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Schengen and EU agree to extend Fortress Europe

On 26 January the EU adopted a 46 point Action Plan to deal with “illegal” immigration from Iraq. However, the Action Plan has implications for all refugees and asylum seekers. It includes the fingerprinting of “each illegal third country national whose identity cannot be established” and follows the same decision by the Schengen Executive Committee in mid-December. It says that “illegal” migrants could be returned to “safe havens” in the “region of origin”, and discusses whether the proposed EURODAC computerised fingerprint database on refugees and asylum seekers trying to enter the EU should be extended to suspected “illegal” migrants within the EU.

At its meeting on 4 December in Brussels the Council of Justice and Home Affairs Ministers (JHA) discussed “the problem caused by the mass influx of asylum-seekers and illegal immigrants, particularly from northern Iraq”. The JHA Council acknowledged that the migration appeared to be via Turkey then Greece and Italy or “via the Balkan route” (from Turkey, Bulgaria, former states of Yugoslavia, Hungary Slovakia, Czech Republic and Germany) - though the latter route received scant mention later in the media. Then EU Foreign Ministers meeting in the General Affairs Council on 8-9 December discussed returning “Iraqi nationals” (Kurdish people) to areas covered by the US imposed “no-fly” zone.

The EU Summit at the end of the Luxembourg Presidency agreed on 12-13 December that:

The situation arising from the massive influx of immigrants from Iraq in particular is disturbing. The Council must prepare and implement rapidly an action plan to respond to this problem.

These three meetings allowed the Schengen Executive Committee to take the initiative just two days later.

Schengen sets the scene

On 15 December 1997 under the Austrian Presidency in Vienna the Schengen Executive Committee adopted a far-reaching Decision to stem the “large increase in immigration of third country nationals, particularly of Iraqi and other citizens”. Among the key decisions were the:

taking of fingerprints of each illegal third country national immigrant whose identity cannot be established beyond doubt on the basis of valid documents, and storing of the data for information exchange with other authorities of the member states..

The plan to fingerprint *all* third country nationals without “valid documents” by the 13 Schengen states would create a major source of information to be entered into the EU's EURODAC computerised fingerprint database when it comes on line (the EU governments has yet to agree on the text of the Convention setting up EURODAC). All fingerprints are to be taken according to national legislation which varies greatly both in the powers given to authorities and the protection afforded to the individuals concerned (see *Statewatch*, vol 6 no 4, “EURODAC: EU to hold asylum seekers' fingerprints on central computer - draft Convention proposals”). Cooperation prior to EURODAC starting will only work bilaterally where computer software is compatible.

Second, the plan sets out the need for all Schengen countries to have “holding centres” (camps for migrants). Schengen countries should:

*prevent illegal immigrants disappearing until their identity has been established or until the implementation of necessary police measures... [and allow for] immediate repatriation/readmission [the French *éloignement* is ambiguous in this respect] of illegal immigrants if they have not been granted temporary leave [to remain]*

The plan also includes: the “harmonisation of sanctions and

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arrangements with carriers which transport illegal immigrants"; "pre-frontier checks at risk entry points" (that is, check before a person officially lands or embarks onto the soil of a Schengen state); and support for the negotiation of readmission agreements between Schengen states and "Turkey, Slovakia, Hungary and Slovenia". Representatives from the six states "most affected" are to form a task force to implement the plan.

The Decision states that "the implementation of this decision shall take place in addition to the EU action plan".

Both the Schengen Executive Committee decision of 15 December 1997 and the EU's Action Plan (see below) adopted by the General Affairs Committee on 26 January 1998 use the issue of Kurdish people (whether from Turkey or northern Iraq) seeking to enter the EU to set up new, far-reaching measures to maintain the borders of "Fortress Europe".

Furore over massive "threat" of Kurdish immigrants

In the first week of January news stories started to appear (in the English language press) concerning the "imminent" influx of thousands of Kurdish people coming into the EU via Italy. The intended destination of an alleged "10,000 Kurds" was Germany according to Foreign Minister Klaus Kinkel, "all Schengen states must secure their external borders so criminal smugglers cannot succeed in landing hundreds of people in Europe" (*Guardian*, 5.1.98). The next day Mr Kinkel was more specific:

Greece and Italy in particular must take much tougher action against illegal immigration... In view of this threatening situation, western Europe must consider itself a security community. All our countries are potential destinations if the beginnings are not stamped out.

French Foreign Minister Mr Vedrine echoed Mr Kinkel: "When there is mass immigration, the principles should be

different to those in day-to-day immigration". The papers dutifully reported that Austria was "beefing up checks at Alpine passes into Italy... France sent riot police to its frontier with Italy to deter Kurds and others heading west from the Mediterranean." On 7 January the Italian Interior Minister Giorgio Napolitano chaired a meeting in Rome of police and "security officials" from Italy, Turkey, Germany, Greece, France and the Netherlands (the UK, the EU Presidency, attended as an observer). Mr Napolitano said that 2,646 Kurds from Turkey and Iraq had arrived in Italy since July 1997.

The Italian government had taken the view that it would give asylum to those fleeing persecution and was blamed for creating the situation. Their practice had been to give people served with expulsion orders 15 days to leave the country - they were not detained, and therefore Germany and France argued, could simply leave Italy. New legislation going through the Italian parliament would allow for instant expulsion and the Schengen plan (above) could force the construction of detention centres to hold refugees.

Turkey maintained that the Kurdish migrants were "economic migrants" not "political refugees" fleeing from repression whether in Iraq or Turkey. The Rome meeting resulted in a protocol of agreement against migrant trafficking (not signed by Turkey because of references to "Kurdish Turkish regions" and alleged failure by the other participants to recognise the role of the PKK in smuggling the "illegal immigrants").

The 46-point Action Plan

That meeting was followed up within a fortnight by the adoption at the General Affairs Council on 26 January of an EU Action plan to curb the entry into the EU of "illegal refugees". The plan's

Turkey: Europe's policeman

Despite its refusal to sign the Rome agreement Turkey was quick to act. In one operation early in the morning of 11 January, police in Istanbul arrested 1,374 people, mostly foreign, who were suspected of planning to get to western Europe.

A major ingredient of the Action Plan is the development of the use of "safe havens" in the region. On the table are plans for more "safe havens" in northern Iraq, Turkey and Jordan. But as EU governments are fully aware, the "safe haven" in northern Iraq is anything but safe. As British Refugee Council's Nick Hardwick commented, "No-one fleeing persecution would want to go to an EU safe haven, given western countries' failure to protect such places in the past."

The un-safety of the northern Iraqi "safe haven" was acknowledged in a report from the CIREFI working group (on external frontiers and immigration) to the K4 committee on "Migration movements from Iraq" in the autumn of 1997. This refers to the "problem" of a large influx of "illegal immigrants" from Iraq to the countries of northern Europe, most without travel documents, and most of whom could not be repatriated because of the conflict and the failure of Turkey (the main transit country) to cooperate. The "solution" was to strengthen external border controls, in particular in Greece and Italy, which would receive technical support and assistance, and to include a clause on readmission of illegal immigrants in the Turkey-EU Association Agreement. Cyprus and the countries of central and eastern Europe were also to be enrolled in keeping the refugees out. The proposals were endorsed by COREPER, the committee of permanent representatives of the 15 EU member states, in December 1997.

According to UNHCR, sixty-five per cent of Iraqi Kurds

who claim asylum are recognised as refugees in western Europe. But there is no recognition of this, or of the plight of the Turkish Kurds, in the Schengen and EU response. It was left to the European Parliament to remind the EU Council of Ministers that the Kurds were, after all, refugees. In its resolution of 15 January, the parliament supported the solidarity and humanitarian approach of the government of Italy to the Kurds, and called for a perspective which recognised the right of those suffering persecution to seek refuge. It also called for a common EU foreign policy towards the repression of the Kurdish people.

An Amnesty International press release also called on EU governments to protect refugees. It reminded them that in Turkey, an estimated 2 million people had been "internally displaced" by security forces' destruction of thousands of villages in the Kurdish south-east of the country. The destruction is accompanied by widespread abuses of human rights including disappearances, extra-judicial executions, unacknowledged detention and torture. In Iraq, the ceasefire between the PUK and the PKK had broken down in October 1997 and the situation was volatile. The Turkish airforce was also bombing refugee camps and settlements in northern Iraq on the pretext that they were PKK bases.

The Amnesty report also pointed out that Turkey does not recognise non-European refugees. There is no provision in Turkish law for non-European asylum-seekers to obtain refugee status in Turkey. An estimated 12,000 non-nationals, mostly Iraqi Kurds but also Iranians, Algerians and others, have been arrested by Turkish border guards, and many refugees have been forcibly returned to the countries they have fled from. Turkey which systematically persecutes its own national minority and which refuses to recognise as refugees those who flee from neighbouring countries is now being enlisted as regional policeman in the fight to make Europe refugee-free.

46 points deals cursorily with the need for analysis of the causes and origins of the influx of refugees, and for ensuring the effectiveness of humanitarian aid, and at length with policing issues, to which over two-thirds of the plan is devoted. The plan recommends the increased use of liaison officers working with carriers (airlines and shipping companies) to ensure that tickets are not sold to suspected asylum-seekers. Although an EU Action Plan it refers to the need to ensure "Schengen requirements" are met at external borders, revealing the complete interchangeability of EU and Schengen actions in this field.

Section D ("effective application of asylum procedures") introduces a wholly new concept of *region of origin* as distinct from the current *country of origin*. It says in Point 7:

the Council to consider the scope for developing a regional approach to protection in appropriate cases involving cooperation with non Member States and the possibility of identifying safe areas with the region of origin ["internal flights" option] (brackets [] in original)

This suggests that *safe areas* in *regions of origin* could be set up and migrants sent to them on what would be considered *internal flights*.

The intention is spelt out in later points. The Member States are to "exchange experiences.. on the return of illegal immigrants to the region" (point 38). Member States are to exchange "best practice on effecting removals to countries in the region" (point 41).

Section E ("preventing abuse of asylum procedures") suggests that there are problems with the Dublin Convention with regard to asylum seekers "without travel documents" (point 13) and that member states need to find a way of dealing with "undocumented asylum seekers in accordance with the Dublin Convention" (point 14).

The issue is raised, in point 17, whether the EURODAC Convention (which will create an computerised fingerprint database of migrants seeking to enter the EU) should "be extended to illegal immigrants from third countries". At the informal Justice and Home Affairs Ministers Council in Birmingham on 29-30 January Interior Minister Mr Kanther said that Germany was in favour of taking this step now. However, several delegations said to include Belgium, Spain and Sweden, strongly opposed the suggestion largely on the grounds that to add suspected "illegal" immigrants within the EU would delay the implementation of the EURODAC Convention.

The immediate step is set out in point 40 of the Action Plan:

Member States to fingerprint every third country national illegally entering their territory whose identity cannot be established.. to retain such fingerprints.. and to consider exchange of such fingerprints with a view to confirming identities.

The EU Action Plan of 26 January thus follows in the wake of the Schengen Executive Decision of 15 December 1997.

Point 18 raises the possibility of "concluding parallel agreements to the Dublin Convention with the countries of Central and Eastern Europe", though the draft parallel Dublin Convention is understood to be on hold until problems with the main Convention have been sorted out.

Section F ("tackling the involvement of organised crime") covers the law enforcement aspects of the Plan and, yet again, envisages a new role for the Europol Drugs Unit (EDU) in facilitating "joint law enforcement projects in this area".

Behind the "Action Plan"

An earlier report sent by the UK Presidency to the K4 Committee in mid-January is altogether more explicit on the intentions behind the "Action Plan". The "draft" Action Plan was drawn up following meetings of the Migration, Europol and Asylum Working Parties in the first week of January. A section on "Combatting illegal immigration from Iraq" says "measures are

relevant to combatting illegal immigration from all countries, not just Iraq, but have particular relevance to the problems currently posed by Iraqi nationals". The measures in the Action Plan are therefore intended to have a wider application than just to "Iraqi nationals" and include "immediate expulsion of persons illegally present on the territories of the Member States".

This report confirms the debate over whether to extend the remit of the EURODAC Convention to include suspected "illegal" immigrants within the EU. But it indicates that if this is not included in the present draft Convention it will be later. Indeed, the wording is ambiguous, if not contentious:

Member States, within the Council, should consider the scope for extension of the EURODAC Convention to the fingerprinting of illegal immigrants, either before its conclusion or after ratification.

A footnote states: "A majority of delegations who spoke saw risks in widening the scope of the draft EURODAC Convention before its completion."

The possibility of returning migrants to the *region of origin* is set out as: "developing a regional approach to protection in appropriate cases involving cooperation with non Member States in the region of origin and the possibility of "internal flights""(inverted commas in original). This idea had previously been discussed at the General Affairs Council on 8-9 December 1997 which left "on the table" the possibility of returning people to specially created camps in Turkey and Jordan. How the EU would protect the migrants held in these *safe havens* in the *regions of origin* has not apparently been addressed yet.

Finally, one of the main difficulties being experienced in the application of the Dublin Convention is spelt out: "most of the persons concerned do not have documentary evidence of their entry to the EU, nor are they willing or able to provide details which would make it possible to verify how they entered the EU. As the Convention is presently operated, this means it is difficult to convince the Member States where the applicant is believed to have entered that it should be responsible under the Convention."

Presidency conclusions, Luxembourg European Council, 12 - 13 December 1997; Press release, Council of Justice and Home Affairs Ministers, 4-5 December 1997; Executive Committee Decision, Vienna, 15 December 1997, SCH/Com-Ex (97) 44 rev 2; EU Action Plan: Influx of migrants from Iraq and the neighbouring region, ref: 5573/98, adopted 26.1.98 by the General Affairs Council; Questionnaire on illegal immigration of Iraqis, Limité, 11556/97 ADD 2, CIREFI 51, 30.10.97; Migration Movements from Iraq, Limité, 11658/97, CIREFI 53, 24.10.97; Migration Movements from Iraq, Limité, 12512/2/97, ASIM 229, 2.12.97; Migration Movements from Iraq, SN 4812/97, 3.12.97; Boats arrivals in Italy - Amnesty International calls on EU governments to protect refugees, January 1998.

EUROPE

EU

Surveillance report

An excellent report prepared by Steve Wright of the Omega Foundation in Manchester for the European Parliament (EP) sets out in frightening detail the surveillance systems being constructed in the EU. The report, prepared for the Scientific and Technical Options Assessment Panel of the EP, deals with both technology exported from the EU to third world countries and the surveillance and control systems to be used within the EU. It covers surveillance systems; data gathering, processing and filtering devices; biometric and other human identity recognition tools; so-called "less-lethal" weapons for crowd control; new prison control systems; and torture techniques.

