

## Statewatch bulletin

Vol 5 no 1, January-February 1995

### RACISM & FASCISM

#### EU

##### 1994 Euro-league of death

The Campaign Against Racism and Fascism (CARF) held a press conference in London at the beginning of February to announce the results of its annual audit of deaths due to racism in western Europe during 1994. The report documents 60 deaths, which is down from 75 in 1993.

The report notes a drop in the number of murders attributed to the far-right which reached 44 in 1993. Thirteen deaths are recorded for 1994, with twelve of these taking place in Germany. The drop is attributed to a demoralisation of the German far-right as mainstream right-wing parties, such as the Christian Democrats, move into their nationalistic and racist terrain. The number of unattributed racist murders increased slightly to 19 (from 16 in 1993).

Perhaps the most alarming figure produced in the report is the increase in the number of immigrants or asylum-seekers who died as a result of police brutality or neglect. In 1993 there were eight cases in this category; the 1994 figures saw a threefold increase to 21. The report argues that: 'This is not a coincidence but reflects the fact that racism has travelled from the far-right fringe to the very centre of European policy making, trickling down to vital institutions like the police and immigration services.'

The figure for suicides of asylum seekers for 1994 stayed the same as the previous year at 7. CARF points out the difficulty in obtaining reliable data on these deaths but points to figures from the Danish Red Cross that indicate a general increase in attempted suicides among refugees and asylum seekers. The general figures compiled by CARF over the last three years are presented below.

	1992	1993	1994
Far right murders	27	43	13
Racist murders <sup>1</sup>	5	16	19
Death by police brutality/neglect	6	8	21
Suicide provoked by racism	5	7	7
Unsolved murders	6	1	0

A detailed breakdown of the latest figures is published in *CARF* 24 (February/March) 1995. Available from BM Box 8784, London WC1N 3XX.

#### AUSTRIA

##### Gypsies die in racist bomb attacks

On 5 February four gypsies were killed by a huge bomb explosion when they tried to remove racist graffiti from a road sign. The four men were attempting to remove a mock gravestone which said 'Romanies back to India' laid on an underpass leading to a Roma settlement in the Burgenland region. The sign was booby-trapped with explosives attached to go off as soon as anyone attempted to move it.

The area, bordering on Hungary, is home for most of the 40,000 Romas in Austria; a community that has lived in the country for 600 years and one that was decimated in the Nazi holocaust.

On 6 February in the same area another bomb went off when a refuse collector was emptying a dustbin in Stinatz (Brugeland) and seriously injured his hand. A woman then found a letter at a bus stop saying: 'Everybody with a Croatian name should go back to Dalmatia. They are not needed in German Austria'. The letter was signed by 'Bajuwarische Befreiungsarmee' (Army for the Liberation of Bavaria). This same group was responsible for a series of letter bombs sent to anti-racists last autumn.

*European*, 10.2.95; *Guardian*, 7.2.85; *Independent*, 7.2.95; see *Statewatch*, vol 4 no 6.

#### UK

##### Racists murder Asian shopkeeper

A 60-year old Asian shopkeeper, Mohan Singh Kullah, died after spending over a week on a life-support machine, following a brutal attack by a gang of racists in Cimla, Neath in southwest Wales in December.

Mr Kullah, whose shop had been subjected to a series of arson attacks since opening less than a year ago, was attacked and beaten with a brick when he investigated a stone-throwing incident outside his shop. He was later found unconscious by a neighbour and rushed to hospital with a double fracture of his skull where he died ten days later.

Five local men have appeared in court following the attack; three of them Stephen May, Grant Watkins and Ian Thomas have been

charged with murder. Two others have been charged with attempted criminal damage. A sixth man, Alan Beshella, who has connections with the US Ku Klux Klan was also questioned about the attack. He has been heavily involved in setting-up a racist group in nearby Bridgend, where numerous people have complained about intimidation.

Southern Wales has seen an upsurge of racist and fascist activity over the past year as the British National Party/Combat 18 have attempted to heighten their profile in the Cardiff area by attacking labour movement and anti-racist activists.

*Western Mail* 29.11.94; 7.12.94; *South Wales Evening Post* 28.11.94.

### **National Assembly Against Racism launched**

Over seven hundred people gathered in Tower Hamlets, east London for the National Assembly against Racism conference. Speakers included MPs Bernie Grant and Ken Livingstone, TUC General Secretary John Monks and representatives from various campaigning groups and campaigns including Newham Monitoring Project and the Shiji Lapite Campaign.

Speakers from the platform and the floor emphasised the need for unity within the anti-racist movement and the requirement for more concrete activity in the fight against racism. A draft charter against racism was launched at the conference with the aim that the proposals within it should be discussed by the movement.

### **Italian fascist speaks in London**

Outrage has greeted the decision, by the Royal Institute of International Affairs (RIIA), to invite Italian fascist leader Gianfranco Fini to speak at a meeting in London on February 15, which was picketed by anti-fascist groups.

Fini is the leader of the National Alliance, which was formerly known as the Movimento Sociale Italiano (MSI) until it was cynically dissolved at a party congress in January. The MSI was the successor to Mussolini's pre-war fascist movement and was led by former Mussolini minister Giorgio Almirante until his death in 1988. The MSI had already changed its name, in time for last year's elections, which resulted in five National Alliance members taking positions in Silvio Berlusconi's coalition Forza Italia government. The dissolution is seen as a cosmetic attempt to distance the Alliance from a disreputable past that saw members involved in far-right terrorist bombings during the 1980s. The congress also saw about 100 members, led by former leader Pino Rauti, split from Alliance. They intend to form a breakaway group retaining the name MSI.

The invitation to speak at the RIIA has been widely condemned; Labour MEP Glyn Ford has criticised the invitation asserting that 'The man's a fascist'. Labour MP David Winnock said that 'Fini is not the sort of person we want invited to Britain.'

Racism & fascism - new material

### **Review: Strike Back: Ernie Roberts**

Ernie Roberts, who died earlier this year, will be remembered as a committed socialist and trade unionist who came to prominence in the seventies and eighties both for his leading role in the Anti Nazi League and later on as MP for Hackney North. This autobiography covers all aspects of Roberts' involvement in the labour movement, from his earliest activities while still a teenager through to his experiences as an MP. The book provides an interesting insight into the internal workings of the British labour movement. More importantly it will remain as a lasting epitaph to a man who, unlike

many politicians in an increasingly principle-free world, never for one moment left any doubt as to whose side he was on.

**European race audit**, Institute of Race Relations. Bulletins No. 10 & 11 (September, December) 1994. Latest digests on racism and fascism in Europe.

**Over the top: Dutch right-wing extremist parties in the elections of 1994**, CE Mudde & JJM van Holsteyn. *Politics* 14(3):127-134, 1994. Contains useful statistics and a history of the far-right during the 1980s.

**Flemish fascist front**, Richard Brenner. *Workers Power* 186 (February) 1995. Useful piece on the Vlaams Blok and the Antwerp local elections last October.

**Fascism: the ideology of the British National Party**, Nigel Copsey. *Politics* 14(3):101-108, 1994. Analysis of the political ideology of the BNP that stresses its fascist agenda.

**Surveillance or collusion? Maxwell Knight, MI5 and the British Fascisti**, John G. Hope. *Intelligence and National Security* 9(4):651-675 (October) 1994. Maxwell Knight was head of MI5's B5b department, responsible for placing agents in 'subversive' organisations, during the late 1930s-early 1940s. This article documents the collusion between MI5, Maxwell Knight and the fascists.

**SOS Arrazakeria/SOS Racismo: Guia de recursos contra el racismo** (Resource handbook against racism), Gakoa 1994, ISBN: 84-87303-25-0, 1,500 Pesetas, in Spanish. Publisher: Gakoa, c/Pena y Goni, 13-1, 20002, Donostia (Gipuzkoa), Spain. This handbook comprises four Chapters: 1. Social resources: a compilation of groups who help ethnic minorities (migrants and gypsies) and of immigrant and gypsies' associations; 2. Institutional resources: a selection of useful public services; 3. Legal resources: compilation of the main laws; 4. Documents and bibliography: compilation of statistics and bibliography of published material on racism, immigration and the gypsy community.

## **POLICING**

### **NETHERLANDS**

#### **Inquiry into police methods**

On 7 December, the parliamentary investigations commission into police methods and organized crime led by Social Democrat MP Maarten Van Traa was set up. In the coming year, the commission will investigate which covert operations are in use by the police and how these should be regulated and controlled. The commission will do its work partly behind closed doors to avoid leaking of sensitive information (if any such information is left, which insiders doubt by now).

At its first *in camera* session, the commission experienced a security incident when the microphones remained switched on and the full session was transmitted to the editorial staff offices of radio broadcasting corporations in the parliament building. Thus, immediately after the session was over, a summary of its contents was broadcast on national radio: the commission had spoken about security arrangements, such as which safe vault would be used, how sensitive information could be kept away from MPs' staff and which crime experts could be hired as consultants.

## UK

### Stoke Newington death

A 34-year Nigerian man was allegedly beaten to death by police officers shortly before Christmas. Two officers from Stoke Newington police station have been suspended and an inquiry has been launched.

Oluwashji (Shiji) Lapite was detained by up to eight officers, including two in plain clothes, on 16 December after he was seen 'acting suspiciously'. He was taken to the police station and within half an hour he was dead. Relatives, who were not informed of the death for 48 hours, saw his body and reported that his face was covered in bruises, his mouth split open and his skull was beaten to pulp. They claim that he was beaten to death by the police.

Two post mortems have proved inconclusive, although it is understood that a third will indicate that Mr Lapite received blows to his head and died from strangulation.

It is not the first time that Stoke Newington police station has been involved in the suspicious death of a black person. During the 1970s at least two black people died in the station. In January 1983 Colin Roach was found shot dead in the foyer of the station. His death was never been satisfactorily explained and police harassment of the Roach Family Support Campaign, which was campaigning for an independent inquiry into Colin's death, created resentment, particularly in the black community.

More recently the police station has been the focus of an inquiry into racism and corruption, involving drug dealing and violence.

Following the killing two hundred people demonstrated outside Stoke Newington police station. They are demanding an independent inquiry into Mr Lapite's death.

*The Shiji Lapite Memorial Committee* can be contacted on (0181) 555 8151.

### Police 'caution' shortened

The new caution to be used by the police has been cut from 60 words to 37 words. The caution, which is being introduced under the Criminal Justice and Public Order Act, will now read:

'You do not have to say anything. But it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence'.

From April courts will be able to draw conclusions from the fact that a defendant has either remained silent or not answered relevant questions. Lawyers and civil liberties groups are still critical of the shortened version which is part of the government's abolition to the right of silence (this extends into the court where failure to go into the witness box by defendants can be used against them).

## BELGIUM

### Police to exploit tapping law

A report by the League of Human Rights in Gent on a new telephone tapping law in Belgium shows that some police chiefs intend to make maximum use of it. Commissioner Trotteyn, of the Gent police, says that he will have difficulties coping with the restrictions that are still in place on tapping even after the new law has come into effect. The new law only allows police to tap telephones if there are already indications that the law has been broken and a judge must sanction the tap. Furthermore the police

are not allowed to use the taps pro-actively to 'discover' crimes. Therefore the police cannot make use of information that is acquired through telephone tapping that has no relation to the crimes that justified tapping in the first place.

The Commissioner says the police intend to find ways around the restrictions that the new law imposes: 'In order to be able to use the evidence gained by tapping to start a new investigation, we could always say that the information acquired through tapping was given to us by an anonymous tip-off. In practice this has already happened'.

## FRANCE

### Ban on 'Islamic pamphlets'

In the department 'Haute de Seine' (the department where Charles Pasqua, Minister of the Interior is also chairman of the Council) the police have been detaining people for distributing 'Islamic pamphlets'. The written instruction given to the police - which contravenes the penal code - gives no indication of what constitutes an 'Islamic pamphlet'.

They are instructed to take people caught giving out these pamphlets to the police station to check on their identity - this is only meant to be allowed when a person refuses to have their identity checked. They are also to be routinely photographed although this is only meant to be carried out with special permission of the 'procureur'.

*Le Monde*, 1.12.94.

## SPAIN

### More police on the streets

On 1 January the Plan on Citizen Security and Liberty (the so-called Belloch-Plan, the Minister of Justice and Interior) came into effect in nine towns in Spain. After a decrease in police presence on the streets under the previous Interior Minister the Plan aims at a 60% increase in police car and foot patrols and a 20% increase in motorcycle patrols. In the second phase the scheme will be extended to the 11 big cities. The object of the Plan against 'civic insecurity' is to: 'reinforce vigilance and prevention and to improve the efficiency levels in the immediate response to citizens' needs'. In order to achieve their objective police are being reassigned from other tasks including the 'Groups of Investigation and Prevention' which was concentrating on 'high crime' areas.

*Kontrola Kontrolpean*, Donostia, Euskadi (Spain).

### Policing - in brief

**Hague Police under investigation:** There is to be an enquiry into racism in the Hague police force after an ongoing campaign by the Green Left group on the council. The group produced a report listing complaints made by sixteen Moroccan youths ranging from racist remarks, being picked up for no apparent reason, and physical assaults. In one of the most severe cases a youth has alleged that seven police beat and kicked him in a cell until he was left bleeding and unconscious on the floor.

**FBI moves to Europe:** FBI director Louis Freeh made a whirlwind tour of Eastern Europe last year demonstrating the Bureau's intention to spread its influence abroad. According to specialists, the Bureau now has agents in 21 countries and continues to replace the CIA as that agency reduces its foreign presence. Apparently the FBI considers it has Eastern Europe 'under its belt' with international police training and liaison programmes. *Intelligence*, no 257, 30.1.95.

