criminalised which in itself could lead to even more people being put at risk.

Source: Information.

### **Law - new material**

Entrapment and the courts, James Morton. *Policing* 10(3):188-195, 1994.  
Entrapment evidence: manna from heaven, or fruit of the poisoned tree? Geoffrey Robertson. *Criminal Law Review* November 1994, pp805-816.  
Articles on entrapment (and informers) that compare the situation in Britain and the USA.

Judged on merit? *Labour Research* 83(10):10-12, 1994. A survey of Britain's judges that concludes that they remain 'elderly, white and overwhelmingly male, and are increasingly likely to have privileged educational backgrounds.'

Judicial statistics annual report 1993, Lord Chancellor's Department. HMSO (London) 1993, pp102, £14.15. The statistics in this volume relate to those courts for whose administration the Lord Chancellor is responsible.

Legal pluralism - British law and possibilities with Muslim ethnic minorities, Prakash Shah. This is a paper from the conference on 'Meetings and conflicts between legal cultures' held at Svinklovevej in August.

Squatters, travellers, ravers, protesters and the criminal law: an assessment of part V of the Criminal Justice and Public Order Act 1994. Penal Affairs Consortium November 1994. This report concludes that the provisions of part V of the Act 'should not be used to harass the homeless, social casualties or those with unconventional lifestyles.' It also argues that these provisions are likely to contravene a series of articles of the European

Convention on Human Rights.

Judicial review and legal aid, Lee Bridges. *Legal Action* November 1994, pp16-18. Article on the early stages of a judicial review application and the problems likely to be encountered in obtaining legal aid.

Treaty between the UK and the USA on Mutual Legal Assistance in Criminal Matters, July 1994, Cm 2612, HMSO, 17 pages. One of a number of such agreements with non-European Union countries setting out extensive police cooperation in gathering evidence (including confidential police records) for presentation in the other country's courts.

Just the job, Claire Casey. *Police Review*, 11.11.94, pp26-31. Guide to the Criminal Justice & Public Order Act for police officers. Looks at the question of whether it will help or hinder their public order role by creating more conflict.

Parliamentary debates

Criminal Justice and Public Order Bill Lords 25.10.94. cols. 477-525

Criminal Justice (Scotland) Bill Lords 29.11.94. cols. 545-577

## RACISM & FASCISM

### SPAIN

#### **Extreme right organise**

The leader of the Movimiento Social Espanol (Spanish Social Movement), Ricardo Sbenz Ynestillas, is trying to bring together the different small and dispersed neofascist groups in Spain. Ynestillas, was prosecuted for his suspected involvement in the murder of Josu Muguruza, of the Basque political party Herri Batasuna, and acquitted for lack of evidence in the Audiencia Nacional (national high court). So far he has managed to bring together four groups - Spanish Social Movement, Spanish Catholic movement, Alternative National Front, Young Nation - and has entered discussions with the Revolutionary National Vanguard and the rest of the National Labour Front. Their first public demonstration under the slogan: 'Spain - one single nation' was attended by 500 people in Madrid on 12 October (Columbus Day, also called: The Day of the Race). The speakers attacked, as usual, 'separatism' and the Basque patriotic left.

Although the neofascist right in Spain is, for the moment, not as strong as it is in some other European countries their object is to create - on the model of Le Pen and the Italian neofascists - a mass political party which would become active on the 'Day After', a reference to the day when the rightwing conservative party, Partido Popular, wins the general election. So far the new movement has distanced itself from violence and skinhead attacks but is viewed with suspicion by the traditional falangist and pro-Franco right.

Kontrola Kontrolpean, Donostia, Euskadi (State of Spain).

### UK

#### **Racist attackers jailed**

Two men, who took part in a vicious racist attack on a black man in Birmingham, were jailed for 13 years at Birmingham Crown Court in October. Clive Forbes was attacked by Jason Craney and Paul Corbett while walking with his partner, who was eight months pregnant. He was chased into his flat and forced to jump from a second floor window. On landing he broke a leg and as he lay on the ground was beaten

unconscious. He required surgery to remove a clot on his brain and had four operations on his leg. Charges of attempted murder were dropped and the two men pleaded guilty to causing grievous bodily harm. While the sentence handed out to Clive Forbes' attackers reflects the severity of the attack, this is not the case with a youth who was part of a gang that attacked eighteen year old Mukhta Ahmed in Bethnal Green, east London last February.

