

# statewatch

monitoring the state and civil liberties in the UK and Europe

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## MONITORING THE MINISTERS

### EURODAC to fingerprint all “illegal immigrants”; Dublin Convention unworkable; new “crimes” of “association”

Since the Council of Justice and Home Affairs Ministers (JHA Council) was set up in 1993 under the Maastricht Treaty it has held 14 meetings, the latest was in Brussels on 19 March. Its meetings now tend to pass largely unreported, the latest got little, or scant, coverage in the media. The UK press covered the introduction of EU-wide driving disqualifications (which was not actually adopted) and the UK-Spain ongoing row over the status of Gibraltar. Yet far-reaching decisions affecting the civil liberties of EU citizens and the rights of asylum seekers and refugees figured prominently. Moreover, as the work of the JHA Council steadily moves from just policy-making to policy-making and practice there is even more invisibility and even less accountability (Dublin Convention and customs operations - page 3, new regional operations - page 6).

The Joint Action making it a criminal offence to participate in a criminal organisation, the discussions on the Action Plan on “the influx of migrants from Iraq”, the Dublin Convention and EURODAC are dealt with in this feature. For the UK Presidency Jack Straw, the Home Secretary, said that the Ministers had had a “fruitful lunch” at which they had reached political agreement to extend EURODAC to “illegal immigrants” as well as asylum seekers. Two other major decisions on openness and access to Council documents (page 25) and on the receipt by Europol of non-EU information (page 24) are covered in the bulletin.

#### “association of more than two persons”

The adopted version of the Joint Action “making it a criminal offence to participate in a criminal organisation in the Member States of the European Union” (see box on page 3) contain significant changes to draft discussed by the JHA Council last

December (see *Statewatch*, vol 7 no 6). The earlier version explicitly referred to “drug trafficking, trafficking in human beings and terrorism” (Article 1.1) and “intimidation, threats, violence” (Article 1.3). These precise terms have been replaced by more general, and potentially all-embracing, terms. Article 1 now refers to “crimes or other offences” and “include” (thus not exclusively) the crimes and offences set out in Article 2 of the Europol Convention and its Annex - this originally listed 18 “crimes”. The list of “crimes” falling under Europol's remit is being extended all the time and is now to include terrorism (see below). The JHA Council can extend the list of crimes without any reference to the European or national parliaments.

The scope of the measure defined as “punishable by a three-year term of imprisonment or a more serious penalty” has been changed to “a maximum of at least four years or a more serious penalty”. The problem remains however that there are “crimes” carrying sentences of four years or more which cover political, trade union and public order situations.

Two or more people acting in “association” who commit a “crime” is extended to undertaking preparatory acts (“even where the offences concerned are not actually committed”) and to people who are adjudged, with intent, to have “knowledge of either the aim and general criminal activity of the organisation or the *intention of the organised group*” (italics added; the distinction is not clear) is equally punishable. Article 2.2 says a person takes part in the commission of an offence “even if that person does not take part in the actual execution of the activity”. The intention is clear:

*Such cases may arise for example when a lawyer or accountant provide their services to a criminal organisation, knowing their activity contributes to the aim of the organisation (Background note: 17.3.98)*

An outstanding issue from the December JHA Council, officially resolved in the adopted text, was:

*The draft joint action aims at reconciling the continental approach*

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**Europol to exchange unregulated data** see page 24

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whereby participation in a criminal organisation is punishable on the basis of specific evidence (there must be concrete action such as the renting of premises) with the Anglo-Saxon approach whereby conspiracy (a mere agreement between two persons may be sufficient) is considered punishable.

The Joint Action does now contain, in its preamble, a reference to the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms concerning "freedom of expression, peaceful assembly and freedom of association". However, this reference has no force over the use of the specific provisions of the Joint Action, "peaceful assemblies" can quickly become "unpeaceful" and confront organisers and participants with criminal offences. Finally, there is no reference in the Joint Action to review by the European Court of Justice.

### Action plan, Dublin and EURODAC

The JHA Council reviewed the "progress" made in the implementation of the "Action Plan on the influx of migrants from Iraq and the neighbouring region". The EU Presidency is now to coordinate EU agencies (like the Europol Drugs Unit whose remit now includes "illegal" immigration networks), the Schengen Task Force and the police chiefs meetings chaired by Italy. The Council is looking to "further cooperation with Turkey" to help it effect "returns to third countries, in particular Pakistan and Bangladesh" and cooperation to improve "conditions for detaining illegal immigrants prior to removal" (perhaps a guarded reference to the fact that the EU is pursuing the creation of "camps" in Turkey to which it can send "illegal immigrants") (see *Statewatch*, vol 8 no 1).