**ACPO Terrorism and allied matters committee:** a 'satellite' unit of the Metropolitan Police Anti-Terrorist Branch (SO13) has been set up in the north of England to support local forces; a similar move in the Midlands is being considered. One of the recommendations to follow from the revision of the Home Office Guidelines on the Special Branch is for the transfer of the national database on Irish terrorism from the Met Special Branch to MI5. Two new committees have been formed: the Steering Committee on Ports and the Animal Rights National Index Steering Committee.

### **Policing: new material**

**Democracy, justice and the limits of policing: rethinking police accountability,** Ian Loader. *Social & Legal Studies* 3(4):521-544 (December) 1994. This article attempts to 'redeem discussion of democratic accountability [and] set out the contours of a possible alternative future for British policing.'

**Set the agenda,** Guy Ferguson. *Police Review* 6.1.95. pp26-27. This piece, using the Welling Unity march as an example, argues that the police should be 'pro-active...in their approach to the media'. Ferguson believes: 'This can reinforce the image of policing by consent, with the media operating as a 'neutral arbiter' between rival factions.'

**Police training on community and race relations: the role of the Specialist Support Unit,** Dr Robin Oakley. *Police Journal* LXVIII(1):32-38, 1995. This paper summarizes the role of the Specialist Support Unit 'which has been set up by the Home Office to assist police training...to become more responsive to the needs of a multi-cultural, multi-racial society'.

**Friend or foe,** John Woods. *Police Review* 27.1.95. pp19-20. This article expresses concern at the public order policing of recent demonstrations against the export of live animals, seemingly because 'a large proportion of the protesters are white, middle-class, middle aged and female.'

**Branch roots,** Vicky Graham. *Police Review* 9.12.94. pp18-20. Short piece on the new Special Branch guidelines.

**Social values and managerial goals: Police and probation officers' experiences and views of inter-agency cooperation,** Adam Crawford. *Policing and Society*, Vol 4 no 4, 1994, pp323-340.

**The need for police adaptability in western democracies,** Jean-Claude Monent. *International Criminal Police Review*, no 444, September-October 1993, pp2-11.

**Innovations in Criminal Justice Research,** *European Journal on Criminal Policy and Research*, vol 2 no 4, 1994. Includes articles on: The custodial crisis in Europe: inflated prison population and possible alternatives, Pierre Tournier, pp89-100; What can we do about prison overcrowding? André Kuhn, pp101-106; Overcrowding - not the only crisis in the custodial system, Klaus Sessar. pp107-116.

**Report on conference on organised crime and police and intelligence service held in Berlin 14-15 April 1994 (in German),** 151 pages. From: Friedrich Ebert Stiftung, Büro Berlin, Knesebeckstrasse 99, 10623 Berlin, Germany.

**Her Majesty's Chief Inspector of Constabulary, Annual Report 1993,** HMSO, 68 pages, £14.10. **Her Majesty's Chief Inspector of Constabulary for Scotland,** HMSO, 68 pages, £16.00. Both of these annual reports on policing reflect the trend over the past 10 years to present less information but glossier presentation with colour pictures of top officers.

**The mystery of missing crimes,** Robert Reiner. *Policing Today*, Vol 1 no 2, December 1994, pp16-18. Argues that when recorded crime falls, unrecorded crime rises.

**Internationale politieamenwerking - Europol,** edited by Lode van Outrive and E Enhus (in Belgian). 142 pages, published by: Centrum voor Politiestudies vzw, p/a VUB - School voor Criminologie, Pleinlaan 2, 1050 Brussels, Belgium.

**A Single Market for the world's gangsters,** Jurgen Storbeck (Europol Drugs Unit). *European Brief*, December 1994, pp34-37.

**Uniting Europe in the war against crime,** Professor Kurt Schelter (Secretary of State, Federal Ministry of the Interior, Bonn). *European Brief*, December 1994, pp37-38.

**Clamping down on nuclear smugglers,** Juliet Lodge and Val Flynn. *European Brief*, December 1994, pp39-41.

**Making Europe a no-go area for terrorists,** Paul Wilkinson. *European Brief*, December 1994, p42.

**Bringing Europol into the open,** Madeleine Colvin and Michael Spencer. *European Brief*, December 1994, pp43-44.

**Friend of foe,** John Woods. *Police Review*, 27.1.95, pp19-20. 'Public order incidents such as the live export protests, increasingly involving people who normally support the police calls for a change in tactics to prevent the service losing public faith'.

**Final frontier,** Frank Bewley. *Police Review*, 27.1.95, pp22-23. Looks at how the Criminal Justice and Public Order Act 1994 removes the barriers to Scottish police officers operating and asking for assistance in England and Wales.

**The law brings disorder to Essex,** Richard Bourne. *Tribune*, 3.2.95, p10. Looks at police handling of protest at the transportation of live animals.

**Too hot to handle?** *POLICE*, November 1994, pp25 & 27. Looks at the police use of 'incapacitating' pepper sprays.

**Law of the land,** Mike Adkins. *Police Review*, pp26-27. Examines the use of the Criminal Justice and Public Order Act 1994 against hunt saboteurs.

**Report to the Icelandic Government on the visit to Iceland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 6 to 12 July 1993,** Council of Europe, June 1994. CPT/Inf (94) 8. **Response of the Icelandic Government to the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Iceland from 6 to 12 July 1993,** Council of Europe, 20.10.94, CPT/Inf(94) 16, 36 pages.

**Report to the Portuguese Government on the visit to Portugal carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 19 to 27 January 1992 and Response of the Portuguese Government**, Council of Europe, July 1994. CPT/Inf (94) 9.

**Response of the Netherlands Government to the report of the European Committee for the Prevention of Torture and Inhuman and Regarding Treatment or Punishment (CPT) on its visit to the Netherlands from 30 August to 8 September 1992**, Council of Europe, September 1994, 66 pages.

**Report to the Norwegian government on the visit to Norway carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 27 June to 6 July 1993**, Council of Europe, September 1994, 63 pages, CPT/Inf (94) 11. **Response of the Norwegian government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Norway from 27 June to 6 July 1993**, Council of Europe, September 1994, 29 pages, CPT/Inf (94) 12.

## MILITARY

### NETHERLANDS

#### International Special Forces exercise

In December the two-yearly NATO Special Forces exercise LOW LANDS '94 took place in the northern part of the Netherlands (provinces Drenthe and Overijssel). Special Forces from the Netherlands (Korps Commando Troepen), Greece, Belgium (Detachment Long Range Reconnaissance Patrol), Germany, Great-Britain (18 Squadron Heli Support, based in Germany), France and the US (airbornes from Echo Company 165 Military Intelligence Battalion, based in Darmstadt) were involved. All in all 600 military took part. In the air Dutch C-130 Hercules, a Fokker Troopship, British Chinook and Puma and Dutch Alouette III helicopters were active. Parachute jumps in the HALO-mode were exercised at night. With HALO (High Altitude Low Opening) the chute is not opened until an altitude of 3500-4500 feet has been reached. In this way one hangs in the air for only a minute and the chance of interception during the infiltration is minimal. The missions included liberation of captured airmen and destruction of an artillery unit. Four exfiltration helicopters were used.

*Defensiekrant* 1994 no 47; *Public Information Office, Dutch Ministry of Defence*.

#### Military - new material

**The United Nations and NATO in former Yugoslavia. Partners in International Cooperation**, Dick A. Leurdijk, Netherlands Atlantic Commission and Netherlands Institute of international Relation 'Clingendael', 1994. Describes the framework of the UN-NATO relationship, the process of decision-making, command and control, the operations 'Sharp Guard' and 'Deny flight', the evolving safe-area concept, the escalation from close air support to air strikes. The conclusion is positive for NATO's role with some question marks for its effectiveness. However, useful factual material is included.

**Assembly of Western European Union (WEU)**, Document 1435, 9th November 1994. Transatlantic co-operation on European anti-missile defence. Describes US policy of building an anti-missile system against lesser nuclear powers and the European plans and possibilities in that area.

**Assembly of WEU**, Document 1437, 9th November 1994. The future of the WEU Satellite Centre in Torrejün. With an organigram of the European centre for analysing data from espionage-satellites.

**Patriots on guard**. *International Defense Review* 1/1995. Description of first exercise in NATO's Southern Region incorporating a ballistic defence scenario - Dynamic Guard 94 in Turkey. Participants were Dutch and German Patriot missile units and a US cruiser.

**US streetfighting must be improved**. *Jane's Defense Weekly* (JDW) 21.1.1995. The Pentagon's Defense Science Board recommends in a report that a strong effort must be made to increase the capabilities for 'military operations in built-up areas' (MOBA) including the use of 'non-lethal chemical agents' for crowd-control.

**A force to be reckoned with**. *Jane's Defence Weekly* 14.1.1995. Briefing on Pakistan's Directorate General of Inter Services Intelligence (ISI), the clandestine military intelligence service.

**Romania's Intelligence Services - Purges and Policies**. *Jane's intelligence Review* 1995/1. Description of the successor of the Securitate after a recent major purge.

**Rapid Intervention Forces**. Origins and development of a concept. *Raids Magazine* no 38, January 1995. Comparison of the US and the French concept.

**Front line first**, Malcolm Rifkind. *RUSI Journal* December 1994, pp1-7. This piece, based on a presentation by Secretary of State for Defence, Malcolm Rifkind, discusses the Defence Costs Study, which was published in July.

**German security policy and future tasks of the Bundeswehr**, General Klaus Naumann. *RUSI Journal* December 1994, pp8-13. Argues that in an international context the Federal Armed Forces 'must now be available as a flexible instrument for peacekeeping and crisis management [and] structured so that they will be rapidly available...for operations to prevent, contain and terminate conflicts.'

**European security and defence**, Richard Latter. Wilton Park papers no 90, HMSO, October 1994, 33 pages, £5.00.

**A Note on the British deployment of nuclear weapons in crises - with particular reference to the Falklands and Gulf Wars and the purpose of Trident**, Paul Rogers. *Lobster*, no 28 (Robin Ramsay), pp2-10.

#### Parliamentary debates

Defence Research Agency: Select Committee Report *Lords* 8.12.94. cols. 1060-1078

Chemical weapons convention: consultation document *Lords* 8.12.94. cols. 1012-1013

CBDE Porton Down *Lords* 12.12.94. cols. 1154-1166

Anglo-American mutual defence agreement *Commons* 15.12.94.

## IMMIGRATION

### ESTONIA

#### Refugees imprisoned - no law, no trial

In October, Estonian authorities stopped the departure of 85 Kurdish, Iraqi and Afghan refugees to neighbouring Finland and Sweden. This is part of a policy of newly-independent Estonia not to 'attract' more transiting asylum-seekers from Russia.

In their first years of independence, none of the former Soviet Baltic republics have developed any legislation or other procedures for immigration or asylum, nor have they signed the Geneva Convention on Refugees. The 85 refugees, who were denied the right to leave Estonia, are kept in prison. They were given two months' prison sentences for 'illegal entry' from Russia, and have now been detained for more than a year without any subsequent trials. Contrary to humanitarian principles, the Estonian authorities have broken up their families. Women and children are detained in the abandoned prison of Harku, while the men are kept in a youth prison in Maardu and another prison in Parnü.

The UNHCR (UN High Commissioner for Refugees) office in Stockholm has advocated that Estonia's neighbour countries should not accept the refugees, but help Estonia to solve the problem locally. Among refugee relief organisations involved, 'a local solution', is almost always interpreted as expulsion of refugees to Russia, says Ms Nytte Ekman of relief agency NADA in Helsinki. Facing international attention for the country's treatment of refugees, the Estonian government recently appointed a commission for the refugee issue, headed by the Minister of Justice, Jüri Adams. In Lithuania, an immigration and asylum administration is likely to be set up soon. According to the draft law, it would work in close relation with the country's Ministry for Social Affairs and Labour.

*Monitori* no 4, 1994; *Hufvudstadsbladet* 20.12.94.

### UK

#### Asylum refusals soar

Figures released by the Refugee Council at the end of November 1994 confirm what those on the ground have been saying for some time: that the Asylum and Immigration Appeals Act which came into force in 1993 marked a dramatic turnabout in the Home Office's treatment of asylum-seekers. While those recognised as refugees dropped from 7 per cent to 5 per cent of applicants, those allowed to stay on 'exceptional leave' dropped from 77 per cent to 20 per cent. This meant that the total of those refused and vulnerable to removal rose from 16 per cent of all applicants to 75 per cent.

The category of 'exceptional leave to remain', or ELR, is a humanitarian category which is given to those fleeing conditions which do not amount to persecution within the definition of the Geneva Convention. This includes those fleeing war, civil war or anarchy, or ecological disaster. In the years leading up to the Act, refugee groups and supporters claimed that ELR was being used as a kind of second-class refugee status, to deny rights, such as family reunion and home student grants for education, which would flow from recognition as a refugee. People granted exceptional leave had to wait four years before being eligible to send for their families or to get other rights. Thus, 97 per cent of applicants from Sri Lanka (almost all Tamils), and 66 per cent of applicants from Turkey (mostly Kurds) were granted ELR in 1992-93, while 1 per cent and

20 per cent respectively were given full refugee status.

As the 1993 Act progressed through parliament, ministers claimed that ELR was granted to asylum applicants, not because of the strength of their cases or the dangers they faced on their return, but solely because of the length of time applications had taken to process, during which time people had put down roots in the UK. (This argument was derided by observers who recalled that the Home Office routinely deports people who have been in Britain for many years and have children born here). So, the ministers maintained, the new, streamlined asylum procedures would render the grant of ELR unnecessary in most cases.

They have been as good as their word. The average time taken to process an asylum claim has been cut from years to months. And now, only 16 per cent of asylum-seekers from Sri Lanka are allowed to stay, compared with 98 per cent before the Act; 21 per cent of people from Turkey may stay, as opposed to 86 per cent before the Act; 17 per cent of Chinese applicants may stay, compared with 57 per cent before the Act. While improved conditions in some countries, such as Ethiopia, account for the dramatically increased rate of refusal for their nationals, improvements in most of the other countries covered by the figures are hard if not impossible to detect.