Mukhta was beaten so badly that his scalp was detached from his skull. He was left with grotesque facial injuries and was in hospital for a month. Nicky Fuller, who took part in the attack and boasted to friends about it, was sentenced to 11 months in a young offenders institution; he walked free from court having already served his sentence on remand.

The Clive Forbes Support Committee can be contacted c/o 346 Soho Road, Handsworth, Birmingham.

## AUSTRIA

### New spate of fascist letter bombs

Four new letter bombs have been sent by neo-nazis in Austria. The targets were an advice service for immigrants, a paper factory employing immigrant workers, a religious hostel which house asylum seekers, and a publishing house which translates works by Slovenian authors. All were defused by the police. This series of letter bombs follows ten which were sent out in December 1993 injuring four of the recipients including the Mayor of Vienna, Helmut Zilk, who lost half of his left hand when a bomb was sent to his home address.

The head of the Wieser-Werlag publishers, Lojze Wieser, said they had also received a death threat in a handwritten letter with the Nazi salute 'Sieg Heil' and swastikas saying 'You are the first on our list'.

These letter bombs coincide with the re-trial in Vienna on legal technicalities of the leader of the neo-Nazis in Austria, Gottfried Küssel, who had been sentenced to 10 years in prison.

Raids by the Austrian police have made a record arms seizure during a sweep on nazi activists. Anti-terrorist police seized a Second World War Czech T-34 tank and a modern armoured personnel carrier during the raid at the village of Geopfritz an der Wild, northwest of Vienna. Police also found a cache of automatic rifles and 11lb of military explosives. It is not known if the explosives matched those used in the letter bomb attacks. Two men were detained in the raids.

The explosives find is interesting as Defence Ministry officials were forced by persistent rumours to deny any military involvement with the letter bomb attacks. Geopfritz is located on the periphery of Austria's largest military training area.

International Herald Tribune, 1.11.94; Evening Standard, 6.10.94; Balkan News, 16.10.94; Times 3.12.94.

## GERMANY

### Berlin 7 trial ends

The trial of the Berlin 7 ended on 15 November (see Statewatch, vol 4 no 5). The trial arose out a clash in a Chinese restaurant in April 1992 when anti-fascists discovered members of the far-right Deutsche Liga/Die Nationalen meeting. In the confrontation the secretary of the far-right group, Gerhard Kaindl, sustained knife wounds and later died. The seven defendants were charged with 'premeditated collective murder'. This charge was dropped in October and the charges changed to taking part in an affray (a serious imprisonable offence).

Three weeks before the trial ended one of the seven, Abidin Ersalan, was cleared and released because the prosecution could not provide evidence that he took part (he had spent 342 days in the Moabit prison in Berlin). Three were sentenced to three years in prison, two youths were given two years suspended sentences and Erkan Sonmez, who is registered as mentally ill, remanded for reports.

The trial ended quickly after the withdrawal of the murder charge because after the withdrawal of two disputed statements from two of the defendants. The state prosecutor did not want the Berlin police Staatsschutz, who had taken the withdrawn statements, to give evidence, nor to have the role of the Verfassungsschutz (the internal security service) revealed.

The defence campaign thanked the people from over 10 countries who had written protesting to the judge and the international observers who attended the trial.

International Solidarity Group, Dieffenbachstrasse 33, D-10967 Berlin, Germany. Tel & fax: ++49 30 694 93 54.

### Racism & Fascism - new material

The return of scientific racism. CARF 23 1994, pp8-10. On the return of pseudo-scientific theories about race and intelligence.

Outpost of hope, Vicky Graham. Police Review 18.11.94. pp23-24. The Home Affairs Select Committee recently recommended that Racial Incident Units (RIU) should be set in every Metropolitan police division. This bland piece on Plumstead RIU - two miles from the British National Party headquarters - cites divisional head, Chief Supt. Philpott, who believes that most of the incidents they deal with are 'neighbour disputes'.

Racial attacks and harassment Volume 1 & Volume 2, Home Affairs Committee. HMSO HC 71 (London) 1994, £12.15 & £26.10. Racial attacks and harassment: the government reply to the third report from the Home Affairs Committee Session 1993-94. HMSO Cm 2684 (London) 1004, £4.50.

Rapport 95: Racisme, extreme droite and antisemitisme en Europe. CRIDA (Centre for recherche d'information de documentation antiraciste), 1994, FF55.00 (Cheques to: CEDIDELP), 292 pages. Includes a country by country review. CRIDA, c/o CEDIDELP, 21 rue Voltaire, 75011 Paris, France. Fax: ++ 33 43 72 15 77.