The main debate in the Council on the Action Plan concerned finger-printing and EURODAC (an EU-wide computerised system for storing and accessing fingerprints of asylum applicants over 14 years of age). The draft Convention setting up EURODAC is due to be adopted at the end of May. The draft, which has been around for over a year, only covers the fingerprinting of migrants who apply for asylum - asylum seekers. Point 40 of the "Action Plan on the influx of migrants from Iraq" adopted in March says "Member States have to fingerprint every third country national illegally entering their territory" (confirming the view that the Plan is not, nor was intended to be, limited to Iraq).

Some Member States favour the immediate extension of the EURODAC Convention to cover "illegal immigrants" (a term currently without legal meaning in most states; in practice it refers to migrants without valid documentation, undocumented migrants). Others would prefer to first adopt the Convention covering asylum seekers and then, later, to adopt a Protocol to extend EURODAC to "illegal immigrants". This approach would, in the view of some governments, ensure a smoother passage for the ratification of the main Convention by national parliaments. With EURODAC unlikely to be up and running for at least two years the EU Member States are to "consider interim possibilities for the bilateral exchange of fingerprints of asylum seekers and illegal immigrants".

Issues still outstanding within the JHA Council on the draft Convention includes: the age of fingerprinting, 14, which one member state wants to be lower; data protection provisions; the rights of a "data subject" to have access and the right to correct information held on them; the role of the European Court of Justice; and whether EURODAC should be an intergovernmental body run and paid for by the member states or run by the Commission with Community funding.

The JHA Council's discussions on the Action Plan and EURODAC were linked to the problems of operating the Dublin Convention. The Dublin Convention, agreed and signed by the EU Member States in June 1990, came into operation on 1 September 1997. However, the official view is that:

*Experience thus far shows that only a small percentage of asylum applications made within the European Union falls within the scope of the Convention. According to one of the criteria set out in the Convention, the responsibility for examining an asylum claim lies, on the basis of proof, with that Member State into which the applicant entered the EU. The problem which arises in this context relates to the difficulty of establishing where an immigrant entered the EU when he did this illegally and has no valid documentation. In such a case the criteria set out in the Convention cannot be applied.*

As the Dublin Convention is not working as intended the Council is to try other means "which would not require an amendment of the Convention". The measures being examined include: "encouraging asylum seekers to retain their documentation" by "accelerating" the asylum procedure when "an applicant refuses to show or destroys his (sic) documents without reasonable cause"; "fingerprinting illegal entrants where national law would allow this and exchanging such information"; and "considering bilateral exchange of the fingerprints of asylum seekers pending entry into force of the Eurodac Convention".

### Other decisions

*Convention on driving disqualifications:* the JHA Council "made substantive progress" on the draft Convention but agreement was blocked by Spain which wants to ensure that its implementation would not require direct dealings with Gibraltar. It will introduce the enforcement of the withdrawal or suspension of driving licences in all EU Member States - not just the country where the offence occurred. It also introduces the concept of "the State of residence" and "State of offence".

*Joint Action establishing the European judicial network:* this too was blocked by Spain. Although agreement was reached in "principle" under the Luxembourg Presidency at the last JHA Council in December 1997 the Council "was not able to solve, due to the Gibraltar question, the last outstanding problem on this draft joint action, relating to the designation of contact points.."

*Draft Convention on mutual legal assistance in criminal matters:* the JHA Council "made substantive progress" - here a euphemism for there are a lot of outstanding questions. The Council agreed that video conferencing (for witnesses and experts) could be included but will allow Member States to "opt-out". The controversial clauses on the interception of telecommunications - which have been re-written - are outstanding (see *Statewatch*, vol 7 nos 4 & 5). Agreement was reached on the Article concerning "controlled deliveries", "restitution of articles obtained by criminal means" and "investigations by officers acting under covert or false identity ("covert investigations")". Whether the surveillance of telecommunications will be included in the final draft to be adopted in on 28-29 May is as yet undecided - "certain complex issues concerning in particular modern methods of cross-border investigation would be dealt with subsequently in a Protocol". As an afterthought "Agreement is also outstanding on the timeliness of including specific provisions on data protection in the Convention"

*Preparation for enlargement in justice and home affairs:* justice and home affairs issues have now moved to the top of the agenda in the enlargement process. A few problems remain: identifying the justice and home affairs *acquis* (which is constantly up-dated as new measures are adopted) and agreeing on the actual contents of the Schengen *acquis* (which all applicant countries have to adopt and effect without amendment). Once the six agreed applicant countries have the two *acquis* there is the problem of monitoring the progress made in implementing them. The JHA Council is considering setting up a "special Council working group of experts" and/or asking the Commission to work out which bits of the *acquis* they could take part in immediately. In the meantime, *ad hoc* returns: "evaluations" could be submitted by EU embassies, Commission delegations, and "ad

hoc teams of EU Member States and the Commission on specific aspects”.