The conclusion, which is confirmed by those working with asylum-seekers, is that the Home Office is returning many people to conditions of terror and turmoil, and is justifying its actions by reference to the strict wording of the refugee Convention. In this it is acting in concert with other European states. In common with Sweden, Switzerland Germany and other western European states, Britain is attempting to repatriate various groups to their homelands, including Tamils to Sri Lanka, Albanians to Kosovo and Bosnians to Croatia.

#### ECHR: 20 years on

The report of the European Commission on Human Rights on the case of the East African Asians v UK, in which it accused the government of racial discrimination so serious as to constitute degrading treatment under Article 3 of the Convention, was published in March 1994, over 20 years after its adoption. The reason for the lengthy delay is that both parties must agree to publication, and in this case, as in many others, the British government withheld its consent until February 1994.

The report is a fascinating reminder of the immigration and race politics of the late 1960s. The 31 applicants were UK citizens of Asian origin who had settled in Kenya, Uganda and pre-independence Tanzania (then named Tanganyika). Not qualifying for the citizenship of those countries on independence, they retained their UK citizenship. In the late 1960s, the governments of East Africa began imposing restrictions on their Asian populations as part of a policy of Africanisation. These culminated in the destruction of livelihoods, confiscation of homes and expulsion.

In February 1968, the Labour government responded to the increasing numbers of British Asians fleeing East Africa by the Commonwealth Immigrants Act, which went through all its stages in just six days and came into force just seven days after it was introduced (1 March). The Act removed residence rights from UK citizens with no ancestral connection with the UK, replacing rights with a special voucher system.

The arguments used then by Labour Home Secretary, James Callaghan, resemble the arguments used now by the government against refugees: fewer numbers make for better race relations. These arguments were to render racism respectable and gave a fillip to Powellism and to open manifestations of hostility towards black people. The first real epidemic of racist attacks, dubbed 'Paki-

bashing', was to occur in 1969. Despite the Commission's condemnation of the 1968 Act as racist, residence rights were never restored to the UK citizens it excluded, who had to wait their turn in the queue for 'special vouchers', only 1500 of which were issued each year. Instead, the 1968 Act was followed up by the patriality clauses of the Conservative governments' 1971 Immigration Act, and then in 1981, citizenship was brought into line with residence rights and the British Asians were no longer British.

*East African Asians v UK, EurComHR, Human Rights Law Journal*, Vol 15 no 4-6, 26.9.94, p213.

### **Detention illegal?**

There was a flurry of activity in the Home Office in January when the High Court ruled that the detention of illegal entrants who had claimed asylum was unlawful. It was estimated that about 500 asylum-seekers were being held unlawfully. Immigration officers can detain arrivals to Britain for questioning before allowing them in. They can also detain illegal entrants in order to remove them from the country. But asylum-seekers can't be removed, and those already in the country can't be detained under administrative powers for questioning, ruled Mr Justice Dyson.

The government's visa restrictions and carrier sanctions, which between them make it impossible for refugees to travel legally to the UK, have resulted in the rapid growth of illegal ways of getting in to the country. Some present themselves as visitors, with false documents, others are smuggled in by boat or lorry. They then claim asylum once inside the country. This, in turn, has led to the rapid increase in the numbers of asylum-seekers held in detention, since anyone who has come in using a false identity or false documents, or who has come in clandestinely, is deemed likely to abscond by the Home Office. Thus, 650 asylum-seekers were held in detention at the end of 1994, compared with about 300 in mid-1993, and a total of 11,000 were detained in the course of the year. In December the government announced plans for three new detention centres, at Gatwick, Heathrow and Stansted, to hold an extra 270 people.

The Home Office appealed against Mr Justice Dyson's ruling, and was able to get a hearing in the Court of Appeal in under a week. On 3 February the Court of Appeal overturned his decision, giving the Home Office a green light on the detention of asylum-seekers. Refugee groups reacted angrily to the Court of Appeal decision, maintaining that detention of asylum-seekers is arbitrary, punitive and inhuman. They point to statistics showing that those detained are just as likely to be recognised as refugees as those allowed to stay with family, friends or in hostels pending the decision on their status. The Joint Council for the Welfare of Immigrants and Justice are submitting a report to the UN Human Rights Committee on Britain's 'appalling' treatment of asylum-seekers.

'Somaligate'?

The speed with which the Home Office was able to get an unfavourable ruling overturned was also pointed to by angry lawyers and refugee groups and contrasted with the snails-pace progress of appeals against refusal of entry to the UK. In particular, hundreds of cases of Somali families in refugee camps, who have been refused permission to join relatives in the UK, have been stalled for over two years - the Home Office puts every conceivable bureaucratic and legal obstacle in the way of the appeals. Meanwhile, those awaiting their appeals are dying of disease and malnutrition. Some lawyers believe that the Home Office-inspired delays are a scandal on a par with the Danish 'Tamilgate', which led to the resignation of the prime minister and brought down the

government after revelations that Tamil family reunion was deliberately delayed.

### **NETHERLANDS**

#### **'Safe third country' concept introduced**

The Belgian government has announced it will not automatically take back asylum-seekers who could be returned by the Dutch authorities under new legislation on 'safe third countries'. The Dutch senate is expected to approve the bill, which is in many respects identical to recent German legislation. Asylum seekers who pass through countries considered 'safe' by the Dutch government can be sent back directly over the border. According to state secretary Mrs Schmitz, in practice only asylum seekers who have spent some time in the 'safe' country would be sent back there.

There is considerable criticism from legal experts and refugee organizations, who maintain that the law will be in violation of Schengen agreements that guarantee an asylum procedure in at least one of the Schengen countries. They fear that in practice, asylum seekers will be shipped back through all Western European countries until they arrive for example in the Czech Republic or Poland. Refugee organizations reject the judging of an asylum request on the basis of a person's travel route.

Lawyers have announced their intention to withdraw from the reporting centres on the border in Zevenaar and Rijsbergen because they would no longer be able to provide adequate legal support. Without the cooperation of the lawyers, the centres cannot function. The Justice department expects that about half of those seeking asylum will be affected by the new regulations, which would amount to about 20,000 individuals. Because the department expects that many asylum seekers will still try to remain in Holland 'illegally', additional measures will be taken to deny them access to any government facilities such as housing, medical care etc.

### **BELGIUM**

#### **Transit centre 'concentration camp'**

The group *Open Grenzen* (open frontiers) has condemned the asylum centre 127 bis as a 'concentration camp'. The group says: 'Asylum seekers are locked up for ten to fifteen days in pitch black isolation cells without being told why. Razor wire surrounding both the ground and on the fences has injured both children and adults'. Minister John Vande Lanotte is to look into the matter.

The transit centre 127 bis in Steenokkerziel was opened in March last year to accommodate asylum seekers waiting to be repatriated. The former Minister of Internal Affairs, Louis Tobback, emphasised when opening the asylum centre that it was not intended to be a prison. However *Open Grenzen*, MPs and the French-language League for Human Rights in Belgium have come together to denounce Transit centre 127 bis as a flagrant abuse of human rights based on two internal notes sent to the administrative director (governor) of Transit centre 127 bis.

Jan Fermon, a lawyer active within *Open Grenzen*, said:

'We are shocked by the arbitrary use of isolation cells. Such cells are intended to allow violent or abusive asylum seekers to cool off. But Steenokkerziel has no rules or regulations for such isolation cells or the length of time people may be locked up in them. Asylum seekers can be thrown in such cells because of administrative problems. This happens for instance in cases where asylum seekers are refused entry by the country where they are sent to'.

According to these reports isolation cells also serve as back up to

the ordinary dormitories when there are not enough guards to look after all the asylum seekers. Asylum seekers also end up in these cells if an airline pilot refuses to take them because of 'possible danger to other passengers'.

The isolation cells measure 1.5 metres by three meters and only contain a bed. They do not have a table or a window or a toilet. The only way to use a lavatory is to ring for a guard, who often is not there. The memorandae sum up the situation by stating: 'The conditions in the isolation cells are worse than in any prison'. This impression is strengthened by the double row of barbed wire that surrounds the transit centre. According to the report children have been wounded by razor wire whilst playing as well as those asylum seekers who have tried to escape. Other complaints include the mysterious disappearance of inmates and obtrusive and unnecessary body searches.

The Minister of Internal Affairs, Johan Vande Lanotte said yesterday that he had not heard about these complaints: 'We shall certainly look into the complaints. I will however continue to defend the existence of Transit Centre 127 bis and the isolation cells. There is a lot of violence amongst asylum seekers and troublemakers must be forced to cool off. The double row of razor wire is there to prevent escapes. I do admit that the difference between a prison and a centre where people are being held against their will is very subtle'.

*De Morgen*, 19.12.94

### **Asylum-seekers victims of legal system**

Mr Georges-Henri Beauthier, a lawyer who successfully defended an asylum seeker who was the victim of a deception and robbery, has attacked the racism of the police and prosecutors.

Mr Beauthier defended Michael, an asylum seeker from Liberia, who was charged when a Belgian woman accused him of robbery and attempted rape. He was immediately arrested and beaten up by the local police force. Michael claimed that he had been doing some cash in hand work for the woman and furthermore that he was the one who had been robbed. Both the police and the prosecutor ignored his story and he had to wait until the trial before his accuser faced any serious cross-examination. She then confessed not only to having made the whole story up but also admitted that she had in fact robbed Michael.

Mr Beauthier condemned both the police and the prosecution's handling of the case, pointing out that their shared assumption was 'he's black, therefore he must be lying'. He also attacked generalised attitudes within Belgium that allowed this kind of deception to continue: 'those people who sit in pubs calling on foreigners to be kicked out of the country are the first to use them for all kinds of odd jobs, often only paying them with a meal. There are nine other people convicted like Michael in Belgian jails today'.

*Gazet van Antwerpen*, 20.12.94.

### **Face-Mask banned**

The Belgian Junior Minister Schmitz, of the Justice Department, has banned the use of face masks to restrain deportees. The face mask was developed on the order of former Minister Kosto, following an incident in which a Romanian refugee, Mr Rudaru was severely handicapped after having his mouth taped up to stop him from protesting too much about his imminent deportation. The mask was designed to completely enclose the head with air holes to allow the person being restrained to breathe.

The ban came about not for moral reasons but because the face masks were not effective. Tests showed that whilst preventing the person being restrained from spitting and biting, masks failed to

prevent people from making any noise. This meant airline companies would refuse to carry deportees on the grounds that they could become a nuisance to other passengers.

Minister Schmitz has not yet ruled out the possibility that a more advanced form of face mask being introduced. The government has however been forced to ban both the use of tape and drugs following the ruling of a committee of enquiry that was set up following the Rudaru incident. Spokespeople from the major parliamentary parties have expressed their desire for a solution because otherwise 'bad behaviour might be rewarded'.

## **FRANCE**

### **Deportations increase**

Figures released by the French government in December show a marked increase in the number of deportations. Charles Pasqua, the Interior Minister, announced that between January and October 1994, a total of 9,328 people had been deported - an increase of 30% on the same period in 1993. The number of people refused permission to stay had also increased by 15% over the same period. The number of deportations for being a 'threat to public order' was 945 (up 66%).

Many of those expelled or deported are relatives, parents or spouses of a French national. When the 'residence card' of the 'foreign' partner expires they are supposed to return to their country of origin and apply for a new entry visa. A large number of those being expelled are from Algeria and in December 1994 France adopted two decrees governing their entry. A single visa category has now been replaced by two: a 'long-term' visa which is difficult to get and the 'short term' visa, on grounds of the person being in danger. This has to be obtained before leaving the country - as all the French consulates in Algeria have been closed this entails applying to Nantes in France. The second decree affects Algerians wanting to visit relatives in France who have to have a 'housing certificate' from the family in France which has to be countersigned by the local mayor many of whom have been refusing to agree.

*Le Monde*, 14.12.94 & 24.12.94; *Reflex*, Paris.

## **SPAIN**

### **'Plan for Social Integration'**

Spanish Prime Minister Felipe Gonzales alluded to the very recent change in Spain from being a country of emigration to one of immigration. Addressing the European Campaign of Youth Against Racism he said: 'Treat the immigrants in the way you would have liked to be treated when you were emigrants'. However, his words are in contradiction to Spanish legislation on Aliens which impedes the legal equality of immigrants and uses concepts which criminalise migrants.

The Plan for Social Integration of Immigrants approved on 2 December by the Spanish Cabinet only refers to 'legal' immigrants not 'illegal' immigrants. The Plan talks of 'the fight against illegal employment'. Migrant organisations say that before the Plan can be taken seriously the Law on Aliens needs to be changed. This limits residence permits to one year, is dependent on having a work contract, and is highly bureaucratic if the migrant seeks to 'legalise' their status.

The Plan also creates two new bodies - the 'Observatory of Immigration' to measure the flow of migrants into Spain, and the 'Forum of Immigrants' with government, NGOs and migrant organisations to work on 'integrating' migrants.

*Kontrola Kontrolpean*, Donostia, Euskadi (Spain).

### **Migrants die**

The week before Christmas a Dominican woman living in Bilboa died when she threw herself out of a window after receiving official notification to leave the country. In the same week a man from Guinea (Conakry) died when a boat on which they were stowaways docked at Santurzi harbour. The ship had previously called at harbours in Russia, Germany and Belgium they had been locked in a cabin to stop them going ashore. This same procedure should have been followed when the ship arrived in Spain but just two hours after docking they were found on the quay - one died later in hospital and the other faces expulsion.

The Spanish Commission on Aid for Refugees (CEAR) has taken out a private prosecution on grounds of negligence against the captain of the ship.

