

statewatch

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EU and FBI launch global surveillance system

“not a significant document” - UK Home Secretary

A special report by *Statewatch* published at the end of February detailed plans for a joint initiative drawn up by the Council of the European Union and the US Federal Bureau of Investigation (FBI) to introduce a global system for the surveillance of telecommunications - phone calls, e-mails and faxes. Further investigations have revealed that:

a. The decision to go ahead was never discussed by the Council of Justice and Home Affairs Ministers - it was simply agreed by “written procedure” through an exchange of telexes between the 15 EU governments.

b. The “Requirements” to be placed on network and service providers by the European Union to enable the surveillance of communications adopted on 17 January 1995 - and not made public until November 1996 - is based on the “Requirements” drawn up by the FBI in 1992 and 1994.

The first attempt by the FBI in the United States to get through a new law to allow for the surveillance of all telecommunications was withdrawn from the Congress in June 1991. In March 1992 a redrafted proposal, the Digital Telephony Bill, was sent to the Congress but after major opposition by civil liberties groups it was quietly withdrawn in the autumn of 1992 just before the Presidential election which saw Clinton returned to the White House.

Part of the FBI's campaign for these new powers included its report, “Law Enforcement REQUIREMENTS for the surveillance of electronic communications” (emphasis in original) put out in June 1992. During 1993 the FBI arranged a meeting at its headquarters in Quantico, USA which was

attended by EU representatives plus Canada, Sweden, Norway, Finland, Hong Kong, Australia, New Zealand and the USA. In March 1994 the FBI released a new draft proposal ironically renamed: “The Digital Telephony and Privacy Improvement Act”. An updated version of the “REQUIREMENTS” was issued by the FBI in June 1994. By early August 1994 the FBI proposal, to be renamed again as “The Communications Assistance for Law Enforcement Act”, was formally introduced and on 25 October 1994 President Clinton signed it into law - which placed on the statute book identical powers to those adopted by the EU in January 1995.

EU slow to catch up

It was not until June 1993 that the EU Trevi Ministers, meeting for the last time in Copenhagen, addressed the subject seriously. They agreed the text of a “questionnaire on phone tapping” to be sent to each Member State in July 1993 and to the new members (Finland, Sweden and Austria) in September 1993. However, this EU report was not completed until November 1995. The issue was also raised at the “Friends of Trevi” meeting in Copenhagen attended by Deputy Attorney General Philip Heymann from the USA. When the new Council of Justice and Home Affairs Ministers held its first meeting in November 1993 in Brussels the Resolution they adopted on “The Interception of Communications” clearly expressed their concern:

The Council: 1. calls upon the expert group to compare the requirements of the Member States of the Union with those of the FBI. 2. agrees the requirements of the Member States of the Union will be conveyed to the third countries which attended the FBI meeting in Quantico ... in order to avoid a discussion based solely on the requirements of the FBI. (emphasis added)

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On 3 March 1994 the K4 Committee, followed by COREPER (the committee of Permanent Representatives of the 15 EU governments) on 10 March 1994, agreed a draft Recommendation calling for a study “to be made of the different technical PSCS-interception possibilities (PSCS, Personal Satellite Communications Services)”. In the event the Council of Justice and Home Affairs Ministers on 23 March 1994 discussed, but did not adopt, the Recommendation (not to be confused with the later “Resolution”). On 14-15 April it was back on the agenda of the K4 Committee and on COREPER's on 27 April 1994 which cleared “the text of a confidential letter to be sent by the President of the JHA Council to the President of the Telecommunications Council.” In simple terms this meant, as Greece then held the EU Presidency, one Greek Minister sending a “confidential” letter to another Greek Minister in their respective roles as “Presidents” of two different Councils of Ministers.

What had been clear for some time was now transparent. For more than five years it had been clear to the US government and the EU governments that the combination of new satellite-based telecommunications and, for the Europeans, the privatisation of state-owned telephone companies, combined with the explosion in the use of mobile phones and the impending launch of e-mail via the Internet presented a new challenge for interception by the “law enforcement agencies”.

The Council of Justice and Home Affairs Ministers did not consider the issue again.

This was despite the decision of the K4 Committee on 19-20 December 1994 that:

The Committee agreed to suggest to Coreper and the Council that the above draft Resolution (“Draft Council Resolution on the lawful interception of telecommunications”) be adopted as an “A” item. [An “A” item is adopted without debate in the Council of Ministers]

The next day, 21 December 1994 a decision was taken, under the German Presidency, not to wait for the next Council meeting in March 1995 but to adopt the “Resolution” setting out the “Requirements” by “written procedure”. The “written procedure” process of decision making meant that the draft Resolution was sent out by telex from Brussels to each Member State. On 9 January a further telex attached two statements by Denmark and France for agreement, and a final telex with a statement by the Netherlands was telexed out on 18 January - the day after the official adoption of the measure on 17 January 1995. No publicity was given to this decision at the time.

On 9 July 1996 the K4 Committee's Police Cooperation Working Party proposed that the Resolution should be published in the *Official Journal* of the European Communities which it was in November 1996. This is the same Working Party which had reported in June 1995 that the new system should be able to:

“tag” each individual subscriber in view of a possibly necessary surveillance activity.

and that a major problem was that:

initial contacts with various consortia... has met with the most diverse reactions, ranging from great willingness to cooperate on the one hand, to an almost total refusal even to discuss the question... it is very urgent for governments and/or legislative institutions to make the new consortia aware of their duties. The government will also have to create new regulations for international cooperation so that the necessary surveillance will be able to operate. [emphasis added]

By the summer of 1996 the EU was beginning to catch up with the US. The European Telecommunications Standards Institute (ETSI) prepared the first of several drafts of a document entitled, “Requirements for Trusted Third Party Services” at its meeting on 15-16 July 1996. At the November 1996 meeting of the Council of Justice and Home Affairs Ministers a text was agreed to send out to the equivalent international standards bodies with the Resolution detailing the “Requirements”, the IEC, ISO and ITU, informing them that EU Member States would be applying

“these requirements to network operators and providers of services.”

If the significance, and global implications, of this new system was in any doubt Version 4 of the “Requirements for Trusted Third Party Services” prepared by ESTI, dated 25 November 1996 dispelled it:

There is a need to facilitate the growing importance and development of electronic commerce, the European Information Infrastructure (EII) and the Global Information Infrastructure (GII) by the introduction of suitable measures to safeguard the integrity and confidentiality of electronic information.

And on “Lawful Interception”:

Lawful interception of telecommunications traffic is commonly recognized as an important instrument to fight crime and to assure national security. Law Enforcement Agencies (LEAs) have the need to intercept incoming and outgoing telecommunications traffic, which is transported via telecommunications networks, without knowledge of eg: the interception subjects and the foreign country or countries involved.

To complete the strategy and ensure global compliance to the new, “tappable”, telecommunications standards the EU led on drawing up a “Memorandum of Understanding” to extend the EU-US system to non-EU countries which were invited to adopt the same “Requirements” for network and service providers. The contact addresses for signatory countries and for further information, which confirms the EU-USA link, should be sent to:

a) *Director Federal Bureau of Investigation,*

Attention: Information Resource Division,

10 Pennsylvania Avenue, N.W.,

Washington D.C. 20535

b) *General Secretary of the Council of the European Union,*

FAO The President,

Rue de la Loi 175,

B-1048 Brussels,

Belgium.

The number of signatories to the “Memorandum” is open-ended, any country can join providing the existing member states agree. It invites “participants” because “the possibilities for intercepting telecommunications are becoming increasingly threatened” and there is a need to introduce “international interception standards” and “norms for the telecommunications industry for carrying out interception orders” in order to “fight.. organised crime and for the protection of national security.”

By October 1996 Australia, Canada and the US had informed the European Council in Brussels of their support for the “Requirements”, Norway had signed the “Memorandum of Understanding”, and Hong Kong and New Zealand were “considering the means by which they could support the “Requirements”.” Ongoing meetings of “experts” from these six countries and the EU are being organised under the “informal title of ILETS (International Law Enforcement Telecommunications Seminar)”.

The FBI “Requirements”

A comparison of the “Requirements” and the “Glossary” in the Resolution adopted in January 1995 by the EU and the two reports by the FBI entitled: “Law Enforcement REQUIREMENTS for the surveillance of electronic communications” (June 1992 and June 1994) shows them to be the same in almost every respect. The only difference is that the EU's “Requirements” have a couple of additional provisions to cover the linking of different telecommunications providers (eg: Germany, Austria and Spain).

Some of the terminology is quaint. The term “law

enforcement agencies”, a American term, is used in both but is not defined in the EU version. It can be presumed to cover police, intelligence agencies (MI6 and GCHQ), internal security agencies (MI5), customs, tax, and immigration agencies. The US-FBI use of the term “transparency” has strange ring in European understanding; it is taken to mean ensuring that the subjects of the interception are “unaware of ongoing electronic surveillance”.

The nine “Requirements” in the FBI report are directly repeated in the EU’s ten “Requirements” with similar or in some cases the same terminology. For example, the EU’s “Requirement” no 1 says:

Law enforcement agencies require access to the entire telecommunications transmitted, or caused to be transmitted, to and from the number or other identifier of the target service used by the interception subject.

The FBI’s “Requirement” no 1 says:

Law enforcement agencies require access to the electronic communications transmitted, or caused to be transmitted, to and from the number, terminal equipment, or other identifier associated with the intercept subject...

While “Requirement” no 2 for the EU reads:

Law enforcement agencies require a realtime, fulltime monitoring capability for the interception of telecommunications.

And, the FBI’s “Requirement” no 2 reads:

Law enforcement agencies require a realtime, fulltime monitoring capability for intercepts.”

“not a significant document” - the Home Secretary

The Chair of the Select Committee on the European Communities in the House of Lords, Lord Tordoff, took up the “Memorandum” with the Home Secretary, Michael Howard, in an exchange of letters on the Committee’s access to documents for scrutiny. On the subject of the “Memorandum of Understanding on the Legal Interception of

Telecommunications” Mr Howard told Lord Tordoff:

The Memorandum of Understanding is a set of practical guidelines to third countries on the lawful interception of telecommunications. It is not a significant document and does not, therefore, appear to meet the criteria for Parliamentary scrutiny of Title VI documents. (emphasis added)

It is quite clear that the “Memorandum” is not an insignificant document concerning as it does a EU-US plan for global telecommunications surveillance.

After the *Guardian* newspaper carried a front-page report on *Statewatch’s* research Mr Howard wrote the following letter to the paper:

You alleged, quite wrongly, that the United Kingdom was clandestinely joining its EU partners to create “an international telecommunications tapping system” (Britain to join FBI phone tap system, February 25).

We have never disguised the fact that interception of communications is an important tool in the fight against organised crime and, clearly, we need to ensure that we can keep up as organised criminals and their means of communication become increasingly sophisticated and international. But that does not justify the alarmist tone of your article, which confused a number of separate issues.

The UK is not party to any agreements concerning our interception of calls outside this country. Nor do we allow calls here to be intercepted by foreign governments. The International User Requirement, which outlines recommended technical standards for lawful interception, far from being a secret document, was published in the EU Official Journal last year and repeated, in substance, in a document which has been placed in the libraries of both Houses of Parliament. Similarly, there is no secrecy attached to the Government’s proposals on encryption which were announced last June and will be set out in a consultation paper which will be published shortly.

It is no secret that discussions are taking place within the EU context about how current interception capability can be maintained

CHRONOLOGY

June 1991: first FBI Bill withdrawn from US Congress

June 1992: FBI produced “Law Enforcement REQUIREMENTS for the surveillance of electronic communications”

Autumn 1992: second FBI Bill withdrawn from US Congress

1993: FBI host a seminar in Quantico attended by the EU

29-30 November 1993: The first meeting of the new, post-Maastricht, Council of Justice and Home Affairs Ministers meeting in Brussels adopt a Resolution calling on experts to compare the needs of the EU “with those of the FBI”.

March 1994: The Council of Justice and Home Affairs Ministers discuss but do not adopt a draft Recommendation of principle

August 1994: third, and successful Bill introduced in US Congress

April, November and December 1994: The K4 Committee discusses the draft Resolution on the lawful interception of telecommunications and the “Requirements” to be placed on network and service providers

October 1994: US Bill passed and signed by Clinton

November 1994: The K4 Committee discusses the draft “Memorandum of Understanding with third countries”.

17 January 1995: The Resolution on the “Requirements”, never discussed by the Council of Ministers is adopted by “written procedure”. It is not published in any form until 4 November 1996 when it appears in the Official Journal.

23 November 1995: The Council of Justice and Home Affairs Ministers agree the “Memorandum of Understanding”. It is not published in any form

7 May 1996: Michael Howard, the Home Secretary, tells the Chair of the Select Committee on the European Communities in the House of Lords that the “Memorandum of Understanding on the legal interception of communications” is “not a significant document”.

28 November 1996: The Council of Justice and Home Affairs Ministers agree the text of a letter to be sent out to other potential “participants” (countries) in the “Memorandum of Understanding”.

The Council of Justice and Home Affairs Ministers (JHA Council): took over from the Trevi group and the Ad Hoc Group on Immigration when the Maastricht Treaty came into effect on 1 November 1993.

K4 Committee: Also set up under the Maastricht Treaty to coordinate the work on the “third pillar” - policing, immigration and asylum, and legal cooperation. Is comprised of senior officials from Interior Ministries and prepares report to go to the Council. Under the K4 Committee there are three Steering Groups covering policing and customs, immigration and asylum, and legal cooperation (civil and criminal) to which a series of Working Groups report.

COREPER: the Committee of Permanent Representatives from the 15 EU member states based in Brussels where each

as the use of "satellite" phones increases. Any changes to our interception regime to take account of this will almost certainly require domestic primary legislation, giving Parliament and the public full opportunity to discuss these matters. Michael Howard (MP), Home Secretary, Queen Anne's Gate, London SW1H 9AT.

Statewatch's editor replied:

Your report of our research on the new EU-FBI global telecommunications surveillance system (25 February) is termed "alarmist" by the Home Secretary Mr Howard (1 March).

Faced with a new generation of satellite-based telecommunications for phone calls, e-mails and faxes the EU Council of Ministers have laid down new standards for manufacturers and service providers if they want to get contracts. These "Requirements" will create a system which can monitor everyone and every form of communication and it is one which Mr Howard admits will require "primary legislation" to update the 1985 Interception of Communications Act.

Mr Howard says the new measure was deposited in parliament but this was after it had been agreed. He failed to refer the Resolution setting up this system to the Select Committee on the European Communities for parliamentary scrutiny when it was being discussed in the K4 Committee in April, November and December 1994. Or before it was discussed by the Council of Justice and Home Affairs Ministers in March 1994 or finally agreed, in an unpublicised decision, by "written procedure" via telexes sent out from the Council in Brussels in January 1995. It was "secret" until it had been adopted without any parliamentary scrutiny.

Mr Howard says "The UK is not party to any agreements concerning our interception of calls outside this country. Nor do we allow calls here to be intercepted by foreign governments". Clause 2.3.d of the Police Bill currently before parliament would allow the tapping of phones and communications (and entry into homes and offices) on behalf of any "law enforcement agency" in the world. The UK does not allow interception by "foreign governments" it will do it for them.

He also seems to be unaware of the 1948 UKUSA agreement whereby the UK's GCHQ in Cheltenham and the US National Security Agency (NSA) at Menwith Hill in Yorkshire and Morwenstow in Cornwall routinely intercept telecommunications including e-mails and faxes (through the ECHELON network). The "Memorandum of Understanding" drawn up by the EU and the FBI extending the system to non-EU states like Canada, Australia, New Zealand, Norway, the USA and Hong Kong, is in Mr Howard's words "not a significant document".

People and parliament might have been "alarmed" if they had been told what was going on. Tony Bunyan, Editor, Statewatch (paras 4 & 5 were not printed in the Guardian letter)

Mr Howard did not reply.