## BOOKS RECEIVED

The Bureau: inside today's FBI, Diarmuid Jeffreys. Macmillan (London) 1994, pp392, 16.99 hk. This book is based on the C4 television series and covers the last twenty years of the organisation, since Hoover's death.

The return of the dangerous classes: drug prohibition and policy politics, Diana R. Gordon. Norton Books (London) 1994, pp316, 23.95 hk. Looks at the 'shadow agenda behind America's war on drugs' and argues that 'political leaders and policy makers use the drug problem to construct enemies - blacks, aliens, the young - who can be blamed for social and economic ills.'

Failure in British government: the politics of the poll tax, David Butler, Andrew Adonis & Tony Travers. Oxford University Press 1994, pp342, 7.99 pb. The first section of this book provides a history of the poll tax

while the second deals with 'The poll tax and the British government' and contains chapters on the Cabinet, Civil Service, Parliament and Local Government.

In the highest degree odious: detention without trial in wartime Britain, AW Brian Simpson. Clarendon Press (Oxford) 1994, pp453, 14.95 pb. This is a study of defence Regulation 18B, under which nearly 2000 British citizens were detained by the Home Office, at the behest of MI5, during the Second World War.

The evolution of a European: socialism, science and Europe, Glyn Ford. Spokesman (Nottingham) 1994, pp268, (no price). Glyn Ford is the European member of parliament for Greater Manchester and this book contains a collection of his writings between 1975-1983.

The transformation of European social democracy, Herbert Kitschelt. Cambridge University Press 1994, pp345, 13.95 pb. On the electoral fortunes of social democratic parties in Europe in the 1970s and 1980s.

Bonn & the bomb: German politics and the nuclear option, Matthias Kuntzel. Pluto press (London) 1994, pp210, 14.95 pb. This book presents an alternative history of Germany's nuclear policy since the Second World war that 'reveals the extent to which German governments...[have] done everything in their power to subvert treaty negotiations in order to maximise Germany's nuclear options.'

Atomic diplomacy: Hiroshima and Potsdam, Gar Alperovitz. Pluto Press (London) 1994, pp402, 12.95 pb. This is an expanded edition of a work first published in 1965 that argues that atomic bombs were dropped on Hiroshima and Nagasaki in order to make the Soviet Union more 'manageable.'

The enemy within: MI5, Maxwell and the Scargill affair, Seamus Milne. Verso (London) 1994, pp344, 16.95 hk. This book investigates the MI5 operation, masterminded by current chief Stella Rimington, against the National Union of Mineworkers during the coal strike of 1984-85.

Not all coppers are .....! A Gwent policeman's story, Paul Heaton. PM Heaton Publishing (Gwent) 1994, pp 136 9.99 hk. This is the autobiography of a policeman who served with the Monmouthshire (now Gwent) constabulary between 1963-1993.

Looking for Mr Nobody: the secret life of Goronwy Rees, Jenny Rees. Weidenfeld & Nicolson (London) 1994, pp291, 18.99 hk. Autobiography of Rees, by his daughter, that investigates the allegations that he spied for the Soviet Union.

## **Feature:**

### **EU in disarray over Europol Convention**

The Justice and Home Affairs Council failed to agree on 30 November, the delay gives parliaments and civil liberties groups the chance to question the lack of accountability and data protection

Major areas of disagreement over the draft Europol Convention came to the surface at the meeting of the Council of Justice and Home Affairs Ministers in Brussels on 30 November - 1 December. The German Presidency of the EU (July-December 1994) was committed to getting

the Convention signed at this meeting - indeed it had signalled that this was to be its main achievement under the 'third pillar' (policing, immigration and judicial cooperation) in the autumn of 1993.

The Working Party on Europol had held 28 meetings prior to this Council and two more were scheduled for 6 and 7 December to tidy up any loose ends prior to the full EU 'Summit' meeting of Prime Ministers in Essen, Germany on 9 and 10 December. In the event the Ministers were further away from agreement than they had been at the start of the German Presidency - on the present count there have been at least 7 'draft' Europol Conventions.