*Europol*: Italy ratified the Europol Convention on 17 March and the three outstanding member states - Belgium, Greece and Luxembourg - are expected to “do their utmost to complete ratification procedures by the end of May”. The existing Europol Drugs Unit (EDU) set up in June 1993 will not become “Europol” until 90 days (3 months) after the last member state has lodged its ratification. No up to date information is available on the necessary ratification of the two Protocols attached to the Europol Convention on the role of the European Court of Justice and the “Immunities and privileges of Europol officers”. The Council agreed, without debate, the confidentiality regulations and the rules concerning the receipt of information by Europol (see separate article in this issue). Three instruments still have to

be agreed by the JHA Council: the rules of procedure of the Joint Supervisory Body (data protection commissioners); the HQ agreement between the Netherlands and Europol and the agreement on liaison officers (between Member States and Europol). The JHA Council did agree to a proposal by Spain that “terrorism” should be added to Europol's remit from the start rather than “within two years from entering into force of the Convention”. As predicted by *Statewatch* back in February 1996 the Europol computer systems are not going to be ready for its launch - they are not expected to come online until late 1999 or 2000 (see *Statewatch*, vol 6 no 2). The JHA Council agreed an specified “interim solution”.

*Falcone programme*: The JHA Council adopted without debate a Joint Action establishing a programme of exchanges, training and cooperation for officials involved in the fight

## **Definition of participation in a “criminal organisation” - Joint Action making it a criminal offence to participate in a criminal organisation**

### Article 1

Within the meaning of this Joint Action, a criminal organisation shall mean a lasting, structured association of more than two persons, acting in concert with a view to committing crimes or other offences which are punishable by deprivation of liberty or a detention order of a maximum of at least four years or a more serious penalty, whether such crimes or offences are an end in themselves or a means of obtaining material benefits and, if necessary, of improperly influencing the operation of public authorities.

The crimes or other offences referred to in the first paragraph include those mentioned in Article 2 of the Europol Convention and in the Annex thereto and carry a sentence at least equivalent to that provided for in the first paragraph.

### Article 2

To assist the fight against criminal organisations, each Member State shall undertake, in accordance with the procedure laid down in Article 6\*, to ensure that one or both of the types of conduct described in paragraph 1 or paragraph 2 are punishable by effective, proportionate and dissuasive criminal penalties:

1. Conduct by any person who, with intent and with knowledge of either the aim and general criminal activity of the organisation or the intention of the organised group to commit the offences in question, actively takes part in:

- the criminal organization's activities referred to in Article 1, even where that person does not take part in the actual execution of the offences concerned and, subject to the general principles of the criminal law of the Member State concerned, even where the offences concerned are not actually committed,

- the organization's other activities in the further knowledge that his participation will contribute to the achievement of the organization's criminal activities as referred to in Article 1.

2. Conduct by any person consisting in an agreement with one or more persons that an activity should be pursued which, if carried out, would amount to the commission of such crimes or offences as referred to in Article 1, even if that person does not take part in the actual execution of the activity.

3. Irrespective of whether they have elected to make the type of conduct referred to in paragraph 1 a criminal offence or that in paragraph 2, Member States will afford one another the most comprehensive assistance possible in respect of the offences covered by this Article, as well as those offences covered by article 3, paragraph 4 of the Convention relating to extradition between the Member States of the European Union, drawn up by the Council on 27 September 1996.

### Article 3

Each Member State shall verify that legal persons may be held criminally, or failing that, otherwise liable for offences referred to in Article 2 which are committed by that legal person, in accordance with procedures to be laid down in national law. Such liability of the legal person shall be without prejudice to the criminal liability of the natural persons who were the perpetrators of the offences or their accomplices. Each member State shall ensure, in particular, that legal persons may be penalized in an effective, proportionate and dissuasive manner and that material and economic sanctions may be imposed on them.

### Article 4

Each Member State shall verify that types of conduct referred to in Articles 2(1) or 2(2) which took place in its territory are subject to prosecution wherever in the territory of the Member States the organisation is based or pursues its criminal activities, or wherever the activity covered by the agreement referred to in Article 2(2) takes place.

[\*NB: there is an error in the official text in the preamble to Article 2 which refers “the procedure laid down in Article 6” - Article 6 actually says in full: “This joint Action shall be published in the Official Journal. It shall enter into force on the day of its publication”. It should read “Article 4”]

against organised crime, the “Falcone” programme (budget ECU 10 million). The officials “who stand to benefit.. are judges, public prosecutors, police and customs departments, civil servants, public tax authorities, the academic and scientific world..”

*Odysseus programme:* Another Joint Action adopted without debate covered a programme of training, exchanges and cooperation in the field of asylum, immigration, the crossing of external borders and “combatting illegal immigration” - the “Odysseus” programme (which replaces the “Sherlock” programme). It too will lead to the training of officials and “studies and research activities”. The Commission, who will manage and monitor the programme, will, be “assisted” by yet another ad hoc committee comprised of representatives from the 15 EU member states.