Conclusion

Whether the EU effectively adopted in 1995 the "Requirements" drafted by the FBI back in 1992 is perhaps not the issue.

However, the adoption of new, intrusive, surveillance powers by the "law enforcement agencies" certainly is, especially when the EU decision was taken in secret by "written procedure" with no democratic discussion at all in the parliaments of the European Union. While in the US, hardly a respecter of democratic standards, the measure went through the democratic process with an open, public debate.

Publication of Council Resolution of 17 January 1995 on the lawful interception of telecommunications, Report from Police Cooperation Working Party to Steering Group II, 8977/96, Limite, ENFOPOL 121, 11.7.96; Interception of communications, report to COREPER, ENFOPOL 40, 10090/93, Confidential, 16.11.93; Memorandum of Understanding concerning the lawful interception of telecommunications, ENFOPOL 112, 10037/95, Limite, 25.11.95; Legally permitted surveillance of telecommunications systems provided from a point outside the national territory, report from the UK delegation to the Working Group on Police

Cooperation, ENFOPOL 1, 4118/95, Restricted, 9.1.95; Electronic Privacy Information Center, Washington, USA; Chapter 4, "Pre-Wiretapping Telephones", by David Banasar in Electronic Privacy Sourcebook (forthcoming, June 1997), John Wiley and Sons, NY.

Copies of Statewatch's interim report on "European Union and FBI launch global surveillance system" are available for £2.00 (inc p&p).

EUROPE

BELGIUM

Nine liaison officers appointed

Belgium has appointed nine police officers to be liaison officers working outside the country research carried out for the Belgian police specialist magazine *Politeia* reveals. The officers' brief is to establish closer cooperation with other services abroad, focusing on drug trafficking, terrorism and immigration. They operate under common guidelines agreed by the then Trevi Ministers meeting in Lisbon in December 1992.

The nine officers already appointed to 8 countries are based in Germany, Spain, France, Italy, The Netherlands, Colombia, the USA and Russia. Others are apparently soon to be sent to Canada, Pakistan, the UK, and Turkey.

Eleven other EU countries have 231 liaison officers. The UK has the most with over 50, with France and Germany close behind. The most popular EU destination for liaison officers is Germany, with 16 foreign police officers. The most popular destination outside the EU is the USA, who have 15 EU liaison officers, followed by Colombia with thirteen and Thailand with 12.

Gazet van Antwerpen, 5.10.96

UN-UK-CANADA

Fighting terrorism

The Conclusions of the G7/8 Ministerial meeting on 30 July 1996 in Paris on terrorism were, on a UK initiative, adopted in similar terms by the United Nations on 18 December 1996 (see *Statewatch*, vol 6 no 6, "G7/8 terrorism summit"). The Resolution, following the decision of the eight governments - Canada, France, Germany, Italy, Japan, UK, USA and Russia - equates dissent with terrorism. One effect is to deny refugee status under the UN Convention to people "suspected" of committing, financing, planning or inciting terrorist acts.

On 16 December 1996 at a EU-US Summit in Washington it was agreed that a mutual recognition agreement should be reached to create a "common market" for telecommunications equipment which would not need to be reinspected and recertified for each others markets. Joint plans were also agreed to combat drug trafficking in the Caribbean and on money laundering. EU President John Bruton said that there was a need to "use technology to the full to combat the use of technology for crime" (see front page story in this issue).

On 17 December in Ottawa the "EU-Canada Political Declaration and Action Plan" was officially signed. The Plan is very similar to the "Transatlantic Agenda and Joint EU-US Action Plan" agreed in December 1995 (see *Statewatch*, vol 6 no 1). It includes measures to combat illegal migration, terrorism, and organised crime. Reference is also made to the "misuse of the information highway" speaking of the need to: "promote respect for public policy concerns (eg: privacy, hate propaganda, obscenity and law enforcement access)" (emphasis added).

In the UK the government's attempt to introduce legislation reflecting the UN Resolution, through a Private Members Bill supported by the Labour opposition front-bench, was thwarted

when two Labour MPs, George Galloway and Dennis Skinner, called for a “quorum” vote and the government side could only muster 26 votes when a minimum of 40 was required. The Jurisdiction (Conspiracy and Incitement) Bill reflected pressure on the UK from other governments like Saudi Arabia to stop harbouring “dissidents”. The Bill would make it a criminal act to incite or conspire in activities affecting a foreign country which are illegal both in the UK and the other country. It would affect the activities of many groups of political refugees living in the UK and would have outlawed historically Karl Marx, Nelson Mandela, anti-fascists in the 1930s, Palestinians, and opponents of the regimes in Chile and Indonesia.

A *Guardian* newspaper feature commented: “What is extraordinary is that such a sweeping change in UK law could have been rushed through the Commons in the last fortnight with broad support of the main opposition parties and barely a whisper of media comment.”

Measures to eliminate international terrorism, ref: A/RES/51/210, United Nations General Assembly, 16 January 1997; “UN agrees British sponsored Declaration against terrorism”, Home Office press release, 18.12.96; Guardian, 15 & 17.2.97; Financial Times, 1.3.97; Agence Europe, 18.12.96; From Secretary-General to delegations: EU-Canada Relations - Joint EU-Canada Political Declaration and Action Plan, ref 12909/1/96 REV 1, Limite, CDN 11, Brussels, 20.12.96.

EU

EU-US extradition deal off

Discussions in the EU-US Senior Officials Group has concluded that the new Extradition Convention, agreed by the Council of Justice and Home Affairs Ministers in September 1996, cannot be extended to the United States. The Convention still has to be ratified by the 15 EU national parliaments.

American officials raised the idea after the Convention had been agreed that the US could sign up too thus replacing the 15 individual bilateral deals already in place. At present the EU cannot constitutionally make a deal because it has no collective “legal personality” (though it is on the agenda of the IGC) but it would have been possible for all member states to sign identical bilateral treaties creating a *de facto* common EU position.

However, a number of member states were reluctant to put the legitimacy of the new Extradition Convention at risk before it is ratified and in view of the death penalty being available in some American states.

European Voice, 13.2.97.

SCHENGEN

Six months work programme

The work programme, for January-June 1997, of the Schengen agreement under the Portuguese Presidency has as its priority the full entry of Italy, Greece and Austria. Austria is expected to be the first with its planned entry in October this year. This goes together with ensuring the entry into force of the Accession Agreements with Denmark, Finland and Sweden and the Cooperation Agreements with Norway and Iceland.

Schengen officials are carrying out inspections of border controls in the first three countries - Italy (February), Greece (March), Austria (April) - to ensure they meet Schengen standards. “Ensuring the quality of borders is one of the preconditions of accession”, said Wouter van de Rijt, Schengen coordinator. These visits will be followed by ones to the states in the Nordic Passport Union.

The seven members of the Schengen Agreement taking full part - Germany, France, Belgium, Netherlands, Luxembourg, Portugal and Spain - have to unanimously ratify each new

entrants' full participation.

New entrants also have to ensure that their police, immigration and customs computer systems are compatible with the Schengen Information System (SIS). This despite the fact that there is a problem at the SIS base in Strasbourg with “particular concern about progress in the work for the “second generation” of the SIS”.

Among the targets of the sub-groups are: *Police and security*: “to develop projects on police cooperation at the internal borders” and “to develop police cooperation in the area of immigration” and *Sub-group “borders”*: to “determine conditions for the entry and transit of third country nationals who are in possession of a member state's residence permit and are wanted in the SIS” (emphasis in original).

Kurdish folk group excluded by Schengen

A Kurdish folk group, “Koma Amed”, part of Centro Mesopotamia which exists to make Kurdish culture and music more widely known (a serious crime in Turkey), could not attend a summer competition in the town of Ubarco because they were refused entry to Spain. The group applied to the Spanish Consulate in Istanbul for the necessary visas to enter Spain but were refused, in just half an hour, because after a check on the Schengen Information System they were told that certain Schengen countries had vetoed their entry. The group have recently appeared in a dozen or so European countries including Belgium, Germany and Italy.

Work Programme of the Portuguese Presidency for 1997 (first six months), Central Group, 12.12.96; IRR European Race Audit, Bulletin no 21.

NETHERLANDS

SIS not working well

A report published on 30 January by the Algemene Rekenkamer (General Accounting Office) on the functioning of the Netherlands Schengen Information System (NSIS), which became operational in March 1995, shows that it is not working very well. It states that only 22% of all passengers are being checked at Schiphol airport, while in the harbour area around Rotterdam controls are sometimes completely absent. There is no national policy on checks and the border police (Koninklijke marechaussee) have no guidelines for handling peak workloads. The Rekenkamer expressed concern about the lack of security of the SIS system: complaining that terminals with open connections to the central computer in Strasbourg were left unattended after use. The report also says that it is not unlikely one of the seven thousand civil servants with access to the database will give confidential information to third parties. Also, there is no uniform policy on entering data, so that some police forces do not enter data on missing children in the SIS database, while others see no point in entering information on stolen bank notes. Six police forces did not contribute any information on missing, wanted or “undesirable” people to the SIS computer. Several cases of outdated SIS information were found on registered individuals who in reality were no longer wanted. The Dutch Rekenkamer urges counterparts in other Schengen countries to investigate their situation.

EU

Informal Justice and Home Affairs Council

There was an “informal” meeting of Justice and Home Affairs Ministers in Noordwijk, Netherlands on 5-6 February but, as usual on these occasions, little information was made available

and no formal decisions were taken.

Top of the agenda was said to be “organised crime” and how well police forces are cooperating and the agreed “instruments” being used. French Justice Minister Alain Toubon said: “Over the next few years we should progressively reach a common space of free movement for people and goods, but at the same time security should be increased.”

There appears to be confirmation of *Statewatch's* interpretation of the Dublin Council Conclusions in December that Europol's proposed “operational role” will be acting alongside national police forces who will make arrests (see vol 6 no 6). This would leave Europol free from charging suspects but leading on setting up operations and surveillance preparatory to arrest. Whether Europol officers acting in this role would appear in court or be subject to any complaints procedure remains to be seen.

P8 link

Among the more surprising conclusions was a direct reference to the 40 recommendations of the P8 group (the group of countries meeting on political rather than G8 on economic questions). agreed at the Lyon summit in June 1996, should be followed by the EU's working party on organised crime (see *Statewatch*, vol 6 nos 1 & 5; “G7/8 terrorism summit”; the full-text is now on *Statewatch's* web database). The meeting also considered the current proposals in the IGC discussions on the future of the “third pillar” including the entry into force of Conventions *before* they have been ratified by all member states (see IGC feature in this issue). On the agenda too was the “repatriation of civil war refugees to Bosnia Herzegovina” many of whom did not want to return thus making “involuntary” repatriation on a large-scale a distinct possibility.

Report on the Informal meeting of Justice and Home Affairs Ministers on 5-6 February 1997, German Federal Interior Ministry, 27.2.97.

Europe - in brief

■ **EU: Ship's log of passengers proposed:** a Council directive on the registration of people sailing on passenger ships has been proposed. Primarily intended for search and rescue operations in the event of a disaster it places an obligation of all ship owners (carrying more than 12 people) to compile a register of those on board - names, gender and age category. Journeys of less than 20 miles are exempted. Although the proposal calls for adherence to the EU directive on data protection and for holding records only until the journey is completed it does allow for “The required data” to be “easily accessible to the authorities” on whom no obligation to destroy the records is placed. *OJC* 31/8, 31.1.97.

■ **EU-Switzerland meeting:** at a meeting on 22 January the EU and Switzerland agreed a deal to cooperate on customs operations which would allow breaches of customs rules to be dealt with. One prime target is “transit fraud” concerning suspected organised criminal networks. *European Voice*, 30.1.97.

■ **Europol: German ratification hold-up:** Despite promises by Chancellor Kohl that Germany would quickly ratify the Europol Convention the Bundesrat, the second chamber of the German *Bundesländer*, has voted that all 16 *Bundesländer* have to each consider the Convention. On 31 January the Bundesrat criticised the Convention and was concerned over judicial control and the transfer of information from the *Bundesländer* to Europol in the Hague. *Bundesrats-Drucksache*, 957/96.

Europe - new material

Euro “feds”, Sarah Gibbons. *Police Review* 3.1.97. pp14-15. Brief and uninformative article on Europol with short profiles of a few of the key

players.

Recent developments in European Convention law, Philip Leach. *Legal Action* January 1997 pp18-20. This piece summarises cases at the European Commission and Court of Human Rights which are relevant to Britain and Northern Ireland.

Kurdistan Report No. 24 (November-December) 1996. This special issue contains articles on the Kurdish struggle against the oppressive Turkish government, the dirty war against the Kurds, repression in Germany, and Kurdish prisoners (including Kani Yilmaz) in British jails. Available from: KIC, 10 Glasshouse Road, London EC1A 4JN.

Proposed measures against corruption of officials in the European Union, Simone White. *European Law Review*, vol 21 no 6, pp465-476.

European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). Council of Europe, 5 August 1996, 24 pages. 6th general report on the CPT's activities covering the period 1 January to 31 December 1995.

Parliamentary debates

European council, Dublin *Commons* 16.12.96. cols. 615-681

European council, Dublin *Lords* 16.12.96. cols. 1299-1312

European Communities Bill *Lords* 31.1.97. cols. 1329-1428

PRISONS

Prisons - in brief

■ **Basque political prisoner found hanged in prison:** The body of José María Aranzamendi Arbulu, a Basque political prisoner, was found hanging in his cell in the prison of Alcalá-Meco on 7 February. Although it was initially reported as a suicide, the family subsequently stated that there were unexplained circumstances, including the fact that the prisoner's feet were tied together, he had a bandage over his eyes, and his hands were tied behind his back. The prison authorities, which had at first concealed these details, later confirmed the family's claims. Aranzamendi was the eleventh Basque political prisoner to have died in various prisons of the Spanish and French states over the past 16 years.

■ **“Open verdict” on prison death:** In January an inquest at Southwark Crown Court returned an “open verdict” on the death of Kenneth Severin, who died in Belmarsh prison after being restrained by prison officers in November 1995. At the time his family were told that his death was drug-related, but they later learned that he had been restrained by prison officers. The inquest also heard evidence from another prisoner alleging that he had been beaten-up his cell. Commenting on the outcome, Deborah Coles, from Inquest said: “The verdict shows that the jury were not satisfied with the official version of events espoused by prison officers that [Severin's] death was an unfortunate accident. Kenneth Severin died in a brutal and terrifying manner in the custody of prison officer's using a form of restraint that has resulted in previous deaths..” Severin was one of three black men to die in prison between October and December 1995. *Inquest* press release 13.1.97.

■ **Dying prisoner shackled to deathbed:** The Prison Service has launched an inquiry, and five senior prison officers are facing disciplinary action, after a prisoner who was suffering from cancer was shackled to a hospice bed for the last 11 days of his life. 25-year old Geoffrey Thomas was handcuffed to the bed by his ankle and, when it became too swollen, by the wrist, despite pleas from his family. The handcuffs were only removed three hours before his death after an emergency bail order was granted. Earlier this year there was an outcry following the disclosure that

pregnant women prisoners had been chained during labour. Then Home Secretary, Michael Howard, refused to apologise to the women for the barbaric treatment that they received. On this occasion Prison Service director, Richard Tilt, has apologised to Mr Thomas' family and announced new guidelines that permit handcuffs to be removed from a prisoner at the request of medical staff. *Guardian* 1.2.97.

■ **Women's prisons condemned:** The Chief Inspector of Prisons, sir David Ramsbotham, has criticised conditions in three women's prisons, Holloway in north London, Low Norton in Durham and Risley female unit in Warrington, as "unsatisfactory" because of overcrowding, bullying and sexual assaults. Calling for a shake-up, he recommended that immediate action be taken beginning with the appointment of a director with overall responsibility for the ten women's jails, which house over 2,400 inmates.