*Kontrola Kontrolpean*, Donostia, Euskadi (Spain).

### Stowaways in orbit

On 2 January four stowaways from Ghana and Liberia escaped from the Russian ship 'Novolvovsk' docked at Pasaia harbour in the Basque country. Four others were caught and held by the police. The Russian captain refused to leave the harbour with the stowaways and the Spanish authorities said they were not refugees and would not be allowed to enter the country. For four days the two sides argued with eight men dispersed between the ship, a police van and a gymnasium - the ninth, a minor, was placed in a public home.

*SOS Arrazakeria-SOS Racismo* called on the Civil Government to use its powers of discretion to admit the asylum-seekers (under article 12 of the Law on Aliens). However, the Russian Vice-Consul intervened and told the ship's captain to take the eight men. The ship left on 8 January for Rostock, Germany and then St Petersburg.

*SOS Arrazakeria-SOS Racismo*, Donostia, Euskadi (Spain).

## IRELAND

### New government to amend Refugee Bill

The new Irish government has decided not to let the Refugee Bill proposed by the Reynolds government go through unamended. Before the last government fell the Bill had reached the Committee stage in the Dail. The Bill was intended, at long last, to give legal effect to Ireland's obligations under the 1951 Geneva Convention and the 1967 protocol to that Convention. The stimulus for introducing it was the need to ratify and give effect to the Dublin Convention signed in 1990 - Ireland being one of the last EU member states to ratify it.

Among the measures groups like Amnesty International hope will be changed in the amended Bill are: the provision for the Refugee Board to make a decision on an application without interviewing the applicant; detention on the grounds that an applicant is in 'possession of forged identity documents' (Amnesty say it is widely recognised that people fleeing for their lives are often forced to get false documents); the Refugee Applications Board which would have two department officials and one independent lawyer; and the incorporation the EU concept of 'manifestly unfounded' applications which lacks sufficient safeguards.

*Refugee Bill, 27.6.94; Explanatory memorandum; Position paper*, Amnesty International, Dublin.

## SWEDEN

### Limiting immigration

The new Social Democrat Minister for Immigration, Leif

Blomberg, has decided to set a maximum figure for the number of refugees to be granted asylum on humanitarian grounds, which is by far the largest category.

In 1993/4 a total of 43,500 - 79% of all refugees allowed to stay were on humanitarian grounds. 11%, 1,650, on grounds defined by the UN, such as the civil war in ex-Yugoslavia. Of the remainder, 7% were 'de facto-refugees' who did not fulfil UN criteria.

*Riksdag & Department*, no 38/1994.

### Immigration - new material

**Cold climate for asylum seekers**, John Sunderland. *Chartist* November-December 1994. Analysis of the effects of the 1993 Asylum Act

**The new immigration rules: further tightening of immigration policy**, Nicholas Blake QC. *Socialist Lawyer* 23:19-20 (Winter) 1994-95. Critical review of the new immigration rules introduced on October 1, 1994.

**Campsfield Monitor** 5 (Nov-Dec) 1994. Articles on the immigration quota system, UK breaking international law on the detention of asylum seekers and the case of Valerie Senoo who was allegedly bound and gagged when deported in November.

**Disability issues in Immigration**, A briefing by Salford Law Centre, January 1995, 4pp. From: Salford Law Centre, 498 Liverpool Street, Salford M6 5QZ. This study is based on a questionnaire circulated to immigration workers in Law Centres and other groups working in this field. It shows how disability is used by immigration officials to refuse entry. In one case the husband of a disabled woman living in the UK was refused entry on the grounds that: 'the visa officer did not believe that he would choose to marry a disabled person...[and] decided that the fact that this woman lived in the UK was the primary purpose of the marriage'.

**Asylum in Germany**, Karsten L uthke. *ZDWF: Zentrale Dokumentationsstelle der Freien Wohlfahrtspflege f ur Fl uchtlinge e/V.*, no 57 (in English). Covers Germany's asylum procedure; organisations working in this field; and relevant legal text (including the Aliens Act). From: ZDWF, Cecilienstr.8, 53721 Siegburg, Germany. Tel: 00 49 02241 50001.

**Representing unaccompanied refugee children in the asylum process**, Vicky Guedalla. *Children's Legal Centre*, 20 Compton Terrace, London N1 2UN. £2.50 for single copies (bulk rates available), 8 pages. Outlines the procedures and principles for lawyers and others acting for children.

**The right to family life for immigrants in Europe**. Joint Council for the Welfare of Immigrants (JCWI), 1994, £5.00, 60 pages. Report of an international conference organised by Coordination Europeenne pour le droit des estrangers a vivre en famille, Brussels, November 1993. JCWI, 115 Old Street, London EC1V 9JR.

**Comentarios a la ley Organica y Reglamento de extranjeria** (Comments on the constitutional law on aliens), Vincente Estrada Carrillo. Publisher: Trivium (Madrid), 2nd edition, 1993, ISBN: 84-7855-876-4. The author, a lawyer and commissioner of the Spanish National Police, lectures to members of his police force working in the immigration and aliens department. Attached documents: Protocol of Adhesion of Spain to the Schengen Treaty; forms

covering work and residence permits, 'invitation' to leave the country, expulsion.

**GISTI: (Groupe d'information et de soutien des travailleurs immigrés): La circulation des étrangers dans l'espace européen** (Aliens movement in Europe), June 1994, French, 48 pages. From: GISTI, 30 rue des Petites Ecuries, 75010 Paris, France. 50FF. Presents information of key-words covering European treaties, conventions and agreements as they affect the movement and settlement of third country nationals.

**International migration, economic development and human rights**, Jan Niessen and Roger Zegers de Beijl. Churches Commission for Migrants in Europe, Briefing paper no 18. Price: 6ECU from: CCME, 174 rue Joseph II, B-1040 Brussels, Belgium.

**The use of international conventions to protect the rights of migrants and ethnic minorities.** Conference report, Strasbourg 8/9 November 1993 organised by Churches' Commission for Migrants in Europe and International Movement against all forms of discrimination and racism. 12 papers. 135 pages.

**Foreign workers in the UK: evidence from the Labour Force survey.** *Employment Gazette*, January 1995, pp11-19.

## LAW

### The Pergau Dam case

On 10 November 1994 the High Court ruled that a £234 million grant to the Malaysian government to finance a dam over the Pergau river was unlawful, in a case brought by the World Development Movement (WDM).

Public interest in the dam was aroused by the revelations of links ('entanglement') between aid and arms deals. An embarrassed and horrified faction in the civil service discovered in 1991 that a deal had been struck in 1988 by the former prime minister with the Malaysian government, whereby Britain would provide overseas aid to cover a proportion of Malaysia's expenditure on British arms. Once discovered, the link was, it was said, severed. At the same time, the government started looking for a project to fund, and found one which just happened to cost almost exactly the cost of the arms actually bought by Malaysia.

But this was not the basis of the legal challenge. The project chosen by the Foreign Secretary for ATP funding (Aid and Trade Provision) was a soft loan of £306 million to help finance the construction of a hydro-electric power station on the Pergau river in Kelantan state. The main contractors were to be Balfour Beatty and Cementation, with GEC as the major subcontractor. The loan was payable over 14 years from 1991. Approval was obtained and construction began. Then, two years later in October 1993, the National Audit Office published a report claiming that ODA accounting officer Sir Tim Lankester had advised against supporting the dam project. He had said it was economically unsound and that aid for the project would be inconsistent with the 'prudent and economical' administration of aid funds. Overseas development minister Baroness Chalker had agreed with this view, but they had been overruled by Foreign Secretary Douglas Hurd because, in his words to the Foreign Affairs Committee investigation in March 1994, 'We had given our word, and it matters if you break your word... If we had broken our promise, the consortium would have lost the business. I cannot accept that we

should have... disregarded the interests of British companies and British workers.'

There were two issues before the court in the WDM challenge. The first was procedural. To challenge an administrative decision, it was necessary to show a sufficient interest in the decision; normally only those affected directly by a particular decision can challenge it in court. The minister claimed that the WDM had no legal standing to challenge him. That argument was rejected. As a pressure group concerned with development, the court ruled, WDM could bring the case. Otherwise, ministers could break the law with impunity, evading scrutiny in the courts, because no single person could claim a sufficient interest in matters such as overseas aid. The case is thus important in establishing the right of pressure groups to challenge central government.

The substantive issue was whether the minister, in deciding to finance the dam notwithstanding the negative economic advice, had acted lawfully within the framework of the Overseas Development and Cooperation Act 1980. That Act allowed grants to be paid 'for the purpose of promoting the development or maintaining the economy' of the recipient country. The minister's contention was that, so long as the purpose of the project was economic, it did not have to be economically sound. The court roundly rejected his argument, saying that if parliament had intended money to be thrown away on uneconomic projects it would have said so. Only once the test of economic soundness had been passed could the minister look at extraneous political or diplomatic considerations in deciding whether to go ahead with a grant, or in choosing one sound project over another. On the evidence, the project had nothing to commend it in terms of economic development, and the grant had been paid unlawfully.

The court's decision does not remove the government's contractual obligation to Malaysia to provide funding for the dam, but removes it from the aid budget. What WDM wanted to know was whether the £24 million already unlawfully paid from the ATP budget since 1991 would be repaid. If not, they were considering returning to court to try to enforce repayment. This was also a question which preoccupied MPs in the Commons debate on 13 December 1994, in which Douglas Hurd confirmed that he would not appeal the High Court decision. He also revealed that ATP provision would be stopped on three other projects, involving a total expenditure of £34 million. The projects, a TV studio in Indonesia, a metro system in Turkey and a flight information system in Botswana, 'might be held to raise legal difficulties', as in each case 'issues were raised about the strength of the economic or wider development case'. In other words, political or diplomatic considerations took priority in the grant of aid to two of the most repressive regimes in the world.

Hurd refused to repay the money unlawfully spent on Pergau or the other projects, and resolutely refused to apologise for breaking the law, claiming moral justification in protecting the interests of British workers. He also refused to resign, despite many invitations to do so, including one from Dennis Skinner MP, who reminded him, 'There is a vacancy in a flower stall outside Waterloo station: the Foreign Secretary should go and fill it.'

Law - new material

**The Police and Magistrates' Courts Act**, Barry Loveday. *Policing* 10(4): 221-233, 1994.

**Time intervals for criminal proceedings in Magistrates' courts.** *Lord Chancellor's Department* Issue 2/94, December 1994.

**Criminal Justice and Public Order Act 1994: the public order provisions**, Neil O'May. *Legal Action* December 1994 pp10-12.

Describes the new public order provisions aimed at 'new age' travellers, ravers and squatters.

**Crown Prosecution Service Annual Report 1993-94.** (HMSO) 1994, pp48 £8.10.

**Parental responsibility, youth crime and the criminal law.** *Penal Affairs Consortium* January 1995 pp4. Consideration of financial penalties against parents of young offenders that concludes that they are likely to increase the problems that promote delinquency.

**Against the odds,** Fred Emery. *Guardian* 15.12.94. Article on DNA profiling that suggests that it might not be as reliable as proponents claim.

**Criminal Justice and Public Order Act 1994,** an introductory Guide for Manchester City Magistrates. November 1994, 34 pages.

### Parliamentary debates

Crown Prosecution Service *Commons* 12.1.95. cols. 346-354

Legal aid and advice *Commons* 19.1.95. cols. 866-887

Criminal Justice (Scotland) Bill *Lords* 12.1.95. cols 295-346

Criminal Justice (Scotland) Bill *Lords* 12.1.95. cols 363-398

Criminal Justice (Scotland) Bill *Lords* 16.1.95. cols 409-526

## EUROPE

### SCHENGEN

#### Checklist given to Denmark

Denmark has been given a checklist of criteria it must meet in order to join the Schengen Agreement. In order to obtain 'observer' status (a stage prior to entry) Denmark was given an extensive list of questions to answer by the Schengen countries. In almost every answer the Danish government meets these criteria or indicates its willingness to do so. The main questions are presented below.

The Schengen Agreement covers nine of the 15 EU states - Germany, France, Luxembourg, Belgium, Holland, Italy, Portugal, Spain, and Greece. Denmark and Austria currently have observer status with a view to full membership, and Sweden has indicated its interest in joining too. The Schengen Agreement is significant because it is to come into full operation at the end of March and includes many features which have yet to be agreed let alone effected across the EU as a whole. It covers police cooperation, legal cooperation, immigration, asylum and visa policies and external border controls. Internal border controls between the participating countries are to be abolished. A computer database, the Schengen Information System (SIS), covering policing and immigration will go online.

When it comes into operation the countries outside the Agreement - the UK, Ireland, Finland and Sweden - will not only face entry controls but will also be excluded from the Schengen Information System (SIS).