In July the UK government's long-standing opposition to any role being given to the European Court of Justice (ECJ) in determining disputes - either between the 12 states, the staff and the Director, or individual members of the public remained on the table. It was also known that Spain wanted terrorism to be included in the objectives of Europol - this emerged at the beginning of the year under the Belgian Presidency (January-June 1994). By the time of the 'informal' meeting of the Justice and Home Affairs Council in Berlin on 7 September neither of these major questions had been resolved and a new set of objections from France had emerged. The French Interior Minister, Charles Pasqua, demanded that the so-called 'architecture' of the Europol computer data system be changed so that national police agencies (in the UK, the National Criminal Intelligence System, NCIS) would have access to both levels of intelligence to be stored. There is no dispute that national police agencies should have access to the first level - data put in by each of the 12/15 states. The French however also want access to the second level - here after work by 'analysts' intelligence from more than one source (say from 'third' countries) is to be held with a high-level of security. By the time of the meeting on 30 November none of these questions had been resolved, indeed it was to become even more confusing as other countries started taking sides in each of the issues - the Dutch government, for example, came out emphatically in favour of the European Court of Justice resolving disputes (their argument being that this was the first of four Conventions to the Council would be considering and they could not accept the ECJ being written out of all of them).

Greece and Denmark supported the Spanish case for terrorism to be included. Spain was dismissive of an attempt by Germany to introduce 'car crime' as one of the 'list of crimes' to be covered - how they argued could it be justified to include 'car crime' when terrorism was being excluded? Discussion over this question then became confused with the French demand for access to both levels of intelligence. The UK, Ireland, Denmark and the Netherlands arguing that there could not possibly be access to the 'sensitive' information held in the second level if this was also to include intelligence on terrorist groups. While Greece and Spain came in to support the French position, Germany back the former countries in opposition. The ulterior motive of the UK and Germany in opposing the inclusion of terrorism was to keep the existing 'Trevi' network of Special Branches and internal security agencies outside the purview of the Council (and hence of any need to report on its work through the K4 Committee structure). The French argued that they had to 'trust their officers' which is precisely what the UK and others do not.

They were so caught up in these arguments that they did not even get round to discussing other contentious issues like the role of the European Court of Justice or the mechanism for reporting to the European Parliament. The fact that the French Interior Minister, Charles Pasqua, did not even bother to come to the meeting - leaving it to the French permanent official in Brussels to argue their case - meant any agreement was unlikely.

By the late afternoon on 30 November the German Presidency become

so desperate to achieve some agreement to take to the 'Summit' in Essen that it made a quite extraordinary move. It proposed that the role of the Europol Drugs Unit (EDU) should be extended to cover: motor vehicle crime, nuclear crime, and illegal immigrant smuggling. This was rejected by the Ministers - for some the idea of extending the role of the EDU 'at a stroke' based simply on a ministerial agreement (and not subject to parliamentary ratification) signed in Copenhagen in June 1993 was unacceptable. The Summit on 9 December adopted the idea.

By the end of day the German Interior Minister, Mr Kanther, said the disagreements would have to be sorted out under the French Presidency. Mr Pdraig Flynn, from the Commission, was more blunt. The German Presidency he said had made 'an enormous effort' to get agreement but 'it is reporting a failure to Essen'.

This sense of failure was heightened by the decisions of the French (January-June 1995) and Spanish (July-December 1995) Presidencies not to propose a 'work programme' for the 'third pillar' for 1995. Belgium, the Netherlands and Germany formally registered their dismay at the deletion of a paragraph in the report to the Essen 'Summit' which would have meant the production of work programmes for 1995.

It was Mr Flynn who was to rub home the lack of action when the Ministers considered the report to the European Council (the 'Summit') on the December 1993 action plan (the work programme). Mr Flynn, an ex-Minister of Justice in Ireland, is to relinquish responsibility for 'third pillar' material in January 1995 (the new Swedish Commissioner, Anita Gradin is to take over). He told the Ministers: 'If you strip away the Christmas wrapping of the report we will be sending to the European Council, it makes pretty grim reading'. Mr Flynn then catalogued the failures: The deadline for adopting the Europol Convention had not been met; they were even further away from adopting the External Borders Convention; was their work more 'transparent'? 'Not much'.

#### The areas of disagreement

It should be noted that these points of disagreement are those between governments and state officials, an examination of the Convention from the perspective of the individual and the community would add many additional concerns.

1) The inclusion of 'terrorism' in Europol's objectives (Article 2): Spain wants to see inserted the following: 'terrorist activities in connection with criminal acts against life, liberty and property of persons which are committed by organised groups with force of arms'. In addition it wants the inclusion of a reference to Article K.1(9) of the Maastricht Treaty which specifically refers to 'combating terrorism' as one of the objectives of Europol. Greece too entered a 'reservation' on this latter point.