Prisons - new material

Curfew orders with electronic monitoring: an evaluation of the first twelve months of the trials in Greater Manchester, Norfolk and Berkshire, 1995-1996, George Mair & Ed Mortimer. *Research Study* 163 (Home Office Research and Statistics Directorate) 1996, pp50. This report concludes that "curfew orders with electronic monitoring can work"; it also notes that a quarter of the participants breached their curfew orders. Home Office minister, Baroness Blatch, has commented that "tagging can be a useful community sentence" but internal Home Office documents, obtained by the *Guardian* newspaper, suggest more than 15,000 offenders would need to be tagged at any one time for it to be profitable for the private security companies running the scheme.

A hole in the truth? Lawrence Donegan. *Guardian* 30.1.97. On the Whitemoor prison escape - in which five IRA men escaped from the maximum security prison in 1994 - and the collapse of the trial to investigate it. Defence counsel, Michael Mansfield, questions the Woodcock report on the escape and hints at security service involvement in the breakout based on missing video evidence and the death and disappearance of two key witnesses.

Prison Privatisation Report International. Prison Reform Trust No. 6 (January) 1997. This issue looks at the world-wide increase in prison populations and discusses the prospects of an expansion of privately run prisons. It includes brief reports from the US, Australia and the UK.

Prison Watch press release 190 (4.2.97.). This press release covers the suicide of Andrew Smith who was found hanging at HMP Armley, Leeds, West Yorkshire. It calls for the Chief Inspector of Prisons to investigate the conditions at Armley prison.

Forsaken on Romeo Block, Janice Galloway. *Guardian weekend* 8.2.97. pp20-29. This disturbing piece looks at HMP Cornton Vale, Scotland's only women's prison, where six young women have been found hanging in their cells in the past 18 months.

Developments in the use of prisons. Series of articles on this theme in *European Journal on Criminal Policy and Research*, vol 4 no 3. Includes: Incarceration rates: Europe versus USA, André Kuhn; The American Experiment: crime reduction through prison growth, Kevin R Reitz; Controlling prison population size, Michael Tonry; Private prisons: contexts, performance and issues, Mick Ryan.

believed to have killed black youth Stephen Lawrence in April 1993 under the headline "Murderers", former Master of the Rolls Lord Donaldson condemned the paper for "contempt of court" and spoke of "trial by media". Senior judges failed to condemn scandalously prejudicial tabloid coverage of Winston Silcott at the time of his criminal trial for the killing of PC Blakelock at Broadwater Farm, which was instrumental in convicting him of the killing despite the lack of evidence. When the Court of Appeal freed the Taylor sisters in August 1993 after they had served two years for murder, the press coverage of their trial was condemned as so prejudicial as to amount to contempt of court. And Northern Ireland minister Tom King's public comment on the silence of the Winchester Three during their criminal trial in 1984 resulted in the overturning of their conviction.

The difference between those comments and the *Daily Mail's* Valentines Day crusade is that there is no criminal trial in the Lawrence case, and there will not be. The men who were named are in no danger of going to prison because of the tabloid coverage. All have already been the subject of criminal proceedings. Two never went to trial, three were acquitted when the Lawrences' private prosecution collapsed in 1996. The headline came at the end of the inquest into Stephen's death, which resulted in the inevitable verdict of unlawful killing, and during which the five youths believed to be responsible refused to answer all questions, exercising their right against self-incrimination - including questions such as "what is your name?" They were not declared to be in contempt of court, although the words appear appropriate to describe their attitude.

While the Lawrences hope to launch a civil action against the youths for the fatal assault on their son, the case would be tried by a judge sitting alone. Attempts to influence judges by public comment are frequent (there are pickets almost daily outside the Royal Courts of Justice) and are never condemned as contempt, since judges are believed to be above being swayed in the way volatile and mysterious juries are seen to be. A trial judge hearing the case in a year's time or more is unlikely to be swayed into a belief in the youths' guilt by a distant memory of the *Daily Mail* headline. The Attorney-General has said no action will be taken against the *Daily Mail*.

Donaldson's outburst is inexplicable except on the principle that attack is the best form of defence. After all, it is the Lawrences who have been treated with contempt - by police who treated the death of the sixth-former as relatively unimportant, possibly a result of a drug-related feud, purely on the basis of Stephen's colour, and who delayed making arrests until identification was tainted by gossip; the prosecution service, which pulled the plug on the first prosecution without consulting or informing the family; the legal system in general, which has consistently failed to do justice to the Lawrences' bereavement and to the racism which caused it. Donaldson's attack puts the family in the role of aggressors by collusion, and the killers in the role of victims of injustice.

"Racist" justice system fails Lawrence family

The mother of Stephen Lawrence, has condemned the judicial system as racist following the inquest into her son's death at Southwark Coroner's court in southeast London in February. Doreen Lawrence told the reconvened inquest how police treated her family like criminals, spending two weeks investigating their background, rather than tracking down her son's murderers.

Mrs Lawrence went on to describe the inquest as "a circus" after watching the five racist gang members, who were cleared of killing her son, refuse to answer questions, claiming the common law right of privilege against self-incrimination. Of the five - Neil and Jamie Acourt, David Norris, Gary Dobson and Luke Knight - two were discharged at the magistrates court level in December 1995, the other three walked free after eye-witness testimony was not allowed to be presented at the Old Bailey in April 1996, following a private prosecution by the Lawrence family (see

LAW

UK

Lawrence: whose contempt?

After the *Daily Mail* unexpectedly revealed an anti-racist campaigning bent by publishing the names of the five men

Statewatch Vol 3, no 3; Vol 5, nos 3 & 5, Vol 6, no 3).

At the end of the inquest the coroner's jury exceeded their instructions to return a verdict of unlawful killing "in a completely unprovoked racist attack by five white youths". The family solicitor, Imran Khan, said that the family were considering civil proceedings against several youths involved in Stephen's murder who had not been previously acquitted. The Chairman of the Commission for Racial Equality, Sir Herman Ousley, has called for an independent inquiry to investigate what went wrong in the investigation of this case.

Law - new material

The left and judicial review, Lee Bridges. *Socialist Lawyer*, Winter 1996, pp14-15. Argues that judicial review is not the only remedy and that radical change should be pursued outside the courtroom.

Accessing Legal Services? Traditional travellers in England and Wales, Paul Wheeler. *Journal of Civil Liberties*, vol 1 no 3, 1996, pp230-245. Examines the difficulties of travellers getting legal help.

Aggravated trespass: scope of the offence, Tim Ryan. *Legal Action* December 1996, p24. Examination of the civil liberties aspects of the Divisional Court judgement on the definition of aggravated trespass under the Criminal Justice and Public Order Act 1994 which has "succeeded in causing confusion for protesters, police and lawyers".

Parliamentary debates

Public interest immunity *Commons* 18.12.97. cols. 949-958

Public interest immunity *Lords* 18.12.97. cols. 1507-1517

Crime (Sentences) Bill *Commons* 13.1.97. cols. 26-114

Crime (Sentences) Bill *Commons* 15.1.97. cols. 344-429

Crime and Punishment (Scotland) Bill *Commons* 20.1.97. cols. 619-722

Crime (Sentences) Bill *Lords* 27.1.97. cols 967-1074

Crime and Punishment (Scotland) Bill *Commons* 29.1.97. cols. 374-454

Geneva Conventions (Amendment) Bill *Lords* 30.1.97. cols. 1305-1320

Jurisdiction (Conspiracy and Incitement) Bill *Commons* 31.1.97. cols. 575-636

NORTHERN IRELAND

Northern Ireland - new material

Bloody Sunday 1972-1997. *An Phoblacht/Republican News* 30.1.97. pp9-16. Series of articles that examine old and new evidence on the events that became known as Bloody Sunday after soldiers of the British Army's Parachute Regiment shot dead 14 unarmed civilians in Derry in 1972.

Case by case, Paul Mageean. *Just News* Vol. 12 no. 1 (January) 1997, pp6-7. Summary of developments following the arrest of Roisin McAliskey - who is pregnant - on charges arising out of an IRA attack on a British Army barracks in Germany. There is grave concern for the health of her and her baby but she has been refused bail on several occasions.

Secret powers, Paul Donovan. *Red Pepper* No. 32 (January) 1997, pp22-23. Interview with former British Army psychological operations officer Colin Wallace, who revealed British state "disinformation" operations that extended from northern Ireland to the Labour government, during the 1970s. Wallace was "framed" and jailed on murder charges following his revelations and it took 16 years for him to

clear his name.

The dirty war. *Irish News* 6-10.1.97. This is a five-part series, of varying quality, on the "dirty war" in northern Ireland. It includes a contribution by Colin Wallace.

UK plc v PIRA, John Weeks et al. *Police* Vol. XXIX, No. 5 (January) 1997, pp5-15. Four articles that welcome the "new spirit of cooperation" between the intelligence services and the police. They consist of interviews with "the "generals" waging Britain's secret war against the Provisional IRA. Among the "generals" are RUC Chief Constable Ronnie Flanagan, Commander John Grieve of the Anti-Terrorist Branch (SO13), Special Branch Commander Barry Moss and an anonymous contribution from the new, user friendly, MI5.

Parliamentary debates

Northern Ireland Arms Decommissioning Bill *Commons* 9.12.96. cols. 22-90

Northern Ireland Arms Decommissioning Bill *Commons* 16.1.97. cols. 470-515

Northern Ireland Arms Decommissioning Bill *Lords* 30.1.97. cols. 1282-1305

SECURITY & INTELLIGENCE

GERMANY

Lawyer surveilled

The lawyer and author of critical books on the police and secret service, Rolf Goessner, has been classified as a "left extremist" and put under surveillance by the German Office for the Protection of the Constitution (*Verfassungsschutz*) (see *Statewatch*, vol 6 no 2). Presently, Goessner is working as a legal advisor to the Green Party in Lower Saxony. The *Verfassungsschutz* has accused the lawyer of cooperation with extreme left groups. Among the activities the office found highly suspicious was a joint event with the Association of Victims of the Nazi Regime where Goessner presented one of his books. The Federal Officer for Data Protection is now investigating the procedures of the *Verfassungsschutz*.

Der Spiegel, 30.12.96.

NETHERLANDS

Intelligence targets revealed

Recent attempts by a campaigning organisation to acquire access to their personal *Binnenlands Veiligheids Dienst* (Dutch secret service, BVD) files has exposed the limitations of the Dutch Freedom of Information act. It also gives an insight into areas of political activity that the BVD still consider to be "current" and therefore under their remit.

The *Vereniging Steunpunt Inzage PID Nijmegen* (Support Organisation for insight into the Nijmegen Special Branch) has campaigned since 1992 for their members to be allowed to have access to their personal files. They are specifically interested in files held by the *South Gelderland Regionaal Inlichtingen Dienst* and the BVD.

A ruling of the Dutch supreme court in 1994 allowed limited access to their files. However since then the government has continued to restrict access, insisting that any request for access to files was accompanied by elaborate explanations of the social and civic context within which any document was requested.

Current rights of access to personal files are based on the condition that no information should be allowed to provide access to any sources, methods of work or current areas of intelligence

acquisition of the BVD. This last area has proved to be quite revealing. One applicant for instance, who was dismissed from her job after the BVD paid a visit to her employer, was only allowed to see a paraphrased summary of her file rather than the complete document, under the "area of current activity" clause. The original reason for the BVD visit was a phone call she made to an Amsterdam based refugee organisation.

Other applicants have discovered that, while the Dutch Communist Party is no longer considered to be "current", members of other left-wing groups are still refused access to their file. Other current targets include anti-militarists, anti-fascists and anyone who has ever visited Northern Ireland, no matter how long ago.

The *Vereniging SIP* also point out that even activities no longer considered "current" such as anti-apartheid work can still apparently be considered "current" in the event that an individual took part in "radical" anti-apartheid activity, meaning that access to that individual's file will be refused. SIP claim that, owing to restrictions on the revealing of sources, obtaining access to a person's file often means that the only information that will be found consists of publicly available articles written by that person. They argue that the fight for access to intelligence files is still to be won.

Ravage, 7.2.97.

Security - new material

Cloaks, daggers and Ms X appeal. Jonathan Calvert & David Connett. *Observer* 26.1.97. This article investigates the tactics used by the McDonald's corporation against protesters based on evidence from the "McLibel" trial. It examines the case of a female private detective who was employed by the Kings Investigation Bureau to spy on the London Greenpeace environmental pressure group by McDonald's and questions the tactics used, which included sleeping with one of its activists.

Intelligence and Security Committee, Annual Report 1996. February 1997, Cm 3574, £6.50, 36 pages. This is the second annual report from the Committee set up in 1994 to oversee the Secret Intelligence Service (SIS or MI6, the external agency), the Security Service (MI5, internal) and Government Communications Headquarters (GCHQ). It is peppered with *** where text has not been included for security reasons, some *** are even *** in the footnotes. One of the complaints the Committee looked into was that the US National Security Agency (NSA) listening station at Menwith Hill, Yorkshire was "being used to circumvent British law" - the Committee says "we received from the Agencies categorical assurances, which we accepted that the stories are without foundation." MI6 and GCHQ are recognised as working on "organised crime" in addition to MI5 which has the formal role of working with the National Criminal Intelligence Service (NCIS). So too is MI5's "organised crime" role working with "non-police service law enforcement agencies" and supporting "foreign security or intelligence service(s)".

was a transcript of all of the debates at the meetings, ended up with the Turkish authorities.

TV2 informed the newly appointed Minister of Justice, Mr. Frank Jensen, on January 31, but he did not comment on it until February 3 after consulting with the head of PET, Ms. Birgitte Stampe. He then issued an unusual press statement in which he said that, according to normal practice, PET never commented on specific events, but "in this particular situation the PET chief and I [Frank Jensen] have agreed to deviate from this usual practice".

He then said that PET had told him that it had not bugged the meeting, that it had not made a report and that it had not given information from the meeting to the Turkish authorities. The minister called on the television station to produce its documentation and supporting material. TV2 stood by its story but would not disclose more details because it would endanger its sources, it said. The television station added that it was aware of the difficulties of covering intelligence matters in the news and that one could never completely exclude the possibility of misinformation.

Danish-Turkish relations became an issue in July 1996 when a Danish citizen of Kurdish origin, Mr Kemal Koc, was arrested in Ankara, Turkey, because of his involvement in legal Kurdish political activities in Denmark. He was held in prison for more than five weeks and was tortured (see *Statewatch* Vol. 6, no. 5 for a more detailed report).

Since his return to Denmark Kemal has undergone treatment for his injuries and the internationally renowned centre for victims of torture, RTC, issued a report in which they unequivocally confirmed that he was tortured. On the basis of this report the Danish government has taken the unusual step of lodging a state-to-state case with the European Human Rights Commission against Turkey.

Kemal Koc's case remains unresolved despite a number of court hearings. These have been farcical, with judges taking less than five-ten minutes to postpone them. Danish representatives from political parties and human rights organizations have been present at each court session.

On a visit to Turkey in November 1996 the Danish MP, Mr. Soren Sondergaard (Enhedslisten/Red-Green Alliance), attended a court hearing. As he was about to leave Turkey he was detained by the police, taken to the State Security Court and fined for entering the country. He was then ordered to leave and never return.

It appears that he should not have been allowed to enter Turkey in the first place since he, and at least four other prominent critics of Turkish human rights abuses, are listed as persona non grata in the country - which they did not know. Mr Sondergaard was "blacklisted" because he hosted a meeting of members of the Kurdish parliament in exile in March 1996 in the Danish parliament. The Turkish embassy tried to stop the meeting by putting pressure on the chairman of the Danish Parliament, Mr Erling Olsen, but without success.

The extradition of Sondergaard in November created a diplomatic incident between Denmark and Turkey and has now led to a decision in Parliament to sharpen Danish policy toward Turkey.

TV2-Nyhederne 2.2.97; Ministry of Justice press release 3.2.97. and Danish newspapers.