*Customs joint surveillance exercises in 1997:* three customs surveillance operations were reported to the Council: Operation “Pegasus” which involved “19 states and nearly 50 airports” to detect hard drug smuggling from “certain South American and Caribbean countries”; Operation “Seahorse” run by 13 EU member states plus Norway was a maritime operation to detect smuggling; and Operation “Taboo” involving all EU member states led by Finland to detect the smuggling of alcohol and tobacco.

*Council of Justice and Home Affairs Ministers press release, 19.3.98; Joint Action on making it a criminal offence to participate in a criminal organisation in the Member States of the European Union; Background Note on the Council of Justice and Home Affairs Ministers, 17.3.98; ILPA European Update: March 1998; Financial Times, 20.3.98.*

## IMMIGRATION

### UK

## Campsfield: an unlawful regime?

Sir David Ramsbotham's long-awaited report on Campsfield House immigration detention centre, published on 16 April, is a powerful indictment of the Home Office treatment of immigration detainees and asylum-seekers. Among the main criticisms of the Home Office are that the criteria for detention are not clear, detainees are given no written reasons and there is no judicial oversight of detention. People are detained for too long. There are no statutory rules for the running of the centre (which is not a prison and so does not fall within the prison rules). This means that Group 4 staff have no clear legal basis for their responsibilities and in particular have no legal basis for using disciplinary measures or physical force, save the powers available to members of the public making a citizen's arrest.

Campsfield, a high security unit bounded by 20-foot fences and electronically operated gates, was opened in November 1993 to house 200 immigration detainees, and has been condemned ever since. Local opposition, led by Oxford Trades Union Council, became the Close Down Campsfield Campaign. They have held regular Saturday pickets outside the centre and have provided constant support for detainees' numerous hunger strikes and other protests. The protests of the detainees and their supporters have been echoed by many groups including Amnesty International and the UN High Commissioner for Refugees, who believes that Britain's detention of asylum-seekers breaches the Geneva Convention.

Detainees have complained of racist attitudes among staff (Muslim detainees have complained that staff watch pornographic videos while they are trying to pray). They have claimed that staff refuse to entertain complaints and threaten to send those who persist in complaining to prison. While he was

not prepared explicitly to endorse the detainees' complaints about staff racism, Ramsbotham did recommend “further training for staff to ensure that they understand and appreciate different religious cultures”. He also confirmed that the complaints system was not “sufficiently rigorous” and encouraged fears of transfer to prison. He recommended the use of numbered complaints forms, a log of complaints and keeping an audit trail to ensure they could not go missing. The other main complaint Ramsbotham endorsed was the complete lack of any meaningful activities to engage in for detainees locked in the centre for months on end.

The report demands minimum standards of provision in relation to regime, facilities and conditions of detention including food, clothing, bedding, furnishings, heating, lighting, sanitation, bathing facilities, decent living accommodation, adequate space and privacy, facilities for exercise, access to fresh air and hygienic environment. He also demands that detainees' rights in relation to contact with family and freedom of religious worship be provided for.

But his main concern was that “it is frankly unsound and unsafe to hold people within a secure perimeter without clear rules and sanctions governing their behaviour and without statutory duties and obligations being imposed on the staff who look after them. It is the lack of clear rules and sanctions that is at the heart of the problems facing contracted detention centre staff.” This absence of rules affects “the safety of people held in detention and the staff employed there”. The only sanction against misbehaviour for detainees is removal to prison, which is “grossly inappropriate”, he says.

Wrong-footed by Ramsbotham, immigration minister Mike O'Brien attempted to blame the Tories for the “legacy” of immigration detention, while at the same time promising more, not less detention of asylum-seekers. He showed particular crassness on Radio 4's *World Tonight* on 16 April. The programme conducted interviews with a former detainee at the centre and with a member of staff who spoke of the racism of some of his colleagues but wished to remain anonymous. The Minister contemptuously dismissed these allegations and attacked the campaigns which have sought to draw wider attention to the conditions described in the report.

O'Brien is alleged to have personally authorised the bringing of criminal charges against the nine Campsfield detainees whose trial on charges of riot and violent disorder starts on 1 June at Oxford crown court. In this, and in his attitude to the detention of asylum-seekers generally, he has shown a harder line than even his conservative predecessors. He was at pains to praise Group 4, which has just been awarded a further three-year contract to run the centre, for doing a “good job in difficult circumstances”. And he appeared to reject the proposals for judicial review of detention decisions.

Meanwhile, on 6 April, Home Secretary Jack Straw announced that the secret instructions to immigration officers, governing how officers are expected to exercise their discretionary powers, are to be published on the Internet and placed in the House of Commons library within six weeks. This signals a refreshing openness, in contrast to previous practice. But the results of the wide-ranging reviews of immigration and asylum policy are still awaited.