#### The criteria

1. *Abolition of checks at internal borders:* 'Is Denmark prepared to fully abolish all checks at internal frontiers for EU as well as third country nationals and is Denmark prepared to take the necessary measures to ensure free traffic?' Answer: in the affirmative on both

points. 2. *Checks at external borders - frontier surveillance:* Is Denmark prepared to conduct checks at external borders in line with the Schengen Agreement? Answer: Yes, providing agreement can be reached which is compatible with the Nordic Passport Control Agreement (this was before the Norwegian referendum rejecting membership of the EU). As a result of intensified 'spot checks' started in February 1994 the 'flow of persons who, using Denmark as a transit country, attempting to enter Germany from either Norway or Sweden' seems 'to have [been] practically eliminated'. Denmark does not conduct 'exit controls' but is prepared to introduce them. 3. *Airports:* How long will it take Denmark to comply with external controls at airports? Answer: for the main international airport in Copenhagen it will take five years; in the meantime there will be temporary arrangements. Figures are given for the source of arrivals at Copenhagen airport: Schengen countries 3.6 million (28%); Domestic flights 2.3 million (18%); UK & Ireland 1 million (8%); Norway and Sweden 3.1 million (25%); Other countries 2.7 million (21%). 4. *Computerised police information system and data protection legislation:* What computerised databases are there, can they be accessed at external frontiers, what data protection legislation is in place? Answer: Denmark has a computerised database, accessible to frontier control points, covering police and aliens, including the following registers: National Criminal Records, Passports Register, Central Motor Vehicle Register, Central Fingerprint Register, Special Drugs Investigations Register and the Aliens Register. 5. *Narcotic drugs:* What agreements has Denmark signed, what laws on money-laundering does it have? Answer: Denmark meets all the Schengen criteria. 6. *Visas:* A number of questions are put relating to 'the cardinal point being the fight against illegal immigration'. Answer: Denmark agrees with the list of visa countries with the exception of Thailand because of 'commercial considerations and traditionally close political connections'. Denmark is prepared to introduce the uniform Schengen visa. In 1992 64% of the 19,189 visa applications were agreed. There is a joint Danish-Nordic list of people not permitted to enter. 7. *Taking back (readmission):* Asks if Denmark will agree to 'taking back' agreements with Schengen countries and Poland? Answer: Yes. Denmark already has in place agreements with the Nordic countries and Germany. 8. *Asylum:* how many people entered and applied for asylum? Answer: in 1993 a total of 14,347 the most numerous being 8,329 from Bosnia-Herzegovina, 1,044 from Somalia, 751 from stateless Palestinians, and 718 from Iraq. Denmark has ratified the Dublin Convention. 9. *Immigration:* A very detailed series of questions on carrier sanctions, the number of 'illegal' immigrants, sanctions against those employing them. Answer: Under Danish Aliens legislation sanctions are set out for employing 'illegal immigrants', or 'wilfully assisting aliens in unlawful entry or stay..'. The numbers refused entry by the police were: 1991: 30,619; 1992: 44,109; 1993: 49,485. 10. *Legal assistance:* question on extradition? Answer: Denmark has ratified the European Convention on Extradition and is taking part in EU discussions to 'simplify' extradition. 11. *Police cooperation:* Covering cross-border surveillance and 'hot' pursuit provisions of Schengen Agreement. Answer: Yes, will fully cooperate.

*Note: The Danish government's replies to the Schengen Member States' questionnaire of 24 May 1994, Justitsministeriet, Denmark; Information note on Nordic Passport Union, Ad Hoc Group on Immigration, 15.5.91, SN 2245/91; Computerised registers held by the Police and Aliens Administration, National Commissioner's 'D' Department.*

## EU

**Asylum: harmony at a price**

Two new proposals on asylum were debated by the Justice and Home Affairs Council at its meeting in Brussels on 30 November 1994, although agreement was not reached on either. Put forward by the German presidency under article K3.2(a) of Title VI of Maastricht for intergovernmental agreement, they are attempts to draw up common European criteria for recognition of refugees under the 1951 Geneva Convention and its 1967 Protocol, and to define common minimum standards for asylum procedures. Campaigners says that the proposals are intended to reduce asylum rights even further.

#### Harmonised criteria

The 'proposal for guidelines for the harmonised application of the criteria for determining refugee status in Article 1A of the Geneva convention' embodies the lowest common denominator approach applied to refugee protection, universalising the worst, most narrow and exclusion-oriented criteria for the grant of political asylum currently used by member states. It would exclude from protection all those caught up in civil wars, unless they are specifically singled out by the authorities or others and cannot move to safety in their own country. It would exclude conscientious objectors and all those whose activities are deemed criminal by the authorities of the persecuting state, unless such activities are 'unavoidable'. It could also exclude all those, such as Tamil and Kurdish young men, who are routinely 'rounded up' as part of the state's public order and national security measures. Even those who have been subjected to torture are not necessarily protected: previous persecution is no more than a 'serious indication' of the risk of persecution.

Restrictions on freedom to practice a particular religion will not attract protection unless they are 'so severe as to lead to intolerable personal repression... thus rendering life in the country of origin objectively unbearable'. Throughout the document emphasis is laid on the necessity for asylum-seekers to show that they could not reasonably have sought refuge in another part of their country.

Persecution is to be assessed in terms of the ability of the subject to lead a normal life, but 'normality of life must be assessed having regard to the prevailing conditions in the country'. This formulation, together with other phrases in the draft, appears to echo the Ministers' assertion in their November 1992 meeting that 'individuals are not entitled to protection ... merely because they come from countries in which levels of security, economic opportunity or individual liberty are below those of the Member States'. This relative approach to rights and freedoms appears to contradict the fundamental Conventions and Declarations such as the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights, and undermine their universality. None of the human rights conventions, not even the European Convention on Human Rights, is referred to or incorporated in the document, and those punished for exercising fundamental human rights do not necessarily qualify for protection.

#### Harmonised procedures

The same restrictive and exclusive approach is in evidence in the second document, 'Draft minimum guarantees for asylum seekers and refugees'. The proposed minimum procedural safeguards to ensure that genuine refugees are returned to countries of persecution fall far short of those demanded by refugee groups and human rights organisations such as Amnesty International. Neither a universal right of appeal nor universal suspension of deportation pending appeal or review is guaranteed. Important questions such as who can interview asylum-seekers are fudged. There is no right

to free legal advice and assistance. There is no discussion on the criteria or legal maximum periods for detention of asylum-seekers, let alone a prohibition on detention. The same goes for fingerprinting. There is a vague guarantee of data protection, but mainly in relation to the country of origin, and no attempt to define limits to the exchange of information on individual asylum-seekers in member states.

#### Why bother?

If the proposed minimum standards for asylum determination procedures are so inadequate and miss so much out, why does the Council want to press ahead with them, and with the harmonised criteria for the grant of asylum? The answer lies in the development of the 'third safe country' concept within the EU and beyond (see *Statewatch* vol 3 no 6). While tens of thousands of asylum-seekers are returned by the authorities of the destination country to a country of transit for the asylum claim to be dealt with there, a small but significant number are challenging these 'safe third country' rulings and winning in court. In the UK, for example, courts and immigration adjudicators ruled against the return of an asylum-seeker to Belgium at least twelve times in 1994 on the basis that Belgian asylum law does not offer adequate protection against the return of asylum-seekers to the country of persecution. There have been at least 18 similar rulings in relation to France, one declaring Germany unsafe, over 40 declaring Italy unsafe because of illegal rejection of claims by border police, and the Netherlands, Spain, Sweden, Switzerland and Norway have all been found to be unsafe on a number of occasions.

In Germany, Greece has been declared an unsafe transit country in several cases, with a significant risk that asylum-seekers returned there will be sent through Turkey to persecuting countries of origin in the middle east.

By introducing common criteria and procedures, ministers hope to close what they perceive as a loophole favouring asylum-seekers. When practice is standard all over the European Union, no one will be able to demand the right to have an asylum claim dealt with in the destination country unless they flew there direct. The future for asylum-seekers in Europe looks grim, with no protection against deportation to countries of transit, and with extremely strict criteria ensuring that the recognition rate for refugees remains at rock bottom, unless these draft measures are resisted.

*Draft resolution on minimum guarantees for asylum procedures; Guidelines for the application of the criteria for determining refugee status in Article 1A of the Geneva Convention.*

#### EU

##### **Euro MP demands publication of minutes**

A Dutch member of the Socialist group in the European Parliament, A Metten, has demanded that the Dutch government publish the secret minutes of the Council of Ministers of the EU. The government has refused the demand for fear of annoying the other 14 EU governments. Mr Metten has now appealed against their decision.

He argues that, for all the talk in the Maastricht treaty about openness and 'transparency' the reality amounts to the exact opposite. Occasionally ministers hold so-called 'open sessions' yet ministers limit themselves during these sessions to the reading of prepared statements.

The rules of procedure for the council of ministers state that everything should remain secret, unless the council decides that certain documents may be made available to the public. A second document, a 'code of behaviour' indicates how much access a

citizen may have to European documents. However the code has so many restrictions that very little real openness is left.

Metten has tried to gain access to the minutes of meetings of the Finance ministers through asking questions in the Dutch parliament. The finance department refused to answer his questions, saying that they refused to be Mr Metten's 'errand boys'. Metten does hope to gain access to these minutes by referring to the Dutch Openness of Government Act. He and his lawyer feel that an internal rule of procedure does not amount to European law. The Department of Finance argue that the Dutch openness law doesn't cover information that may damage relations with other governments. Mr Metten questions whether increased openness would do Holland any real damage.

## SIS

### Belgium to log drug users

Drug users, suspected drug users, and their partners and acquaintances are to be put on the Schengen Information System (SIS) by the Belgian police. Moreover, the Belgian police could request that people recorded on their National SIS (NSIS) be placed under surveillance and their movements and contacts logged by another Schengen state, for example the Netherlands. This information was given to the Belgian parliament by Interior Minister Johan Vande Lanotte in reply to a series of questions from Green MP Van Dienderen.

'Drug use' has been put on the list of 30 'serious' crimes in the national SIRENE manual drawn up by the Belgian Gendarmerie (Rijkswacht). No distinction is made between the use of 'soft' and 'hard' drugs and both are placed alongside crimes such as murder, terrorism, kidnapping and arson. The Minister's reply refers to Article 99 Section 2 of the Schengen Agreement covering the SIS which says a person can be targeted for 'unobtrusive or directed surveillance' with the aim of preventing crime or avoiding any danger to public safety. The Belgian SIRENE handbook's description of what constitutes a 'serious crime' includes those 'with severe physical, material and/or moral consequences'.

Neighbouring Netherlands treats 'soft' drug use differently. Its Justice Ministry has suggested the use of marijuana should be decriminalised. However, the operation of the SIS under the Schengen Agreement will require the amendment of the Dutch national SIRENE manual to allow for the surveillance of Belgian nationals in the Netherlands for drug use. Similar requests for the surveillance of drug users could be made by Belgium to any other of the nine Schengen countries.

*Belgian parliament, written answer.*

## EU

### Vetting Commission staff

The trade union for staff working in the European Commission is demanding that the Commission's Security Office (Bureau de Sécurité, BdS) is made accountable to the European Parliament. An agreement had been reached whereby the staff would be kept informed of staff vetting and that the Security Committee (which deals with security problems under the Presidency of the General Secretary) would examine the reasons for refusing to appoint, promote or transfer staff, and forward its opinion to the Commission.

However, since the agreement the BdS has been meeting without staff representatives and no information about its operations or budget have been provided. The union circular says:

'Did you know that your boss can actually ask the BdS to carry out

a full investigation of your background? The BdS, in turn, requests the necessary information from the national security services. Should the national security services indicate that there is a problem of any sort ('give the red light'), you will not be advised of the reasons for this, and will therefore be left without any means of redress'.

The union is calling for the agreement to be implemented and for the European Parliament to create an oversight body for the BdS to ensure openness.

*Circular, 10.10.94.*

## EU

### 'Third pillar' Commissioner grilled

Ms Anita Gradin, the new Commissioner from Sweden appointed to look after 'third pillar' issues in the European Commission was closely questioned by MEPs. Ms Gradin appeared before the Committee on Civil Liberties and Internal Affairs plus other MEPs from the Budgetary Control and Womens' Rights Committees. The MEPs questioned her - like the other Commissioners in Jacque Santer's cabinet - on her knowledge of her portfolio and her views on the inter-institutional relationship between the European Parliament, Commission and Council. The Chair of the Committee, Antonio Vitorino (Portugal), reported to the President of the European Parliament, Mr Hänsch, that:

'The Committee had to note that Ms Gradin's answers were vague. They did not show a solid knowledge of the themes. It was worrying that this shortcoming also concerned the institutional relations between the Union institutions, and the way the 'third pillar' is evolving'.

Although the Chair recognised that she was from a new EU state and her experience suggested that Ms Gradin would commit herself to the issues for which she was responsible, the Chair added that Santer himself should undertake, on behalf of the Commission, overall responsibility for reporting to parliament on developments in the 'third pillar'.

During the three hours of questions Ms Gradin announced she would be making a round trip of the capitals; that she was 'frankly opposed' to the liberalisation of the law on drugs, although she conceded that 'refusing liberalisation was not incompatible with a preventive and therapeutic approach'; she undertook to press for women's equality; on Europol, committed herself to do everything possible to get it through while stressing the need for democratic control; but was too cautious for MEPs on the issue of bringing 'third pillar' matters within the remit of Community institutions (the Commission and parliament), indeed appeared to support inter-governmental decision-making on policing, immigration and the law.

At the end of the hearing it also emerged that Ms Gradin did not know which departments would be working for her - she would find out when she got to Brussels. In fact there is at present a very small department of less than ten people looking after 'third pillar' issues in the Commission.

*European Insider, Brussels, Belgium.*

## POLAND

### Journalists have to reveal sources

The Supreme Court in Poland has ruled that journalists have to reveal their sources to the courts whenever prosecutors or judges order them to do so or face fines or imprisonment. The judgement

was given because the regional editor of Poland's best-selling daily refused to reveal the name of a contributor. The Newspaper Publishers Association said the ruling had 'grave consequences for the democratic order of our country and would seriously hinder their duty to uncover wrongdoing'.

*Balkan News*, 29.1.95.

## EU

### Resolutions and debates

#### Council of Europe, Parliamentary Assembly

Debate and resolution on: Reservations made by member states to Council of Europe Conventions, Vol VI, 27 September - 1 October 1993. COE, 1994, pp1598-1602.

Debate and resolution on: Fight against racism, xenophobia and intolerance, Vol VI, 27 September - 1 October 1993. COE, 1994, pp1510-1536.

Debate and resolution on: Draft protocol no 11 to the European Commission on Human Rights introducing a single court, Vol I, 24-28 January 1994. COE, 1994, pp57-67.