SPAIN

Two stowaways found dead at Pasaia harbour

On 2 February when a Cypriot-registered ship, the Deike, arrived from Agadir at the port of Pasaia in the Basque province of Gipuzkoa, two North African men were found dead on board.

IMMIGRATION

DENMARK

Police gave Turkey report on Kurds in Denmark

On February 2 the Danish television station, TV2, revealed that the Danish police intelligence service, Politiets Efterretningstjeneste (PET), had written a 140 page report on meetings of the Kurdish parliament in exile which took place in Copenhagen in March 1996. The report, which according to TV2

Their mummified bodies were found in the propeller casing, a small compartment which is hermetically sealed from outside.

Increased number of Straits "boat people" in 1996

During 1996 there was a considerable increase in the number of immigrants trying to cross from Morocco in small boats, known as *pateras*. The total detained by police, according to press reports, reached 2,017, to which should be added some 22 drownings and 74 disappearances (based again on press reports). As not all detentions are reported, and with no official figures being released, it seems likely that the overall total of detainees exceeded 5,000 in 1996. Adding those who make it across to Spain, or die in the attempt, the total number who attempt the *patera* crossing is even greater.

Ceuta and Melilla immigrants moved to Spain

The Spanish government has been attempting to calm the explosive situation which has developed in the enclaves of Ceuta and Melilla, where some 700 undocumented immigrants have been held in tented reception centres in deplorable conditions. According to the Red Cross there have already been 13 known cases of scabies and nine of tuberculosis. Mindful of the public protests which followed the summary expulsion to various countries last July of 103 African immigrants, the Spanish authorities sought the help of the French and German police in identifying the original nationality of the 700 detainees, so that they could be returned to their respective countries.

With no sign of progress by late January the government decided to transfer 83 of the migrants to the Spanish mainland, releasing them with Ptas 2,000 each and giving them two weeks to apply for legal status. This step was quickly denounced by migrant aid bodies, including the Andalusian Reception Federation (FAA) and the Spanish Commission for Aid to Refugees (CEAR), since the probable outcome would be to add the 83 to the ranks of the thousands who were living in Spain illegally and in very difficult circumstances.

The government was eventually obliged to make a more substantial concession, and in early February it resolved to transfer all 700 migrants from Ceuta and Melilla, and to grant each a one-year residence and work permit.

Decline in asylum requests

The more rigorous requirements imposed on applications for political asylum, with the entry into effect of the Asylum Law brought in by the then Socialist government, reduced the number of asylum requests by 52.6 per cent in 1995. The total fell from 12,615 in 1993, to only 5,678 in 1995. The highest proportion of applicants (2,066, or 36.5%) came from European countries, followed by Africa (1,640, 29%), Asia (1,028, 18%) and the Americas (923, 16%). The majority of European applicants (1,251, or 22% of the overall total) came from Romania, followed by Turkey (152, 2.7%), Bosnia-Herzegovina (128, 2.3%), Armenia (112, 2%) and Russia (91, 1.6%).

Municipal franchise proposed for immigrants

The Basque parliament on 8 November passed a resolution calling on the Spanish state to extend the right to vote in municipal elections to immigrants with over five years of legal residence. The original proposal, supported by several town councils in the Basque Country, did not specify any minimum residence period, nor did it contain the "reciprocity criteria" stipulated in the version which was passed. The amendments have the effect of excluding the majority of immigrants of African origin.

POLAND

Detainees released

Within days of the *Forschungsgesellschaft Flucht und Migration* (FFM) report on Polish migrant detention centres being published in November last year, almost all detainees received confirmation of their asylum application and were released after three months in detention (see *Statewatch*, vol 6 no 6). The director of the Refugee and Migration Office in Warsaw, Tomasz Kuba, explained that his office only registers asylum applications. In the meantime, Kuba had to resign from his post despite his connections with Bonn. The new director of the Refugee and Migration Office, Jaroslaw Mojsiejuk, referred explicitly to the political pressure to adjust to EU refugee policy under which his office has to work. Since it has become more difficult for refugees to cross the border into Germany, Poland has had more and more "temporary refugees" who would apply for asylum but disappear before a decision has been made. In 1996, this applied to two-third of 3200 applicants. Mojsiejuk hoped that "social measures" would counter the trend to migrate to Germany. One change in his office's practice has been the provision of more asylum hostels, from 3 to 9 (400 beds). DM120 million has been given by the German government to reinforce Polish border controls and to establish detention centres.

Forschungsgesellschaft Flucht und Migration, 27.1.97.

GERMANY

Fatal asylum policy

The latest up-date of deaths of refugees in Germany by the Antiracist Initiative (ARI) in Berlin shows the grim reality of the German (and European) policy of exclusion and containment against refugees. From 1993 to 1997, 70 refugees died while they were trying to cross the border to Germany, 45 of them alone died at Germany's eastern border. However, given the freezing winter temperatures and the danger of drowning in the Oder or Neisse border rivers, the figure may well be higher. ARI is aware of at least 45 refugees who have committed suicide in protest against their deportation, 33 refugees tried to kill themselves and survived seriously injured. Since 1993, 32 refugees died and 151 were injured in racist attacks.

New immigration legislation

Immigrants have again become the focus of a general election campaign: "Foreigners threaten the internal security and the welfare of the Germans". The latest restrictive measures impose visa requirements for under-16s from Turkey and oblige under-16 year old children of immigrants to apply for residence permits. The resident requirement affects 600,000-800,000 children already resident in Germany. As work permits depend on the holding of residence permits, the introduction of visa requirements for children can be seen as a racist instrument to regulate the labour market.

Off Limits, no 17, p34; *Guardian*, 16.1.97.

BELGIUM

Polish-Belgian treaty

Belgian Home Affairs minister Johan Vandelanotte has signed a treaty with Poland that aims to prevent asylum seekers from entering Belgium via Poland. The treaty, which encourages cooperation between the Belgian and Polish police forces and immigration services, is one of several that are due to be signed between EU countries and central and eastern European countries with the eventual aim of creating an "asylum wall" across eastern

Europe.

The treaty is designed to prevent Poland acting as an entry gate into the EU. At present many asylum seekers from the former Soviet Union, Asia, Africa and the Middle East do not need visas to enter Poland and therefore use Poland as a transit country for entry into the EU. Following the signing of the treaty Poland aims to extend the number of countries that require visas.

Another perceived problem with Poland is that its eastern frontier is regarded by EU countries as being very "open". Following the signing of this latest treaty Poland will now aim to guard its frontiers, aided by the EU. Other aspects of the treaty include greater Belgian-Polish cooperation against people who smuggle in asylum seekers.

Poland's bid to join the EU is widely regarded as being dependent on its ability to keep asylum seekers and other immigrants out of the EU. Chris De Stoop, a journalist who recently wrote a book critical of Europe's asylum policies ("*Haal de Was Maar Binnen*", see *Statewatch*, vol 6 no 1) criticised the treaty claiming that the long-term aim to be the creation of a "fortress Europe", excluding asylum seekers together with other immigrants.

De Standaard, 12.11.96

Immigration - in brief

■ **France:** France deported 29 undocumented Romanian immigrants on a special charter flight on 6 February. This was the 35th special charter flight since the interior minister Jean-Louis Debré took office in 1995. Most deportations have been to Romania and African countries. *Guardian*, 7.2.97

■ **Netherlands: Asylum officials criticised:** The National Ombudsman office has criticised the Justice department's so-called "contact officers" who question asylum seekers after they complete their application forms. This interview is normally the only chance that the applicant gets to state their case. According to the Ombudsman, the quality of these officers is insufficiently controlled and guaranteed. There have been about a dozen complaints of intimidation and pressure exerted by contact officers and their lack of knowledge about the situation in the countries of origin. The Ombudsman suggests that the interviews should be recorded on tape and that an independent complaints commission be set up.

Immigration - new material

After the Act: exploring the residual rights of destitute asylum-seekers, Sue Willman, *Legal Action* January 1997, pp12-14. On the withdrawal of state support from "persons subject to immigration control" under the Asylum & Immigration Act 1996 and the Housing Act 1996.

Asylum-seekers: caught by the Act. *CARF* No. 35 (December 1996-January 1997) pp4-6. This piece examines the government's decision to remove basic benefits from in-country and rejected asylum-seekers and the implications of the High Court ruling that local authorities have a duty to provide the basics for survival.

Asylum seekers. *Eurostat* No. 2, 1996, pp11. This quarterly bulletin provides "an overview of the evolution of asylum seeking in Europe during the first six months of 1996 and a comparison with the situation during the first six months of 1995."

NCADC Newsletter. National Coalition of Anti-Deportation Campaigns No. 5 (January/February) 1997. This issue includes a round-up of developments in recent cases - Prakesh Chavrimootoo and Teslim Lasoye - and pieces on bail applications, the European Court and areas of British immigration policy in pressing need of reform.

Bundesdeutsche Fluchtlingpolitik und ihre toedlichen Folgen. Januar 1993 bis Januar 1997 (German refugee policy and its fatal consequences. January 1993 to January 1997), Antiracist Initiative

Berlin, pp.30, 4DM. Fax: 0049-30-7869984.

Refugees and national security, Pierre Makhlouf. *Socialist Lawyer*, Winter 1996, pp16-17.

Sweden: Swedish asylum policy in global human rights perspective. *Human Rights Watch/Helsinki*, September 1996, 34 pages.

Parliamentary debates

Statement of changes to immigration rules *Lords* 9.12.96. cols. 916-930

HMP Rochester (Hunger strikers) *Commons* 29.1.97. cols. 359-368

POLICING

NETHERLANDS

Opstand case "settlement"

Two journalists from the *Opstand* collective in Amsterdam who in 1994 came under suspicion of being involved with the "Rara" bombings of the Ministry of the Interior and the Ministry of Social Affairs have now reached a settlement with the public prosecutor's office (see *Statewatch*, vol 4, nos 5 & 6, vol 6 no 1). Hans Krikke and Jan Muter had all their office equipment and documents confiscated and they were detained for six days. In the end the public prosecutor had to admit to having no evidence against them. At a press conference on 11 February, the two journalists announced that they had agreed to a settlement proposal under which they will together receive Dfl 230,000 in compensation. Krikke and Muter added that they would have preferred a formal apology and withdrawal of the allegations, since the smear on their reputation has hindered them most severely in their work, but this has always been categorically refused by the public prosecutor's office.

German police raid Dutch magazine

On the morning of 11 December 1996, in the village of Vaals, ten local police-officers, a top officer from the Maastricht court, two LKA (*Landes Kriminal Ambt*) German officers and two BKA (*BundesKriminalAmbt*) German officers raided a house searching for material on a leftwing newspaper *Radikal*.

The 15 German and Dutch officers said the search warrant had been issued by German authorities in Karlsruhe. During the two hour raid two personal computers, floppy-discs, photos, a pamphlet and some *Radikal* stickers were seized.

The search warrant said the purpose of the raid was to search for "*Radikal* publications, subscribers lists and financial information". A "suspect" was charged with preparing and distributing *Radikal* - a newspaper that is forbidden only in Germany and is entirely legal in the Netherlands.

For over a decade, a group of German activists who produce the paper have been working in virtual asylum in Amsterdam, where under the name of the "ID-Archiv" based in the world-famous International Institute for Social History (which holds the archives of among others Marx, Bakunin and many once-persecuted political activists). They have published a range of books and brochures on the history of the German "urban guerrilla" over the past 25 years and political repression in Germany.

The practice in the Netherlands has been not to prosecute anyone for voicing political opinions, unless they are of a racist nature or directed against the monarchy. Actions against "printing press offences" are seldom recognized in Holland and there have only been a few of these prosecutions since the 1970s.

Mr Hoekstra, the investigating magistrate said his

intervention was because the search could be part of what in fact constituted a political prosecution. He stated in a letter to the public prosecutor that this could be a prosecution by the German authorities because of the political views of the suspect (in which case the Dutch public prosecutor is not allowed to collaborate), or that the explicit approval of the Minister of Justice was required (which is the case in prosecution of political crimes).

Minister of Justice, Mrs Winnie Sorgdrager, told MPs that the chief public prosecutor in Maastricht had acted wrongly in allowing the house search, since there was no punishable act under Dutch law. In a case like this, the chief public prosecutor should have consulted the Minister first. The Minister also concluded that the German authorities' suspicions against the student in question "cannot be seen as concerning punishable acts of a political nature or as facts in relation to that." The confiscated documents will not be forwarded to Germany, but have to be returned to the student.

The highly unusual nature of the raid has led to considerable concern in the Netherlands. Professor C F Ruter commented in the *Trouw* newspaper that it is very unusual for foreign police officers to participate in a raid in The Netherlands. The only circumstances when such participation is allowed is on the basis of their special expertise. He points out that any act justifying a police search must be a crime in the Netherlands as well. "If you conduct a search on someone's house simply because they might be working for a banned magazine, then one could ask oneself whether this might not amount to political persecution. In that case the Dutch police would not have been allowed to help the German authorities," he stated.

"German Cyber-Raids in the Netherlands", press release, 14.12.96, Solidarity group Political Prisoners, PO box 3762, 1001 AN Amsterdam, Netherlands; Ravage 15.12.96 22.12.96; and newspaper report.

Ravage Takes State to Court

The Dutch radical newspaper *Ravage* is suing the Dutch government following a raid that took place on their offices last May. This follows a raid on the paper after they published a statement from the radical action group, Earth Liberation Front, which claimed responsibility for three bombings that took place in May.

The raid which followed a press-release from *Ravage* informing the press that they were proposing to print the statement from the ELF, led to the confiscation of a large amount of material including floppy disks containing the names of subscribers, a log book and a large amount of copy. At no time has any of the staff of *Ravage* been accused of any complicity in the actual bombings.

Ravage has demanded a judicial review concerning the legality of the raid in order to prevent any future occurrences. They also state that the magazine suffered considerable damage as result of the raid, for which they are seeking compensation.

Ravage, 15.11.96.

UK

Bridgewater 4 cleared after 18 years

Three men, who served more than eighteen years in prison for murder on the basis of a confession forged by the police, walked free from the Royal Courts of Justice on February 21. When the men, Jim Robinson and cousins Michael and Joseph Hickey, left the court, after being granted bail in anticipation of an uncontested appeal, traffic was brought to a standstill by crowds who had flooded onto the streets to witness their release. Pat Molloy, the fourth man convicted of the murder of 13-year old

Carl Bridgewater after a bungled robbery in 1978, died in Gartree prison, Leicestershire in 1981.

The Crown admitted that the prosecutions were not safe after electrostatic document analysis (Esda) revealed that a purported "statement" from Vincent Hickey, which was used to coerce a confession from Pat Molloy, was forged. Molloy, whose confession was the basis of the case against the four men, immediately retracted this statement when he was eventually given access to a solicitor.

One of the policemen behind the confession was DC John Perkins, part of the West Midlands serious crime squad which was responsible for the 17-year imprisonment of the Birmingham 6, before it was disbanded in 1989 amid overwhelming evidence of extensive corruption. DC Perkins, who is now dead, was named in seventeen, of almost one hundred cases, that were investigated by another police force. Another of the police officers accused of fabricating evidence against the men, DC Graham Leake, issued a statement through his solicitor rejecting allegations of "improper practice".

Guardian 21 & 24.2.97.

Policeman jailed for drug smuggling

A policeman, who was investigated during "Operation Jackpot", which inquired into drug-dealing at Stoke Newington police station in north London, has been jailed for 10 years after being found guilty of conspiring to smuggle cannabis into Britain. Detective Constable, Ronald Palumbo, who was based at Stoke Newington until he was transferred at the beginning of 1992 at the start of the Jackpot investigation, was one of four men who were jailed after Customs stopped a lorry and recovered over £2 million worth of cannabis (see *Statewatch* Vol 2, nos 2 & 4; Vol 3, no 1; Vol 4, nos 2 & 5).