*Campsfield House Detention Centre: report of an unannounced short inspection 13-15 October 1997 by HM Chief Inspector of Prisons. Home Office, April 1998.*

## Carrier liability extended to Eurostar

An impending immigration “crisis” leaked by “immigration sources” to the *Daily Telegraph* newspaper has led to carriers

liability sanctions being introduced to cover Eurostar journeys between Brussels and Waterloo in London. On 8 April the Immigration (Carriers Liability) Act 1987 was extended from airlines and shipping to cover Eurostar as well. The Home Office said it was "to reduce the large numbers of inadequately documented passengers using this route over recent months." Carriers face fines of £2,000 a person if they transport people without valid entry documents for the UK.

The story broke on 25 March fourteen days before this when the *Daily Telegraph* reported that: "Hundreds of bogus asylum-seekers are travelling to Britain from Belgium on Eurostar trains after being ordered to leave Europe's "open borders" Schengen area." "Immigration sources" said that more than 900 people from Kenya, the former Yugoslavia and Sri Lanka had entered this way since the beginning of the year.

The Belgium Embassy confirmed in a letter to the *Times* that "illegal immigrants" had been "ordered to leave Belgium and the Schengen area within seven days or face forced repatriation." Asylum seekers had been issued with "ordre de quitter le territoire" by Belgian immigration officials.

*Daily Telegraph*, 25 & 26.3.98 & 8.4.98; *Times*, 1.4.98; *Hansard written answer*, 8.4.98.

## GERMANY

### Foreign Office discriminates against homosexual couples

The Foreign Office has issued an instruction which makes it more difficult for homosexual partners of a German citizen to obtain a visa. Since September last year, embassies and consulates have to submit such visa applications to the Foreign Office for an individual assessment. A visa can then only be issued with the approval of the Foreign Office. The Foreign Office states that a visa will only be issued if homosexuality is a criminal offence in the country of origin and if it is actually prosecuted. Furthermore, the relationship must have already existed in Germany. This is in contradiction to more liberal instructions of several federal states where homosexual partners can obtain a residence permit. Since February this year, Northrhine-Westfalia, Hamburg and Berlin have issued residence permits to foreign homosexual partners. A similar instruction will be passed soon in Hessen. The couples have to present a partnership contract attested by a notary. While Hamburg and Berlin do not require a minimum period for the relationship, couples in Northrhine-Westfalia have to show that long-term contacts have existed. In two cases where the relevant Foreigners' Office (*ausländerbehörde*) has issued a residence permit to a homosexual partner of a German citizen, the Foreign Office has refused a visa. The couples concerned have appealed against this decision.

*die tageszeitung*, 24.4.98.

## FRANCE

### New immigration law

A new immigration law has been adopted with the votes of the ruling Socialist Party (PS) and two smaller left parties. The coalition partners, the Green Party (*Les Verts*) and the Communist Party, abstained arguing that the new law is not far reaching enough. After restrictive measures introduced by the previous conservative government, the aim of the reform is to facilitate legal immigration while at the same time to improve measures against illegal immigration. The conservative opposition parties have appealed to the constitutional Council against the law.

Interior Minister Chevènement has been increasingly criticised from among his own ranks by those who voted for the

present government last year. The unexpected election victory was achieved after hundreds of thousands protested against the immigration policy of the conservative government. In recognition of this movement, which helped to bring the socialist government to power, the first act of the new Interior Minister Chevènement was a decree to regularise the status of thousands of *sans papiers* (see *Statewatch*, vol 7 no 3). The guideline for the regularisation has been "readiness to integrate". Meanwhile, critic's fears have been confirmed: the decree has been trap. There is now a central data bank with the names, addresses and work places of around 150,000 *sans papiers* who have expressed, in their application, a readiness to "integrate". Yet, only every second applicant has been granted a regular status despite the fact that almost all have been living and working in France for many years. The remaining migrants are faced with leaving France or going into hiding.

*die tageszeitung*, 9.4. & 11.4.98.

## LATVIA

### Citizenship law

Latvia has bowed to western pressure and agreed to facilitate naturalization for its Russian minority. The quota regulation will be abolished but the language test and the examination on Latvia's history will remain. Yet it is questionable if more Russians, a third of the population, will now obtain Lithuanian citizenship. In the seven years of its independence, less than 10,000 out of the 700,000 Russians have obtained Latvian citizenship, which is a precondition for work in the public sector. Russia argues that Latvia discriminates against its large ethnic Russian population, and had threatened economic sanctions unless Latvia changed its citizenship law. The Organisation for Security and Cooperation in Europe (OSCE) has criticized Latvia's citizenship law and has made reform proposals. A spokesperson for the Latvian Foreign Office stated that the government followed the proposals, yet the press in Latvia has been sceptical about whether the reforms will find a majority in the parliament.

*Financial Times*, 15.4.98; *die tageszeitung*, 17.4.98.

## Immigration - new material

**Propositions d'amendements relatives au projet de loi sur l'entree. Le séjour des étrangers en France et sur l'asile**, *Mouvement contre le racisme et pour l'amitié entre les peuples*, October 1997, pp31. Proposals for the reform of the French immigration and asylum law by the anti-racist organisation MRAP.