2) Access to both levels of Europol intelligence: France has entered several 'reservations' and amendments on the restriction of access to the 'second tier of intelligence. France wants access to both levels. The first level will contain 'standardised' information and intelligence put in by national liaison officers. The second 'analytical' level put together by analysts will include 'non-standardised data' (proactive and reactive).

3) Access to data from other computer systems: France has entered a 'reservation' to 'exclude any connection with other information systems'. This refers to the provision in Article 10.5 allowing Europol to 'retrieve personal data' via 'computerised access to data from other information systems'.

4) Standards of data protection: discussion on Europol taking 'account' of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data and the 1987 Recommendation 'have not yet been concluded' (Article 13) nor has it on 'right to information' (Article 17). 5) Secrecy: the Netherlands have entered

a 'reservation' on Secrecy covered in Article 28, and Denmark on the 'obligations of discretion and secrecy' in Article 29 which says:

Members of Europol organs and the Deputy Directors and employees of Europol shall refrain from any unjustified action and, in particular, any unjustified expression of opinion which might reflect unfavourably on Europol or their office.

6) Working languages: Spain has entered a 'reservation' on the internal working languages being English, French and German, France has entered a 'reservation' on English being the only language to be used in the data stored and for information requests made, and the UK objects to the translation centre for the EU being used for translation.

7) Informing the European Parliament: still a contentious issue. Indeed the whole text of Article 31 in previous versions (October) of the Conventions had been deleted by the end of November. Member states are split by those who think the provisions of Article K.6 of the Maastricht Treaty are sufficient (though even here there is yet another disagreement on how this should be interpreted) and those who want to lay down specific points. The key point in the deleted text said the European Parliament should be consulted on principal aspects of Europol's activities 'in particular giving the European Parliament the opportunity to express an opinion before important decisions are taken.. '.

8) Auditors: Two member states - the UK and France - want a new body, ten want the existing Court of Auditors of the European Communities.

9) Liability: discussion has 'not yet been concluded' on Europol's liability for unauthorised or incorrect data processing.

10) Jurisdiction: a substantial area of disagreement. There are four alternative formulations of the 1st paragraph regarding disputes between member states: 'The great majority of Member states...in favour of jurisdiction being attributed to the European Court of Justice'. The 2nd paragraph on the rights of individuals is now blank, with the comment that the first level will be to a national court. Two countries - UK and France - do not want the Court of Justice to be involved.

#### National parliaments start to question

The failure to sign the Europol Convention on 30 November means that there is likely to be at least a six month delay until the meeting of Council of Justice and Home Affairs in Luxembourg at the beginning of June 1995. This opens the possibility of a wider debate on the Convention.

On 23 November the UK House of Lords Select Committee E (European Law and Institutions) questioned Mr Peter Wrench, head of E3 Department at the Home Office, on the Convention. The Committee was particularly interested in the data protection provisions and asked whether it would not be wise to wait for an overall convention on data protection which could be applied to this and other Conventions in the pipeline. Mr Wrench replied it would not be possible to wait for this as it 'would slow things down considerably'. He confirmed that the UK National Criminal Intelligence Service (NCIS) would have direct access to the first level of intelligence through a permanent link with the Hague. Asked who could put into information on an individual 'suspected' of belonging to a criminal organisation (Article 7) Mr Wrench said that this might be added by: the NCIS, the liaison officer, or Europol analysts. There were further questions on damages (currently the Data Protection Authority cannot award damages), the legal status of Europol, and the need for new legislation to allow liability in national courts. The Committee is now considering whether to hold a full inquiry into the Europol Convention in the New Year.

At the end of November the Dutch cabinet decided not to sign the Europol Convention in its present form. The Dutch government feels the safeguards of democratic accountability are inadequate. The Dutch

parliament also objects to the lack of oversight by the European Court of Justice and to the lack of protection for individual privacy. And the European Parliament is to debate a resolution deploring the 'wholly inadequate' information given to it on 'third pillar' issues.