Operation Jackpot, a three-year internal police inquiry into 134 allegations of planting drugs and assaulting suspects by a group of 45 police officers, was the most extensive investigation into police corruption since the 1970s. To the dismay and incredulity of community groups and local MPs, the inquiry resulted in charges being brought against only two policemen: one of these was Palumbo. He appeared at the Old Bailey in December 1995, charged with perjury and conspiracy to pervert the course of justice, but was cleared of all charges.

Palumbo was also involved in a number of other court cases where it was alleged that he had planted drugs and fabricated evidence. To date 13 people, convicted after being arrested by Stoke Newington police officers, have had their convictions quashed and the Metropolitan police have paid out over £500,000 in damages for false imprisonment and wrongful arrest.

In January 1995 Palumbo issued a writ against the *Guardian* newspaper claiming damages for libel following allegations made against him. His writ was never served, although five other police officers from the station, Reynald Bennett, Bernard Gillen, Paul Goscombe, Gerald Mapp and Robert Watton, did proceed with an action. In February their case came to the High Court where, in a decision that has been hailed as a victory for press freedom, a jury contemptuously dismissed their claims. The decision left the Police Federation, which backed the officers case, with a bill for £500,000; the Federation will also have to pay a substantial portion of the *Guardian's* costs.

Palumbo is the second officer investigated by Operation Jackpot to be jailed; in November 1992 DC Roy Lewandowski was sentenced to 18 months after being found guilty of stealing from the house of a murder victim.

Guardian 8 & 25.2.97

Police assault: exemplary damages limited

Lord Wolf, Master of the Rolls, has set new guidelines limiting the amount of exemplary damages awarded to victims of police violence. Awards against the police have reached almost £20 million over the last ten years. This will be cut by the Appeal Court's decision that exemplary damages will have a £50,000 ceiling. The new guidelines were set in a test case brought by the Metropolitan police who complained that juries were making excessive awards against them.

The judgement meant that Kenneth Hsu, who was awarded a record £200,000 in exemplary damages after a jury decided that he had been wrongfully arrested, imprisoned, racially abused and assaulted by the Metropolitan police last year, had his award reduced by £185,000 to £15,000. Mr Hsu's compensation of £20,000 is unaffected. Mr Hsu said that he was disappointed at the decision. In the five years since the incident no police officer has been held accountable, or even disciplined; Mr Hsu has yet to receive an apology for his treatment.

South London Press 21.2.97.

Police Federation condemn Gay Times ad

The Police Federation, which represents lower ranks in UK police forces, has criticised a recruitment advertisement in a gay magazine. An editorial in the Federation's journal, *Police*, condemned the advert for being too liberal and "politically correct". The advert, placed in the *Gay Times* magazine, showed a recruitment officer under the heading "Fancy a Chat with Tom". A chief inspector from South Yorkshire then wrote to a local newspaper stating that he was "embarrassed" to belong to the police force.

Police magazine state in their editorial: "It is the official line that, in equal opportunities terms, the so-called gay community is comparable with all the other minority communities. Many police officers find this hard to understand.... three decades ago, homosexuality was regarded officially as well as socially as an abomination". *Police* goes on to say: "In their haste to assure the prevailing establishment that the police are on "their" side too many chief officers seem to take it for granted that we are all liberal now."

Responding to the attack the Chief Constable of South Yorkshire, David Wells, defended both the placing of the advert and the Police Federation's response, claiming: "It has all been quite a positive interlude".

Guardian, 9.1.97.

SPAIN

Police files on "suspicion" alone

In January the Interior Ministry circulated all police stations with a document ("The gathering of data which may be of use in protecting the public") instructing them to collect all manner of data concerning "suspicions" about individual citizens, even when they do not appear to be connected to actual offences. The information gathered is to be stored in police computers. Sources will include neighbours, shopkeepers, and so on, including the staff of private security firms which employ some 64,000 people. The disclosure of the circular by the press unleashed a torrent of criticism. The Spanish Association for Human Rights (APDHE) called it "a return to the police state". The Data Protection Agency (APD) indicated that the police instruction was unlawful, since files could only be opened on someone when

their conduct presented "a specific threat" and not on the basis of "general suspicions". The deputy director general of the police service said that no civil right was infringed because: "I don't think that the information will be kept on computer files for any more than one year".

Following these reactions, and demands from opposition parties for clarification, the Interior Ministry withdrew the order to consider how, or whether, it should be amended.

Police files on homosexuals

Last summer the town council of Sitges, near Barcelona, ordered the municipal police to prepare special files on the homosexual community. The supposed justification was "the prevention of prostitution". The initiative, which led to the opening of police files on 235 individuals, was denounced by Catalan gay and lesbian groups, and led to a demonstration and the appearance in a court case of the councillor with responsibility for public order matters, who had given the instruction to the police. The hearing considered a complaint brought by the gay group FAGC, based on the infringement of articles 510 and 511 of the Penal Code, which cover incitement to violence or hatred against sections of the community on the grounds of race, sex or sexual preference. In late January the high court in Barcelona stopped the proceedings, finding that the identification of homosexuals was "designed to assist investigations" properly initiated by the town authorities after they received complaints from the public alleging that people were being recruited into prostitution.

Sitges has long been known as a popular destination for gay tourists. Following the court case against it, the council announced that all the files opened on homosexuals had been destroyed.

BELGIUM

Police raid Kurdish centre

Belgian police raided a Kurdish holiday centre in Zutendaal in the province of Limburg in November of last year which led to the deportation to Germany of 36 youths and four adults because they had no identification papers. However police allegations that the holiday camp was a PKK guerilla training camp have so far failed to result in any arrests.

The raid was organised by the local Bewaking-en-Opsporings Brigade (BOB), the Belgian equivalent of the Special Branch, and involved over 100 police, gendarmerie and members of the special intervention squad. A spokesperson for the Ministry of Justice claimed that the holiday centre was being used by the PKK as a semi-military training camp for Kurdish youth. They also said that youths were being held against their will at the camp. The spokesperson failed however to explain why nobody had been arrested.

Organisers of the holiday camp have responded to the allegations by calling them "absurd" stating that the youths were only following courses on Kurdish culture and politics. These statements were backed up by local residents who said they had been "surprised" by the raids. One local resident described the Kurds as "excellent guests" and added that as far as he was concerned everything in the centre had been above board.

Gazet van Antwerpen, 23 & 24.11.96; De Morgen, 23.11.96.

Demands for tighter controls on pepper sprays

A Belgian MP has demanded tighter controls be introduced on the use of pepper sprays. In a debate held in the Belgian senate

Agalev-Ecolo MP Eddie Boutmans challenged the Belgian Home Affairs Minister, Johan Vandelanotte, to carry out more research into the use of pepper spray. He expressed particular concern about the recent acquisition of a pepper spray delivery system that can be used against demonstrators. This system has already been used against a demonstration last year.

Pepper spray, or OC gas, has caused controversy in both the US and the UK in the past. There have been at least 61 deaths associated with pepper spray in the USA since its introduction in 1990 according to the *Los Angeles Times*. Risks in the use of pepper spray include "mutagenic effects, carcinogenic effects, sensitization, cardiovascular and pulmonary toxicity, neurotoxicity and possible human fatalities." People with asthma are particularly vulnerable. Although tests were carried out in the UK it was eventually decided to use the more familiar CS gas instead (see *Statewatch*, vol 6 no 2).

Belgium is not the only country to have introduced pepper sprays. The Dutch "Divisie Koninklijk en Diplomatieke Beveiliging" (Royal and Diplomatic Security division), who are entrusted with guarding the Dutch royal family, has also recently issued with OC canisters. Although the substance is still banned in the Netherlands, according to the *Volkscrant* police in the Netherlands are now pressing to be allowed to introduce the spray canisters more widely. One police officer told the *Volkscrant*: "These weapons have already been widely tested in the USA. If scientists here give it the OK the politicians should not make trouble about it."

Belgian Senate Parliamentary report 28.1.97; Ravage 10.12.96

Crisis in Belgian Justice

The Dutroux affair, in which a paedophile ring run by Marc Dutroux resulted in the deaths of at least four young girls, has thrown the Belgian justice system into its worst post-war crisis. The row centres on allegations that police sources knew of Dutroux's involvement with child pornography and other crimes yet conspired in a cover-up. More than 12 police officers have been questioned in an investigation that has raised questions about internal rivalries between the various police services and potential corruption within the justice system.

The case came to public attention in August, when four bodies were found in Dutroux's house near Charleroi, southern Belgium. It became clear that Dutroux had already been convicted for a series of child rapes and that he had been given an early release for no discernable reason. He had also had dealings with police relating to car theft and fraud, but no action was taken against him. Dutroux had also been arrested in 1995 after kidnapping three under-age girls and, once again, no action has taken against him.

The public outcry that followed these revelations led to further embarrassment for the Belgian authorities. It emerged that sections of the Belgian police had been following Dutroux for years, without informing each other. Allegations have also been made that some police officers may have covered up Dutroux's involvement in child pornography for the sake of information Dutroux was feeding them about organised crime.

Public anger at apparent police incompetence combined with hints of corruption led to one of the biggest protests ever held in Belgium. Over 250,000 people took to the streets in defence of the investigating magistrate, who had been removed from the case after he had dinner with some of the victims' families. Parliamentary enquiries centred on divisions within the Belgian police services, with the rivalry between the Judicial police and the Gendarmerie being blamed for many of the mistakes that were made.

However Prime Minister Jean-Luc Dehaene focused attention away from the government by launching a campaign on "victims rights", centring the blame on a "liberal" judicial

establishment and away from police and government failures. The far-right Vlaams Blok has also used the Dutroux Affair to target lesbians and gay men as part of a "family values" campaign.

ITALY

"Witch hunt" against Italian anarchists

Ten Italian anarchists are currently facing conspiracy charges following a police raid in September of last year. Over fifty other people were raided on the same day. The raids were launched in connection with a bank robbery carried out by four other anarchists in 1991. None of those recently arrested have been charged with any involvement with the actual robbery - four people have already been tried and convicted. The raids were carried out on a conspiracy suspicion based on a "criminal enterprise" clause in Italian law.

The Italian police argue that there is an organisation (Organizzazione Rivoluzionaria Anarchica Insurrezionalista, or Revolutionary Anarchist Insurrectionary Organisation) dedicated to the overthrow of the Italian state which is being financed by bank robberies. They also claim that this organisation operates a two-tier structure with an inner layer of armed insurrectionists surrounded by an outer skin of co-thinkers operating as a respectable cover. Therefore anyone who is a supporter of the ORAI is a co-conspirator in any crime committed by any member of this organisation.

Italian anarchists, however, have denied the existence of this organisation (whose name is certainly clumsy enough to defy belief). The only evidence is that of an informer, an Iranian woman, whose evidence helped convict the four people who have already been sentenced in connection with the original robbery. The credibility of this informer has been questioned. When cross-examined at the trial she failed to remember basic details about the bank robbery and contradicted herself in numerous points.

For further information contact "Action committee El Paso Occupato" Passo Buole 47 Torino 10127 Italy.

Policing - in brief

■ **Netherlands: Tagging experiment:** An experiment with electronic house arrest has been so successful that the justice department now intends to introduce this new method nationwide. Between July 1995 and July 1996, some fifty convicted people were issued with an electronic ankle bracelet which is remotely monitored to ensure that they attend an obligatory daytime work programme and stay in their home for the rest of the day. The period of electronic "hard time" lasted between one and six months. Only two cases had to be terminated prematurely.

■ **Netherlands:** The "divisie Centrale Recherche Informatie" (CRI), the national criminal intelligence service, will soon be reorganized under a new name. Also the building in Zoetermeer (near The Hague) that the 650 CRI staffers moved into only three years ago will be abandoned for a new complex in the centre of the country. This announcement has forced dozens of CRI officers to quit their jobs over the last few weeks. Morale at the CRI is at an all-time low over the last two years following the strong condemnation of the service's products by the Van Traa parliamentary investigation commission. Senior police management seem to have decided on a radical break with the past by bringing all the central investigative police services (such as the tactical investigations team, the Landelijk Recherche

Team, the Criminal Intelligence Service, the covert surveillance and infiltration teams) under one Investigations Division. This is in spite of repeated warnings by politicians for the danger of breeding a Dutch FBI.

■ **Italy: left-leaning magistrates spied on:** files on the activities of 323 leftist magistrates were uncovered in the Italian Interior Ministry last October. Investigators have now opened an inquiry into the gathering of the files from the early 1960s until 1980. They include files on the current speaker in the parliament and a leading anti-corruption magistrate. *International Herald Tribune*, 12.2.97.

Policing - new material

A review of police trials of the CS Aerosol incapacitant, Egmont Kock & Bernard Rix. *Police Research Series Paper 21* (Home Office Police Policy Directorate) 1996, pp28. This report purports to review "the suitability and effectiveness of the CS incapacitant as an item of police defensive equipment", but fails to address the many criticisms aimed at its misuse during trials. It covers: Training and other preparation; Operational use of the CS spray; Injuries to police officers and others; Police officers' views and Public attitudes.

PNC: a users' guide. *Police Review*. Continuation of a series of articles on the Police National Computer: Part 6 "Property search" (6.12.96.); Part 7 "Directory tables" (13.12.96); Part 8 "Transaction logging" (20.12.96); Part 9 & 10 "The vehicle file" (3 & 10.1.97.).

Fingertip precision, Patrick Hook. *Police Review* 17.1.97. pp25-26. Short piece on the £100 million National Automated Fingerprint Identification System (NAFIS) which can check "more than a million fingerprints a second from up to 60 fingerprint bureaux across the UK". It is expected to start up in September.

Bugging tactics, Sarah Gibbons. *Police Review* 31.1.97. pp25-27. The surveillance clauses of the Police Bill have been almost universally condemned - by doctors, lawyers, the church, judiciary, civil liberties groups and even the House of Lords. This article presents the ACPO view and condemns the limited amendments proposed by the Lords.

Polizeientwicklung und Buergerrechte in Mittel- und Osteuropa (Police development and civil liberties in central and eastern Europe) *Buergerrechte & Polizei/CILIP 55* (3/1996), pp.102.

European Police Cooperation: police accountability and the policing of internationally-mobile offending in England and Wales, Paul Norman. D.Phil thesis, September 1996, 282 pages plus Appendices, cost £30.00 from the author at: 49 St Paul's Street, Brighton, BN2 3HR. Excellent value and a thorough study of how "international police functions are performed by domestic police agencies", the roles of Interpol and the Europol Drugs Unit, and "new forms of proactive policing".

Reporting on drugs in Nordic newspapers, Astrid Skretting, Pekka Hakkarainen, Lau Laursen and Börje Olsson. Department of Criminology, Stockholm University, S-106 91, Stockholm, Sweden.

UK: Fingerprinting on the spot. *PITO News*, October 1996. Police technology in the pipeline will allow officers to scan in a one or two fingerprint impression of suspects on the streets ("Live ID") and check them against the National Automated Fingerprint Identification System (NAFIS). Under the Police and Criminal Evidence Act 1984 (PACE) fingerprints have to be taken at a police station so the law will be to be changed if "Live ID" is to be used.

The nark's game, Colin Dunnighan and Clive Norris. *New Law Journal*, 22.3.96. Looks at the recruitment and running of police informers.

A Risky Business: the recruitment and running of informers by English police officers, Dunnighan and Norris. *Police Studies*, vol 19 no 2, 1996, pp1-25. Argues that the increased use of informers has not been matched by control mechanisms.

Tale of two cities: drug policy instruments and city networks in the

European Union, Charles D Kaplan & Ed Leuw. *European Journal on Criminal Policy and Research*, vol 4 no 1, 1996, pp74-89.

The new world order of criminal justice: reflections on clientism, Alan A Block. *European Journal on Criminal Policy and Research*, vol 4 no 2, 1996, pp101-118. Thoughtful article which concludes: "The undeniable failures of the "war on drugs" leads me to conclude that it is not a "first order of political business", though certainly at the centre of political rhetoric. Controlling the infrastructure of criminal justice in client states such as Bolivia seems more like part of an on-going experiment to test the patron's capacity for low-intensity warfare, to train special forces, and to perfect high technology surveillance devices on rough terrain, rather than anything else."