The report gives information on the global surveillance system run by the military-intelligence community (military and intelligence agencies) called ECHELON run by the USA, UK, Canada, Australia and New Zealand. Bases in these countries trawl the electronic airwaves and download all information held in "Dictionaries" of keywords, phrases and people's names. It also gives details of the EU-FBI surveillance system being set up for the law enforcement agencies community (police, customs, immigration and internal security services) to monitor all telecommunications (phones calls, faxes and e-mails) (see *Stewatch*, vol 7 no 1).

The report says there has been a "political shift in targeting". Instead of investigating crime (which is a reactive) law enforcement agencies are now "tracking certain social classes and races of people living in red-lined areas before crime is committed", a form of pre-emptive policing dubbed "data surveillance" based on military models of gathering huge amounts of low-grade intelligence and digging out deviant patterns. "Data surveillance" includes satellite tracking, through-clothing human scanning, automatic fingerprinting, and human recognition systems that can recognise genes, odor and retina patterns.

Glyn Ford MEP, who is on the STOA Panel, hopes that the report will be the first step in establishing more openness: "Some democratically elected body should surely have a right to know at some level. At the moment that's nowhere".

An appraisal of technologies of political control: final report, working document for the STOA Panel, April 1997, PE 166.499/Final; Daily Telegraph, 6.12.97.

SWITZERLAND

Into Schengen by back door?

Switzerland is trying to join the Schengen group through the back door. For the last two years, the Swiss Justice Ministry has been negotiating bilateral readmission agreements, agreements on police cooperation and general security matters with Germany and Austria. The negotiations have taken place in secret without parliamentary consultation. Memoranda of Understanding (MoU) were signed with Austria on 8 October 1997 and Germany on 11 December 1997. These Memoranda do not need to be ratified by the parliament. They include the following measures:

- * regular joint police conferences including the regional police forces of the border regions, the border police which is under central authority and customs;
- * joint analysis of the crime situation at the border, in particular regarding illegal immigration;
- * division of labour in border control activities;
- * information exchange about crime and "godfathers & puppetmasters";
- * establishment of border police contact points and appointment of liaison officers on both sides;
- * improved communication facilities: exchange of radio sets, inclusion of Switzerland in the planned EU police radio frequencies;
- * joint investigation and observation teams acting on both sides of the border; the respective foreign officers will have observer status.

As Switzerland and Germany renewed a readmission agreement in 1993, the Swiss-German MoU includes a clause on the facilitation of readmission procedures. This includes joint quotas for deportations on charter flights which will particularly affect people from Kosovo. Both Switzerland and Germany concluded readmission agreements with the Belgrade government in 1997

and 1996 respectively.

Negotiations with Germany on an agreement on police cooperation and general security matters are close to completion. In contrast to the MoU, this agreement will need to be ratified. The head of the Swiss delegation, Peter Huber, former head of the political police and now director of the Federal Office for Migration, declared in October last year that the agreement will include regulations for cross-border undercover police activities, cross-border observation and hot pursuit. The cross-border police activities will not be limited to a restricted border area as is the case in most Schengen member states. An authorization by one canton for hot pursuit will be valid for the whole country. Theoretically, German police could cross Switzerland from Basel to Chiasso by the Italian border.

DENMARK

Still no control of Schengen

The Danish government endorsed the Schengen Convention in December 1996 and the parliament voted in favour of joining the Convention in May 1997. The other Schengen members are currently ratifying Danish participation. The right to vote in the Executive Committee will not be possible until all the other Schengen members have ratified Danish accession. This is expected to happen during 1998 or more likely 1999.

During the parliamentary debate in May 1997 the Red-Green Alliance party put forward an amendment to the law ratifying the Convention. This amendment proposed establishing a mechanism whereby parliament would be given control over the government's policy in the Schengen Executive Committee by placing, in all matters, a binding requirement for the government to seek a mandate from the parliament's Europe Committee and Committee for Legal Affairs. This amendment was not carried and there are therefore no formal parliamentary controls in place.

These two committees, up to ratification, were given scanty information about matters to be discussed in the Executive Committee. Often there was only a brief account of the agendas and very little information after each meeting in the form of a short note about decisions taken. The Red-Green Alliance's proposal would have meant that the procedures applied to EU-matters in general should be applied to the work in the Schengen Executive Committee.

The procedure before each EU-Council means that the government must present the committees with notes on issues on the agenda to be discussed between the Minister and the committees at the latest 14 days before the meeting, and the presentation of a written report on decisions taken within two weeks of the meeting.

The Government has always opposed parliamentary control but the Minister of Justice, Mr Frank Jensen, conceded during the ratification debate that there needed to be more openness and thus a more democratic procedure: the two committees do now receive more detailed notes but there is still no negotiation about the subjects to be discussed. The official reason given for these very hesitant steps in direction of openness in Schengen matters is that Denmark will not become full member until all other Schengen states have ratified the Danish accession.

Europe - new material

Rapport de suivi du Gouvernement portugais en reponse au rapport du Comité europeen pour la prevention de la torture et des peines ou traitements inhumains ou degradants (CPT) relatif a sa visite au Portugal du 14 au 26 mai 1995, Council of Europe, 27.11.97, pp31.

Rapport au Gouvernement de l'Italie relatif a la visite effectuee par le Comite europeen pour la prevention de la torture et des peines ou traitements inhumains ou degradants (CPT) relatif en Italie du 22 octobre au 6 novembre 1995, *Council of Europe*, 4.12.97, pp155.

Interim Report of the Danish Government in response to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Denmark from 29 September to 9 October 1996, *Council of Europe*, 11.12.97, pp54.

Our crime: Looking for Peace, Karlos Rodriguez. *An Phoblacht-Republican News* 8.1.98., p19. Article by imprisoned *Herri Batasuna* national executive member, Rodriguez, which contrasts the situation in Spain with that in Northern Ireland.

Recent developments in European Convention law, Philip Leach. *Legal Action* (January) 1998, pp10-15. Bi-annual update summarising cases at the European Commission and the Court of Human Rights which are relevant to Britain and Northern Ireland.

The Finances of the Union's Intergovernmental Pillars: Tortuous Experiments with the Community Budget, Jörg Monar. *Journal of Common Market Studies*, vol 35 no 1, March 1997, pp57-78. Looks at how measures agreed under the 2nd and 3rd pillars of the EU (common security and defence, and justice and home affairs), which are intergovernmental, are increasingly being financed out of the EC community budget. This raises, argues Monar, "questions about adequate parliamentary control and the efficiency of the present system of financing".

Common foreign and security policy 1995-1996, Steve Peers in the *1996 Yearbook on European Law*. Examines the development of the second pillar and asks whether the CSFP will lead to a more coordinated policy in the future.

"Participation in a criminal organisation" soon a crime in all EU-Member States? *Fortress Europe*, December 1997, pp1-3. Examines the draft Joint Action defining participation in a "criminal organisation".

Parliamentary debates

European Communities (Amendment) Bill *Commons* 2.12.97. cols. 191-257

European Communities (Amendment) Bill *Commons* 3.12.97. cols. 396-459

European Union *Commons* 4.12.97. cols. 513-569

European Council *Commons* 15.12.97. cols. 19-36

European Communities (Amendment) Bill (Allocation of Time) *Commons* 17.12.97. cols. 406-458

European Communities (Amendment) Bill *Commons* 15.1.98. cols. 500-579

European Communities (Amendment) Bill *Commons* 19.1.98. cols. 691-786

IMMIGRATION

GERMANY

Fatal refugee policy

The Anti-Racist Initiative in Berlin has compiled its latest report on deaths and injuries of refugees at German borders, in detention centres or during deportations. At least 80 people died between January 1993 to January 1998 while they were trying to enter Germany; 59 people died at the Polish-German border alone. 58 people committed suicide while awaiting deportation orders; at least 95 people survived suicide attempts, although some of them were seriously injured, while in detention. Four refugees were

killed and 25 were injured during deportation. At least 46 refugees were tortured, by the police or military, on their return to their home country, and at least eight people disappeared. The report also covers attacks on refugees and hostels well aware that the account is far from complete. According to research by the Anti-Racist Initiative, at least 39 refugees were killed and 319 were injured in attacks on hostels.

Bundesdeutsche Fluechtlingspolitik & ihre toedlichen Folgen Januar 1993 bis Januar 1998 (German refugee policy and its fatal consequences January 1993-January 1998), 4th rev. ed., *Antirassistische Initiative Berlin*, pp60, Fax: 0049-30-7869984.

Taxi drivers face jail for smuggling illegal immigrants

Since spring 1997, taxi drivers in Saxony, the border region with Poland and the Czech Republic, have been prosecuted for allegedly supporting illegal immigration (see *Statewatch* vol 7 no 4). Twenty-two taxi drivers are facing prison sentences of up to 6, or even 10, years if the court believe that they are part of an organised network. In the first cases taxi drivers have been sentenced to between twenty-two months and two and a half years. Appeals have so far been unsuccessful. Convictions are based solely on circumstantial evidence and on statements by one taxi driver who, under the Crown witness scheme, offered information in exchange for a lenient sentence - it was suspended. While the court does not question the crown witness' credibility, trial observers question the court's faith in a witness who avoided a prison sentence by informing on colleagues. The Crown witness has told the police about alleged cooperation between taxi drivers in the border region and Polish trafficking organisations.

The strict prosecution of taxi drivers is intended to serve as a deterrent to non-cooperative groups in the community and create a network of informers for the border police. One result of the prosecution of the taxi drivers is that no non-German looking person can get a taxi in the border region. Other initiatives include a citizens' phonenumber and voluntary border police patrols. The border police estimate that over 50% of arrests of illegal immigrants are due to information received; other police estimates are up to 70 to 80%. In the long term, this campaign will not only be directed against taxi drivers but also other professional groups such as doctors, clergy, political support organisations or German partners of bi-national marriages.

Forschungsgesellschaft Flucht und Migration, Berlin.

POLAND

New immigration law

Poland passed a new immigration law on 27 December last year with the aim of curbing east-west migration and cross-border crime. It is generally understood that the new law has been passed to meet the expectations of the European Union (EU) in the run up to the start of the accession negotiations this spring. Also, Polish customs authorities will gradually adopt west European regulations as agreed between Poland and the EU in January.

The most important changes are restrictions on the immigration regulations for citizens of Russia and Belarus. They still do not need a visa but have to present invitations from someone in Poland or hotel vouchers. Both documents will be registered, and the invitations will need to fulfil certain criteria. Citizens of the Ukraine and Lithuania do not need invitations but need to show that they have a certain amount of money at the border. The new law has not only been criticised by Russian and Belarus authorities for closing "the only window to the west" but also by Polish traders.

The number of entry refusals at the eastern border has

increased significantly over the last weeks. The EU has been asked for financial support until 2002 for a further fifteen checkpoints along the eastern border. Cross-border trade, and thus the income of many families in the region, has declined noticeably. In February, about 1,500 Polish traders from Bialystok, east Poland, demonstrated against the new law and blocked a border crossing into Belarus to protest at the new visa rules that have kept their customers away. They warn of an "economic catastrophe for our town and region".

Another group affected by the law are Poles living abroad and asylum seekers. People of Polish origin or their children living in the Republics of the former Soviet Union, some deported under Stalin, now have a right to return home. The new law, similar to the German law on "ethnic Germans", facilitates the immigration of these people. Last year, about 200 families from Kazakhstan returned to Poland. This year many more are expected to immigrate under this provision to Poland. The new law also includes regulations for asylum seekers, most of whom "disappear" during the asylum application, probably towards western Europe.

In 1997, German border police refused entry to 7,075 people, around 3,000 of them were Polish citizens, many of them trying to smuggle cigarettes into Germany. During the same period, the Polish border police arrested about 10,000 people attempting to cross the Oder-Neisse border.

Frankfurter Allgemeine Zeitung, 2.2.98; International Herald Tribune, 10.2.98.

EU

Attack on "bogus" marriages

Six months after Home Secretary Jack Straw announced the abolition of the primary purpose rule, which subjected couples to major intrusions into their privacy to prove that they did not marry for immigration purposes, the UK agreed to a resolution at the Council of Justice and Home Affairs Ministers in December which will subject marriages to EU citizens to rigorous scrutiny. The Council Resolution on measures to be adopted on combating marriages of convenience sets out a number of factors which "may provide grounds for believing a marriage to be one of convenience", such as "lack of appropriate contribution to the responsibilities arising from marriage". Other grounds for suspicion include failure to maintain cohabitation, inconsistency in the couple's accounts of how they met or in other important personal information, and "residence anomalies" in one or other person.

The draft was even more draconian. It would have required routine verification of the residence status of anyone intending to marry, and the authorities power to oppose or defer "suspicious" marriages. Routine verification of marriages would have been a pre-condition of the grant of long-term residence. The preamble to the final resolution disclaims any intention of introducing systematic checks on all marriages, only proposing to investigate those giving rise to well-founded suspicions. But the final text gives power to member states' authorities to perform pre-marital checks on partners.

The resolution requires national legislation to be amended by the end of this year. Clearly, it will need rule changes which will once more result in intrusive questioning of couples. Worse, it could disqualify anyone with any immigration irregularity from living in Europe with a European husband or wife, and the requirement to maintain cohabitation re-enacts at European level the rule requiring battered women to remain in abusive marriages on pain of deportation.

This attempt by the EU to police marriages could thus result in grave injustice and suffering, and signals a return to the poisonous culture of suspicion in the field of family reunion which campaigners and lawyers believed was a thing of the past.

Council resolution 4.12.97. on measures to be adopted on combating marriages of convenience, OJ 97/C 382/01.

CEUTA

Increase in asylum applications

According to the Spanish Commission for Aid to Refugees (CEAR), 120 asylum applications have been received in the enclave of Ceuta in the year since February 1997, of which 50 per cent have been allowed to go forward for processing. In January 1998 the number of applications was up by half on the previous year, as a result of the political instability in several African countries. During 1997 the Guardia Civil in Ceuta detained a total of 526 immigrants attempting to reach the Spanish coast in 113 small craft. Those arrested had come from various parts of Morocco. The 1996 figures were 837 arrests, from 54 boats.

The explosive situation in Ceuta and Melilla, which between them had at year-end 1,340 immigrants detained in squalid conditions, led the Spanish government to decide that all the detainees should be removed to the mainland in order, it said, to "re-set the counter at zero". The transfer operation, started in December, was expected to be completed in early February. However this contingent did not include the Algerian citizens (260, all in Melilla) whom the Spanish were trying to return to their country. Those affected are pressing strongly for their inclusion in the group being transferred to the mainland.

BELGIUM

Asylum seeker death

An Algerian asylum seeker who was found dead three weeks after being returned to Algeria has led to angry denunciations of the Belgian government's immigration policy in the Belgian parliamentary committee for internal affairs. In a debate highlighting the position of Kurdish refugees who are on hungerstrike in an attempt to avoid deportation to Turkey MPs called on the minister to rethink his position regarding deportations.