Revised version of the Convention on the establishment of Europol, EUROPOL 112, REV2, Restricted, 22.11.94, ref: 10324/2/94; Revised version of the Convention on the establishment of Europol, EUROPOL 112, Restricted, 27.10.94, ref: 10324/94 (the same as the version dated 10.10.94); Explanatory note on the Draft Convention Text, submitted by the Home Office, 17.11.94; Note from the French delegation: Draft Convention on the establishment of Europol: main points which are still the subject of disagreement in the Working Party, EUROPOL 122, Restricted, 15.11.94, ref: 10901/94; Note from the Presidency of the K4 Committee: draft report on the current state of affairs regarding the draft Convention on the establishment of Europol, EUROPOL 121 REV1, Restricted, 16.11.94, ref: 10825/1/94; Resolution for the annual debate provided for in Article K.6 of the Treaty of Union, European Parliament Committee on Civil Liberties and Internal Affairs, 24.11.94; see also Statewatch, vol 4 nos 3 & 5.

#### **Feature:**

#### **Turf war: MI5 bids for policing role**

Introduction: MI5 is bidding to take over from the National Criminal Intelligence Service as the lead police intelligence agency. While Stella Rimington, the head of MI5, makes the case for its new role, the Special Branch are issued with new guidelines emphasising their work for MI5.

The UK's internal security and law enforcement agencies - MI5, the Special Branch, the police, and the National Criminal Intelligence Service (NCIS) - are embarked on a 'turf war'. It is a battle for remits, powers and resources which threatens to change the balance between 'normal' policing and the introduction of methods and techniques developed in the Cold War, counter-insurgency and counter-terrorism into policing practices and court procedures.

At the centre of this upheaval is MI5, the internal security agency founded in 1909. With the demise of the Cold War from 1989 it successfully campaigned to take over the lead role for counter-terrorism inside the UK from the Special Branch (part of the police force set up to combat Fenian 'terrorism' in 1883) in 1992. Last year the then Home Secretary, Kenneth Clarke, told Tony Blair (then Shadow Home Secretary) in a letter that this development did not foreshadow MI5 taking over other policing roles such as combatting 'organised crime'. Mr Clarke said that MI5's job was the 'protection of the national interest and the safeguarding of the UK's economic well-being against threats from overseas' in short its job was:

to investigate any activity of a nature and a level such that it poses a threat to national security.

Although there were perhaps a number of countries where drug trafficking or organised crime did pose a threat to 'national security' Mr Clarke wrote:

Serious though criminal activity of this kind is, however, I do not consider that there is any question that it amounts at present to a threat to the security of the UK.

If, he continued, MI5 were to become involved in the fight against drugs or organised crime:

the level of such criminal activity would have risen to such a point, and would evidently have done so, that it constituted a threat to national security... I think it most unlikely indeed that such a situation will ever arise: both the police and Customs and Excise are working hard to ensure that it does not. (italics added).

However, even as the Home Secretary was writing this letter the ground was shifting. Under the 1989 Security Service Act MI5 was extended to giving support in 'the prevention or detection of serious crime' (through the Intelligence Services Act 1993 the roles of MI6, UK's overseas intelligence agency and Government Communications Headquarters, GCHQ, were also extended to cover 'crime'). The ceasefire announced by the IRA on 31 August this year was the signal for MI5 to exploit both its new legal remit and its working links with the Special Branch and local police forces in its anti-terrorist role which involved not just covert operations but the preparation of evidence for court cases. Its principle target is the National Criminal Intelligence System (NCIS) of the police force. Senior police officers question the timing of Stella Rimington's speech (see box). One said:

Why are we being offered this now? Drugs have been a massive problem for years. I don't need to tell you that peace in Northern Ireland would make MI5's budget and resources very difficult to justify.

The NCIS was set up in 1992, the same year that MI5 took over the 109 year old police Special Branch role for anti-terrorist work. From the start the NCIS was limited to the gathering of information and intelligence to combat serious crime - an operational role was denied to it because of problems of how to make it accountable without the spectre of creating a 'national' police force. The limitations of NCIS's role are the subject of a secret report to the Home Office which says it should be able to conduct surveillance operations (see story on NCIS in Policing section) and MI5 has weighed in with a secret 'position paper' which suggests that the NCIS is ineffective and badly coordinated.

MI5 faces not such limitations. It is used to gathering intelligence and carrying out covert surveillance operations - telephone tapping and mail-opening, 'bugging' homes and offices, and placing and running agents 'in residence' (plants in suspect groups). Nor does it have any problems with accountability. Under the Security Service Act 1989 a Commissioner reports annually to parliament - via a report vetted for content, with minimal information, and never debated - and a Tribunal takes complaints from the public who think MI5 might have placed them under surveillance - the Tribunal has never found in favour of a complainant.