Police Complaints and Discipline: England and Wales, April 1995 to March 1996. Home Office Statistical Bulletin, September 1996. 23,600 complaints were filed over the year but only 749 were the complaints upheld by the Police Complaints Authority (PCA). However, there was a 15% (260 officers) rise in the number of police officers convicted for criminal offences.

Parliamentary debates

Policing the Streets *Commons* 9.12.96. cols. 91-100

Forensic Explosives Laboratory *Commons* 17.12.96. cols. 767-775

Police Bill *Lords* 20.1.97. cols. 386-446

Police Bill *Lords* 20.1.97. cols. 458-542

Police Bill *Lords* 21.1.97. cols. 668-678

Police Bill *Lords* 28.1.97. cols. 1082-1128

Police Grant (England and Wales) *Commons* 29.1.97. cols. 455-478

MILITARY

Franco-German agreement sets common nuclear agenda

At their bilateral summit in Neurenberg in December 1996 Germany and France reached a confidential accord on a "Joint Franco-German Security and Defence Concept". The document was leaked to the French daily newspaper *Le Monde* and was made public on 28 January. In it the French president and the German chancellor announced that they would work to bind their armed forces as closely together as possible within "a European and trans-Atlantic framework". The agreement also specified that Europe's security and defence policy should, in the future, be determined by the European Council and that the Western European Union (WEU) should step by step integrate into the EU. There was also agreement on consultation before launching overseas military intervention.

The agreement between the two countries to initiate a "dialogue on the future role of nuclear deterrence in the context of a European Defence Policy" is important. According to German military analyst, Otfried Nassauer, of the Berlin Information Centre for Transatlantic Security (BITS): "There can be no single European Union state while Britain and France insist on keeping their nuclear weapons under national control. Thus, there is a clear need for European nations to engage in discussions about the future of these arsenals. But there is also a clear need to avoid the slippery slope into shared command and control arrangements. Shared command and control entails a breach of the Non-Proliferation Treaty." France and Germany have been holding consultations over nuclear weapons since 1992 when the "Anglo-French Joint Commission on Nuclear Policy" was established. France's socialist opposition criticised the tighter military ties with Germany, saying that it signalled a "NATO-isation" of French defences.

Gemeinsames Deutsch-Franzoesisches Sicherheits- und Verteidigungskonzept - Deutsch-Franzoesischer Verteidigungs- und Sicherheitsrat (Common German-French Security and Defence Concept -German-French Defence and Security Council); Press Release BITS, 27.1.97; Jane's Defence Weekly, 5.2.97

WEU

First exercise

The first operational exercise to be carried out by the Western European Union (WEU) was held on the Spanish island of Lanzarote between December 12 and 17 last year. It was the third and final stage of "Crisex 95/96", a crisis management exercise designed to test the capabilities of the WEU-countries in mounting a forward command post for a task force sent to administer humanitarian aid in a fictitious country facing civil war.

Some 200 personnel, under the command of a Spanish general, were flown onto the island; 150 of them came from Eurocorps (Germany, France, Spain, Belgium) and 50 from WEU-countries not belonging to Eurocorps (UK, Netherlands, Italy, Portugal, Greece). Crisex 95/96 began a year earlier with a simulated consultation between WEU's headquarters in Brussels and governments of member countries where the decision was taken to intervene in the supposed crisis.

Jane's Military Exercise & Training Monitor, Fourth quarter 1996

Military - new material

Vollmitgliedschaft Spaniens in der NATO [Full membership of Spain in NATO]. *AMI* 1996/12, pp9-13. In November 1996 the Spanish parliament allowed the conservative government to take part in the military organization of NATO, thereby violating a condition that was stipulated in the Spanish referendum on NATO in 1986.

NATO-Studie "MC 161/96": neue Bedrohungseinschätzung [NATO-Study MC 161/96: New threat assessment]. *AMI* 1996/12, pp13-16. *AMI* publishes the translation of a secret document from the NATO Military Council entitled "The General intelligence estimate". It contains the NATO perception of the Russian threat, expected reactions on NATO-enlargement and the proliferation danger as NATO sees it.

Les forces Francaises d'outremer [French overseas forces], Yves Debay. *Raids* No. 128 pp6-25 (Part 1), No. 129 pp6-13 (Part 2). Dossier about the last remnants of French colonial military units in Africa, the Caribbean and the Indian and Pacific Oceans.

IFOR - the mission continues...NATO's Sixteen Nations No. 2/96. Special issue on the IFOR operation in Bosnia.

A security role for the European Union, Martin Butcher. *Alert* No. 10 (October) 1996.

NATO expansion - time to reconsider. *BASIC* and *CESD*, 25.11.96.

Parliamentary debates

Gulf War illness *Lords* 10.12.96. cols. 953-968

Gulf War illness *Commons* 10.12.96. cols. 119-138

RACISM & FASCISM

DENMARK

Nazis send letter bombs to UK

Five members of a Danish nazi group, which has links to the British fascist organization Combat 18 (C18), were arrested on Saturday 19 January. During a raid on an apartment a police

officer was shot and wounded by its owner, Thomas Derry Nakaba. He and four other nazis are charged with producing and sending at least three letterbombs to targets in the UK. Nakaba is also charged with shooting the police officer.

The Danish nazi movement has, in recent years, adopted a strategy of organizing marches, running a radio-station and publishing magazines. In September 1995, in Roskilde 30 km from Copenhagen, the Danmarks Nationalsocialistiske Bevaegelse (DNSB) planned to march through the centre of town to honour the German nazi-leader Rudolf Hess. The march attracted support from nazi groups in Germany, the UK and Sweden. One of the most violent participants was Nakaba who was filmed throwing bottles and stones at onlookers and counter-demonstrators. The nazis were - after attacks on bypassers and clashes with anti-fascists - chased out of town.

Also at the Roskilde rally was C18 organiser Wilf Browning. Browning is currently involved in a violent dispute with former colleague and C18 leader, Charlie Sargent, over control of the Blood and Honour music organisation. At stake is the income it raises for Combat 18 (or at least its leaders). While the outcome of this infighting is unclear it is understood that Browning has seized control of the organisation and expelled Sargent. The situation is further complicated by a related split within Blood and Honour and the formation of a new nazi music outfit, the British Hammerskins. Both Blood and Honour and the British Hammerskins have extensive links to the Scandinavian nazi music scene.

In Denmark, Jonni Hansen, chairman of the DNSB, criticised the letterbomb attacks, saying that such tactics are not right - at least for the time being. He admitted to knowing Nakaba but claimed that he had not had any contact with him since the Roskilde demonstration. Journalists and researchers who follow developments in the Danish nazi movement believe that this is less than truthful. They suspect that Hansen may have adopted a twin-track strategy running on the one hand, a "legitimate" organisation while, on the other, using covert units who appear to be independent to attack migrants and asylum seekers. One of the nazis arrested with Nakaba is charged with setting fire to a black woman's flat on New Years night 1996/97.

The arrests came after the Danish police received a tip-off from Interpol in Wiesbaden that the British police suspected the Danish nazis were planning something. They followed Nakaba as he travelled from his home in Nivaa, north of Copenhagen, to the Swedish city of Malmo, just across the strait between Denmark and Sweden. Here he posted at least three letterbombs containing detonators. Other devices are reported to have been intercepted.

According to Danish police sources the intended recipients of the three letterbombs intercepted in Sweden were the British athlete, Sharron Davies, Anti-Fascist Action in London and the mailbox of Combat 18. A fourth device, which is understood to have been detonated in a controlled explosion at Gartcraig Royal Mail delivery office in Glasgow, was destined for the Highlander magazine. This is run by Steven Cartwright, a former British National Party election candidate and Blood and Honour organiser in Scotland. Cartwright was targeted after abandoning Blood and Honour and siding with their opponents on the nazi music-scene, and renaming his magazine.

The Cartwright device has also raised questions about the role of the British police who have infiltrated C18 at the highest levels. It is clear they knew about the letter bombs in advance but decided not to act until after the event, despite the potentially lethal consequences. This latest incident is merely the most recent in a string of violent C18 activities that have been ignored, underplayed or mishandled by the British police. In numerous earlier incidents key players in the organisation have avoided prosecution despite eye-witness evidence identifying them. The conclusion that the C18 leadership have been used by the police as *agents provocateurs* and informants is beyond question.

Sargent and Browning are scheduled to appear in court in March, but they are charged only with the relatively minor offence of incitement to racial hatred, rather than charges related to more violent offences.

The Danish police have said that apart from further technical investigation of the bombs, and following raids on Danish nazis, they consider the case to be resolved. However, judging from previous splits between British nazi gangs, it is unlikely that this will be the final shot in what promises to be the death throws of Combat 18. In the meantime the five Danish nazis are jailed and await their court case.

FRANCE

Front National victory

Catherine Mégret of the extreme right National Front (FN) gained 52.48% in the local elections in Vitrolles, near Marseille on 9 February. This gives the FN control over its fourth city in the south of France. Mrs Mégret stood in for her husband after he was disqualified for over-spending his campaign budget in 1995. As the deputy leader of the FN, Mr Mégret is known for supporting even more openly racist and neo-nazi positions than Le Pen. Clashes broke out that evening between supporters of the Socialist party and riot police after two town officials campaigning for the Socialist mayor were apparently deliberately run over by a car. Three people were later arrested. Mainstream parties have written off the FN victory as a protest vote from a depressed town. However, many of the issues in Vitrolles - high unemployment, immigration and corruption in the political establishment - may provide fertile ground for the FN in the general election next year.

Libération, 10.2.97; *Independent*, 10 & 11.2.97; *The Times*, 10 & 11.2.97; *Guardian*, 10.2.97.

Racism & fascism - new material

European Race Audit, *Institute of Race Relations* No. 21 (December) 1996. Latest edition covers developments on the rise of racism and fascism across Europe.

Fascism across classes. *CARF* No. 35 (December 1995-January 1996) pp8-9. Examination of far-right nationalism in several European countries.

Profiteering from hate: the lucrative world of the nazi music industry. *Searchlight* No. 260 (February) 1997, pp5-13. Round-up of developments in the European/Scandinavian nazi music scene with reports on the UK, Sweden and Denmark.

Handbuch Deutscher Rechtsextremismus, Jens Meckleburg (ed) *Elefanten-Press* (Berlin) 1996, pp.1054, 68,-DM. ISBN 3-88520-585-8. The handbook on German right extremism: names, addresses, biographies, indices etc. and 24 articles on the development of right extremism in Germany from 1945 to the arson attack in Lübeck.

The Canadian **NIZKOR-Archive** offers a comprehensive material collection on Nazis and fascism in the internet: <http://pc-leis3.iam.uni-bonn.de/~nizkor/>

CIVIL LIBERTIES

NETHERLANDS

Privacy laws criticised

A confidential investigation by the Registratiekamer (Registration Chamber, the official watchdog authority

monitoring privacy issues) was leaked to the press in late January. In the report, the Registratiekamer accuses the so-called business information bureaux of severe violations of privacy laws. Dozens of "shady" bureaux often work in cooperation with private detective agencies and insurance companies to collect personal information on individuals who are in debt. They approach neighbours, employers and family members to obtain sensitive information on eg: divorce situations, gambling debts, physical and psychological problems and judicial matters, and they resort to technical means such as telephoto lenses to collect information on people's behaviour, the interior of their homes. Also, in many cases institutions such as the tax service, the welfare office, telecommunications and utilities companies and housing societies provide them with confidential information to which they are not entitled. The report gives examples of citizens whose intimate private lives were investigated by these bureaux in cases involving a possible insurance scam of only a few hundred guilders. A man suspected of having reported a car radio as stolen to claim insurance money had his entire neighbourhood and family members questioned about his divorce and psychological problems; his living room was photographed with a telelens to find out if the radio could be spotted.

Civil liberties - new material

Government.direct. HMSO, November 1996, Cm 3438, 38 pages, glossy, £6.85. Government report on plan for computer linking Ministries, and government with private industry, being "sold" as benefiting the "consumer". *Justice*, 59 Carter Lane, London EC4V 5AQ have produced a 4-page response.

BOOKS RECEIVED

A guide to the right of establishment under the Europe Agreements, Elspeth Guild. *Baileys, Shaw & Gillett* (and ILPA) 1996, pp125 no price given. This volume examines association agreements between the European Community and Central and Eastern Europe countries. It contains the relevant texts from the Agreements, schedules of the dates of entry into force, an analysis of the provisions and the precedent documents relating to applications.

Economics and European Union migration policy, Dan Corry (ed). *Institute for Public Policy Research* 1996, pp136. This book is based on papers presented at an IPPR conference in March 1996. It includes chapters on the politics of migration (Stuart Bell MP); demand based migration (Fischer & Straubhaar); international aid (William Molle); economic developments (John Salt); labour migration to Germany from eastern Europe (Elmar Honekopp) and European migration with respect to the Maghreb & Turkey (Donatella Giubilario).

Children who kill, Paul Cavadino (ed). *Waterside Press* 1996, pp224. This volume, which brings together papers from a conference organised by the British Juvenile and Family Courts Society, is highly critical of the way the criminal justice system deals with children who kill. Contributors include Gitta Sereny, Allan Levy QC, Paul Cavadino, Dr Norman Tutt, Dr Susan Bailey and Peter Badge.

The Three Pillars of Liberty - political rights and freedoms in the UK, Francesca Klug, Keir Starmer and Stuart Weir. Routledge, 1996, 377 pages, pb. Produced as part of the Democratic Audit of the UK: "It provides a thorough audit of UK compliance with international human rights standards, identifying 42 violations and 22-near violations."

The Developing Immigration and Asylum Policies of the European Union, compilation and commentary: Elspeth Guild, Introduction: Jan Niessen. Kluwer Law International, 528 pages, £112.00. Adopted Conventions, Resolutions, Recommendations, Decisions and

UK: Immigration policy in practice

The hunger strike at Rochester Prison, refusal of benefits, ban on work, "fast-track" applications

A hunger strike joined by over 70 detained asylum-seekers in Rochester prison, Kent, brought a number of people to the edge of death and provoked a national debate on the treatment of asylum-seekers. The hunger strike, which began on 6 January, was provoked by a statement by a Home Office minister that there were no immigration prisoners, and united Algerians, Bangladeshis, Nigerians, Romanians, Russians and Zaireans. After three weeks, seventeen people were still on hunger strike, and five were refusing fluids as well as food.

The protest against being treated like criminals sparked a national debate at the end of January. Prisons minister Ann Widdecombe defended the incarceration in a Commons emergency statement, referring to the relatively small proportion of asylum-seekers detained and to detainees' rights to apply for bail. Refugee workers riposted that although fewer than 800 asylum-seekers are detained at any one time, this amounts to between 6,000 and 10,000 annually. The right to apply for bail is in practice worthless except for those with relatively wealthy contacts in the UK, since immigration adjudicators do not normally release immigrants on bail in the face of Home Office objections, unless they produce sureties worth £2,000. There is no presumption in favour of bail and no legal aid to apply for it. The result is that only 15 per cent of detainees ever apply.

In a letter to the Bishop of Oxford, Parliamentary Under-Secretary of State Timothy Kirkhope rejected the suggestion that there should be a statutory time limit on immigration detention - at present unlimited. His reasoning is that "setting such a limit would give some applicants an incentive to try and delay their removal until the time limit had been reached and, once they had been released, I believe it would be optimistic to think that most would simply report back for removal later". The case of Karamjit Singh Chahal, recently released after the judgement of the European Court of Human Rights (see *Statewatch*, vol 6 no 6), shows that the Home Office has no qualms about holding immigration detainees for many years.