Although the debate was based on the plight of 8 Kurdish refugees the case of Ben Othman was central to the argument between Interior minister Vande Lanotte and his accusers. Ben Othman was deported last year after assurances had been given by Vande Lanotte to the Belgian parliament that Othman's life was not in danger.

Three weeks after he returned to Algeria he was found dead in suspicious circumstances. The Algerian government claimed that he had committed suicide, a claim supported by Vande Lanotte. However Amnesty International has queried this. MP Karel van Hoorbake from the Vlaams Unie has gone further and claimed that his "suicide" was in fact deliberate murder disguised as suicide.

Van Hoorbake was backed up in the debate by Jef Tavernier of the Agalev-Ecolo fraction who pressed the case of eight Kurdish asylum seekers who recently came off hunger-strike after their deportation notices were suspended. It has since emerged that the eight were served with deportation notices without having been given the chance to exhaust the appeal procedures. Furthermore it appears that Vande Lanotte had established the potential danger of returning the eight Kurds to Turkey by contacting the Turkish embassy. As one MP put it "one can ask if the Turkish ambassador is sufficiently objective to provide a clear report on the issue."

In his defence Vande Lanotte claimed Othman had been betrayed by his family and that he also had a history of suicide attempts. He also stated that too much attention was focused on the behaviour of the Algerian government whilst ignoring the role of Islamic fundamentalists.

He defended the behaviour of his department over the Kurdish refugees by claiming that this was an administrative matter and that his civil servants were simply following routine. He also questioned the reliability as well as the honesty of Amnesty International.

Amnesty International responded with the following statement: "Minister Vande Lanotte finds himself in excellent company. Dictators and authoritarian leaders in five continents have accused Amnesty International of lying".

Report of Parliamentary Committee for internal affairs, 20.1.98.

Security firms still deporting

An answer given by Minister Johan vande Lanotte in the Belgian Senate has revealed that the private security firm BUDD is still involved with deporting people on a regular basis although private security firms were prevented from being involved in government deportations in October 1996. Mrs Thijs of the Christelijk Volks Partij asked whether it was true that the Belgian national airline company, Sabena, was using BUDD to deport "sans-papiers" who had arrived in Belgium via Sabena. According to Mrs Thijs BUDD was taking people to holding centres in Abidjan before sending them back to their country of origin.

Minister Vande Lanotte confirmed that, although BUDD was banned from being involved with government deportations any person who didn't have the correct papers and who did not request asylum was the responsibility of the carrier to return to their country of origin. The authorities had no right of control in this matter. He also added that, although BUDD was banned from participating directly in deportations, they were still being used by the Belgian government to facilitate government deportations by making contacts in the various countries in which they operate.

Belgian Parliamentary sessions, 11.12.97.

Immigration - in brief

■ **Netherlands: Asylum appeal right:** Asylum seekers in the Netherlands will soon be able to appeal against a rejection of their asylum request through new legislation brought to the lower house of the Dutch parliament by junior Justice Minister Schmitz. However the rights allowed in the new bill are limited. Asylum seekers will for instance not be allowed to appeal against their eventual status within the Netherlands, only their right to remain in the country or not. The original right of appeal was abolished in 1994. *NRC Handelsblad Weekeditie, 23.12.97.*

■ **Spain: "Over a thousand" migrants die in the Strait:** The Office of the Public Defender in Andalusia estimates that more than 1,000 would-be immigrants have drowned in barely six months in attempting to cross the Strait of Gibraltar. The number of foreigners expelled in 1997 reached 23,000, according to the Comisiones Obreras trade union confederation.

■ **Schengen: visa policy:** At its meeting in Vienna on 15 December 1997 the Schengen Executive Committee decided to begin harmonising their visa policies from 1999. Nationals from the following countries will be exempt from visa obligations: Australia, Brunei, Costa Rica, Croatia, Guatemala, Honduras, Malaysia, Nicaragua, Panama, Paraguay, Salvador, Singapore and Venezuela. Entry visas will become compulsory for the following: Bosnia-Herzegovina, Jamaica, Kenya and Malawi. *Agence Europe, 16.12.97.*

■ **Switzerland:** A Swiss police officer was given an 18-month suspended sentence, and his informant 15 months in jail, for gathering a list of 300 to 400 Algerians living in Switzerland for the Algerian authorities. The officer is now back in the Geneva police force. These sentences resulted from a case brought by 14

Algerians against the officer. At least four Algerians on the lists were arrested, jailed and tortured when they returned to Algeria. The indiscriminate list appeared to include the names of men who simply attended worship at Geneva's mosque. One of the Algerians described how he had been jailed and tortured for five days. He was released by a sympathetic police officer and went into hiding for over a year before returning to Switzerland where he has been given political asylum. *International Herald Tribune, 9.2.98.*

Immigration - new material

The unhealthy history of health and immigration control. *No One is Illegal* No 21 (Summer) 1997. This article examines how "health, ill-health and disease have been central to both the demand for immigration control and to the operation of these controls".

National Coalition of Anti-Deportation Campaigns Newsletter Issue 9 (January-March) 1998, pp12. Latest edition of the Newsletter contains articles on Liberian Tony Milla (who is threatened with deportation to Nigeria), the importance of campaigning against deportations, the National Front march against Slovakian asylum-seekers in Dover and a roundup of campaigns. Available from NCADC, 22 Berners Street, Birmingham B19 2DR.

"Support our right to stay": Lobby of parliament organised by the National Coalition of Anti-Deportation Campaigns on Wednesday 29 April 1998, 1.30 - 3.30pm. Also Public Meeting 3.30 - 5.30pm.

Changing Lives - Stories of Exile, Refugee Council, December 1997, pp19, £4.50. Nine stories of flight and exile told in the refugees own words.

Credit to the Nation. A study of refugees in the United Kingdom, Refugee Council, 1997, pp40, £5.95. Focus on the positive cultural and economic contributions refugees have brought to Britain since the turn of the century.

Refugees in Europe: The hostile new agenda, Minority Rights Group, 1997, pp44, £4.50. The report outlines the history of refugee policies and recent developments on the national as well as on the European Union level. It includes useful up-to-date statistics on asylum and an overview of the social, economic and cultural rights of refugees.

Ungarn: Besuch im pannonischen Wartezimmer, Asylkoordination 3/97, Vienna, pp9. Report on the visit of Austrian NGO representatives in cooperation with the Hungarian refugee support group Mejob to two Hungarian refugee camps: living conditions, asylum procedure, impact of Austria's accession to the Schengen Agreement and of the cooperation between Hungary and the EU on Hungary's migration and refugee policy.

EU asylum and immigration policies in central and eastern Europe: the "domino" effect. *Fortress Europe*, December 1997, pp14-19.

Evolving tragedy: European Roma. *Fortress Europe*, December 1997, pp7-9.

CIVIL LIBERTIES

SPAIN

Selling customer data attacked

Complaints against the Spanish telephone monopoly, Telefonica, for misuse of data on customers, and the Data Protection Agency's prohibition on the sale of such data, have obliged the company to abandon plans for a massive expansion in such activity from March onwards. The plans had been signalled in a letter to customers in December, allowing them one month in which to register objections to the sale of their personal details.

This caused the Agency to issue a notice of sanction. The United Left (IU) opposition party has also been denounced for having made its computerised data, including members' addresses, available to a private company which bombarded the members with mailshots of political material.

NETHERLANDS

Amsterdam has first gay wedding

A suburb of Amsterdam has celebrated the first officially sanctioned gay wedding to take place in the Netherlands. Under a new law that came into effect on January 1 same-sex partners can register their relationship in a similar fashion to heterosexual weddings. A lesbian couple, I van Praag and A. Kreuger, were the first people to take advantage of this new law. The pair were due to be married on January 15. Cabinet members, the mayor of Amsterdam and many famous celebrities have been invited to the wedding which will be provided free of charge by the local borough council. *NRC Handelsblad Weekeditie*, 13.1.98.

Civil Liberties - new material

Liberty (Spring) 1998, pp8. Latest issue of the National Council for Civil Liberties bulletin (formerly "Agenda") contains articles on the Crime and Disorder Bill (Liz Parratt), the Human Rights Bill (John Wadham) and the Lord Chancellor's Legal Aid reforms (John Lyons).

Data Protection Bill. Justice Briefing, 1998, pp6. For the second reading of the Data Protection Bill in the House of Lords on 5 February 1998.

The government's Freedom of Information proposals: submission to the Public Administration Committee by the Campaign for Freedom of Information, 20.1.98. Very useful background paper on the governments FOI proposals, especially on the exemptions covering "law enforcement" and the security services. From: Campaign for Freedom of Information, Suite 102, 16 Baldwins Gardens, London EC1N 7RJ. Tel: 0171 831 7477.

Parliamentary debates

Freedom of Information White Paper *Lords* 11.12.97. cols. 244-253

Freedom of Information *Commons* 11.12.97. cols. 1183-1196

Human Rights Bill *Lords* 19.1.98. cols. 1252-1311 & 1317-1367

Human Rights Bill *Lords* 29.1.98. cols. 379-422

Data Protection Bill *Lords* 2.2.98. cols. 436-455

Data Protection Bill *Lords* 2.2.98. cols. 462-479

Human Rights Bill *Lords* 5.2.98. cols. 747-842

POLICING

UK

Police raid "corrupt" officers

A "ghost squad" of anti-corruption police officers from the Metropolitan police's internal investigation squad, CIB3, took part in a series of raids on the homes and offices of serving and former policemen at the end of January. Documents were seized during the raids on the men who were based at the Flying Squad offices at Walthamstow, East London. Twelve officers were suspended following the operation and another 2 face suspension; five former officers were also targeted. The future of the prestigious Flying Squad in London looks extremely tenuous and it is difficult to see how it can avoid being disbanded.

The Flying Squad (popularised as "The Sweeney" in the television drama series) was formed in 1919 and was the first squad to use undercover officers on a large scale and to employ a "supergrass" system where criminals received lighter sentences for informing on colleagues. The squad had become a byword for corruption by the 1970s and in 1976 its Commander, Kenneth Drury, was jailed for 8 years. The investigation grew to become "Operation Countryman", which cost £4 million and resulted in nearly 500 officers leaving the force. Less than 80 were formally dealt with through criminal or disciplinary action with only 2 officers convicted of any offence.

During the 1990s Stoke Newington police station became the focus of allegations of corruption and was the centre of a two year investigation, "Operation Jackpot". Despite over 130 separate allegations of corruption only 2 officers were charged. Two other officers, who were investigated as part of the Jackpot operation, were later jailed; one for stealing from a corpse, the other for involvement in a massive cannabis importation ring. In 1994 the BBC exposed a South East Regional Crime Squad officer who was selling information to criminals - he was jailed for 11 years.

The latest raids followed an investigation by the specialist team, made-up of former detectives, ex-MoD policemen and financial experts, which is reported to have discovered over two hundred corrupt policemen. Many of them are detectives with high-profile units and have been involved in major criminal activities. The charges against them include bribery, destroying evidence, recycling drugs and leaking information.

A recent report by the Commons Select Committee on Home Affairs, at which Sir Paul Condon said that the Metropolitan police could have up to two hundred and fifty corrupt officers, expressed concern that police officers were delaying and escaping punishment. From 1995-96 more than 70% of Metropolitan police officers under investigation or facing disciplinary charges retired on medical grounds. This figure fell to about 50% in 1997. *Independent* 30.10.97, 30.1.98; *Guardian* 20.12.97.

ITALY

Dutch police join Italian witchhunt

Italian anarchist Paola La Vecchio has been arrested in Amsterdam following a request from the Italian Justice department. Apart from being accused of participating in two robberies in 1989 and 1990 (see *Statewatch*, vol 7 no 1) he is also accused of membership of a criminal organisation aiming to overthrow the state (article 270 of the Italian criminal code) as well as participating in a criminal organisation. The charges are aggravated by the fact that Paola has been accused of terrorist crimes under a special law introduced as part of "State of Emergency" legislation in Italy.

However, the very existence of the organisation of which Paola is supposed to be a member, the so-called "Organizzazione Rivoluzionaria Anarchica Insurrezionale" (ORAI) is denied by every Italian anarchist. The very name suggests that this organisation has more to do with the fertile imagination of the Italian police than any "anarchist conspiracy". This has not stopped the Italian Justice department from using the alleged existence of this "organisation" to arrest 68 other anarchists, all of whom are charged with membership of a criminal organisation (the apparently memberless ORAI).

The Dutch civil liberties organisation Jansen & Janssens have compared the experience of Italian Anarchists to the way that the Dutch Justice department used the terrorist RaRa organisation as a stick to beat the Dutch left with, applying the now notorious article 140 of the Dutch penal code, which outlaws membership of a criminal organisation. Dutch civil liberties activists have organised demonstrations against the arrest of Paola

in Amsterdam.

For more information regarding the case of Italian anarchists contact: "Action Committee El Paso Occupata", Passo Buole 47, Torino 10127, Italy.

NETHERLANDS

Article 140 "misused"

Justice Minister Winnie Sorgdrager has admitted that the use of article 140 to summarily arrest demonstrators opposing the Amsterdam EU intergovernmental conference was "in retrospect" wrong. She admitted this during a debate concerning police behaviour during the weekend of the "Eurotop" (see *Statewatch*, vol 7 nos 3, 4 & 5).

Sorgdrager originally defended the position of the public prosecutor that the use of article 140 by the Amsterdam police was justified. Article 140 prohibits membership of a criminal organisation. The police used the article to justify the arrest of over 350 demonstrators during the weekend of the Eurotop. The police and mayor have claimed that the use of article 140 maintained public order during the weekend.

Sorgdrager has now decided that while the use of article 140 was not in and of itself wrong "the complications that have arisen when providing evidence during large-scale public order incidents suggest that it would be wise not to use the article in these sort of situations".

The Amsterdam Chief Officer of Justice (public prosecutor) Vrakking has however maintained that faced with a similar sort of event he would have no hesitation in following the same course of action.

NRC Handelsblad Weekeditie, 16.12.97.

Policing - in brief

■ **UK: Anti-terrorist camera system:** the City of London Police's anti-terrorist camera system can feed back data from the scanned number-plates of vehicles in just four seconds. Put in place four years ago the Automatic Number Plate Recognition system devised by Siemens Nixdorf is also used to tackle crime more generally, when a car "wanted" by the police comes up the operations room is automatically alerted. At peak times the system checks 10,000 vehicles an hour. *International Police Review*, July-August 1997.

■ **UK: Stevens appointed Deputy Commissioner:** John Stevens, who is at present one of Her Majesty's Inspectors of Constabulary, has been appointed as the new Deputy Commissioner of the Metropolitan police. He joined the Met in 1963 and, after serving in the CID, was appointed Assistant Chief Constable of Hampshire police in 1986. He served as Deputy Chief Constable of Cambridgeshire police between 1989-1991 and was chosen to carry out an investigation into allegations of collaboration between an "inner-force" within the RUC and loyalist paramilitaries in northern Ireland (The Stevens Report). In 1995 he became Chief Constable of Northumbria police and headed the NCIS inquiry into alleged corruption in the use of interception of communications in 1996. In 1996 he was appointed one of Her Majesty's Inspectors of Constabulary. He will take up the new post at the beginning of May when the current Deputy Commissioner, Sir Brian Hayes, retires.