#### European Parliament

Resolution on violations of freedoms and fundamental rights of women, 21.4.94. *OJ* C205, pp489-492.

Resolution on Proposal for a Council Regulation determining the third countries whose nationals must be in possession of a visa when crossing the external borders of the Member States (COM (94) 0684), 21.4.94. *OJ* C128, pp346-350.

Resolution on Proposal for a Decision, based on Article K.3 of the Treaty of European Union, establishing a Convention on the crossing of the external border frontiers of the Member States, 21.4.94. *OJ* C128, pp351-358.

Resolution on the situation of gypsies in the Community, 21.4.94. *OJ* C128, pp372-375.

Question to Council: Vetting of European Council Officials, 4.5.94. *OJ* no 3-448, pp189-190.

Debate on: Control at external frontiers, 19.4.94. *OJ* no 3-447, pp99-104.

Debate on: Immigration and asylum policy, 19.4.94. *OJ* no 3-447, pp104-109.

Debate on: Gypsies in the Community, 20.4.94. *OJ* no 3-447, pp146-149.

Debate on: Passport checks by certain airlines, 8.3.94. *OJ* no 3-445, pp24-28.

Debate on: Security and defence policy, 9 & 10.3.94. *OJ* no 3-445, pp96-101 & 189-191.

Debate on: Terrorism and security in Europe, 7.3.94. *OJ* no 3-444, pp15-18.

(Resolutions and debates are listed when they appeared in the *OJ*

the Official Journal of the European Communities).

### Europe - new material

**Kurdistan Human Rights Bulletin** No 14 (15.12.94.). Includes articles on Kani Yilmaz who is detained in isolation at Belmarsh prison and the murder of Kurdish lawyer Medat Serhat in Istanbul in November.

**The Italian general elections: something new or more of the same thing?**, Hilary Partridge. *Politics* 14(3):117-125 1994. On the 1994 elections.

**A prime time premier**, John Hooper. *Guardian Weekend* 3.12.94. Piece on Silvio Berlusconi before he was toppled.

**Rescue or retreat: The nation state in Western Europe, 1945-93**, William Wallace. *Political Studies*, Vol XLII Special Issue 1994, pp52-76.

**Agenda-setting in the European Community**, B Guy Peters. *Journal of European Public Policy*, Vol 1 no 1, 1994, pp9-26.

**Ripples or waves: the European Parliament in the European Community policy process**, David Judge, David Earnshaw and Ngaire Cowan. *Journal of European Public Policy*, Vol 1 no 1, 1994, pp27-52. Argues that the European Parliament's 'influence' is under-estimated.

**A strong Union needs a strong parliament**, Elmar Brok MEP. *European Brief*, February, 1995, pp9-10.

### Parliamentary debates

European council *Commons* 12.12.94. cols. 613-630

Council of Europe: Russian Federation admission *Lords* cols. 1487-1500

### PRISONS

#### Prisons - new material

**The electronic monitoring of offenders**. *Penal Affairs Consortium* January 1994 pp3. Concludes that electronic monitoring 'will do little to divert offenders from crime or prison.' Available from PAC, 169 Clapham Road, London SW9 0PU.

**Prison Watch press release** No 106 (24.12.94), 107 (3.1.95.) and 108 (12.1.95.). Prison Watch monitored 57 unnatural deaths in prisons in England and Wales during 1994, but believe that the final figure will exceed 60. Press release 108 expresses concern about the health of Indris Baliafa who has been on hunger-strike for 76 days at HMP Walton in Liverpool.

**Conviction** Newsletter 12. Includes articles on the cases of Colly Wilson, Joseph Roche and Kevin Callan.

**HM Chief Inspector of Prisons for Scotland Report for 1993-94**. Scottish Home and Health Department (HMSO, Cm 2648) 1994, pp16, £5.15.

**Statistics of offences against prison discipline and punishments, England and Wales 1993**. Home Office (HMSO, Cm 2664) 1994, pp30, £7.75.

**Report of the Parole Board for 1993.** Home Office (HMSO) 1994, pp42, £9.45.

**Salhaketa: Dafenderse en la carcel - guia de recursos juridicos y sociales para personas y detenidas en la comunidad autonoma vasca y navarra** (To defend oneself in prison - handbook of resources for imprisoned and detained people in the Basque Autonomous Community and Navarre), Servicio Central de Publicaciones del Gobierno Vasco, 1991. ISBN: 84-7542-933-5. The association for the support of prisoners *Salhaketa* produced this 2nd updated edition on the rights of prisoners at each stage of the criminal justice process and the groups available to help them.

**Satpal Ram: beaten by screws.** *Taking Liberties*, issue no 13, pp12-13.

### Parliamentary debates

Mentally ill and ex-offenders treatment *Lords* 2.11.94. cols. 900-920

Prison security *Commons* 19.12.94. cols. 1398-1412

Prison service *Commons* 10.1.95. cols. 31-46

Prison service *Lords* 25.1.95. cols. 1063-1100

## CIVIL LIBERTIES

### A death-blow to privacy on the telephone

*A new service recently introduced by British Telecom has been hailed as a boon for customers. This feature examines overseas evidence to the contrary.*

On 21 November 1994 British Telecom (BT) introduced a new service which will have the effect of restricting anonymity on the telephone network. 'Caller Display' automatically transmits the number of a calling party to the person being called. The caller's telephone number can then be displayed on a liquid crystal screen when the phone starts ringing.

BT says the service will be welcomed by anyone wanting to 'screen' their calls. The Caller Display device will allow people to decide whether or not to answer an incoming call, solely on the basis of the number that appears on the Caller Display screen. It is, says BT, the telecommunications equivalent of having a peep hole in your front door. BT also argues that this facility will virtually eliminate harassing, hoax and obscene calls. If malicious callers know that their number will be displayed at the other end - and the police can then trace the address from the number - they will be less likely to call.

In Canada and the US this facility is known as 'Caller ID'. Its introduction has become the most contentious privacy issue of the past decade. Far from being a simple screening device, Caller ID is widely seen as a technology which poses fundamental questions about the use of personal information on advanced telephone networks. At the core of the debate is a simple question: 'should it be the telephone customer or the telephone company who has the right to control the disclosure of personal telephone numbers?'

Freedom from harassment?

Proponents of the service say that Caller Display will reduce harassing phone calls and suggest that restrictions on the service will diminish their value. Critics of the service say that Caller

Display may give out information that needs to be protected, for example, from doctors, lawyers, complainants.

Using the Caller Display facility, the origin of calls to police, tax authorities and government agencies can be routinely monitored. Furthermore, it is important to keep in mind the range of other technologies that can be used in conjunction with Caller Display. Reverse directories - CD-ROM disks that give a name and address from a telephone number - will soon be commercially available in the UK. This means a person or organisation receiving a call knows not only the incoming telephone number, but also the address connected with that number and the name of the subscriber. The possibilities go even further. A whole range of information is legally available which can instantly provide a profile of the caller on the basis of a telephone number. With Caller Display, a caller is likely to communicate much more than a mere telephone number.

The response of OfTel, the telecommunications regulatory authority in the UK, has been to insist that callers have a right to block the sending of their number by using the prefix '141'. This blocking option, however, will be notified on the call display device with the words: 'number blocked'. This raises the question of whether the option to protect one's privacy will result in calls not being answered.

The argument that Caller Display will eliminate abusive callers appears to be somewhat deceptive and inaccurate. Obscene and threatening callers only need to either use their blocking facilities or use a public telephone. Police in the US have often merely advised the victim to subscribe to Caller ID.

### Commercial interests

The greatest use of the facility is likely to be made by commercial organisations, law enforcement agencies, government departments and direct marketing companies.

Among the problems that have occurred in the US are: 1) people making what they think is an anonymous call to government departments find themselves the subject of an official visit some weeks later; 2) Anonymous inquiries to find out the price of goods often result in a flood of unwanted calls from direct marketing firms and sales people; 3) Some telephone users who accidentally dial a wrong number find that the other party rings back and accuses them of making nuisance calls; 4) Users who use the special prefix to block their number being sent find their calls are not answered; friends won't pick up the phone; local pizza shop insist on ringing back for verification.

While it is true that people with the caller display device may enjoy the ability to see who is ringing them, life has become more problematic for the majority who do not have the device. Anonymity disappeared. Once businesses had the number they made use of it. The phone number, perhaps with additional information added, can be resold to others without the knowledge or consent of the person who placed the call in the first place.

In the US some states have backed the idea that telephone users should have to 'opt in' to the system by registering their consent. In the UK a policy paper from OfTel recommended that BT and other telephone companies should be 'encouraged' to introduce equipment that automatically rejects calls where the number has been blocked by the caller. BT is 'selling' the idea as a positive gain for the telephone user while its motivation may be geared more to serving its business customers.

## UK

### Government ID plans revealed

Government plans for the introduction of a smart card ID system

where found in second-hand filing cabinets purchased in Camden town, London for £35.00. The confidential Cabinet papers included a confidential memo to Prime Minister John Major; the proposed design of the smart card and a 17 page report on Whitehall's plans for smart cards.

The 17 page report details 22 studies being carried out by government departments into the introduction of ID smart cards. These include: driving licences, road toll system, vehicle ownership and motor tax; organ donor information, prescription details and medical records; residence permits; electronic photographic recognition for passports; social security payments and Post Office identification of claimants.

The report concludes that a three-year renewable identity smart cards would cost £400 million to introduce. It suggests that the driving licence would be ideal for the first cards, with people voluntarily adding information to cover everything from passports to pension payments, 'The cardholder would obtain the "primary use" card...and subsequently have it validated for its secondary use or uses by appropriate authorities'. It goes on: 'The cards would need to be reissued every three to five years to cope with wear and tear and to provide up-to-date photographs, which would have the dual advantage of allowing fraud to be forestalled by changing encryption mechanisms, and allowing greater capacity to be provided at each change'.

The Home Office are to publish a Green Paper on the introduction of 'voluntary' ID cards in the next few months. The idea of a 'voluntary' ID smart card is seen as a way of countering objections to the scheme. Lord Wakenham, who chaired the Cabinet committee drawing up the proposals, said in a letter to the Prime Minister: 'I ought to record some concern was expressed that an identity card would be contrary to our deregulatory stance and could prove unpopular. Also chief police officers remain opposed, which could cause presentational problems'.  
*Guardian*, 16.1.95.

#### **Civil liberties - new material**

**Fellow travellers**, Bernadine Coverley. *New Statesman & Society* 6.1.95. pp22-23. On discrimination against gypsies and travellers.

**The battle for Hyde Park: ruffians, radicals and ravers, 1855-1994**. Available from Practical History, 121 Railton Road, London SE24. This factsheet was stimulated by the enormous demonstration against the Criminal Justice Bill at Hyde Park last October. It includes contemporary reports on demonstrations at Hyde Park between 1855-1994.

**Ex-ministers' nest feathering**. *Labour Research* 84(1):9-11, 1994. Article on controversial extra-parliamentary appointments for former government ministers.

**Women's rights, human rights: violations of women's civil and political liberties**, Conor Foley & Charlotte Wright (in consultation with Southall Black Sisters & Change). *National Council for Civil Liberties Report 5*, pp80, £3 1994. This report highlights the extent to which women still face direct and indirect discrimination in the public and private sphere.

**Why Civil Liberties?** The Civil Liberties Trust, the charitable arm of Liberty, have produced a series of educational videos for schools. *Why Civil Liberties* is a video-based course with worksheets (£30.00 plus VAT). *A Love Divided*, looks at racial, religious and political conflict around the world (£30.00 plus VAT). *Taking Drugs Seriously*, video with six units aimed at 14-18 year

olds (£22.00 plus VAT). Order from: Team Video, 105 Canalot, 222 Kensal Road, London W10 5BN. Tel: 0181-960-5536.

**Spies at work: the rise and fall of the Economic League**, Mike Hughes. Available on disk, IBM format running DOS version 2 or later. 200 pages with search facilities. £3.00, Shareware. Soft over book version, 172 pages, £8.99 or £10 for both. From: 1 in 12 Publications, 31 Manor Row, Bradford BD1 4PS.

**Reinventing democracy: Labour's mission for a new century**, Graham Allen MP. Puts forward the case for an elected second chamber; incorporation of the European Convention on Human Rights; regional government; and 'democratising Europe'. £3.00, 96 pages, from: Features Unlimited, 69 Eton Place, London NW3 2DS.

**10th report of the Data Protection Registrar**, June 1994, HMSO, 94 pages, £12.25. Includes sections on: national identity cards; police databases; DNA databases.

#### **Parliamentary debates**

Human rights Bill *Lords* 25.1.95. cols. 1136-1174

### **SECURITY & INTELLIGENCE**

#### **UK**

##### **New vetting system introduced**

The government has introduced a new system of positive vetting for staff (and contractors) who handle 'sensitive government assets'. The five levels of vetting are to be replaced by four levels. 1) 'Reliability checks'(RC) for access to low-level 'Confidential' information is to be replaced by *Basic checks* (BC) which involve verifying a person's identity and getting references from previous employers; 2) 'Positive vetting (Secret) [PV/S]' is to be replaced by a *Security Check* (SC), see below; 3) 'Positive vetting (Top Secret) [PV/TS]' and 'Enhanced Positive Vetting [EPV]' are both to be replaced by *Developed Vetting* (DV); 4) *Counter Terrorist Checks* (CTC) are staying the same.

The overall policy of vetting is based on the following statement:

'In the interests of national security, safeguarding parliamentary democracy and maintaining the proper security of the Government's essential activities, it is the policy of HMG that no one should be employed in connection with work the nature of which is vital to the interests of the state who:

is, or has been, involved in, or associated with any of the following activities: espionage, terrorism, sabotage, actions intended to overthrow or undermine parliamentary democracy by political, industrial or violent means; or

is, or has recently been: a member of any organisation who has advocated such activities; or associated with any such organisation, or any of its members in such a way as to raise reasonable doubts about his or her reliability; or

is susceptible to pressure or improper influence, for example because of current or past conduct; or has shown dishonesty or lack of integrity which throws doubt upon their reliability; or has

demonstrated behaviour, or is subject to circumstances which may otherwise indicate unreliability'.