The letter reveals that the immigration service has adopted prison service guidelines on hunger strikes. These guidelines say that the hunger striker will receive "advice" after three days on the effect on health of continuing to refuse food, and thereafter will be offered daily advice and treatment. Hunger strikers will not be force-fed or forcibly rehydrated, but if they require treatment not available at immigration detention centres, they will be transferred to a prison with a hospital, or NHS hospital.

The letter goes on reassuringly that immigration detainees are held separately from criminal prisoners, and "may make and receive telephone calls and .. friends and relatives may visit "daily"". But lawyers representing hunger strikers at Rochester found it virtually impossible to contact them: some claimed they were told they could only have one legal visit a week and were allowed only one phone call every day. Hunger strikers were also moved secretly, with their legal representatives sometimes unable to find out where they had been taken. The wife of a former detainee said that immigration detainees are often treated worse than convicted criminals, and for example they were sometimes strip-searched after visits.

By the beginning of February the hunger strikers were dispersed around the prison system, and nearly all were known to be back on fluids, having come close to a critical condition to draw attention to their situation. The Medway Detainees Support Group organised regular pickets and vigils outside the prison, and detainees inside were cheered by the shouts and chants of

support. Despite the tough public stance of the Home Office, a number of hunger strikers were quietly released on temporary admission.

The plans of the Home Office to house detainees in a prison ship off the Dorset coast suffered a setback when the local council rejected the proposed mooring, after businesses, residents and environmentalists complained about the impact of the ship on tourism and the effect of the sewage of detainees on marine life in the area. The Home Office is appealing to the environment minister.

Tough on the outside

Life for the asylum-seekers who are not detained remained very tough as more and more found themselves refused benefits at the same time as being refused asylum. The regulations removing benefits from rejected asylum-seekers, which came into force on 24 July 1996, are really biting, with over 3,000 seeking assistance by January 1997. The Court of Appeal ruled in February that local authorities' duties to provide residential accommodation to those "in need of care and attention" included those asylum-seekers who were destitute, homeless and exposed to illness by virtue of the denial of benefits, dismissing Westminster Council's appeal against the decision of Mr Justice Collins of October 1996. But some boroughs are still refusing to give any cash, and give asylum-seekers lists of soup kitchens without the means of getting there. Others provide only sandwiches. The Refugee Council's Day Centre at Vauxhall has people walking up to twelve miles or more to get a hot meal.

No work

Despite widespread desperation, the Home Office has refused to change its policy of not allowing asylum-seekers to work for six months, and refusing rejected asylum-seekers permission to work unless they already have permission. This bars all those whose claims were rejected within six months.

The ban on working is reinforced by the employer sanctions in the 1996 Asylum and Immigration Act, which came into force on 27 January 1997. Under the Act, employers who hire people without permission to work can be fined up to £5,000 per employer, unless they show that they saw and copied the immigrant's permission to work. Thus the document which grants permission to work is crucial. Without the ability to work, even those asylum-seekers who have enlisted the help of their local authority in feeding and sheltering them will have no money for fares to Home Office interviews, or to see solicitors or advisers, or to make phone calls, or to collect evidence in support of their asylum claim, or to attend their appeal. A number of asylum-seekers are challenging the work ban in the High Court.

The work ban will apply to the vast majority of asylum-seekers now that the shortened procedure for determination of claims is in place, which means that most claims are decided within six months. The short procedure was piloted in 1995 for selected asylum claimants, and was extended after the Home Office had adjudged it a success. Their criterion for success appeared to be simply that under the pilot a 100% refusal rate had been obtained.

For the past year, anyone who claims asylum after arrival, and all who claim at ports except citizens of a number of countries including Iraq, Iran, Libya, Somalia, Liberia, Rwanda, Afghanistan and Palestine, are subjected to the shortened procedure. Those claiming at the port are sometimes interviewed

immediately on arrival, when they may be jet-lagged, traumatised and exhausted. In these circumstances they have no time or opportunity to obtain legal advice, and the Home Office does not consider it necessary for them to do so in order to put their case effectively. Claimants then have a month to send in further information and evidence, unless they are detained, when they are given only five days.

One problem is that anything not said at the interview but remembered later is liable to be dismissed as a fabrication. This is exacerbated by a change in the interview from a structured format with over 60 specific questions covering every aspect of a claim to an unstructured one in which crucial questions (for example, what has happened to family members) are not necessarily asked. This format places a heavy burden on the claimant to mention everything deemed relevant to the claim, without being given any guidance on what might be relevant.

The Refugee Council has called for an inquiry into the integrity of the procedure and the intention behind its introduction. But from all the circumstances it seems clear that the procedure was amended to make it even more difficult for asylum-seekers to do justice to their claims and to succeed in obtaining asylum.

Quick, quick, slow

The 1996 Act allowed claims to be put on a fast-track appeal procedure if the claimants came from "safe" countries of origin or if one of a number of other conditions applied, unless the claimant had evidence of torture. Lawyers working with claimants on the "fast-track" are expressing grave concern about the way Home Office officials are interpreting these draconian

provisions. Anyone who has proffered a false passport, or who has destroyed a passport on arrival to prevent being returned to an unsafe country, is being "fast-tracked", and up to mid-February only one appeal out of several hundred had succeeded at the new fast-track appeal centre in Lincoln House, Lambeth in London, according to a member of the court staff there. There is no further appeal from the decision of an adjudicator on a fast-track appeal, although decisions will be subject to judicial review.

Fast-track appeals are supposed to be heard within a couple of weeks of the refusal decision. In fact, from the beginning they have been running "late" so that appellants wait one or two months, but even this is often not enough for appellants to obtain crucial supporting evidence. Adjournments are almost automatically refused, and the Home Office then adds insult to injury by relying on the appellant's lack of supporting evidence to rubbish the claim.

Claimants who are not "fast-tracked" have the opposite problem. They are being given appeal dates for mid-1998, and have to face the problem of how to live in the meantime, without permission to work or income support.

Numbers down

It is perhaps not surprising that the number of people claiming asylum in the UK went down from 40,000 to 26,000 from 1995 to 1996. In western Europe as a whole, the numbers claiming asylum went down from over 250,000 to 214,000.

Independent 29, 30.1.97; 3, 5, 6, 7, 8.2.97; CARF, no 36, February 1997.

Permanent anti-terrorist law proposed

The report by Lord Lloyd into present and future legislation

At the end of October, with very little publicity and only a brief press release, Lord Lloyd of Berwick reported on his inquiry into counter-terrorist legislation. The inquiry had been set up jointly by Home Secretary Michael Howard and Secretary of State for Northern Ireland Sir Patrick Mayhew in December 1995, to investigate if the UK still needs special legislation, assuming this was no longer required in relation to Northern Ireland. The Lloyd Report says it does. Such is the terrorist threat that not only is permanent legislation desirable to combat terrorism, but past powers need to be further widened and strengthened, Lloyd concludes. His model legislation drops some of the existing powers, retains others and proposes some significant additions.

There are six key additions.

1. *New permanent legislation should be based on a broader definition of terrorism than exists under Section 20 of the Prevention of Terrorism Act at present.*
2. *Those conspiring in the UK to commit offences abroad will be triable within the UK.*
3. *The prosecution should be allowed "to adduce evidence of telephone intercepts" in terrorist trials.*
4. *Convicted terrorists will have to forfeit all money and property and the onus will be on them to prove that such property was not derived from criminal activity.*
5. *Courts ought to be obliged under the law to take account of the terrorist nature of the offence when passing sentence.*

6. In cases where "an accomplice gives evidence against a fellow terrorist" a statutory discount of sentence is recommended of between one-third and two-thirds.

The present anti-terrorist legislation, the Northern Ireland (Emergency Provisions) Act 1996 (EPA) and the Prevention of Terrorism (Temporary Provisions) Act 1989 (PTA) provides powers principally in relation to terrorism connected with the North of Ireland, although the PTA has been amended, in part, to tackle international terrorism.

ECHR Alignment

Lloyd recommends that the new legislation should respect the European Court of Human Rights ruling that seven-day detention is a breach of the Convention. The police should have the right to detain suspects for an initial forty-eight hours, compared to the thirty-six hours allowed under the Police and Criminal Evidence Act, and this will be extendable for a further forty-eight hours (96 hours maximum). In all other respects - powers of arrest, interviewing, fingerprinting and the taking of "intimate body samples" - any new anti-terrorist law should be in line with PACE powers and procedures.

Some of the more recent extensions of the PTA and EPA, Lloyd proposes, should be retained or slightly modified. The so-called "godfather" clause - "directing at any level a terrorist organisation" - which was introduced under the EPA in 1991, should be kept in any new legislation, although it has been infrequently used to date in Northern Ireland. Likewise, Lloyd wishes to retain a range of offences such as financial support for

terrorist organisations, display of public support, collecting information, “being concerned in the preparation of an act of terrorism”, and “going equipped for terrorism”. The power to detain at ports of entry should be kept but people should only be held for six hours before being charged or released, instead of 24 hours as now. Records would be kept of all passengers examined for more than thirty minutes.

The police are to be given very wide pre-emptive powers. Powers which can be used long before any act rendered criminal under legislation is perpetrated. The scope for wrongful detention and unmeritorious charges will arguably be similarly vast and potentially give rise to a mass of miscarriages of justice involving those involved in legal political and social protest.

Abolition

There would be no need for special courts (such as Northern Ireland's Diplock courts), once peace is established, and likewise, the power to make exclusion orders and to detain without trial - internment - could be dropped. Lloyd argues that there would remain the need for the state to be ready to bring in additional emergency powers, but that these should be publicly debated ahead of time and only legislated for once a state of emergency has been declared.

How were these conclusions reached? As Lloyd himself acknowledges, unlike previous reviewers of counter-terrorist legislation, he was asked to assume that “the cessation of terrorism connected with the affairs of Northern Ireland leads to a lasting peace”. It was open to him, therefore, to recommend that “the ordinary law, as it stands is... sufficient” to deal with any future terrorist threat. His terms of reference also required him to take account of UK obligations under international law - principally the European Convention on Human Rights and the International Covenant on Civil and Political Rights (ICCPR). Although both of these are “treaty obligations of equal standing”, Britain has not signed the protocol of the ICCPR which would permit individual petition. So rulings of the European Court of Human Rights are most immediately relevant, certainly as regards the finer points of arrest and detention powers. They also have a bearing on how terrorism is policed such as the use of special forces to kill terrorist suspects (as in the SAS-Gibraltar judgement, see *Statewatch*, vol 5 no 5), but these kinds of questions were not considered by Lloyd.

Lloyd took evidence from a wide range of individuals and organisations although inevitably his deliberations were strongly influenced by his discussions with the US authorities and their justifications of the 1996 Terrorism Prevention Act (the Anti-terrorism and Effective Death Penalty Act). In addition, he commissioned Professor Paul Wilkinson of St. Andrew's University to provide “an academic view as to the nature of the terrorist threat”, and Wilkinson's report is published as Volume II of the review. Finally, Lloyd held a special weekend seminar which was attended amongst others, by Stephen Lander (Director General, MI5), General Sir Michael Rose (the Adjutant General), Ronnie Flanagan (Chief Constable of the RUC), Douglas Bain (Director of the NIO's Terrorist Finance Unit), David Veness (Assistant Commissioner Specialist Operations, Metropolitan Police), Professor Wilkinson and three lawyers including John Rowe QC (official reviewer of the PTA and EPA), Sir Franklin Berman QC (Legal Adviser, Foreign and Commonwealth Office), Sir William Goodhart QC (former Chair of Justice), Lord Rodger (Lord President of the Court of Session and former Lord Advocate), and Justice Kerr (Northern Ireland). He also visited the USA, France, Germany and Canada.

International, particularly US, influences on Lloyd's findings are clear. For instance, the idea that terrorist offences should be marked by special sentencing comes directly from a meeting of the interior and foreign ministers of the P8 Group (the G7 Industrialised Nations plus Russia) held in Paris on 30 July 1996

(see *Statewatch*, vol 6 no 5). This constitutes a marked departure from the UK government's commitment from the mid-1970s to treat “terrorists” as “criminals” and will undoubtedly raise questions as to the type of regime such specially-sentenced offenders will be held under. There is evidence that the current Home Secretary, Michael Howard, in the absence of a specific legal provision, is already doing what he can to implement the P8 policy in his campaign against republican prisoners held in Britain and his interference with lifer tariffs. The conditions in the SSUs are very much worse than those pertaining in Northern Ireland.

The Inquiry was alerted to the more precise definition used in the Reinsurance (Acts of Terrorism) Act 1993, where terrorism is said to be “acts of persons acting on behalf of, or in connection with, any organisation which carries out activities directed towards the overthrowing or influencing, by force of violence, of Her Majesty's government in the United Kingdom or any other government de jure or de facto”. However, Lloyd's new definition of “terrorism” is modelled on the working definition used by the FBI:

The use of serious violence against persons or property, or the threat to use such violence, to intimidate or coerce a government, the public or any section of the public, in order to promote political, social or ideological objectives.

In one respect this is a potentially narrower definition than that given in section 20 of the PTA: “the use of violence for political ends, any use of violence for the purpose of putting the public or any section of the public in fear”. The FBI definition emphasises that the violence (or threat) has to be “serious” rather than “any”. In another sense, however, the definition proposed by Lloyd is wider because it includes a broader range of purposes beyond those which might be regarded as strictly “political”.

In assessing the terrorist threat, Lloyd draws heavily on Wilkinson's argument that, with the collapse of communism, “terrorism inspired by the ideology of the extreme left” has given way to actions based on “Islamic extremism”, nationalism and right-wing groups. Wilkinson assesses the “post-Cold War security environment” and is particularly concerned with the accessibility of modern weaponry, the problem of chemical and biological terrorist attacks, and “nuclear terrorism”. The problem in the UK, however, is somewhat more “traditional”. When outlining the “historical context”, Wilkinson appears to identify a very substantial threat from “Protestant Unionists” - note, he is not talking about unofficial loyalist armed groups. He describes “Protestant Unionists” as being “so adamantly opposed to the unification of the island of Ireland under the Catholic-dominated Republic that they are prepared to wage full-scale civil war, if necessary, to prevent it”. This rather dramatic political assessment, however, disappears into nothing in his chapter on “current threats”. While the IRA, animal rights groups, Scottish and Welsh nationalism, and a range of Arab and other international groups are all included, loyalism is completely ignored. Wilkinson also has nothing to say about neo-fascist groups.

Although Lloyd was asked to work with the assumption that there would be no long-term need for anti-terrorist legislation in relation to northern Ireland, it is interesting that many of the powers introduced there recently, or currently advocated as being necessary by the RUC and others, make their way into Lloyd's report. A case in point is the proposal on telephone tap evidence which would allow the RUC to make better use of what the Chief Constable refers to as “the golden thread” of intelligence (see *Police Review*, January 1997). This idea, alongside other recent offences mentioned above, herald an increasingly intelligence-based counter-terrorist strategy, the purpose of which is to intercept terrorist operations at the planning stage. As Lloyd put it: “As for catching terrorists, I am thinking not only of catching them red-handed after the terrorist

incident has occurred, but also, and even more important, of catching them before the incident occurs." Lloyd acknowledges that the telephone tap evidence idea carries with it a certain risk. This is that, "the interception capability will become more widely known among terrorists, drug dealers and the criminal classes generally". There may be a political risk also in that the scale of telephone tapping, especially in the Northern Ireland context, might be revealed for the first time.

This last point is irrelevant, of course, if it is assumed that the Lloyd Report will be implemented only when the need for the PTA and EPA in the context of northern Ireland lapses. Somehow, this is an improbable outcome. It is more likely that

we will see the selective implementation of Lloyd's recommendations as and when the opportunities arise - when the emergency legislation comes up for renewal and elsewhere.

On 14 February 1997, the government attempted to introduce a private members bill, the Jurisdiction (Conspiracy and Incitement) Bill, which would have had the effect of criminalising support for political violence abroad. It was only defeated when two left Labour MPs, Dennis Skinner and George Galloway, unexpectedly forced a vote on the third reading and caught the government unawares, as they were relying on cross-party support for the Bill.