■ **Germany: Police raid Antirassismus Buro:** The office of the Bremen Anti-Racist Initiative was raided on 3 December 1997 following the organisation of a campaign against police violence. Slogans such as "police terror" and "racist crime discourse" already constitute the criminal offence of offending the police and libel. The organisation has been targeted by the police for some time, yet all court proceedings against members of the group have ended in acquittal. The group's campaigns - such as those against the use of emetics, the forcible x-raying of

refugee children or the ban on transporting black people by the Bremen public transport company - have been taken up by lawyers, Amnesty International, and the national media (see *Statewatch*, vol 5 no 5, vol 6 no 1). *Rote Hilfe*, no 1, 1998.

■ **Germany: forced DNA finger printing:** A woman has been forced by the police to give a saliva sample in order to establish a genetic fingerprint. In November last year, police raided a flat following an incident where a shop window was smashed in Gottingen where old Wehrmacht photos have been used as advertisements. The woman who happened to be in the flat was brought to the police station for what she believed would be the usual identification procedure (fingerprints, photo). DNA fingerprinting falls into a "grey zone" in Germany and has so far only been used in family reunifications of refugees. Neither police powers regarding DNA fingerprinting nor the administration of DNA data banks has (yet) been regulated legally. *Rote Hilfe*, no 1, 1998.

■ **UK: SB on the ground in the Met:** The Special Branch of the Metropolitan Police set up liaison teams in the eight London Met Areas in 1994. Their job is to gather information from divisional intelligence officers, for example, to assist in tracking down suspected terrorists. The liaison teams also provide information to divisional officers on "threat assessments for public order events such as marches and demonstrations to help them make appropriate policing plans". *The Job*, 17.10.97.

Policing - new material

Tacking the English disease, Carol Jenkins. *Police Review* 16.1.98, pp16-17. Interview with Tim Hollis, ACPO spokesman on football, on British police liaison with their French counterparts in preparation for the World Cup this summer. Hollis discusses British "in-roads...made by developing a sophisticated intelligence system and by formalising the use of spotters - undercover officers who infiltrate the grounds and glean valuable intelligence on potential troublemakers..."

Suspects in police custody, Tom Bucke & David Brown. *Research Findings* No. 62 (Home Office Research and Statistics Department) 1997, pp4. This report examines the impact of the April 1995 revisions to the Codes of Practice for the Police and Criminal Evidence Act (1984).

Ethnicity and contacts with the police: latest findings from the British Crime Survey, Tom Bucke. *Research Findings* No. 59 (Home Office Research and Statistics Department) 1997, pp4. This report concentrates on the results of the 1994 and 1996 surveys. It finds that "Afro-Caribbeans were more likely to be stopped by police while on foot or in a car" and that they were more than twice as likely as whites to be searched when stopped and four times more likely to be arrested."

Code of Honour, Gary Mason. *Police Review* 23.1.98., pp16-17. Interview with Paul Condon, Commissioner of the Metropolitan police, on corruption, Operation Countryman and proposed changes to the police disciplinary system.

Public order review, Jo Cooper. *Legal Action* February 1998, pp22-24. Bi-annual update that reviews trends and significant developments in public order and arrest cases.

Operation Bent, Duncan Campbell. *Guardian* 29.1.98 pp2-3. Interesting article that compares the current crackdown on corrupt police (see story above) with the Operation Countryman clean-out of the 1970s.

It's time to change, Gary Mason. *The Job* 23.1.98 pp8-9. The Metropolitan police Commissioner, Sir Paul Condon, discusses police corruption and considers Sir Robert Mark's 1970s Operation Countryman. Nearly 480 policemen left the force during the clean-up, but less than 80 "were formally dealt with through criminal or disciplinary action and only 2 convicted.

"Innere Sicherheit" - Grundrechtabbau und Repression ["Internal Security" - Destruction of basic rights and repression]. *AMI*, no 12, 1997.

Special on policing with articles on internal security ideology, Europol, internal use of armed forces, private security firms, organized crime and criminal statistics.

Policing organised crime - a new direction, Frederik E Jansen and Gerben J N Bruinsma. *European Journal on Criminal Policy and Research*, vol 5 no 4, pp85-98. Argues for a new approach to "organised crime", the pre-conditions of which are an open democratic society where the public feels responsible for the "emergence of organised crime" and where the police force and their partners are "(relatively) free of corruption."

CILIP, no 58, no 3 1997. Includes a series of articles on police and legal aspects of "crimes against the environment": "The limits of legal sanctions against environmental crime" (Wolf-Dieter Narr); "Environmental crime" and "The police fight against environmental crime" (Otto Diederichs); "The "Environmental Crimes Unit" in the State Police Detective Bureau of Berlin" and "Political parties and environmental crime" (Martina Kant); "The Greens perception of environmental crime" (Wolfgang Wieland). In German from: CILIP, Malteserstr. 74-100, 12249 Berlin, Germany.

Cross-border vehicle crime, Jacek Wegrzyn. *The Police Journal*, October 1997, pp302-310. Looks at the increasing number of agencies collecting policing intelligence within the EU.

The Balkan heroin route, Tamás Ország-Land. *International Police Review*, November-December 1997, pp36-37. "Hungary lies at the heart of both Europe and its heroin trade". The same author writes in the July/August 1997 issue on: "New training programme to combat migrants" also concerning Hungary and the pressure it is under to enforce the EU's "immigration regulations.. as a price for securing a place for themselves within Fortress Europe".

Intrusive methods, Roy Penrose. *Policing Today*, December 1997, pp32-33. Argues the case for the police use of "bug and burgle" powers.

Kelling's law, Sean Howe. *Policing Today*, December 1997, pp17-19. Howe talks to US criminologist George Kelling about his concept of "Broken Windows" and the "misconceptions surrounding the policing philosophy of zero tolerance". Kelling is quoted defending himself against critics: "They.. felt we had lost our tolerance for non-violent deviants. They were wrong - I never had any tolerance for non-violent deviants".

EU backs ear print database. *Policing Today*, December 1997, p9. The EC has provided funds to develop training and a "database dedicated to ear prints" to UK and Dutch police.

Turkey: Trapped in a web of covert killers, Ertugrul Kurkcü. *CovertAction Quarterly*, Summer 1997, pp6-12. In-depth feature on the collusion between Turkey's security forces and semi-criminal assassins - and "their unity of purpose in targeting both leftists and Turkish Kurds".

Policing activists: Think global, spy local, Mitzi Waltz. *CovertAction Quarterly*, Summer 1997, pp21-23. Federal agencies pushing proactive inter-agency cooperation giving "how-to lessons on circumventing civil liberties safeguards".

MILITARY

UK

Arms office for Chilean dictator?

In late November 1996 investigators unearthed the latest Chilean mass grave in Antofagasta, north of the capital Santiago. It contained fifty-eight corpses dating from when the site had been used as a torture centre for political opponents by the military dictator, General Augusto Pinochet. Pinochet came to power in 1973 after a military coup - that was backed by the CIA - overthrew the elected government of Salvador Allende. He only stood down as President in 1989, but retained control of the

armed forces and oversaw an amnesty from prosecution granted to anyone accused of human rights abuses under the regime.

The dictator, who frequently visits the UK to meet with defence manufacturers, now intends to move the Chilean army's main European procurement office from Madrid, Spain to London. The Chilean airforce and navy already have offices in London and British Aerospace have played a key role in developing the Rayo artillery rocket for the army. The move follows from the decision of a Spanish judge to launch a private prosecution against Pinochet for human rights abuses committed under his regime.

British defence manufacturers are enthusiastic on expanding their links with the Chilean dictator, although it is still unclear if this will contravene the government's ethical arms export policy.

Financial Times 19.11.97.

Military - in brief

■ **UK:Proposal for British air cavalry**: Senior military officers are proposing to create an American-style air cavalry similar to the elite helicopter-based fighting force in the film *Apocalypse Now*. The unit will be developed by merging the helicopter forces of the army and the RAF. The force, which should be controlled by the army, will be used for tank-busting and commando-style raids behind enemy lines. The high-tech Apache attack helicopters will form the core of the new British unit and be backed up by Puma and Lynx helicopters and twin rotor Chinooks. The air cavalry will give fire-power to the new Joint Rapid Deployment Force. The proposals form part of the government's Strategic Defence Review process but have provoked bitter rows between the army and the RAF, which fears erosion of its independence. *Sunday Times*, 16.11.97.

■ **Bosnia: USA proposes new paramilitary force**: The USA has proposed to its European NATO partners the creation of a new 1600-strong paramilitary force to be sent to Bosnia after the SFOR mandate expires in June. It would ensure the leading role of European nations in the transition towards a "peacetime environment". The "paramilitary" (not: "police") force would be an armed force separate from any post-SFOR military units. It would be lightly armed. The main mission would consist of such tasks as crowd control. A decision is expected at the North Atlantic Council at the beginning of March after consultation with national governments. *Jane's Defence Weekly*, 4.2.97.

■ **Eurocorps: organizes for crisis management on behalf of WEU**: Eurocorps, the European force that includes German, Belgian, Spanish, French and Luxemburgian soldiers, is organizing for missions in the area of crisis-management on account of the Western European Union (WEU). The German-French brigade of the corps already serves in Bosnia. A new mechanized division, consisting of one brigade for each country will now be formed for "peace-enforcement". A multinational brigade will be created for "humanitarian" intervention. These crisis-management missions can be executed under the flag of the UN or the OSCE but also on their own account if the five founding nations of the Eurocorps are united. *Le Monde*, 2.1.98.

Military - new material

Countering weapons of mass destruction. *Jane's Defence Weekly*, 12.11.97 pp39-53. Report on the counter proliferation policy of the Clinton administration, specifically in the Persian Gulf area. The UK, the USA and France have been working together closely in this area.

Euro defence groups ordered to rationalise, J.A.C. Lewis. *Jane's Defence Weekly*, 17.12.97 p17. The UK, France and Germany have set a deadline of 31 March for their countries' aerospace and defence

industries to draw up plans for restructuring. France said it would like Sweden to take part in the integration process, while Italian Prime minister Prodi voiced strong interest.

NATO to review its role as world order changes, Marc Rogers. *Jane's Defence Weekly*, 28.1.98 p3. NATO has launched an 18-month review of its strategic concept to adapt to geo-strategic conditions since the end of the Cold War.

Les forces speciales des paras espagnols [Special forces of the Spanish paratroopers], Jean-Pierre Husson. *RAIDS*, no 139, December 1997 pp38-44. This unit has been deployed in Bosnia.

Die konzertierte Abschreckung, Europa auf dem Weg zur Nuklearmacht? [Orchestrated deterrence, is Europe becoming a nuclear power?], Burkard Schmitt. *Europäische Sicherheit*, 12/1997 pp47-49. The British and French nuclear arsenals together are now outnumbering the sub-strategic nuclear weapons that the US has assigned to NATO.

Europe - Maghreb; Vers une frontiere armee? [Europe - Maghreb; towards an armed frontier?], Bernard Ravenel. *Damocles*, no 74/75 1997 pp 40-51. Second part of an article on the tendencies in European and American policies towards the Mediterranean especially in relation to the Algerian situation.

The European Union's Common Foreign and Security Policy: The Planning Dimension, Andrew Dolan. *International Security Information Service (ISIS)*, Briefing Paper no 14, November 1997. Discussion of the potential mandate and inherent limitations for the policy planning and early warning unit for the Common Foreign and Security Policy of the European Union.

French parliamentarians find fault with NATO expansion, Marcella Favretto and Tasos Kokkinides. *BASIC Reports*, no 61, 12.11.97. The French parliament is clearly the weak link in the ratification process of NATO expansion. They think that the American aim is to make Europeans pay for enlargement and sell their arms to Eastern European countries.

Codes of conduct: Coordination in the US, the EU and the UN. *BASIC*, 13.11.97. In the US and Europe, efforts are under way to adopt Codes of Conduct on arms transfers in Congress and the European Union.

A motion for a resolution on the gradual establishment of a common defence policy for the European Union ("Tindemans Report"). European Parliament, DOC EN\PR\341\341879.

Parliamentary debates

Defence industry *Commons* 3.12.97. cols. 267-289

Auto-missile Defence *Commons* 4.12.97. cols. 570-578

Iraq Sanctions *Commons* 21.1.98. cols. 985-992

Iraq *Lords* 26.1.98. cols. 39-49

Iraq *Commons* 26.1.98. cols. 21-31

Iraq *Lords* 2.2.98. cols. 455-462

Gulf War: Illness *Lords* 2.2.98. cols. 479-498

the rival groups. The court heard evidence from a number of key C18 members as the supporters of the factions issued threats and accused one another of "grassing" to the police (see *Statewatch*, vol 7 no 2).

The feud between Sargent and another C18 leader, who cannot be named for legal reasons, began in the autumn of 1996 and centred around money and control of the lucrative CD music business. Disagreements led to Sargent making allegations of the theft of up to £100,000 against his former partner. As the accusations became more acrimonious they led to a split in the movement and the formation of the Sargent-led National Socialist Movement (NSM). Sargent's rival, along with other key players, maintained control of the C18 faction.

In February 1997 Castle agreed to act as an intermediary between the warring factions. It was arranged that he would deliver Sargent's work tools to the Harlow home of his girlfriend and in exchange he would receive the C18 mailing-list and £1,000 from Sargent. However, Sargent had other ideas and with his close friend, Blood and Honour organiser, Martin Cross, plotted to ambush Castle.

Castle was accompanied by the C18 leader, who he dropped off outside the rendezvous, before meeting Sargent. A short time afterwards, the court was told, Castle staggered out of the house shouting for help. He had been stabbed in the back by Cross, at the instigation of Sargent, in what was described as "a violent and cowardly attack". The C18 leader hailed a taxi and took Castle to a hospital where he later died.

Since Castle's death the threats have escalated and there were a number of physical attacks in the run-up to the court case. The leaders of the opposing factions, Eddie Stanton and Steve Sargent (Charlie's younger brother) on the NSM side and the C18 leader and Mark Atkinson (currently in prison on separate charges) on the other, have all threatened violence. The letter-bomb campaign, carried-out under the orders of the C18 faction by Thomas Nakaba from Denmark, (see *Statewatch* January-February 1997) was only a hint at what can be expected.