The *Security Check* (SC) covers those who have 'long term, frequent and uncontrolled access to SECRET information or assets'. It also covers those whose careers may involve them in handling such information. The check consists of: a check on police files and the National Collection of Criminal Records; a check against the Security Service (MI5) records; credit reference check and a review of personal finances. *Developed Vetting* (DV) is the same as for the Security check plus a personal interview and checks with friends and acquaintances. The *Counter Terrorist Check* (CTC) covers people who will have 'proximity to public figures' at risk of terrorist attack or who will have access to information or material of value to terrorists, or who have 'unescorted access' to 'military, civil and industrial establishments assessed' to be at risk of terrorist attack. Checks are carried out in the records of MI5 and police criminal records.

*Press notice: Cabinet Office, 15.12.94.*

### Intelligence and Security Committee

The government has announced the membership of the Intelligence and Security Committee set up under the Intelligence Services Act 1994 which came into force on 15 December (see *Statewatch* vol 3 no 6). The members are: Chair: Tom King MP (ex-Defence Secretary and Secretary of State for Northern Ireland); Alan Beith MP, Dr John Gilbert MP (former defence minister), Sir Archibald Hamilton MP (former armed services minister), Lord Howe QC (former Foreign Secretary), Barry Jones MP, Michael Mates MP (former Northern Ireland Minister), Allan Rogers MP and Sir Giles Shaw MP (former Home Office Minister). Of the nine members of the Committee five are former Conservative government Ministers. Its job is to examine the expenditure, administration and policy of MI6, MI5 and GCHQ (Government Communications Headquarters) and is intended to provide 'parliamentary oversight' of their activities.

All will have to sign the Official Secrets Act which imposes an absolute life-long duty of confidentiality. The responsible Ministers - the Prime Minister, the Foreign Secretary and the Home Secretary - together with the heads of the agencies will decide what information will be given to the Committee. It will meet in the Cabinet Office - not in parliament - and be serviced by officials of the Cabinet Office rather than staff employed by parliament. Its reports will be given to the Prime Minister who will decide what information should be given to parliament.

*Press notice, 10 Downing Street, 14.12.94; Guardian, 15.12.94.*

### NETHERLANDS

#### BVD annual report

The Binnenlandse Veiligheidsdienst (BVD), the Dutch internal security service, published its annual report for 1993 in December 1994, which is unusually late.

On the international level, European cooperation on issues such as proliferation, organized crime and terrorism still have a high priority. In 1993 the BVD cooperated in the Four Countries Consultation group together with the UK, France and Germany to adapt the Information Technology Security Evaluation Manual (ITSEM). The Service has opened a permanent liaison office in Caracas (Venezuela) working in the Caribbean area, and preparations to open a post in Ankara (Turkey) are underway. In Eastern Europe, contacts with the Czech and Hungarian services were intensified in 1993, and structural relations with Poland,

Slovakia and Slovenia will be established in 1994.

The report speaks of a considerable restructuring of the Dutch security clearance system, with a trend from military security to high-tech and IT industrial security. The figures for 1992 and 1993:

	1992	1993		
	s.p	.s.i	.s.p	.s.i.
Government	4,378	729	4,057	1,425
Defence contractors	11,740	2,953	13,306	2,647
Vital industries	40,315	7,927	32,268	5,427
Diverse	1,405		1,026	

Notes:

1) s.p. = security positions

s.i. = security investigation ("vetting")

2) 'Government' excludes the ministry of defence and the armed forces.

3) The number of government security posts as a percentage of the total personnel was 3.6% in 1992 and 5.4% in 1993.

4) 'Diverse' = international institutions, sister services and investigations on personnel employed in construction work for the new BVD building.

As a result of information supplied on individuals in the course of security investigations in 1993 for both government and private industry, 658 persons were accepted, 171 were rejected and 9 were 'guided'.

In 1993 the diverse institutions to which complaints about the BVD can be directed received a total of 9 complaints. 7 have been processed and declared unfounded, two are pending.

The service had 565 posts at the end of 1993, with a total of 578 employees. In 1993 the BVD employed 4 men and 2 women from minority groups. In 1993 the Service spend Dfl 44,538,000 on personnel, Dfl 16,596,000 on material and Dfl 4,071,000 on secret posts.

### DENMARK

#### End of university scandals?

The results of the still confidential report prepared by Professor Vagn Greve of Copenhagen University shows that information - names, addresses and identity numbers - of 40,000 students were illegally passed to the Police Intelligence Service by the university administration (see *Statewatch*, vol 4 nos 1, 3, & 6). Two former officials and Lars-Erik Allin were found to be responsible. Lars-Erik Allin, the legal consultant to the university rector, had to leave his job. The former rector, Ove Nathan, was found not to be responsible for passing the information.

Lars-Erik Allin was also the person who told a journalist on *Ekstrabladet* that the 'Studenthouse' in Copenhagen was being used for extreme, dangerous and terroristic students groups. The 'Studenthouse' in Copenhagen is an important gathering place and houses lots of student activities, interest groups and a cafe. The newspaper article in 1993 led to a temporary closure of the 'Studenthouse' and the permanent exclusion of certain groups such as 'Students against racism'. In January this year the Data Protection Agency criticised the university for making these allegations.

The so-called 'bugging scandal' also involved Lars-Erik Allin. He claimed that Professor Gammeltoft-Hansens telephone and room at the university were bugged. Parts of the confidential report by public prosecutor Erik Merlung have also been leaked. Merlung, it is said, has concluded that the 'bugging' was mere fantasy on Allin's part alluding to his publicly diagnosed psychotic state. Confusion

now surrounds the 'bugging' claim. Merlung's conclusions have received wide publicity yet these have to be set against Gammeltoft-Hansen's view that Mossad may have been responsible - a view backed by Victor Ostrovsky, an Israel-Canadian author and former agent for Mossad.

## SPAIN

### Report on torture

The Association Against Torture (ACT) in its report for 1993 recorded an increase in the number of registered cases of torture from 172 in 1992 to 267 in 1993. The cases involved 448 members of the Security Forces of the State. A third of the cases concerned people detained in relation to armed organisations or political offences. Two hundred of the accused officials were awaiting trial, 120 were acquitted and 128 were found guilty on charges of torture.

ACT have sent the Minister of Justice and Interior, Mr Belloch, a series of proposals: 1) the recognition of the crime of torture as well as ill treatment; 2) the elimination of holding people incommunicado for questioning; 3) to have forensic examinations carried out by a doctor nominated by the defendant; 4) to authorise visits to prisons by human rights organisations; 5) to stop the policy of pardoning all officials convicted of torture.

*Kontrola Kontrolpean*, Donostia, Euskadi (Spain).

## FRANCE

### Wiretap suspect found dead

Pierre-Yves Guézou, a captain in the gendarmerie was found hanged at his home in December. He had just been told that he was to be charged, together with Christian Prouteau, of violating the right to privacy of journalists, lawyers, and opposition politicians. Both were members of the special anti-terrorist cell set up at the Elysée under President Mitterand in 1982. The cell was disbanded in 1988 when it was revealed that they were responsible for the arrest and nine-month imprisonment of three Irish citizens falsely accused of wanting to launch a terrorist attack in Paris. The lawyer representing the Irish defendants - and the journalist who first accused the Elysée cell of fabricating evidence - discovered that they were among a group of people whose telephones had been tapped illegally.

*International Herald Tribune*, 13.12.94; *Guardian*, 13.12.94; see *Statewatch* vol 3 no 2, for the background.

### Security & Intelligence - new material

**Bush's British connection**, Patrick Fitzgerald. *New Statesman & Society* 16.12.94. pp20-21. This article examines MI6 involvement in American covert operations in the 1980s, including the Iran-Contra affair.

**Was this man Britain's Irangate fixer?** Tim Kelsey & Peter Koenig. *Independent* 28.10.94. On the possible role of Leslie Aspin, who died in 1989, in the Iran-Contra scandal.

**MI5's secret war**, Seumas Milne. *New Statesman & Society* 25.11.94. pp18-21. On the intelligence services' involvement against the NUM and its leaders.

**The real enemy within**, John Pilger. *New Statesman & Society* 6.1.95. pp16-17. This is a review of Seumas Milne's *The enemy within* but also raises other issues such as the CIA and MI6 funding of journalists.

**Stephan Knock**, Dr Mark Phythian. *Lobster*, Dorrill, no 28, 1994, pp18-22. Looks at the career of a person alleged to be involved in the Irangate and Pergau Dam affairs.

**ENGIMA**, organisation set up in 1993 to monitor the short wave bands for evidence of 'spook' activity. They publish a newsletter which is available from: ENIGMA, c/o Bradford Resource Centre, 31 Manor Row, West Yorkshire, BD1 4PS.

**The murder of Hilda Murrell: Conspiracy theories old and new**, Peter Smith. *Lobster*, no 28 (Robin Ramsay), pp28-30.

**Security web that trapped**, Severill Carrell and John Smith. *The Scotsman*, 21.1.95. Two page article examines the case in which two men were sentenced for IRA activities and MI5's role in finding them.

## FEATURE

### Spanish government accused of organising GAL

The Spanish socialist government, under Prime Minister Felipe Gonzales, is facing a crisis over the scandal caused by the confession of two police officers - José Amedo and Michael Domínguez - found guilty in 1991 of involvement in the parapolice terrorist activities of the GAL (Grupos Antiterroristas de Liberación: Antiterrorist Liberation Groups). Felipe Gonzales and the Interior Minister, Juan Alberto Belloch, rejected in parliament the idea that GAL had been organised by the government and funded by the *fondos reservados* ('Reserved funds': secret resources of the government used for 'special purposes', mainly in security matters).

At the end of 1994 Amedo and Domínguez - who were by then on day release, only going to prison to sleep there - went to the newspaper *El Mundo* with their new revelations. Later they made the same allegations in court. On 19 December judge Baltasar Garzón of the Audiencia Nacional (the special court dealing with proceedings related to terrorism and organised crime) put on trial and remanded in custody several former top police officers. Julián Sancritobal, Civil Governor of the province of Bizkaia, and Director of Security of the State (number three in the Ministry of the Interior) from 1983 to 1986, and two others close to him during this period, the Commissioners Francisco Alvarez (who was Chief-Commander of the police of Bilbo and Chief of Special Operations) and Miguel Planchuelo (former chief of information for the police in Bilbo) were imprisoned and two other Commissioners, Julio Hierro and Francisco Saiz were released with their bail set very high.

The judge accused them of organising and directing the kidnapping in 1983 of the French citizen Segundo Marey who they confused with an ETA leader. Marey was kidnapped, held for 10 days then released carrying a communique from GAL threatening members of ETA and French interests. Two men who took part in this kidnapping - the French mercenaries M Talbi and J P Echalié - were arrested and sentenced to prison in 1989 in France. A third man, P Sánchez, the leader of the group, was arrested during the hunt for the kidnappers and died in prison in strange circumstances. The testimony given by Ameto and Domínguez before the Spanish Audiencia Nacional confirmed and amplified the revelations formerly made by Talbi: Marey had been kidnapped in error and handed over at the French-Spanish border to Amedo and other Spanish police officers - they held him until he was set free. Amedo and Domínguez named all those involved in the operation - all of whom have now been prosecuted - and confirmed the handwritten

originals of the communiques. They also revealed that one option that was considered was to kill Marey and bury his body in quicklime.

## The GAL

The kidnapping of Marey was the first action for which GAL claimed responsibility. But independent observers agree that the first GAL victims were in fact two young Spanish-Basque refugees who were close to ETA. José Antonio Lasa and José Ignacio Zabala disappeared on 16 October 1983 in Baiona (France) and their bodies were never found. Two days later four Spanish police officers were arrested by the French gendarmerie when they tried to abduct another Basque refugee, J M Larretxea. The Spanish government has recognised its part in this deed and Commissioner Alvarez, recently imprisoned by judge Garzón, admitted he was responsible for the operation which he defined as 'humanitarian'.

The GAL continued their activities until 24 July 1987 the day of the last attack they claimed: J C Garc Goena, a young Basque man who had refused to do military service and had no connection with ETA died when his car exploded with a planted bomb in Hendaia. Amedo and Domínguez were acquitted for lack of proof when charged with this attack despite evidence from a former girlfriend of Amedo that she had seen him manufacturing a bomb.

Between December 1983 and February 1986 the GAL murdered more than two dozen people, mainly in the French part of the Basque country. The only attack outside the Basque country was the murder of Dr Brouard on 20 November 1984 in Bilbo - he was a member of parliament and the leader of *Herri Batasuna*, a Basque political party defending independence. The most bloody attack GAL carried out was the murder of four ETA refugees in the Monbar pub in Baiona on 25 September 1985. Other victims were X Galdeano, from the newspaper EGIN, and M Goikoetxea, an ETA leader. However, for the most part those killed or injured in the attacks were refugees from the Spanish part of the Basque country and French-Basque citizens with little or no relation to ETA.

Almost all of the perpetrators arrested by the French police were mercenaries, recruited in the French underworld by middlemen who were usually Spanish residents who offered them money, information and arms. Some of the middlemen were well-known collaborators with the Spanish police who protected them despite judicial warrants out for them in France.

## Amedo and Domínguez

As early as 1987 the Portuguese police had identified José Amedo and Michel Domínguez, the two Spanish police officers based in Bilbo, as being responsible for recruiting Portuguese mercenaries who carried out GAL attacks in the French part of the Basque country. The Spanish police authorities claimed they were innocent and the Ministry of the Interior undertook their defence in court.