Lloyd Report, Inquiry Into Legislation Against Terrorism, Cm 3420, October

Whither the "third pillar"? Hello "Schengenland"?

The future of the "third pillar", created by the Maastricht Treaty and put into effect in November 1993, will undergo major changes when the results of the EU Intergovernmental conference are adopted in Amsterdam on 16-17 June. This feature looks at one of major changes being discussed - though much will happen before the ink is dry (see *Statewatch*, vol 6 no 4).

The turning point for the EU Presidency, now held by the Netherlands, was the realisation at the Dublin Summit in December last year that on the issue of immigration and border controls there would be no change of policy if the Labour opposition win the general election in the UK in May. Labour leader, Tony Blair, spelt out for other EU socialist party leaders in Dublin that his government would maintain a national veto over these policies. However, Labour Party leaders have made clear that they will stand in the way of the majority of EU governments who want to "communitarianise" aspects of the "third pillar", by giving the European Commission the "right of initiative" to prepare new policies.

On 11 February Michiel Patjin, the Dutch Minister for European Affairs, said:

We have now to accept that there is no prospect of any future British government abandoning national frontier controls. This must now be accepted as a political fact."

That evening UK television news programmes led with the story of a "victory in Europe" which would allow the UK to maintain its border controls through a new "opt-out" agreement. None of the commentators however spelt out the implications.

The maintenance of UK border controls has several immediate effects. First, it ties the Republic of Ireland to the UK's position because of the common travel area between the two countries. Second, it denies the right of border-free travel to third country nationals resident in the EU. Third, it blocks one of the key objectives, Article 7a, of the Single European Act which was intended to remove all controls of the internal movement of goods, capital and people.

The realisation, by the Dutch EU Presidency and other governments, that a change of government would not lead to a change of policy on the issues of border and immigration controls opens the door to a change many of them thought would not seriously be on the IGC agenda - the incorporation of the Schengen Agreement into the treaties of the EU.

In the draft IGC proposals, drawn up by the Irish Presidency for the Dublin European Council in December, there was a four-line "Comment" to the effect the incorporation of the Schengen Agreement required "further consideration". The "Dublin II" draft proposed a new treaty Title, "Free movement of persons, asylum and immigration", and an amended Title VI (Article K of the Maastricht Treaty), "Security and safety of persons" covering

policing, customs, and judicial cooperation.

By mid-February a whole series of IGC "Non-Papers" (as they are called) on the effect of incorporating the Schengen Agreement were on the table - if UK (and Ireland) could be given an "opt-out" then "flexibility" (a fancy name for two-track) would allow the 13 EU governments committed to the Schengen Agreement (and to "communitarianising" areas like asylum and immigration by giving the Commission the right of initiative and the European Court of Justice direct powers) to move fully inside the European Union which was one of its founding objectives in 1990.

Incorporating the Schengen Agreement

There are two Schengen Agreements. The first was signed in 1985 between five EU states: Germany, France, Belgium, Netherlands and Luxembourg. The same five signed the Schengen implementing agreement in 1990. Italy signed up in November 1990, Portugal and Spain in June 1991 and Greece in 1992. In 1996 Austria, Denmark, Finland and Sweden signed up. Two non-EU states, Iceland and Norway, have been given associate status within Schengen so that the Nordic Passport Union can be maintained; they too have to ratify the agreement. Although 13 EU governments have signed up to the agreement only the original five plus Portugal and Spain have ratified it (ratification involves national parliaments agreeing). Six still have to ratify it and to set up the necessary links to the Schengen Information System based in Strasbourg.

On 4 February a "Non-Paper" on "Schengen and the European Union" was circulated to the IGC. The 142 Articles in the Schengen agreement cover all the areas currently dealt with under the "third pillar", Article K of the Maastricht Treaty, coming under the Council of Justice and Home Affairs Ministers. Moreover, the Schengen agreement states that where the EU agrees a measure covered by it then "Schengen legislation" is replaced. As the report puts it, "the incorporation of the Schengen acquis into the Union is a gradual process which is already underway." The broad approach in the "Non-Paper" is that "action among the fifteen should be pursued as a matter of priority wherever that action appears to be possible" but then suggests how to proceed when only thirteen agree.

Two options are put forward. The first is through "enabling clauses" allowing the thirteen to "establish Schengen enhanced cooperation" on a case by case basis. The second, "pre-determined" approach would attach a "Schengen Protocol" to the new treaty (see box). This would involve the incorporation of the existing "Schengen acquis" (see *Statewatch*, vol 6 no 5). This would immediately present a problem: would this "acquis" plus the measures agreed by thirteen, the "new Schengen acquis" be the "acquis of the Union?" And to which would any new EU members be signing up to under "enlargement" (ie: the countries

DRAFT SCHENGEN PROTOCOL

[Preamble]

Article 1

The High Contracting Parties agree to authorize the Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Italian Republic, the Kingdom of Spain, the Portuguese Republic, the Hellenic Republic, the Republic of Austria, the Kingdom of Denmark, the Republic of Finland and the Kingdom of Sweden, hereinafter referred to as "the thirteen Member States", to have recourse to the institutions, procedures and mechanisms of the Treaty for the purposes of taking among themselves and applying, as far as they are concerned, the acts and decisions required for giving effect to the Schengen agreements, insofar and to the extent that such acts and decisions cannot be attained by means of the application of the relevant procedures laid down in the Treaty establishing the European Community and the Treaty on European Union.

Article 2

- 1. The Council of the European Union shall fulfil the tasks entrusted to the Executive Committee under the Schengen agreements.*
- 2. The United Kingdom of Great Britain and Northern Ireland and Ireland, while continuing to attend the sessions of the Council, shall not take part in the deliberations on the Schengen agreements and the adoption by the Council of decisions to be taken in accordance with this Protocol.*
- 3. [-]*
- 4. Where the Schengen agreements provide for the adoption of a decision, the Council shall act in accordance with the relevant legal basis which would apply were that decision to be taken under the Treaty establishing the European Community or the Treaty on European Union.*

Article 3

- 1. The Court of Justice of the European Communities shall have*

jurisdiction, at the request of one of the thirteen Member States, to rule on any dispute between them regarding the interpretation or the application of the Schengen agreements and the decisions taken for implementing them, whenever such dispute cannot be settled by the Council of the European Union within six months of its being referred to it by one of those Member States.

- 2. The Court of Justice shall have jurisdiction to give preliminary rulings on the interpretation of the Schengen agreements and of the decisions taken for implementing them. Any court of tribunal of any of the Member States may request the Court of Justice to give a preliminary ruling on a question raised in a case pending before it, if that court or tribunal considers that a decision of the Court on the question is necessary to enable it to give judgment.*

The Council, acting [unanimously] on the initiative of any of the thirteen Member States when adopting a decision to be taken in accordance with this Protocol may decide that the jurisdiction of the Court of Justice as laid down in this paragraph shall not apply to that decision or parts thereof.

- 3. The Rules of Procedure of the Court of Justice shall be amended as appropriate, in accordance, with Article 188 of the Treaty establishing the European Community.*

Article 4

Decisions adopted by the Council in accordance with this Protocol and any financial consequences other than administrative costs entailed for the institutions shall not be applicable to the United Kingdom of Great Britain and Northern Ireland nor to Ireland.

Article 5

The Council of the European Union [see: decision-making procedure: see Article 2(4)] may negotiate and conclude, on behalf or the thirteen Member States, agreements with third countries in connection with the objectives pursued by those States under the Schengen agreements.

Article 6

At the request of the United Kingdom of Great Britain and Northern Ireland and/or at the request of Ireland, negotiations shall be opened with a view to the accession of those countries to the

of central and eastern Europe).

The implications of this last approach are spelt out. The Schengen secretariat would be integrated "into the General Secretariat of the Council". The Council of Justice and Home Affairs Ministers would take over the role of the Schengen Executive Committee and meet in two parts, first with all fifteen EU member states but in the second part: **"The UK and Ireland would sit in the Council but would not take part in its deliberations."** But: **"a provision could be included in the Schengen draft protocol to allow the participation of representatives of Iceland and Norway"**.

Another report, "Flexibility - "enabling clauses" approach", spells out some of the bizarre consequences of a two-track approach on justice and home affairs. First it suggests that "third countries", that is non-EU countries like the USA, Canada and Australia, might "be allowed to participate in enhanced cooperation" - in the thirteen-strong Schengen pillar. Second, that "acts and decisions" reached under the "Schengen pillar" could only be voted on by MEPs in the European Parliament coming from participating member states.

A "Non-Paper" from the European Commission, on 10 February, examined the similarities between work under the "third pillar" of the EU and the Schengen agreement. It found that in many areas there was a "concordance between Schengen and the Treaty" (TEU, the Treaty of European Union as the Maastricht Treaty was formally named).

A "Non-paper" on 12 February from the Dutch Chair of the IGC sets out the consequential "flanking measures" (a euphemism for more internal controls) required by the Schengen countries:

Accompanying measures deemed necessary for the elimination of internal border controls by the signatory states of the Schengen Convention: a) Regulations for the elimination of all controls on persons at internal borders (concept of "internal borders" at airports etc); b) crossing of external borders (controls, entry requirements etc.); c) visa policy regarding: i. short stays (third country list, uniform visa format, requirements and procedure for issuing visas, etc.), ii. long stays (transit visa only, visas for long stays continue to fall under the competence of the Member States), iii. conditions for the freedom of movement of third country nationals within the Union and for residence permits; iv. responsibility of Member States for processing requests for asylum; d) police cooperation (cross-border surveillance and pursuit, exchange of information; e) enhancement of mutual assistance in law enforcement concerning criminal matters (requests for assistance, supply of documents pertaining to proceedings); f) improving cooperation as regards extradition; g) transfer of execution of sentences; h) drugs (cooperation as regards prevention and combating of drugs trafficking, controlled distribution, medical certificates); i) harmonization of legal provisions on firearms and ammunition; j) establishment of Schengen Information System (SIS); k) goods transit ("baggage checks"); l) data protection (to guarantee a minimum level of protection not lower than that provided

for by the Council of Europe Convention of 28 January 1981).

Conclusion

If the “Schengen Protocol” option is adopted the Schengen countries, backed by the 172-plus measures in the “Schengen acquis”, will take over. The “third pillar” will become the “Schengen pillar” and put the Schengen Information System (SIS) with its lists of “undesirables” at the heart of policing and public order, and refugee and asylum policies.

Adapting the European Union for the benefit of its peoples and preparing it for the future: a general outline for a draft revision of the treaties, "Dublin

II", Conference of the representatives of the governments of the member states, CONF 2500/96, Limite, 5.12.96; Guardian, 16.12.96 & 15.3.97; Times, 12.2.97; Schengen and the European Union, Secretariat, Conference of the representatives of the governments of the member states, Non-Paper, CONF/3806/97, Limite, 4.2.97; JHA - Free movement of persons, European Commission, "Cover Note", CONF/3817/97, Limite, 10.2.97; Minutes of the meeting of Ministers' Representatives, 27-28 January 1997, Brussels; Presidency Note: Progressive establishment of an area of freedom, security and justice, CONF/3828/97, Limite, 26.2.97; Flexibility: "enabling clauses" approach, Non-paper, CONF/3817/97, Limite, 11.2.97; Relations between the Schengen Acquis and the EU Acquis, Note from the Schengen Presidency.

JHA Council by-passed

Six measures, not on the agendas of the JHA Council, adopted without debate by other Councils

In the last *Statewatch* the “Measures formally adopted during the Irish Presidency” (July-December 1996) (see *Statewatch*, vol 6 no 6, p15) were listed. In addition to the 26 measures listed a further 5 were adopted by the end of the year - these are:

27. Resolution on sentencing for serious illicit drug-trafficking, discussed at JHA Council on 28/29 November and adopted on 20 December by the Fisheries Council. OJ C 10, 11.1.97.

28. Resolution on individuals who cooperate with the judicial process in the fight against international organised crime, discussed by the Council of Justice and Home Affairs Ministers in March 1996, and adopted 20 December by the Fisheries Council. OJ C 10, 11.1.97.

29. Joint Action providing a common programme for the exchange and training of, and cooperation between, law enforcement authorities ("Oisin"), adopted on 20 December by the Fisheries Council. OJ L 7, 10.1.97.

30. Joint Action concerning participation by Member States of the EU in the strategic operation planned by the Customs Cooperation Council (CCC) to combat drug smuggling on the Balkan route, adopted on 20 December 1996 at the Fisheries Council.

31. Joint Action concerning action to combat trafficking in human beings and sexual exploitation of children, discussed at the Council of Justice and Home Affairs Ministers on 28/29 November 1996 and adopted by the General Affairs Council on 24 February 1997 (this strictly belongs to the Netherlands Presidency).

Adopted but not discussed by the JHA Council

Of the 31 measures only 7 went through the Council of Justice and Home Affairs Ministers (JHA Council), 24 were adopted without debate by other Councils of Ministers.

Further analysis of the 31 measures agreed under the Irish Presidency illustrates how confusing it is to try and follow the measures agreed. It also shows a disturbing disregard for procedures under the “third pillar”:

7 were discussed by and were adopted by the JHA Council in November 1996; 5 were discussed by the JHA Council in November 1996 and adopted by other Councils in December; 2 were discussed by the March 1996 JHA Council but adopted by other Councils in July and December 1996 respectively; 1 was discussed at the European Council in Rome in June 1996 and adopted by another Council in July; 10 were discussed at the June JHA Council in Luxembourg, and their adoption delayed because of the UK "beef ban" reservation, and they were adopted by other Councils in June, September and October 1996

but 6 were adopted by other Councils, without debate, in October, November and December 1996 and were NEVER discussed at any meeting of the JHA Council.

These 6 measures are:

1. Council decision regarding the implementation of Article K1 TEU (Treaty of European Union), adopted by the Economic and Financial Council on 14.10.96. OJ L 268. 19.10.96

2. Financing of Title VI: GROTIUS programme (exchange for legal practices) and SHERLOCK programme (training and exchange and cooperation in the area of identity documents), by the General Affairs Council on 28.10.96, OJ L 287, 8.11.96

3. Joint Action extending the mandate of the Europol Drugs Unit, by the Culture Council on 16.12.96, OJ L 342, 31.12.96

4. Decision on monitoring the implementation of instruments adopted by the Council concerning illegal immigration, readmission, the unlawful employment of third country nationals and cooperation in the implementation of expulsion orders, by the Culture Council on 16.12.96, OJ L 342, 31.12.96

5. Joint Action providing a common programme for the exchange and training of, and cooperation between, law enforcement authorities ("Oisin"), adopted on 20 December 1996 by Fisheries Council. OJ L 7, 10.1.97

6. Joint Action on Balkan route, adopted on 20 December 1996 at the Fisheries Council.

Fisheries Council nods through Balkan Joint Action

A Joint Action under Article K.3 of the Treaty on European Union was adopted as an “A” point (without debate) by the Fisheries Council on 20 December 1996. The Joint Action is to run an “out-of-area” drugs surveillance operation involving EU police and customs officers along the “Balkan route”. It was meant to be on the agenda of the Council of Justice and Home Affairs Ministers at their November meeting but was taken off at the last minute. A draft dated, 5 November, was based on funding coming through in 1997 out of the Community budget. Instead 100,000 ECUs is to be taken from the budget of another Joint Action, “Oisin”, also passed by the Fisheries Council and not discussed in the JHA Council.

The Joint Action states that it will involve: “monitoring of road traffic”; “collecting information and intelligence”; and the “increased use of controlled deliveries”. The operation is to be run under the auspices of the Customs Cooperation Council (CCC) an international organisation with 131 member states founded in 1953.

Other similar operations, organised by the EU, and reported to the JHA Council after the event, include the “maritime cooperation operation “Piranha”” off Norway in September 1994, “Operation Octopuss”, and operation “Quicksands” organised by the UK in 1995. The European Commission (DG

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