With few constraints the head of MI5, Director General Stella Rimington, that as 'the national intelligence agency' it is well placed to act as the intelligence and surveillance arm of the police on serious crimes, drug trafficking and 'organised crime' (see extracts from her speech). Such a move, replacing or downgrading the NCIS on the way, is essential for MI5. The end of the Cold War has been swiftly followed by the possibility that the main terrorist threat emanating from the EU's only civil war will come to an end if a political settlement can be found in Northern Ireland. This together with the self-admitted virtually non-existent 'threat' from 'internal subversion' makes MI5's takeover of traditional policing roles critical if it is to retain its power, influence, finances and staff.

MI5 is always on the look out for new roles to counter new 'threats'. It has already expanded its (and the Special Branch's) remit on 'counter-proliferation' and recently it also took over responsibility for advising Whitehall on 'protective security', computer hacking and abuse,

from the Central Computer and Telecommunications Agency (CCTA). The CCTA and members of the House of Commons Public Accounts Committee were puzzled by this move which does not on the evidence involve 'national security' and gives MI5 formal access to personal information held on millions of people, from tax files to the Police National Computer (PNC2).

Observer, 25.9.94 & 6.11.94; Guardian, 19.10.94 & 23.11.94; Police Review 18.11.94; Guidelines on Special Branch work in Great Britain, Home Office & Scottish Office, July 1994; James Smart Lecture, 'Intelligence, Security and the Law', Stella Rimington, 3.11.94.

Extracts from Stella Rimington's lecture on 'Intelligence, Security and the Law'

In her lecture on 3 November Stella Rimington, the Director General of the Security Service (MI5) first drew parallels with MI5's counterparts in Europe 'and further afield' who operate 'very successfully from within the framework of the police service'. She went on to say:

Over the years, a unique and close relationship has therefore developed between the Security Service and Police Special Branches. More recently this relationship has expanded significantly and now includes other parts of the Police Service.

On the respective roles of the police and MI5:

Some people have suggested that the sole priorities for the police should be to gather information, make arrests, produce evidence in court, and obtain convictions. They also see the Security Service as being concerned only with obtaining secret intelligence, built up covertly over the longer term, in order to provide analysis of the target.

It is wrong - and misleading - to attempt to manufacture too sharp a distinction between information and intelligence. Along with its aim of countering threats to national security, the Security Service is fully committed to supporting the Police in detecting and preventing crime, and preserving law and order. And, as part of our work to counter such threats, we will, where appropriate, use our intelligence resources to collect evidence in support of a prosecution.

Then in a section headed: 'The Security Service and the Criminal Justice Process', she elaborates on MI5's role which through its counter terrorist work has 'become increasingly engaged in proceedings before the courts'. The problem for MI5 was how to prevent the exposure in court of its methods: the answer is the doctrine of Public Interest Immunity (pii):

This allows Pii to be claimed for sensitive Security Service material relating to national security. This is to protect vulnerable sources and techniques used by the Service, which may include agents, surveillance, or eavesdropping operations and clandestine searches carried out under Home Office warrant authorised under the Security Service Act.

In each case, the decision on disclosure rests with the judge. The aim is to ensure that the defence may obtain as much material information as possible within the constraints of the requirements of national security.

In recent years the terrorist threat has:

focused attention on the potential for integrating secret intelligence into the judicial process. The question now arises about the role the Security Services should play in the prosecution of those responsible for such

crimes.

With 'changing threats and new circumstances' MI5 and the Police: regularly demonstrate that they complement one another in their approach to common problems. We have, together, achieved considerable success.

The James Smart Lecture, 3.11.94.

### **New Special Branch guidelines**

New guidelines for the Special Branch were jointly issued by the Home Office and the Scottish Office in July. The guidelines were first issued in 1971 but never published. The revised guidelines in 1984 were published. Under the 1984 guidelines the Special Branch 'assisted' MI5 in its work on espionage, sabotage and subversion but it gave intelligence on suspected IRA members and their activities to the Metropolitan Police Special Branch. The lead role for combatting the IRA was transferred to MI5 in 1992. The new guidelines however show that in major areas of their work the Special Branch now serves MI5, the Security Service. The other major shift is the increased emphasis given to public order, with 'animal rights extremists' singled out for special attention.

The Special Branch is part of the police force, each of the 52 forces in the UK have a Special Branch. Its officers are recruited from the uniformed branch of the police and have the same powers of arrest. The size of the Special Branch rose in the 1980s. The present figures, excluding civilian staff, are around (1978 figures in brackets): Metropolitan Police Special Branch: 520 (409); England and Wales outside London: 1,400 (850); Scotland: 100+ ; Northern Ireland: 280+ . Below is a summary of the main points in the guidelines.