**Propositions d'amendements relatives au projet de loi sur la nationalité**, *MRAP*, October 1997, pp12. Proposals for the reform of the nationality law (acquisition of citizenship).

*Newsletter* (National Coalition of Anti-Deportation Campaigns) Issue 10 (April-June) 1998. The *Newsletter* carries regular updates on anti-deportation campaigns; this issue includes articles on the Sengul family, Michelle Ricablanca, Mehmet Altun, Chander Gauthlam, the Latif family, the Oviennioba family and the Iqbal family. It also contains an article on "Deportation and health issues" (Steve Cohen) and an update on Kurdish refugees in Germany (Hasan Calhan).

**Reunited: how we won**. Onibiyo Family Campaign, pp8. This booklet is an account of the harrowing events that nearly destroyed the Onibiyo family following Nigerian democracy activist Abdul's arrest and deportation. The utter contempt and disrespect shown to the family by government and immigration officials, not to mention Abdul's deportation into the clutches of a brutal totalitarian regime, stands as both a measure of the viciousness of the UK's deportation regime and the strength of the family and their supporters. Available from the Onibiyo Family Anti-Deportation Campaign, Lambeth UNISON, 6a Acre Lane, London SW12.

**Death by Policy. The fatal realities of Fortress Europe, United, Information leaflet No.14.** Brief outline of the consequences of European asylum policies for refugees and list of 1021 documented refugee deaths "through Fortress Europe".

#### Parliamentary debates

**Asylum seekers** *Lords* 25.2.98. cols. 766-786

## CIVIL LIBERTIES

### Civil liberties - new material

**UK behind on union rights.** *Labour Research* Vol. 87, No. 4 (April) 1998, pp17-18. This article considers the planned government white paper, "Fairness at Work", which will spell out its plans for a new law on trade union recognition. It surveys union rights in other European countries and concludes that even with recognition "UK unions are likely still to be, at best, only catching up with their counterparts in the rest of the EU."

*Rights.* Scottish Human Rights Centre (February) 1998, pp4. This is the newsletter of the Scottish Human Rights Centre (formerly Scottish Council for Civil Liberties) and contains pieces on shoplifter databases, anti-social behaviour orders and an insert on the Scotland Bill & Human Rights Bill. Available from: SHRC, 146 Holland Street, Glasgow G2 4NG.

#### Parliamentary debates

**Official Report of the Grand Committee on the Data Protection Bill** *Lords* 23.2.98. cols. CWH 1-64

**Official Report of the Grand Committee on the Data Protection Bill** *Lords* 25.2.98. cols. CWH 65-134

**Wireless Telegraphy Bill** *Lords* 11.3.98. cols. 657-723

## EUROPE

### EU-BALTIC

#### "Organised crime" grouping

The number of *out of area* initiatives the EU is participating in is increasing apace. One of the latest is the "Task-Force on organised crime in the Baltic Sea Region". When the first Baltic Sea Summit was held in May 1996 the idea of setting up a Task Force was not even on the agenda, "suggestions were put forward at the meeting", and it was "somewhat unclear after the summit meeting how the Task Force should be formed". The conclusions to the Summit suggested that the Swedish Prime Minister, Göran Persson might take the initiative. This he duly did and between June 1996 and December 1997 twelve meetings were held of the "personal representatives" of the Prime Ministers (each of whom was accompanied by two "experts"). Alongside these meetings to prepare and implement a series of measures "a number of ad hoc expert groups have been formed consisting of experts from inter alia police, customs and border/coast guard authorities." The participant countries are: Denmark, Estonia, Finland, Germany, Iceland, Latvia, Lithuania, Norway, Poland, Russia and Sweden plus the Head of the European Commission's Task Force on justice and home affairs (Adrian Fortescue) and the Presidency of the European Union (currently the UK).

The objectives of the Task Force is to bring together police, customs and coast/border guard and migration authorities to combat drugs trafficking, "illegal migration and trafficking of

human beings", stolen vehicles, arms, money laundering and "violent crimes". An "immediate operative aim" is to improve border arrangements "consistent with EU and Schengen obligations".

Like so many of this new generation of post-Maastricht *ad hoc* arrangements existing legal and bilateral/multilateral agreements have been strung together to allow "international cooperation in the fight against organised crime" to be developed "fairly rapidly" on a "concrete and practical level". The "key to the success" has been the "general agreement" between the governments that:

*the work, as much as possible, should be based on national legislation leaving aside discussions on a joint legal basis. It has been proven that very much can be carried out jointly within the framework of national legislation and existing international agreements.*

Having set up the Task Force it undertook a number of studies, operations, and experiments over 18 months. If funding is needed for future projects then it will be readily available through the Commission's Phare and Tacis programme. The Task Force has been extended for another year (1998) and taken on a more permanent form with the establishment of an "Operative Committee (OPC)" comprised of "law enforcement officers" plus the European Commission and the EU Presidency.