Birdwood unfit to stand trial

The Dowager Lady Jane Birdwood, a notorious anti-semitic and former election candidate for the fascist British National Party, was found unfit to plead at her latest trial on charges of incitement to racial hatred. Birdwood, who has a string of convictions for her vicious, but totally incoherent, rantings and preposterous publications, had the charges against her dropped after the Attorney-General was told that she did not have the "mental capacity" to stand trial. He signed a *nolle prosequi* to stay proceedings.

Times 20.1.98.

Stephen Lawrence - PCA report

The Police Complaints Authority (PCA) report into the Metropolitan police handling of the racist murder of black youth, Stephen Lawrence, was published in December. The report, based on an investigation by Kent constabulary, cites "serious shortcomings" by detectives in their first investigation but, predictably, failed to find "any evidence to support the allegations of racist conduct by police officers". The inability, of both the police and the PCA, to recognise, let alone deal with, racist attacks has been a source of complaint for some years.

The PCA report points to eleven "potentially fruitful lines of inquiry which have not yet been properly followed up" in what it calls "evidence of significant weaknesses, omissions and lost opportunities" during the first murder inquiry. These led to "subsequent attempts to solve the crime [being] misinformed. It also led to public explanations by senior officers about the police handling of the case which were not supported by the evidence."

RACISM & FASCISM

UK

C18 leaders get "life" for murder

The long-running feud between the rival factions of Combat 18 (C18) is likely to escalate following the jailing of Charlie Sargent and Martin Cross at Chelmsford Crown Court in January. The fascist organisers were jailed for life after a jury found them guilty of stabbing to death Blood and Honour supporter, Christopher Castle, who was acting as an intermediary between

Among the "mistakes" referred to in the report were:

the failure to identify anonymous informers (although they were later identified by Kent police officers)

Suspect identification evidence was available but no action was taken to prevent forensic evidence to be destroyed

Rather than a "wall of silence" hampering police inquiries there was "considerable evidence" that local people had come forward with information without a police response.

One key witness withdrew his evidence because of the way he was handled.

Unfortunately, the "incompetence factor" is all too regularly invoked to refute allegations of racism among the police and other statutory bodies.

The recent example of the death of Lakhvinder Reel, who disappeared for almost a week before his drowned body was found in the River Thames in October 1997, is a case in point. His death was quickly described as accidental by local police and it was only after an active investigation by his family, during which they produced posters, interviewed shopkeepers and searched the river bank, that it was revealed that Lakhvinder and his friends had been racially attacked shortly before his disappearance. Following the attack Mr Reel and his friends ran off in different directions - this was the last time he was seen alive.

While it is not clear that his death was related to the racist attack, and an accidental drowning of the strong swimmer cannot be ruled out, it is clear that the possibility requires serious investigation. This is a fact that seems to have eluded local police whose conviction that the incident was a "tragic accident" has done little to reassure the Reel family, nor to uncover the cause of Lakhvinder's death.

Meanwhile, the inquiry into the death of Stephen Lawrence, chaired by Sir William McPherson, will open on March 3.

Report by the Police Complaints Authority on the Investigation of a Complaint against the Metropolitan Police Service by Mr N and Mrs D Lawrence (HMSO) 1997, Cm 3822; Home Office press releases 15.12.97, 13.1.98; PCA press release 15.12.97.

ITALY

Rightists fall out but escape jail

Former Italian prime minister, Silvio Berlusconi - who came to power by forging alliances with the previously untouchable neo-Nazi National Alliance (which, before a cosmetic name-change, was the overtly Nazi MSI) and the nationalist Northern League - was convicted on corruption charges in December. The charges related to false accounting practices involving his Fininvest company and is one of the more modest accusations against the leader of the so-called Freedom Alliance; other outstanding allegations against him involve bribery and channelling money to politicians. He received a sixteen month suspended sentence.

Berlusconi's one-time alliance partner, Umberto Bossi, leader of the Northern League, also received a suspended sentence in January. Bossi was found guilty of inciting his followers to hunt down members of the National Alliance and to "take them out" at a rally in 1995. In addition to receiving a suspended sentence he will have to pay a £60,000 fine to members of the "post-fascist" organisation, including their leader, Gianfranco Fini.

International Herald Tribune 4.12.97, 23.1.98.

Racism & fascism - in brief

■ **France: policemen and FN militia leader arrested:** Three French policemen, one of them the former General Secretary of the fascist Front National (NF) militia, and five Italians who had connections with the Calabrian mafia, were arrested for their

involvement in a series of violent robberies in Paris during February. Frederic Jamet was a key figure in the fascist militia until it was banned in 1997. He then joined the Syndicat Professionnel des Policiers de France (SPFF, French Police Officers Union), which was founded in 1984 and has close links to the far-right, and became its leader. Jamet was also a lieutenant in the elite drugs unit Office Central de repression du Trafic Illicite de Stupefiant (OCTRIS, Central Office for the Suppression of Illegal Drugs). *Le Monde* 6.2.98; *Socialist Worker* 14.2.98.

■ **France: Le Pen fined for Holocaust denial:** The Front National (FN) leader, Jean-Marie Le Pen, was fined 300,000 francs (£30,000) by a court in the Paris suburb of Nanterre in December after repeating that the Nazi gas chambers were nothing more than a "detail" in the history of the second world war. Le Pen, who was fined 100,000 francs for making a similar statement in 1987, made the remark in Munich, Germany, while visiting Franz Schoenhuber, a former SS officer and leader of the fascist Der Republikaner organisation, in Germany.

Racism & fascism - new material

Fighting Talk, Issue 18 (December) 1997, pp24. The latest issue of Anti Fascist Action's journal contains reports on countering the NF in Dover, a report back on an international conference in London at which an "International Network of Militant Anti-Fascists" was set-up and a piece on the demise of the BNP on the streets and their electoral ambitions.

No safety for the Roma. *CARF* No. 41 December 1997-January 1998, pp4-6. *CARF* asks: "How is it possible, just 50 years after the Holocaust, to revile the Gypsies of Europe?"

The case of Stephen Lawrence, Brian Cathcart. *Granta* 59 (Autumn) 1997, pp145-186. This piece examines the events that followed the unresolved racist murder of Stephen Lawrence, who was stabbed to death in April 1993.

Memoirs of a street-fighting man, Nick Ryan. *Independent on Sunday* 1.2.98., pp4-8. Interviews with C18 leader Charlie Sargent prior to his imprisonment for murder. Unfortunately they perpetuate the myth that C18 controlled the streets of London when, in fact, they proved incapable of mounting anything other than the most secret operations due to anti-fascist vigilance.

War of the nazis, Mark Honigsbaum. *Observer review* 25.1.98., pp3-4. Article on the jailing of C18 leaders Charlie Sargent and Martin Cross.

LAW

Law - new material

Legal aid: no cash, no justice. *CARF* December 1997-January 1998, pp7-9. This article considers the Lord Chancellor's plans to abolish legal aid for money and damages claims and make other far-reaching changes to the legal aid system. It concludes that the proposed changes "will deprive poor, black, immigrant and refugee groups of access to justice."

The trouble with human rights law. *Labour Research* Vol. 87, no. 1 (January) 1998, pp23-25. While noting that there is much within the government's Human Rights Bill to commend it, the authors' question "the significant new powers it gives unelected judges and the difficulties facing individuals trying to take cases..."

No win, no fee, no justice, Louise Christian & John Hendy. *Red Pepper* No. 43 (December) 1997, p24. This piece examines the "good intentions" behind the Human Rights Bill, which will incorporate the European Convention. It contrasts these intentions with the Lord Chancellor's draconian proposals to withdraw legal aid for cases where people claim damages which will deny access to justice (Article 6) for people who would currently get legal aid.

Inquests and deaths in custody, Deborah Coles & Helen Shaw. *Legal Action* (January) 1997, pp6-7. This article, by the co-directors of Inquest, the independent legal and advice service which monitors deaths in custody, reviews the issues that emerged from their work in 1997. Inquest can be contacted at: Ground Floor, Alexandra National House, 330 Seven Sisters Road, London N4 2PJ. Tel: 0181 802 7430, Fax: 0181 802 7450, e-mail: INQUEST @ compuserve.com

Proposed changes to the youth court, Mark Ashford. *Legal Action* February 1998, pp6-7. Examines the Crime and Disorder Bill, published last December, and rejects claims by Home Secretary, Jack Straw, that it represents "the most fundamental change in youth justice for half a century." It does observe that the changes will "make representing young people an even more specialised area of criminal defence work".

Juries on trial, Steve Carroll. *Police Review* 28.11.97, pp24. This article argues that the "juror's lack of understanding of legal complexities and propensity to be swayed by the personalities involved in a case have reduced trial by jury to a statistical lottery." Carroll would prefer to see "fewer Crown Court trials, with the most serious cases coming before a single judge" - rather like Diplock courts in Northern Ireland, perhaps?

Parliamentary debates

Civic Justice and Legal Aid *Lords* 9.12.97. cols. 41-117

Crime and Disorder Bill *Lords* 16.12.97. cols. 532-599

Crime and Disorder Bill *Lords* 3.2.98. cols. 508-517

Crime and Disorder Bill *Lords* 3.2.98. cols. 533-578

Crime and Disorder Bill *Lords* 3.2.98. cols. 597-633

NORTHERN IRELAND

Northern Ireland - new material

Shoot to kill - 15 years on, Pedar Whelan. *An Phoblacht/Republican News* 20.11.97., pp10-11. This article re-examines the British government's "shoot to kill" policy, in which RUC Special Branch undercover units targeted and assassinated members of the IRA, INLA and civilians, leading to the Stalker inquiry and the subsequent cover-up.

Undercover operation was against republicans, Mick Naughton. *An Phoblacht/Republican News* 22.1.98. p3. This piece examines the recent covert operation by the British army's 14 Intelligence Unit in which a member of the RUC was shot. It concludes that the incident was a botched undercover operation against republicans.

Fact File. Ronnie Flanagan: The RUC Chief Constable. *Pat Finucane Centre*, 7pp. This profile of the RUC Chief Constable, which documents his time at Castlereagh RUC barracks and alleges involvement with the British government's shoot-to-kill operation, is available from the Pat Finucane Centre's WWW page. It can be accessed, along with other interesting information, on: www.serve.com/pfc

Just News. Vol. 13, no. 1 (January) 1998, pp8. Latest bulletin from the Committee on the Administration of Justice includes a substantial piece on The Police (Northern Ireland) Bill, a review of the Transfer of Sentenced Persons Act and an article on the Public Processions (Northern Ireland) Bill as well as a round-up of events during 1997.

Parliamentary debates

Public Processions etc (Northern Ireland) Bill *Lords* 1.12.97. cols. 1180-1213

Public Processions etc (Northern Ireland) Bill *Lords* 9.12.97. cols. 13-26

Northern Ireland (Emergency Provisions) Bill *Commons* 11.12.97. cols. 1215-1254

Police (Northern Ireland) Bill *Commons* 15.12.97. cols. 41-104

Public Processions (Northern Ireland) Bill *Commons* 18.12.97. cols. 494-547

Northern Ireland (Emergency Provisions) Lords 12.1.98. cols. 885-912

HMP Maze *Commons* 21.1.98. cols. 978-984

Events of 30th January 1972 *Lords* 29.1.98. cols. 330-340

PRISONS

UK

Inquest attacked after "accidental death" decision

The Exeter inquest into the death of black Dartmoor prisoner, Dennis Stevens, who was physically restrained in a bodybelt for 24 hours before he died, returned a verdict of "accidental death" in December (see *Statewatch* Vol. 5, no. 6). The inquest was adjourned when the coroner accepted an invitation from the Prison Service to withdraw the verdict of "unlawful killing" from the jury. Mr Stevens' family challenged the decision and with their legal advisors boycotted the resumed hearing in protest.

The withdrawal of the "unlawful killing" option was taken despite undisputed medical evidence that Mr Stevens would not have died "but for the physical restraint in the prone face down position in which he was held for some twenty minutes or more before he was placed in the body belt in which he was found dead 24 hours later." The decision was twice contested by the deceased's family at the Court of Appeal, but was upheld.

Up to this point the jury had, according to the Inquest organisation, heard "ample evidence of fact to conclude that the restraint was unlawful and dangerous and/or grossly negligent..." Police stopped using the bodybelts in 1993 after Joy Gardner died in a police raid during which officers had restrained her prior to deportation.

Helen Shaw, co-director of Inquest, went on to make a scathing criticism of inquest procedure:

This verdict underlines the inadequacy of the inquest as a forum for the proper and thorough examination of controversial deaths in custody. The narrow remit of the inquest does not allow evidence to be heard about previous deaths or the verdict to reflect the seriously disturbing evidence about the nature of the restraint. The family has been denied any kind of justice by an antiquated and utterly inappropriate process that leaves them feeling betrayed by the British justice system.

After the inquest Stevens' sister, Velma Knight, drew attention to the disproportionate number of black people who die in police custody when she said: "If an animal had died in the barbaric way my brother has, there would be a public outcry. Somebody would be held responsible and no doubt punished. The message I get from the authorities is that blacks don't matter..."

Inquest press release 15 & 18.12.97

Prisons - new material

An unsuitable place for treatment: diverting mentally disorder offenders from custody. *Penal Affairs Consortium* (January) 1998, pp12. Describing the imprisonment of mentally disordered prisoners as "inhumane" this report cites research showing that 19% of sentenced prisoners and 25% of remand prisoners have problems of mental disturbance. At least 47% (28) of the self-inflicted deaths in prison had a known previous psychiatric history. It calls for an "improved range of

hospital and community based facilities".

Prison Privatisation Report International. No. 16 (January) 1998. This issue contains an overview of the prison inspection report on the Group 4-run prison at Buckley Hall and a scathing account of a spate of deaths at the most recently opened Group 4 prison at Port Phillip, Victoria, Australia.

Revised projections of long term trends in the prison population to 2005, Philip White & Iqbal Powar. *Statistical Bulletin* (Home Office) Issue 2/98, 29.1.98., pp16.

Developments in prison law, Simon Creighton. *Legal Action* February 1998, pp19-22. This occasional series considers the law relating to prisoners and their rights - this latest article includes recent case-law that affects life prisoners.

Electronic monitoring of curfew orders: The second year of the trials, Ed Mortimer & Chris May. *Research Findings* No. 66 (Home Office) 1997, pp4. This report monitors the second year of trials of electronic monitoring, covering 375 curfew orders - four times the number in the first year of trials.

Asylum Volume 10, no 3 (Winter) 1997/98. The latest issue of *Asylum*, "the magazine for democratic psychiatry", is a special edition on prisons. It contains useful pieces on deaths in custody (Bob Dunn) which explains how "control and restraint techniques become a euphemism for the use of excessive force and the intensive use of controlling drugs"; the experiences of drug users in custody (Margaret S Malloch); the prison treatment of HIV/AIDS in the context of surveillance, regulation and punishment (Alan McGee and Phil Scraton) and other articles on Broadmoor (Janet Cresswell), psychiatry in prisons (Patrick T Salkeld), and children in prison custody (Barry Goldson). *Asylum* can be ordered from: Prof Alec Jenner, Manor Farm, Brightonholmllee Lane, Wharncliffe Side, Sheffield S30 3DB, price £1.50 + pp.