The court proceedings were hindered because the government refused to give the judge an account of the use of police 'reserved funds'. In June 1991 they were sentenced to more than 100 years imprisonment for organising GAL. However, judge Garzón said they were clearly acting under orders from superiors who he could not get enough evidence against.

## Reserved funds

From the beginning of their sentences scandal surrounded the two officers and according to their recent revelations they continued to receive substantial salaries from the reserve funds and additional payments into numbered Swiss bank accounts.

The prosecution and subsequent absconding in 1994 of Mr

Roldán, the General Director of the Civil Guard (the militarised police force), raised the issue of the 'reserved funds' yet again. He was accused of making illegal use of funds and according to his own testimony admitted the funds were used to pay supplementary salaries and for other illegal activities. After Amedo's and Domínguez's revelations on 9 January 1995 Judge Garzón sent Juan de Justo, the personal secretary of Rafael Vera - who was Secretary of State for Security matters between 1984 and 1994, to prison for the embezzlement of public funds. Justo was charged with having personally made payments to Amedo and Domínguez. Two other senior police officers also stand accused and it is now likely that Vera himself will be prosecuted.

*Kontrola Kontrolpean, Donostia, Euskadi (Spain).*

## FEATURE

### J'accuse

### **Extracted from the prosecution counsel's indictment of the EU for violations of human rights, laid before the Basso Tribunal on the Right of Asylum in Europe, Berlin, 8-12 December 1994.**

I come before this Tribunal today to accuse the governments of western Europe of betrayal. A betrayal not only of the asylum-seekers who seek refuge in their countries, on whose behalf I speak as Prosecutor, but also betrayal of the humanitarian ideals which gave rise to the Geneva Convention and to the Universal Declaration of Human Rights. In this betrayal of the aspirations of humanity is betrayal of the peoples of Europe and the world, and of democracy itself.

The charges we lay against the governments of Western Europe, are that they have conspired together against refugees and asylum-seekers and have taken measures, individually and collectively, which violate the fundamental human rights these governments claim to uphold, such as the right to life, liberty and security of person, the right to dignity, to live in freedom from torture and inhuman and degrading treatment, the right to self-determination and to resist oppression, the right to freedom of thought, conscience and expression, the right to family life, the right to enjoy an adequate standard of living, and the right of asylum itself. Further, they have committed fraud on the people of Europe by falsely characterising refugees as illegal immigrants, criminals, scroungers and terrorists, and that they have incited racial hatred against them by these and other measures.

Interior and justice ministers of the EU states have conspired together in secret and unaccountable intergovernmental fora, sometimes with other parties, in order to keep refugees out of western Europe, and to deal with those who get to western Europe by expelling as many as possible, as quickly as possible.

The results of these secret and unaccountable processes are then presented to national parliaments of member states as *faits accomplis* requiring changes to national law, and in some cases - like Germany and France - to the constitution.

To implement these intergovernmental agreements, member states of the EU have changed domestic law to introduce visa requirements, carrier sanctions, pre-screening procedures with drastically reduced safeguards for asylum-seekers. They have signed cooperation and readmission agreements with countries of origin and transit of asylum-seekers, to effect expulsion of rejected asylum-seekers and 'illegal immigrants'.

### The violations:

Asylum-seekers are prevented from leaving the country of their persecution

The citizens of 129 countries, including Iraq, Iran, Sri Lanka, Somalia, Zaire, Ghana, Rwanda, Turkey, Bosnia, India and other refugee-producing countries, now require visas to enter the EU or EEA territory. The list has been compiled by the K4 Committee, formerly the ad hoc group of immigration ministers, meeting under the inter-governmental procedures set out in the Maastricht Treaty.

Most countries of western Europe have adopted carrier sanctions. This means that refugees will not be allowed on to a ship or an aircraft without a visa, because airlines and shipping companies bringing undocumented passengers (or in some countries, for example Britain, passengers with false documents) must pay a large fine, as well as bearing the cost of the passenger's detention and repatriation. The fine remains payable even if the passenger is granted asylum.

Refugees do not normally get visas. The Geneva Convention defines a refugee as someone 'outside the country of nationality and unable or unwilling to return there'. This provision allows European states to deny visas to would-be refugees who are still in their own country; once they leave, visas are refused on the ground that they are out of danger and can stay where they are.

The result of the exclusionary combination is that airlines and shipping companies refuse to carry passengers to Europe who have no papers, or whose papers are suspected forgeries. The Portuguese airline TAP admitted photocopying the passports of all non-white passengers coming to western Europe. In Moscow, travellers to the west go through three separate passport controls. Egyptair refuses as a matter of policy to take Somali passengers, even with visas.

The visa and carrier sanctions policies force those fleeing persecution into illegal and dangerous forms of travel, often paying smugglers their life savings, only to drown in inadequate and overloaded boats in the Straits of Gibraltar or the Baltic, or, as stowaways on cargo ships, risking death at the hands of captains or death by suffocation or inhalation of toxic fumes in container lorries.

Undocumented asylum-seekers are stigmatised as 'illegal immigrants' and are systematically excluded from the territory of many western European states

By imposing visa requirements but denying visas, the states of western Europe have turned refugees into illegal migrants. They then deny them entry and erect more and more barriers - military, electronic and bureaucratic - to ensure they do not get in. A paper prepared for the Council of Europe's Vienna Group in June 1993 characterised the movement of refugees without visas from eastern to western Europe as 'disorderly movements', contrasting them with 'lawful migrants' and thus equating them with illegality. The focus of European concern has been on the technology of border control.

The borders of western Europe have become more and more militarised over the past five years. The Austrian border is guarded by 2,000 soldiers, who turned away 77,000 undocumented refugees in the first six months of 1993. Since the abolition of the constitutional right to asylum in Germany, 1,700 extra border police have been recruited to provide temporary support for the eastern border police. At the beginning of 1994, an additional 1,000 officers from the old federal states were transferred. The eastern border is patrolled by helicopter, heat detectors, radar and patrol boats. The number of people admitted to the country to claim asylum has dropped by 70 per cent between 1993 and 1994.

The Dublin Convention - which allows asylum-seekers only one chance to make only one application to an EU state - has now been complemented by a parallel Dublin Convention covering Norway, Switzerland, Iceland and other countries. In April 1993, a Somali

refugee who had flown to Britain via Rome collapsed on arrival and was found to have shrapnel lodged in his head and neck. He was given painkillers and sent back to Rome to be processed.

Refugees are sent back to so-called 'safe' countries which send them back to the countries they have fled from

All EU and EEA states deem each other 'safe'. But Italy, Belgium and France have all been repeatedly held unsafe by asylum judges in the UK because of gaps and exclusions from protection which have resulted in *refoulement* (return to the country of persecution). Greece has returned Iraqis to Turkey, where they have been deported to Iraq, and cannot be considered a safe country for asylum-seekers, according to UNHCR. Britain has expelled Iranians to Turkey, from where they have been sent back to Iran. Denmark has returned Iraqis to Rome, where they have been sent on to Tunis, where they have been detained for deportation to Iraq. Austria has returned Iraqi and Iranian asylum-seekers to Jordan and Turkey, Somalis and Ethiopians to Sudan. The Swedish Immigration Board's deputy director was suspended in September 1994 for disobeying orders when, at the request of UNHCR, he issued a visa for the return to Sweden of an Iraqi asylum-seekers who had been expelled from Jordan.

Refugees are returned to countries deemed 'safe' but which are not safe

More and more governments are adopting the criteria of 'safety' adopted by EU immigration ministers in November 1992. Asylum-seekers coming from, or through, a country defined as 'safe', must rebut the legal presumption before being admitted to the refugee determination procedure. The use of lists of *prime facie* safe countries is unlawful, in that the burden of proof is placed on the asylum-seeker contrary to the requirements of justice and equality before law, and their claim is not determined on an individual basis. It also violates Article 3 of the Geneva Convention, which forbids discrimination against refugees on the ground of national origin.

In June 1994, British immigration officials expelled an Algerian refugee to Algeria after he had been named by the immigration minister, and details of his asylum claim given, on TV. He has not been heard of since his expulsion.

*The full text of the prosecution speech, entitled 'Europe on Trial' is available from the Institute of Race Relations, 2-6 Leake Street, London WC1X 9HS, price £1.50. The verdict of the tribunal has been published by the Basso Foundation, via della Dogana Vecchia 5, 00186 Rome, Italy.*

## EUROPOL DRUGS UNIT

The Europol Drugs Unit's (EDU) report to the Council of Justice and Home Affairs Ministers shows that it is holding meetings the Heads of National Criminal Intelligence Services (and their Operational Heads) to encourage use of the Unit. The report says that some countries 'are still participating infrequently'. Since it moved to its headquarters on 16 February 1994 in the Hague the EDU had dealt with 146 requests broken down as follows: France 49, Italy 21, Germany 16, Netherlands 10, Ireland 10, Greece 9, Luxembourg 8, Spain 6, Denmark 6, Belgium 5, Portugal 3, and the UK 3.

The crime analysis reports being prepared by the EDU include: the African project (involvement of West and North Africans in drug trafficking); 'the impact on the EU of eastern and central European drug-related areas of crime; methods of transport; and the standardisation of intelligence reports. The budget of the EDU

was 2.1 million ECUs in 1994, and 3.7 million ECUs in 1995.

#### Europol delay - Schengen go-ahead

The remit of the EDU was extended at the Essen Summit on 9-10 December last year to include nuclear crime, the smuggling of people ('illegal' immigration networks), vehicle trafficking (car crime) and associated money-laundering operations (see *Statewatch*, vol 4 no 6). The move followed the realisation that the draft Europol Convention, which may be agreed at the Council of Justice and Home Affairs Ministers meeting in June, will probably take several years to get ratified by the 15 EU member states. Some progress was made at the informal meeting of the Council of Justice and Home Affairs Ministers in Paris on 26 January. French demands for open access to Europol's analytical data are likely to be withdrawn now that it holds the Presidency of the EU. The Spanish demand also appears to have been met, terrorism will be included two years after the Convention is ratified (some 7 years hence). But the UK continues to object to the European Court of Justice having any role in adjudicating on people's action against Europol.

Until the Convention is ratified the EDU can only carry out a limited role. It was set up under a Ministerial Agreement in June 1993 and it not allowed to hold personal information centrally. The Agreement only contains very general data protection provisions with no defined rights of access or appeal, nor does it include any provision for accountability to the European or national parliaments.

The delay in progressing the draft Europol Convention contrasts with the final go-ahead for the Schengen Information System (SIS) for nine EU countries from the end of March (covering Germany, France, Belgium, Luxembourg, Netherlands, Spain and Portugal. Italy and Greece will join in when their police intelligence systems can be tied into the Schengen Information System (SIS). Austria and Denmark currently have observer status (see feature on Denmark in this issue). It go-ahead will see the dismantling of internal border controls between the Schengen member countries and the introduction of the SIS which will hold information on police files and immigration. The SIS, based in Strasbourg, is expected to hold 1.5 million files at the outset.

The countries outside of the Schengen Agreement are the UK and Ireland, Denmark and Austria (who are about to apply to membership), Sweden and Finland. Only the UK has a 'principled' objection to joining on the grounds that it insists on maintaining border controls with the EU countries and refuses to allow entry to third country nationals resident in the EU.

Announcing the start date German Minister Bernd Schmidbauer said: 'The Schengen Information System is the first fully functioning, internationally linked wanted persons system in Europe with online, real-time access'.

Books received:

**Free agent: the unseen war 1941-1991**, Brian Crozier. *Harper Collins* 1994, pp314 £7.99 pk. Autobiography by the founder of the Institute for the Study of Conflict.

**The Philby files: the secret life of the master spy - KGB archives revealed**, Genrikh Borovik. *Little Brown & Co.* 1994, pp 382 £18.99 hb. This is a biography of Kim Philby based on interviews with the author.

**Threading my way**, Peter Calvocoressi. *Duckworth* 1994, pp213 £17.99 hb. Autobiography that contains chapters on Calvocoressi's

war service at Bletchley Park with the 3A Ultra Group.

**The death of politics: France under Mitterand**, John Laughland. *Michael Joseph* 1994, pp324 £18.99 hb. Critical analysis of the French leader that questions 'whether France can properly be called a democracy.'

**A reader on punishment**, Antony Duff & David Garland (eds). *Oxford University Press* 1994, pp351 £35 hb. Collection of 14 articles that have contributed to the way 'punishment is understood in contemporary society.'

**Administrative law and government action: the courts and alternative mechanisms of review**, Genevra Richardson & Hazel Genn. *Clarendon Press* (Oxford) 1994 pp362. Collection of essays that fall into two sections: i. Judicial review and its constitutional role, ii. alternative mechanisms for government action.

**Our global neighbourhood**, Commission on Global Governance. *Oxford University Press* (Oxford) 1995, pp410 £6.99. The Commission was formed at the initiative of Willy Brandt and 'makes many recommendations for promoting security,...managing economic interdependence, for reforming the United Nations and for providing a greater role for civil society in global governance.'

**Europe and International Migration**, Sarah Collinson. *Pinter*, 1994, 210 pages, £12.99 pk. Published for the Royal Institute of International Affairs it traces immigration and asylum policies and practices in Europe.

**Immigration & asylum: Emergency procedures**, David Webb and Larry Grant. *Legal Action Group*, 242 Pentonville Road, London N1 9UN, January 1995, 224 pages, paperback £19.95. Second, revised edition.

**Policing Politics: Security Intelligence and the Liberal Democratic State**, Peter Gill. *Frank Cass*, 1994, £35.00, 365 pages. A well documented study of security agencies in the UK with comparisons to the USA, Canada and Australia. It covers different concepts of 'subversion'; intelligence-gathering techniques; and different models of democratic oversight.