#### Cooperation in practice

Each of the participant countries undertook a number of studies/measures over the 18 months covered by the report. Germany tested a "contact points" system for the 24-hour exchange of information (phone and fax network).

Norway headed up the creation of BALTCOM, a Baltic Sea Encrypted Network, based on the X-400 Interpol network. BALTCOM will enable the bilateral exchange of information and intelligence including "information concerning individuals or criminal organisations involved in organised crime". All information that can be "legally" released under national law "should be transferred without undue delay or bureaucratic obstacles".

Five "operative actions" involving all the participant countries were undertaken. One operation looking for amphetamines, "SPEED II", involved 1,988 law enforcement and 128 dogs. The report says "the seizure of amphetamine was this time limited". Another operation covering stolen vehicles, organised by Poland and Russia, was carried out over 24 hours in April 1997. 26,299 vehicles were stopped, 37 were stolen. In October a two day operation involved 2,500 officers - 16,503 vehicles were stopped, 11 were stolen. The report observes that "All stolen vehicles which were seized were German made.. All the cars came from West European countries and were heading east."

Germany undertook the lead in two maritime operations on "illegal migration" both called "BALTIC GUARD" between 23 May and 1 June and 30 August to 3 September 1997. In the first a total of 7,338 ship movements were "monitored" and "3,379 ships were checked" for "illegal" immigrants, in the second 3,570 ship movements with 2,213 vessels checked. It appears that in neither operation were "illegal" immigrants found or in the official language "no spectacular arrests were made". But they were able to build up a list of 161 "suspicious vessels" and 1.4 million "smuggled cigarettes were seized in connection with two arrests." Despite the transparent failure of the two operations to find "illegal" immigrants "the operation is considered to have had a highly preventive effect [and].. targeted massive operations.. they also serve a repressive purpose.."

*Report submitted to Heads of Government: Task-Force on organised crime in the Baltic Sea Region, submitted to the Second Baltic Sea States Summit, Riga, Latvia, 22-23 January 1998.*

## EU

### Academics to the fore

The High Level Group on Organised Crime, whose report was adopted at a special meeting of the Council of Justice and Home Affairs Ministers in April 1997, recommended that:

*The academic and scientific world should be further encouraged to contribute their studies and research to the understanding of the phenomenon of organised crime (recommendation 2)*

In December last year the "Incoming UK Presidency" circulated a note and questionnaire for a "Meeting of leading EU academics on organised crime" to be held in Brussels on 18-19 May 1998. Each EU delegation was in effect being invited to put forward "its leading expert in the field". The "leading academics" in each country were invited to complete a questionnaire listing the four "most valuable studies" on organised crime already undertaken in their own country and the four "most valuable studies" completed in other EU Member States. The same academics were also invited to list the four most important subjects "that need research". The extent to which the lists of "valuable studies" confirmed the values of their own work is not yet known.

*Meeting of leading EU academics on organised crime, report by Incoming UK Presidency to the Multidisciplinary Group on Organised Crime (GMD), 1358/97, Crimorg 41, Limité, 19.12.97.*

## LITHUNIA

### Unachieved democratic transformation

A report by the International Federation of Human Rights (FIDH) has expressed concern about the human rights situation in Lithuania, in particular in relation to the powers of the government, the freedom of the media, the respect of trade union rights, the working of the legal system and the situation of refugees and immigrants. The reform of the legal system inherited from the Soviet Union has been slow. Detention pending trial can last from one to three years and the death penalty still exists, despite the fact that Lithuania became a member of the Council of Europe in 1993 and ratified the European Convention on Human Rights in 1995.

Lithuania has signed the Geneva Convention and the law on the status of refugees entered into force in July 1997. Yet the asylum procedure and the reception of asylum seekers were criticized in a report by the United Nations human rights committee in November 1997. Asylum seekers can be deported even if there is a risk to life, the powers of civil servants responsible for immigration are not precisely defined and not subject to judicial control, and asylum seekers are held in detention centres until a decision on their case has been reached. The conditions in the detention centres has been described as appalling: there are no school provisions for children, no freedom of religion, no communication with the outside world, no books or newspapers available; the sanitary facilities are inadequate, the food is poor and inappropriate for the religious customs of some refugees.

*International Federation of Human Rights, February 1998, pp9-11.*

## DENMARK

### Constitution case lost

In 1993 eleven Danish citizens took legal action against the Danish state personified by the Prime Minister, Mr Poul Nyrup Rasmussen. They claimed that the government, by signing the Maastricht Treaty on 28 April 1993, had violated article 20 of the

Danish Constitution which restricts the transfer of national sovereignty.