SECURITY & INTELLIGENCE

SWEDEN

The Leander debate continues

The public debate after the revelations in the Leander files has led the government to say that it will put before parliament completely new legislation concerning police registrations (records) in the spring (see *Statewatch*, vol 7 no 6). On the legal level the proposal will open up the Security Police files whenever a person is subject to a vetting procedure. Whether the law, which will come into force on 1 January 1999, will have any practical impact will depend on how it works in practice. It must be remembered that, according to the former Swedish personnel control ordinance, the vetted subjects were entitled to be, to some extent, informed about the content of their files. These rules were *never* applied in the Leander case.

At the same time there is an ongoing debate about what kind of investigations should result from the Leander case. The Government has decided to give 20 million Swedish crowns to scientific research, originally only for research of *military* secret surveillance and only up to the beginning of the 1980s. Dennis Töllborg, the lawyer in the Leander case, together with other Swedish historians, have rejected this offer as military and police surveillance are so closely integrated that such a project will not be able to get to the bottom of decades of abuse. The HSFR Foundation who are to handle the applications for funding have now adopted the same position. This should mean that the security police will also be open to in-depth investigation and that there will be no limitation on the period the research project will cover.

On the other hand, the former chief of military intelligence

(IB, later SSI and now KSI) Birger Elmor claims, according to the Swedish Defense Staff that *all* files were destroyed in the seventies - a claim rejected by historians. The left in Sweden reject the idea of a research project and want instead a "truth commission" (they have not defined what this would mean). Conservatives want any investigation to be undertaken only by the established supervising authorities.

In *Norway*, the government is to put forward a temporary law, giving all Norwegian citizens who have been illegally surveilled by the Norwegian Security Police (POT) the right to see their files.

SWITZERLAND

Referendum on political police

After years of campaigning by a citizens' initiative, the Swiss government has finally decided to hold a vote on the abolition of the political police on 7 June. The citizens' initiative (SOS-Initiative) had already collected the 100,000 signatures required for the vote in 1991. The aim of the campaign is a constitutional amendment and the introduction of a new article which would state: "The political police is abolished. Nobody shall be kept under surveillance in the exercise of his/her political rights or beliefs."

The SOS-Initiative goes back to 1990 when a parliamentary inquiry revealed that the political police (comparable to MI5) had compiled files on over 900,000 people, two-thirds of them foreigners, out of a population of 6.5 million. The police also held files on 30,000 organisations. The Swiss government responded to criticism by submitting a State Protection Law to parliament in September 1991 (see *Statewatch*, vol 2 nos 4 & 6, vol 3 no 4), thus putting off the vote in order to restructure and computerise the political police. The objective of the law is to provide a legal basis for the activities of the political police.

After years of debate on the draft State Protection Law the parliament passed a law on the "protection of internal security" in March last year which legalises the activities of the political police (see *Statewatch*, vol 4 no 2, vol 5 no 4, vol 6 no 4). A campaign for a referendum against this law failed when the required minimum signatures of 50,000 fell short by 300. Although there will not be a popular vote on this new law, it would become unconstitutional if the SOS-Initiative is successful.

Campaigners are not optimistic about their chances of success but this is the first time that people in a European country have voted on the future of "their" political police. The size of the vote will be an indication of how much questions of privacy and political freedom are matters of public concern.

Kommittee Schluss mit dem Schnuffelstaat, Bern.

Security - new material

Crypto AG: The NSA's Trojan Whore?, Wayne Madsen. *Covert Action* No. 63 (Winter 1998) pp36-42. An agreement between the US National Security Agency and the Swiss producer of "secure commercial encryption technology", Crypto AG, has allowed the US to routinely intercept and decipher top secret encrypted messages for decades.

How paranoia ruled the swinging sixties, Seumas Milne & Richard Norton-Taylor. *Guardian* 1.1.98., p.3. This piece examines official papers from 1967 released at the Public Record Office under the thirty-year rule.

IRA intercepts British intelligence documents: British spies operating in 26 counties. *An Phoblacht/Republican News* 29.1.98. pp10-11. This article discloses British intelligence documents intercepted by the IRA from the Intelligence Section of the Welsh

Guards. The documents show that within weeks of the IRA ceasefire "Britain was updating its intelligence war against republicans." The documents include a manual that describes the intelligence databases CRUCIBLE (general purpose) and VENGEFUL (vehicle intelligence) and a number of (still) encoded computer disks.

No cloak and dagger required: Intelligence support to UN Peacekeeping, Paul Johnston. *Intelligence and National Security*, vol 12 no 4, pp102-112. Argues that in Bosnia UNPROFOR has constructed an intelligence-gathering capacity which will have to start all over again for the next "peacekeeping mission".

Using intelligence, Amos Kovacs. *Intelligence and National Security*, vol 12 no 4, pp145-164. Interesting articles looking at the respective merits of HUMINT (human intelligence), SIGINT (signals intelligence, which encompasses COMINT, communications interception, and

ELINT, intercepted intelligence other than communications) and IMINT, imagery intelligence gathered from spy planes or photo-satellites.

Textbook repression: US training manuals declassified, Lisa Haugaard. *CovertAction Quarterly*, Summer 1997, pp29-38. Detailed examination of CIA and US military manuals which over decades have been used to teach repressive internal armies and intelligence agencies to "spy on civilians, extract information, subvert democracy..."

National security and European law, Steve Peers in the *1996 Yearbook on European Law*. Reviews the different implications for the use of "national security" in the "democracies" of western Europe and argues for a more active role for the European courts.

New Labour and the enemy within

Public Expenditure

At the beginning of December the Home Secretary announced that police forces in England and Wales were to get a extra £258 million - an increase of 3.7% - in 1998/99. Once again the police continue to be more favourably treated than most other areas of public expenditure. He explained his generosity in an "extremely tight public spending round" in the following words: "We are determined that the police should have the resources they need to fight crime and disorder across England and Wales." At the end of January the Home Office announced that an extra 20 prisons will have to be built at the cost of £2 billion over the next seven years to meet the expected 50% increase in jail numbers. The figures suggest the jail population will be 92,000 by 2005, outstripping the rest of Europe.

New Labour thus appears determined to follow previous Tory governments and give top priority to the expansion of the Law, Order and Protective Services budget, which includes the police, administration of justice and prisons. Figure 1 shows public expenditure in real terms by selected area for the last fourteen years and it can be seen that expenditure in law and order areas has risen more sharply than education, health, and social security. In the same period the amount spent on housing and defence has been drastically reduced. If the Labour government allows these trends to continue by 2005 more money in real terms will be spent on policing internal crime and disorder than on defence - an extraordinary dividend for the ending of the Cold War.

Police Performance Indicators

The Home Secretary in announcing the settlement for the police pointed out that it was only part of the story and as he graphically put it: "The process is a two way street. The public want to be sure that their money is being used in the most efficient way possible." To this end, the police, like so many other areas of public life, are now required to produce numerous performance indicators. Some of these are required by the Audit Commission (AC) under the Local Government Act 1992 and others by Her Majesty's Inspector of Constabulary (HMIC). They cover a range of police activities including number of calls and response times, the number of stop/searches and arrests broken down by ethnic group and outcome, the number of selected crimes recorded and detected and public satisfaction with, and involvement in, a range of police matters.

A selection of the performance indicators are now regularly published both by the HMIC and the Audit Commission. A significant proportion of the HMIC's annual report analyses these indicators for different police forces and the amount of information on other important aspects of policing has been considerably reduced. It appears that like so many current publications the image is more important than content. Dense pages of informative text on all aspects of policing printed on ordinary paper have been replaced by numerous graphs, figures diagrams printed on coloured paper with massive margins of space. Nearly one tenth of this annual report is taken up with the presentation of coloured photographs of each of the members of the Inspectorate together with a biography.

The Audit Commission's 58 page report published in January is similar. It is printed on high quality glossy paper with numerous tables and graphs. It was designed and typeset by "Ministry of Design" and published at the cost of £20. Few

Figure 1

people, however, are likely to buy it at this price defeating one of the principal aims of performance indicators of enabling members of the public to make some judgment about the relative efficiency and effectiveness of their local service.

Figure 2

The Press Release announcing the HMIC's 1996/97 annual report focused on those indicators which place the police in the best possible light. It noted that the police responded to just under 19 million incidents of which 3 million required an urgent response - with nearly 90% dealt with within the target time. This, of course, leaves 10% or 300,000 people waiting for the police to arrive beyond the target time. Moreover, it says nothing about which events require an urgent response. A woman in Liverpool phoned the police during 1996/97 after a firecracker had been thrown through her letterbox shattering all the glass on the door. She informed the police that there were two men on her lawn and that she was extremely worried as she was on her own. It took them 2 hours to arrive. When she complained, she was told that if she had reported a burglary the police would have been around straight away. Men throwing explosives into a dwelling in which a woman was on her own was not considered to require an "urgent response" in Liverpool.

The Press Release also noted that over 7 million 999 calls were answered - an increase of 6% - of which 87 per cent were answered within the target time. This again leaves 910,000 emergency calls unanswered within the time period. There is no performance indicator on the consequences of the police failing to respond on time. Public satisfaction with the Service remained high because there was "a further decrease in the number of complaints made against the police". This is a non-sequitur. There may be many reasons for the decline in complaints which may in fact reflect dissatisfaction.

Finally, and most importantly, the Press Release noted that the level of crime reported to the police fell for the fourth consecutive period and the police detected 1.3 million crimes of which 15 per cent, or 195,000 were classified as serious. The press release ended by quoting David O'Dowd, the Chief Inspector: "Although there is some variation in performance from force to force I am pleased to report a healthy picture overall with no area performing universally badly." This apparently "healthy picture" had been achieved at the total revenue budget of £6.715 billion.

Significantly no mention was made in either the Press

Release or in the HMIC report of fundamental limitations of police recorded crime as an indicator of the extent of criminality in the community. Nor was there any mention of the findings of the 1996 British Crime Survey (BCS) carried out by the Home Office. This showed that in 1995 there were an estimated 19.1 million crimes against individuals and their property, of which 2.5 million were the more serious offences of burglary with loss, theft of vehicles, wounding and robbery. This meant that the police detected less than 7% of crimes people reported in the BCS and fewer than 8% of those considered to be serious. In addition, for those crimes which can be compared, while the number of crimes recorded had indeed declined by some 8% in the period 1993 to 1995 the BCS figures actually rose by 2%.

The figures published by the Audit Commission show large discrepancies between police forces on a number of indicators. Some forces detect nearly 3 times as many crimes as those in others raising questions not about performance but the policies of different forces to clear-up rates. One officer could clear 1500 crimes by asking prisoners to confess to previous offences. The report also showed wide variation between forces in the proportion of police officers' time spent in public and there was similar wide variation in changes in expenditure. The figures raise questions about whether giving forces more money improves performance.

Once again HMIC performance indicators which link the use of police powers such as stop/searches and arrests with their outcome were not published. These performance indicators would enable an assessment of the use and abuse of police powers and the extent of violations of people's civil liberties. But issues around the rule of law have consistently been ignored in the bureaucratic and managerial discussions on police performance, effectiveness and efficiency.

Police Powers

The Home Office, however, has recently published statistics on the use of various stop and search powers under the Police and Criminal Evidence Act 1984 (PACE), the Criminal Justice and Public Order Act 1994 (CJPO) and the Prevention of Terrorism Act (PTA) which suggest continued abuse of stop and search powers (See *Statewatch*, vol 6 no 4).

Figure 2 shows the total number of stop and searches of the person and/or vehicle under all the legislation. It shows the rapidly increasing use of stop and search powers. The number of stops and searches has increased from 690,343 to 861,994 - an increase of 171,651. This is over one and a half times the number of stops and searches during the first year of operation of PACE and represents an increase of 25% on the previous year. It is predicted that citizens of England and Wales will be subject to over 1 million stop and searches within two years.

Figure 3 shows the trends in the different types of stops and searches under Section 1 of PACE. Searches for drugs and the category "other" form the bulk of the searches. The "other" category refers to searches under other powers, such as under the PTA, section 15, and the Sporting Events (Control of Alcohol etc.) Act 1985. It is thus a fairly meaningless category as it stands. Figure 4 also records the proportion of arrests which followed a Section 1 search. Over the period as a whole the proportion of arrests has been declining except for the meaningless category "other". There is no comment in either the bulletin or, more importantly, the HMI's report on why more and more people are being subject to stops and searches as they go about their daily lives, yet the number of arrests has been steadily declining.

Much of the overall increase in stops and searches is explained by the introduction of the new powers under CJPO and the PTA. In 1996 there were 7019 stops and searches in anticipation of violence leading to 132 arrests for offensive weapons and 371 arrests for other reasons. Under the new

sections of the PTA, there were a further 40,475 stops and searches resulting in 581 arrests the "overwhelming majority of which were not in connection with terrorism". However, the bulletin does not present any statistics on the actual number of arrests under the PTA under these sections. It thus appears that anti-terrorism legislation is being used for policing ordinary crime, yet again there is no comment.

There was very wide variation in the use of these powers by different police forces. Sixteen police forces made no use of section 60 of CJPO and 27 of the 43 police forces made no use

of Section 13 powers under the PTA. The Metropolitan Police accounted for 43% of all stops and searches under the CJPO and 61% under the PTA. From these statistics the Metropolitan Police appear to be a "law under themselves".

Figure 5 shows the number of road checks under PACE and the number of roads which were obstructed as a result. The use of this power increased slowly until 1992 and was used extensively in 1993 and 1994 and then dropped significantly in 1995 and 1996. The large increases in 1993 and 1994 were principally related to the large number of road checks conducted

in the City of London following IRA bombings.

Figure 6 presents the statistics on the number of arrests for all offences as well as a number of other statistics. It shows the very rapid increase in the number of arrests over the period. In 1986 there were around 1.3 million arrests. By 1996 this figure had risen to over 1.76 million - an increase of over one third. Following an arrest there are a number of possible outcomes: the person can be released without any further action, they can be given a formal warning or they can be charged with an offence. Performance indicators on these outcomes are the ones which still have not been published.

In the absence of these figures, it is possible to make a crude approximation of how arrests are being disposed of by comparing the total number of arrests for all offences with the number of people proceeded against or cautioned for indictable offences. These, on the whole, are the more serious offences which, in the vast majority of cases, are likely to enter the criminal justice system by an arrest. What is most striking is that although arrests have been increasing rapidly the number of people being proceeded against in the courts for indictable offences has been declining. The number of cautions rose a little until 1992 and since then they have been declining. Put another way in 1986 arrest formed 46% of all those given cautions or proceeded against for an indictable offence. But in 1996 this proportion has dropped to 37%. The only conclusion is that the

police are increasingly resorting to taking no further action following an arrest.