### **Functions**

Special Branches exist primarily to acquire intelligence, to assess its potential operational value, and to contribute more generally to its interpretation. They do so both to meet local policing needs and also to assist the Security Service in carrying out its statutory duty under the Security Service Act 1989 - namely the protection of national security and, in particular, protection against threats from espionage, terrorism, and sabotage, from the activities of agents of foreign powers and from actions intended to overthrow or undermine parliamentary democracy by political, industrial or violent means. The Security Service provides advice to Chief Officers [of police] about its requirements for assistance in their force area. (para.3)

### **Counter-terrorism**

...countering the threat from terrorism, originating within and outside the United Kingdom, is the most important single function of the Special Branch. In partnership with the Security Service, Special Branches acquire intelligence on those who may be responsible for acts and threats of terrorism, their sponsors and supporters. When necessary, they take action to prevent or disrupt any developing terrorist activity (para.4).

Information about terrorism obtained by Special Branches is provided to the Security Service, which is the lead agency for the acquisition, assessment, dissemination and exploitation of intelligence on terrorism in Great Britain [a term which excludes Northern Ireland]. In the case of Irish republican terrorism in Great Britain, such information is copied to the Metropolitan Police Special Branch (para.5).

The Special Branch provides 'armed personal protection for people

'judged to be at risk' visiting their police area. A large number of Special Branch officers are assigned to work at ports and airports as part of their counter-terrorist duties, 'Their task is to seek and gather information, [and] identify persons of interest...' (paras.7 & 8). 'The other areas in which Special Branches may be asked to assist the Security Service... are':

#### Counter-espionage:

Special Branches will continue to be involved in gathering and exploiting intelligence relating to covert or illegal attempts to gather information and material of assistance to another State (para.11).

#### Counter-proliferation:

Special Branches will investigate proliferation activities which are assessed to be a threat to national security (para.11).

#### Counter-subversion:

Special Branches will continue to investigate subversive activity though, as with counter-espionage, at a level commensurate with the current, much-reduced threat (para.11).

#### Public order

One of the continuing and 'key' role of the Special Branch is 'maintaining the Queen's Peace' for which it needs:

accurate assessments of the public order implications of events such as marches and demonstrations. They need such an assessment in order to ensure: the physical safety of participants and the wider public; that the rights of the participants to participate and of members of the wider public to go about their lawful occasions are upheld; and that proportionate and cost-effective policing arrangements are made to deal with any likely disorder or violence (para 13).

Chief Constables 'routinely look to other parts of their organisations to provide information on public order events where the possibility of politically motivated violence or subversive influence does not arise' (para.14, emphasis added).

Singled out for special attention under their public order role is 'animal rights extremist activity' by 'seeking to prevent attacks on persons and property targeted by such extremists'. The Special Branch acts as the channel for intelligence gathered by the uniformed and CID branches within in each force to the Animal Rights National Index (para 12). This Index is located at New Scotland Yard and its database is available to all local police forces (para.18).

#### Immigration and naturalisation:

'In many forces, the Special Branch acts as the focal point for immigration and nationality work which complements its counter-terrorist and public order roles'. It monitors foreign nationals required to register with the police; conducts immigration inquiries for the Immigration and Nationality Department of the Home Office (that is, provides intelligence for 'immigration raids'); and interviews certain applicants for naturalisation (that is those engaged in political activity in the UK or their country of origin).

#### Organisation:

One change in the organisation of the Special Branch since the 1984 guidelines is the creation of the Regional Special Branch Conference chaired by a Chief Constable (using the mutual aid provisions under the Police Act 1964 and the Police (Scotland) Act 1967) (para.17). This appears to be a liaison mechanism with the regional MI5 offices.

The National Joint Unit at New Scotland Yard is staffed by officers from the Metropolitan Police Special Branch and other Special Branches. It 'coordinates enquiries and applications from police forces in Great Britain concerning people held under the prevention of terrorism legislation...[it] processes applications for extension of detention and exclusion orders...and coordinates the preparation of up-to-date assessments in connection with the review of exclusion cases' (para.18).

The 'initial and continuing training of Special Branch officers is provided jointly by the Metropolitan Police Special Branch and the Security Service' (para.18).

Guidelines on Special Branch work in Great Britain, Home Office & Scottish Office, July 1994