Conclusion

As can be seen, performance indicators can always be read from a number of different perspectives. From a law and order perspective, the "healthy picture" presented by the HMIC looks very unhealthy when stop and arrest powers are examined. The police are stopping and searching more people with little effect or arresting increasing numbers of people and then letting them go without any further action. This is hardly a success story. Increasing public expenditure on the police and the criminal justice system or introducing an array of new coercive measures under the current Crime and Disorder Bill will have little impact on the problem, whose origins lie deep in the social fabric of modern Britain in a globalised economy. New Labour needs to change its policies. If it doesn't it too will play its role in helping to dismantle the old social order based on the "military industrial complex" only to replace it by a "crime industrial complex" aimed at dealing with the enemy within.

Audit Commission, "Performance Indicators: Police Services, 1998"; Her Majesty's Chief Inspector of Constabulary Annual Report 1996/97; Operation of Certain Police Powers under Pace, England and Wales, 1996, Home Office Statistical Bulletin, Issue 27/97.

MI5: historical files being destroyed

The criteria for keeping MI5 records; whistleblowers; defining out "subversion"

The Home Secretary said in a Commons written answer in January that the Security Service (MI5) applied the following criteria in deciding whether a record is likely to be of "historical interest" and thus eventually placed in the Public Records Office:

(a) major investigations; (b) important subversive figures, terrorists and spies; (c) individuals involved in important historical events; (d) cause celebres in a security context; (e) files which contain original papers of historical interest; (f) major changes of Service policy, organisation or procedure; (g) files which are in some way "period pieces", e.g. they illustrate clearly Security Service attitudes/techniques of the time; (h) milestones in the Service's history.

This information followed on the heels of an informal briefing to journalists by Stephen Lander, head of MI5, that "MI5 is speeding up the destruction of thousands of files on individuals it once considered subversive as part of an attempt to modernise" (*Guardian*, 12.1.98).

The value of keeping all the files

In October last year files placed in the Public Records Office revealed that Harry Pollitt, leader of the British Communist Party for 30 years, had a MI5 undercover agent - Olga Gray - as his secretary in the 1930s. She was one of a number of women recruited by Maxwell Knight of MI5 to infiltrate suspect groups (*Times*, 10.10.97). Another woman recruited by Knight was Joan Miller whose autobiographical book "One Girl's War", published in Ireland in 1986 by Brandon Press, was not available in UK bookshops.

In November 1997 further files released to the Public Records Office finally confirmed that Alice Wheeldon, a militant suffragette and socialist actively opposed to the introduction of conscription in the First World War, was "set up" by MI5. In 1917 Alice Wheeldon, her daughter Winnie Mason and her husband George Mason, were sentenced to 10 years penal servitude, five years and seven years respectively for "plotting" to assassinate Prime Minister Lloyd George and other Cabinet

Ministers. Alice Wheeldon went on hunger strike, was let out after two years and died in her early fifties shortly after her release in 1919. Mrs Wheeldon and her family were entrapped by Alex Gordon and Herbert Booth (known as "Comrade Bert") both agents of an MI5 branch called PMS2. They encouraged her to try and get four phials of curare, a deadly South American poison, from her son-in-law George Mason who was a chemist. The poison was intercepted in the post. In court the prosecution claimed she intended to assassinate the Prime Minister Lloyd George while he was playing golf by the use of a blow-pipe which would emit a small dart tipped with curare. The defence said the Wheeldons regularly helped conscientious objectors on the run. As guard dogs were used at the camps conscientious objectors were held in Gordon had suggested that the poison be obtained to deal with them.

The case aroused great interest in 1917 and figures in many conventional histories of the police as the plot to assassinate Lloyd George. A pamphlet produced in 1933 by F W Chandler, "Political Spies and Provocative Agents", ensured that the Alice Wheeldon story did not disappear from the historical record. Socialist historian Raymond Challenor went back to the case in 1972 and 1977 as did Tony Bunyan in "The Political Police in Britain" in 1976. It was Sheila Rowbotham who delved deeper still and wrote a play "The Friends of Alice Wheeldon", first performed in Rotherham in 1980, and then included in her book of the same title in 1986. Eleven years later and fifty years after the event the release of MI5 files more than justifies the interest of historians in questioning the perceived wisdom of mainstream contemporary accounts.

The idea that MI5 should be allowed to decide which of its files are of historical interest concerning "important subversive figures" or "cause celebres" is an affront to serious historical research and to peoples' histories. For example, might the thousands of miners and their partners and friends who picketed pits day in and day out for a year in 1984/85 like to know if they were placed under surveillance? Or the strikers at Grunwicks in 1977 or News International in 1986-87?

“Conspiracy theorists” might see in the destruction of MI5 files a revisionist scheme to consign the bulk of MI5’s activity into the “dustbin of history”. John Wadham, Director of Liberty, says: “Instead of destroying files it no longer wants MI5 should disclose them to the individuals concerned who would then be free to sue the agency.”

Dealing with “whistleblowers”

The last 20 years have been punctuated by “whistleblowers”. In 1977, under the last Labour government, two journalists working for “Time Out” magazine - Crispin Aubrey and Duncan Campbell - and John Berry, an ex-soldier were put on trial for allegedly breaking the Official Secrets Act (OSA). The “ABC” case was hugely embarrassing, led to far more information coming out about GCHQ and MI5, and ended in suspended sentences. In 1984 Cathy Massiter, a former MI5 official, revealed that the agency had targeted civil liberties campaigners and trade unionists. She was never charged under the OSA. In 1985 Clive Ponting, a former Ministry of Defence official, was acquitted under the OSA for revealing secrets about the Falklands war.

On 24 August 1997 an ex-MI5 official, David Shayler, gave a series of revelations to the *Mail on Sunday*. An ex-journalist Shayler worked for MI5 for six years and when he left, disillusioned, he worked on a book recounting his experiences. Among those printed by the *Mail on Sunday* were that files were still held on Peter Mandelson, government Minister without Portfolio, because of his youthful membership of the Young Communist League and alleged membership of the Communist Party (which Mandelson denies) and on Home Secretary Jack Straw for his student days in Leeds and then in the National Union of Students. When offered the chance to see his own file the Home Secretary declined. On a BBC TV interview three days later Shayler said files were also kept on Social Services Secretary Harriet Harman, former Conservative Prime Minister Edward Heath and *Guardian* journalist Victoria Brittain. Mr Shayler left the UK and is still abroad. He says he will not return unless he is given immunity from prosecution.

The government attempted to use the courts to stop further publication of “secrets” by the *Mail on Sunday*. On 20 September Shayler’s girlfriend Annie Mahon was arrested at Gatwick airport - guaranteeing more frontpage news coverage. Shayler’s future is unclear.

Richard Tomlinson, an ex-MI6 official, was not so lucky. On 18 December 1997 he was sentenced to 12 months in prison for breaking section 1 of the 1989 Official Secrets Act. Section 1 imposes a life-time obligation of secrecy on former members of the security and intelligence agencies and there is no “public interest” defence. Tomlinson, who had been held in prison for six weeks before the trial, will probably only serve four months. On release he will be free to return to Australia where he has family. He was arrested and charged because he wrote a book about his experiences in Moscow and Bosnia and tried to sell it to an Australian publisher.

No more “subversion” in the UK

By chance the “shredding of thousands of files that are no longer relevant” (*Times*, 12.1.98) coincided with a similarly informal announcement that MI5’s counter-subversion F Branch now only has “half a desk officer who concerns himself with the pensions of former employees”. The fascist Column 88 is apparently the only UK group considered to be subversive and worthy of continued surveillance - which is interesting because not only was it set up/heavily infiltrated by the security agencies themselves, but now no longer exists.

The reaction in the UK to the latest Shayler revelations was short-lived. Only the *Observer* argued in an editorial that: “The time has come to abolish MI5 and it transfer its few legitimate functions to the police and MI6... the tracking of spies is the job of the police at home and MI6 abroad.”

Public attention was steered in the direction of no longer seeing MI5 as a threat to peoples’ civil liberties. Its main role is now to tackle much more acceptable post Cold War “threats” like terrorism and organised crime while maintaining its traditional remit of vetting employees in “sensitive” jobs, the security of government departments and British embassies throughout the world. A less publicised role from the late 1970s has been MI5 increasing role within the European Union.

The redefinition of the respective roles of the police (and its Special Branch) and MI5, the internal security agency, is not unique to the UK. Since the fall of the Berlin Wall in 1989 internal security agencies across the EU have been following the same pattern. To preserve their roles and budgets internal security agencies have moved into traditional “law enforcement” areas. In doing so they have brought to “policing” many of their more questionable tactics of surveillance, bugging, recruiting

UK “spying” on EU partners

The UK’s overseas intelligence gathering service, MI6 (the Secret Intelligence Service, SIS), spies on other EU governments to strengthen their position in negotiations. As the *Guardian* put it: “The clearest confirmation from authoritative sources of a long-held suspicion comes in BBC 2’s How to be Foreign Secretary...”. The programme broadcast on Sunday 8 January quotes a senior official, who could not be identified, as saying:

Of course, we spied on them. It is as vital to know what our European partners are doing as any Soviet battle plan.” (Times, 2.1.98)

The presenter Michael Cockerell, a respected documentary maker, asked a number of ex-Foreign Secretaries, and the present one about this statement. Douglas Hurd, Foreign Secretary between 1989 and 1995, said: “I don’t want to go into that. That’s operational. I can’t, can’t, can’t get into that.” Robin Cook, the Labour Foreign Secretary showed an unusual reticence saying: “No, I’m sorry. I can’t talk about that because it is all secret information. We never discuss that.” A former Labour Foreign Secretary in the 1970s David Owen said he did make use of intelligence but felt “you have to be very careful

once you join the EU. These are our friends and allies”. But former Conservative Foreign Minister William Waldegrave was more forthcoming speaking of the use of “intercepts”: “The Secret Intelligence Service is very useful to the Foreign Secretary. It can’t do miracles but it does provide a most extraordinary source of good information.”

In the UK the Foreign Office (and the Cabinet Office) is supplied with intelligence both by MI6 and by the Government Communications Headquarters (GCHQ). GCHQ is part of the secret worldwide SIGINT network set up by the UK and the US in the 1946 UKUSA Treaty later joined by secondary partners Canada, Australia and New Zealand. The same countries are party to the ECHELON network which trawls the ether for communications (faxes, telex, e-mails), encrypted and unencrypted, gathering economic and political intelligence. The information gathered is routinely passed on to participating countries.

Thus, in addition to the usual means of intelligence-gathering by human means (HUMINT) placing “bugs”, scanning the media and specialist publications, following “targets”, using informants and gathering “gossip” which are available to all EU governments the UK alone in the EU has access to the most closely-guarded secrets of its “partners”.

and placing informants.

Yesterday's Cold War threat of "subversion" has also been redefined. Today public order - involving trade unionists or demonstrators - is defined as representing a *criminal* threat alongside terrorism, organised crime (including "illegal" immigration networks, formal and informal), drugs and money-laundering.

Commons Hansard written answers, col 519-520, 20.1.98; Guardian, 7 & 28.11.97; Times, 19.12.97; Searchlight, June 1987; "One girl's war", Joan Miller, Brandon, Kerry, Ireland, 1986; "The Political Police in Britain",

Tony Bunyan, Friedmann, 1976 (Quartet, 1997); "Friends of Alice Wheeldon", Sheila Rowbotham, Pluto Press, 1986; "In defence of the realm", Richard Norton-Taylor, Civil Liberties Trust, 1990; Times, Guardian, Independent, 2.1.98; Guardian, 26.2.98.

UK: Ports review - privatising control

The interim report of the Immigration Service Ports Comprehensive Study suggests more selective, targeted immigration control of non-EEA nationals at ports, together with much more reliance on pre-entry controls, charging for services, and a wider involvement of the private sector. The restricted report went to immigration ministers at the end of September, to be considered along with the comprehensive reviews in other immigration and asylum fields.

The review of the cost-effectiveness of port procedures was set up shortly after the Labour government took office, and was particularly encouraged to look at the possibilities brought about by the new technology, the potential for close cooperation with carriers (airlines and shipping companies), the scope of carrier sanctions and ideas such as charging for services. The study plan sets out a background of a 44% increase in arrivals in five years, to 74 million, with a projected increase to 85 million by the year 2000. There are 50 ports and airports in the UK with immigration officers, and 500 without, excluding the many small airfields where private aircraft land. The plan characterises the 15,000 1997 port applications for asylum as "abuse of the asylum process" and the thrust of the report is about how to reduce that number.

The language of the interim report, too, is familiar; there are "threats" to immigration control, "abuse", the need for "deterrence and prevention" of entry of passengers who are "not genuine". The report does not explain what a bogus passenger is: someone who really does not want to travel? The number of removals of failed asylum-seekers is not, apparently, keeping pace with the number of arrivals. A significant number of "inadmissible" passengers (why inadmissible is not explained), many undocumented, pose an unspecified "threat to immigration control".

How to control more passengers for the same amount of money, thus reducing the unit cost of control from its current 58p per passenger? One answer is to end controls on embarkation. This "adds nothing to immigration control" while consuming 8% of Immigration Services budget. Another suggestion is to shift the focus from on-entry to pre-entry control. This would involve far better liaison and coordination between immigration service ports staff and Foreign Office entry clearance officers, so as to alert all sides to "inadmissible" passengers and those "likely to abuse controls". It would also involve far greater use of intelligence for targeting and profiling suspected "abusers". The "risk assessed approach" which has been developed for intra-EEA traffic at the small ports would be the model for all immigration control in the future.

The five airline liaison officers currently in place have cost £575,000 but have prevented the arrival of 450 asylum-seekers, who would have cost the country an estimated £9 million at £20,000 each. How they prevented their arrival is not spelled out, but it is likely that they advised carriers not to sell them tickets because their papers were not in order. The interim report,

far from castigating the way these officers have prevented numbers of people asserting internationally protected rights to asylum, recommends investing in 20 officer teams based abroad, for considerably greater reduction in the numbers of those seeking to use (or in their eyes abuse) the asylum procedure.

With these pre-entry controls in place, the way would be clear to abolish the current system, which involves every non-EEA national seeing an immigration officer. This would be replaced by an automated gate system to expedite "genuine" passengers (IBM's Fastgate process, used at Schipol, is singled out for mention, as are biometric profiling systems), combined with a far more selective, targeted control of "problem" passengers. There would be closer links with customs' drug liaison officers, and a multi-agency approach to organised illegal entry, coordinated through the National Criminal Intelligence Service. (Quick off the mark, the NCIS launched its Organised Immigration Crime Section, staffed by NCIS and the Immigration Service, in December.)

The final ingredient is to make the passenger pay. The interim report makes a number of suggestions. Immigration officer services could be offered at commercial rates (£50 per hour is suggested) to carriers in "problem areas" (presumably this refers to flights and ships coming from refugee-producing countries and transit countries). Here, the Home Office has carriers over a barrel. The carriers are fined £2,000 per passenger for inadequately or falsely documented passengers, and are now being asked to pay to enable them to detect false documents so as to reduce their liability. Another suggestion is a per-head tax of £2 per passenger, which would raise £150 million.

From the tone of this report, it is clear that the new government has not made any impact on the perspective of the immigration service on asylum, which is seen as a fraudulent abuse of immigration control. It is a shame that Home Secretary Jack Straw did nothing to dispel this perspective, and in fact reinforced it, in his characterisation of all Czech and Slovak Roma asylum-seekers as "bogus". In a radio feature on 22 January about immigration "sharks", the interviewer and other participants spoke of genuine refugees whose claims were ruined and who were put at risk of deportation by self-styled advisers who pocketed thousands and did nothing. Straw used the interview to rail against Czech and Slovak Gypsies, claiming falsely that "not a single one" had had an asylum claim upheld by immigration adjudicators, and fuming about "bogus asylum-seekers" represented by "racketeers". It has not taken long for immigration ministers in this government to sound indistinguishable from those in the last.

Interim report of the IS Ports Comprehensive Study, September 1997; Police Review, 5.2.98; Interview on BBC Radio "Today" programme, 22.1.98.

Informal Justice and Home Affairs Ministers

Europol not ready until year 2000; Geneva Convention "out-of-date" says Commissioner Gradin

The informal meeting of the Council of Justice and Home Affairs Ministers was held in Birmingham on 29-30 January. As is the nature of "informal" meetings there were no decisions although Ministers were available for seven "photocalls". The "EU Action Plan: Influx of migrants from Iraq and the neighbouring region", adopted by the General Affairs Council three days before was handed out and duly, and mistakenly, reported as having been adopted at this meeting. The "Action Plan on organised crime" from the High Level Group adopted in April 1997, and printed in the *Official Journal*, was given out for reasons which escaped attending journalists.

Despite the UK Presidency's aim to be able to complete the ratification of the Europol Convention by May it became clear that this is not going to happen. Eight member states - Denmark, Spain, France, the Netherlands, Portugal, Finland, Sweden and the UK have completed ratification and sent the ratification instruments to the Secretariat General of the Council in Brussels. Austria, Ireland and Germany had not sent the instruments to Brussels. But four countries - Belgium, Greece, Italy and Luxembourg had not completed national parliamentary ratification. As three months has to elapse after the deposit by the last member state of the instruments with Brussels formal ratification of the Convention is not likely until the autumn. No mention was made of the need for the two Europol Protocols to be ratified at national level - on the European Court of Justice and Immunities for Europol officers - both of which are necessary before Europol can become operational.

At the end of February Mr Jürgen Storbeck, the Director of the Europol Drugs Unit in the Hague, confirmed to *European Voice* that the Europol computer system - which will allow instant and automatic access to personal information - will not be ready until the year 2000, over two years time. The delay is put down to "technical problems". The launch of the Schengen Information System (SIS), based in Strasbourg, was also put off from 1993 to 1995 due to "technical problems". This delay, which has been known to Ministers for months, casts doubt on the unseemly haste urged on some national parliaments to push through the ratification process because of the urgency of the problems to be confronted.

Another dispute on Europol's role is also looming. During the negotiations Spain wanted the Convention to cover terrorism as well as policing - responsibility for tackling varies between EU member states, in some it is dealt with by police forces in others by the military. Spain is now arguing that because of the delay in getting Europol up and running - the Convention was signed by the EU governments in June 1995 - Europol should be allowed to investigate terrorism from 1 January 1999. Other governments oppose the idea on grounds of cost but Mr Storbeck commented: "Once we have been officially asked we will make a feasibility study. I imagine that if member states agree to second an extra 20 experts to us, at their cost, then it might be possible even without dramatically expanding the budget." The Convention says that within two years of it coming *into force* Europol can, under the procedures in Title VI of the Treaty on European Union, extend its activities to cover terrorism - constitutional niceties are apparently not an issue.

The issue of encryption divides the member states. Last October the European Commission published a report, *Ensuring security and Trust in Electronic Commerce*, which argued that the advantages of allowing law enforcement agencies access to encrypted messages are not clear and could cause considerable damage to the emerging electronic industry. It says that if

citizens and companies "fear that their communications and transactions are being monitored with the help of key access or similar schemes unduly enlarging the general surveillance possibility of government agencies, they may prefer remaining in the anonymous offline world and electronic commerce will just not happen". The Commission's report also argues, as do many computer experts, that allowing law enforcement officers access to the "keys" to crack encryption codes will not make it easier to catch criminals.

However, Mr Straw said in Birmingham that: "It would not be in the public interest to allow the improper use of encryption by criminals to be totally immune from the attention of law enforcement agencies". The UK, along with France (which already has a law obliging individuals to use "crackable" software) and the USA, is out on a limb in the EU. "The UK presidency has a particular view and they are one of the access hardliners. They want access: them and the French", commented an encryption expert. They are particularly concerned about "confidential services" which ensure that a message can only be read by the person for whom it is intended who has a "key" to access it. The Commission's report proposes "monitoring" Member States laws' on "confidential services" to ensure they do not contravene the rules of the single market.

The three-hour meeting on the second day considered: enlargement of the European Union, Schengen and Iraqi immigration. On enlargement the applicant countries - Poland, Hungary, Slovenia, Estonia, the Czech Republic and Cyprus - are to be set priorities to be met by the Commission and the JHA Council considers it should be directly involved in this area. It appears that during the round-the-table discussion confusion still persisted as to defining the justice and home affairs *acquis* applicant countries were expected to follow.

There was no discussion on the incorporation of the Schengen *acquis*, the UK Presidency simply gave a report on the "progress" made by the two working parties. In official newspeak Ministers "confirmed the importance they attached to a rapid conclusion" of the work - which might make sense if they knew what actually comprises the full *Schengen acquis* to be incorporated.

A discussion was held on the Action Plan on the influx of migrants from Iraq. During the debate German Interior Minister Manfred Kanther said that Kurdish people coming into his country did not want to integrate into German society. The Schengen Ministers present used the occasion to hold a "Schengen Meeting", with the non-Schengen UK Presidency in attendance. It returned to the application of the same Action Plan and their own Decision on the same issue of 15 December.

The EU Action Plan on the influx of migrants from Iraq drew comment from UK Home Secretary Jack Straw who told the final press conference that "human rights was not an issue" between the EU governments "full regard" would be given to "our humanitarian responsibilities towards genuine refugees" while taking "firm action" against "immigration abuse and in particular traffickers". On the same issue European Commissioner Anita Gradin raised a few eyebrows with her comments on the 1951 Geneva Convention on refugees. The Geneva Convention she was said "out-of-date". The Community had resolved the question of "economic migrants" and now needed to look at "political refugees", she commented.

European Voice, 5 & 19.2.98; *Agence Europe*, 29 & 30.1.98; *Informal Justice and Home Affairs meeting, agenda*, 29.1.98; *Statement by Home Secretary*, 30.1.98.

EU: The battle for openness

Statewatch has won the second of the six complaints against the Council of Ministers it lodged with the European Ombudsman in 1996. In his letter to the Council of 20 November 1997 the Ombudsman, Mr Jacob Söderman, invited them to agree that for the purposes of the Decision on access to documents the "Presidency" of the Council of Ministers was not a separate "author" to the Council itself. The Council replied on 20 January which says: "I am pleased to confirm that the Council does not consider its Presidency to be "another institution", separate from the Council for the purpose of Article 2, paragraph 2 of the Council Decision 93/731/EC...", signed for the Council by UK Chancellor of the Exchequer Gordon Brown.

The complaint arose from a request by *Statewatch* editor Tony Bunyan in July 1996 which was turned down because the Council said the "Presidency" of the Council of Ministers was a separate "author". As a result of the complaint the Council now says its practice has changed - the Council always presents any change of practice as if it was going to do it anyway rather than as a result of a complaint against it.

Statewatch won its first complaint, which forced the Council to stop destroying the agendas of meetings in November 1997. A third complaint regarding the Council's failure to maintain an up-to-date list of measures agreed is expected to be resolved soon. The three "major" complaints are still outstanding.

New *Statewatch* complaint

The letter from the Council of 20 January 1998 while conceding the issue of the "Presidency" not being separate from the Council of Ministers went on to set out major qualifications on this position. On 29 January the Ombudsman invited *Statewatch* to respond by 28 February which we have done.

First, the Council claims that any document written by a EU member state falls under Article 2.2 and that requests for access have to be made direct to that member state. *Statewatch* has replied rejecting this argument on the grounds that *any* document which is adopted by the Justice and Home Affairs Council or forms part of its policy-making process must be accessible under the Decision.

Second, the Council argues that where the "Presidency" is one of three authors, in this case with the Commission and the "US authorities", "establishing a document" it cannot consider requests for access. *Statewatch's* response strongly rejects this argument.

The "Peers" case

On 25 November 1997 the Council responded to the four complaints lodged by Steve Peers of Essex University against them concerning access to documents (*Statewatch*, vol 7 no 3). The first complaint deals with the same issue as in the *Statewatch* case, the use of "repeat applications" and "very large documents". Steve Peers raised the issue in this context of the need for the Council to "consult" the applicant before applying these restrictions. The Council extraordinarily tries to contest whether the joint "Code of conduct concerning public access to Council and Commission documents" agreed on 6 December 1993 applies to the Council's Decision on access of 20 December 1993. Reluctantly "assuming" it might the Council says that the denial of access by the Council to a request in its response "could" constitute consultation on the grounds that the applicant can lodge an appeal.

In response to complaint number 3 the Council seeks to defend the need for protecting "confidentiality" in the "interest of the institution as follows:

It is essential that the Council can deliberate and work without each document produced or circulated during its discussions being automatically accessible to the public, since the Council's effectiveness depends largely on its members' capacity for compromise, flexibility and openness. (emphasis added)

UK Presidency proposals

Following on the commitment of UK Foreign Secretary Robin Cook the UK Presidency sent a report to the K4 Committee and COREPER in January on "Openness in JHA Business". Starting from the principle that: "Too little is known in the media, academia and among the public about the Third Pillar, yet much JHA business is very relevant to ordinary citizens" it put forward a series of proposals.

These include: publishing ("eg on the Internet") the calendar of meetings; publishing the agendas of the K4 Committee and "where appropriate" of the Working Parties where "It may be necessary to suppress mention of very sensitive items under discussion but this should be the exception"; providing more briefings to the media in Brussels; producing explanatory publications; holding more "open" debates of the Council of Ministers. One item not on the report is making available a public register of documents but this is still on the agenda of the UK Presidency.

At the Informal Justice and Home Affairs Council in Birmingham at the end of January there was a three hours discussion on this issue. It appears that those countries, like France and Spain, who have consistently opposed openness remain determined and they have tacit support from others (like Germany which has never backed openness at the EU level in granting access to documents). The only item emerging from the meeting was that an "open" debate would be held on organised crime at the JHA Council meeting at the end of May.

Green MEP lodges new case with the Court

Finnish Green MEP Heidi Hautala has lodged a new case against the Council in the European Court of First Instance concerning access to documents. Heidi Hautala was refused access to a report from the Common Foreign and Security Policy Working Group on Conventional Arms Exports concerning the criteria for arms exports adopted in 1991-2. The Council refused access to the documents on the grounds that "the disclosure of the report in question could be harmful for the EU's relations with third countries." When her appeal was considered only four countries - the UK, Denmark, Greece and Sweden - voted in favour of access being given to the report. Heidi Hautala argues that:

It is time to find out what the European Union can do behind the backs of its citizens. No one can question that citizens and non-governmental organisations, especially human rights watch groups, have an increasingly important role in foreign relations. The time when foreign relations was a diplomatic privilege is over.

It is legitimate to expect that since it is known that these eight criteria on weapons exports exist, citizens would also have a right to know how these are being interpreted and executed..

The two lawyers representing Ms Hautala are Thomas Janssens and Onno Brouwer (who acted in the John Carvel *Guardian* case and the Swedish Journalists Union).

Openness in JHA Business, Note from the Presidency to the K4 Committee, Limité, ref: 5146/98, 9.1.98; Statement by Home Secretary, Informal Justice and Home Affairs Ministers, Birmingham, 30.1.98; EU foreign policy is not a diplomatic privilege, press release by Heidi Hautala MEP, Strasbourg, 14.1.98.

Ratification of the Amsterdam Treaty in the EU Member States

Table on the ratification process of the Amsterdam Treaty in the 15 EU member states prepared by the German Interior Ministry. The timetables are probably optimistic. As EU governments have already agreed the Treaty and national parliaments are not able to change a dot or comma it is usual for official sources to lay great emphasis on the need for speedy ratification.

	Constitutional amendment necessary?	Referendum?	length of ratification procedure	elections etc
A	2/3 majority is necessary	No	June 1998	spring 1998: Presidential elections, autumn 1999: Nationalrat elections,
B	No	not requested, not wanted	autumn 1998	
D	No	No	spring/summer '98	elections: September '98
DK	No, but 5/6 majority necessary for transfer of sovereign rights	Yes (18.5.1989), the law is rejected if the the majority of voters or at least 30% of all people who are eligible to vote, vote against the law	June 1998	final decision on the Amsterdam Treaty by the High Court after completion of the Maastricht procedure (turn of 97/98). Election: 11 March
E	No	constitutionally possible but not wanted	spring 1998	
F	Yes, with regard to to majority decision in the third pillar	Yes, either through referendum (unlikely) or both chambers of parliament (more likely)	November 1998	debate on economic and monetary union in spring 1998
FIN	not clear but unlikely (maybe because of of 2nd and 3rd pillars)	not planned	spring 1998	elections: March 1999
GB	No	not planned, not wanted	first half of 1998	EU Presidency 1st half of '98
GR	No	No	circa early/ middle of 1998	
I	No	No	summer or autumn 1998	
IRL	No	Yes, on ratification law	summer 1998	
LUX	No	not necessary but possible (unlikely)	until summer 1998	parliamentary elections: summer 1999
NL	No	No	until June 1998; the latest 1st half of 1999	elections: 6.5.1998
P	No	before ratification probably referendum on Europe policy in general	spring 1998	
S	No	constitutionally possible possible but very unlikely	spring 1998	<i>Reichtags</i> election: September '98

A Austria, B Belgium, D Germany, DK Denmark, E Spain, F France, Fin Finland, GB Britain, GR Greece, I Italy, IRL Ireland, LUX Luxembourg, NL Netherlands, P Portugal, S Sweden

[NOTE: Austrian Foreign Minister Schussel has made a connection between full implementation of Schengen and the ratification of the Amsterdam Treaty] As of 16 January 1998, source: German Interior Ministry

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