The central question was whether the signing of the Maastricht Treaty implied handing over legal competence to the European Union and thereby "hollowing out" the Danish Constitution. In 1994 the High Court rejected the case claiming that none of the eleven citizens could document how they personally had an interest that would be violated by joining the Maastricht Treaty.

The case then went to the Supreme Court which stated unanimously on 12 August 1996 that the High Court had to hear the case. This ruling opened the way for any citizen to assert a violation of their rights on behalf of the population as a whole (see *Statewatch*, vol 6 no 5).

The issue of whether the Constitution has been violated goes back a long way. Opponents of Denmark joining the Rome Treaty - which a majority supported in a 1972 referendum - held the position that it also violated the Constitution. Shortly before the 1992 referendum on the Maastricht Treaty 41 prominent jurists (lawyers) expressed their worries in a letter to the parliament saying that the Treaty could lead to a violation of the Constitution.

The eleven citizens and their lawyers met enormous barriers in their challenge. The government refused to hand over the necessary documents concerning the EEC-administration covering a period of about 20 years. It claimed that the papers were secret and the High Court refused to order the government to hand them over. A case within the case was taken against the High Court to challenge this decision, but with no success. The eleven lost that case in March 1997. However the Supreme Court overruled the decision of the High Court and ordered the Prime Minister to hand over a huge number of "secret" documents.

Over the last five years the Constitution Case, as it was popularly named, raised a lot of questions. If the eleven won what would it mean for Danish membership on the European Union? And what would become of the referendum on the Amsterdam Treaty due to take place on 28 May 1998?

The final proceedings in the Supreme Court took place at the beginning of March and lasted eleven days. The Court ruled and published their decision on 6 April. Not surprisingly a unanimous Supreme Court backed the Prime Minister. The ruling stated that the question of the legal borders in the Constitution rely to a large degree on considerations of a political character.

However the full judgement also contained important "victories" for the eleven. Firstly, the eleven citizens had the right to take out a constitutional case. Secondly, the Supreme Court states that parliament has to take a view on whether the government decision to participate further in the development of the European Union requires additional democratic controls. Several politicians and legal experts believe that the case will probably lead to more openness by government towards parliament committees and to more control of the activities of government representatives in the EU and to a higher degree of scrutiny in the future when the limits of national sovereignty are approached.

## Europe in brief

■ **Hungary - new asylum law:** A new asylum law entered into force on 1 March 1998. The most important change is the abolition of the geographical reservation to the Geneva Convention, i.e. non-European refugees can now apply for asylum in Hungary. This change needs to be seen in the context of the European Union's asylum policy. Hungary can now be declared a "safe third country" and can become part of the network of readmission agreements.

■ **Austria:** Interior Minister Schlögl has threatened that

Austria will block the accession of the Czech Republic and Hungary into the EU if the two states will not take measures against refugees. Specifically, Schlögl has demanded the introduction of visa obligations for Romanian citizens. *die tageszeitung*, 14.4.98.

## Europe - new material

**Roumanie. Analyse et resume d'un rapport annuel (1997) sur la situation des droits de l'Homme, etablie conjointement par quatre ONG roumaines**, *Federation Internationale des Ligues des Droits de l'Homme*, No. 731-732, 5-12 February 1998, pp11-16. Summary of the 1997 annual report on the human right situation in Romania. The report criticises the criminal procedure, extreme police violence, the conditions under which people are kept in detention, and the failure of the system to protect minors. It then focuses on the situation of national and religious minorities, the right of women and homosexuals.

**Report to the Portuguese Government on the visit to Portugal carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 20 to 24 October 1996**, *Council of Europe*, 13 January 1998, pp16.

**Rapport du Gouvernement portugais en reponse au rapport du Comite europeen pour la prevention de la torture et des peines ou traitements inhumains ou degradants (CPT) relatif a sa visite au Portugal du 20 au 24 octobre 1996** (response of the Portuguese government to the above report), *Council of Europe*, 13 January 1998, pp17.

**Response of the Norwegian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Norway from 17 to 21 March 1997**, *Council of Europe*, 22 January 1998, pp13.

**Rapport de suivi de la Suisse sur les travaux entrepris suite au rapport interimaire du Conseil federal suisse en reponse au rapport du Comite europeen pour la prevention de la torture et des peines ou traitements inhumains ou degradants (CPT) relatif a sa visite en Suisse du 11 au 23 fevrier 1996**, *Council of Europe*, 29 January 1998, pp30.

**Rapport au Gouvernement de la Roumanie relatif a la visite effectuee par le Comite europeen pour la prevention de la torture et des peines ou traitements inhumains ou degradants (CPT) en Roumanie du 24 septembre au 6 octobre 1996 et Reponses du Gouvernement de la Roumanie**, *Council of Europe*, 19 February 1998, pp254.

**ECRI's country by country approach: Volume II**, *European Commission against Racism and Intolerance*, Council of Europe, Strasbourg, 1998, pp58. Covers Germany, Liechtenstein, Norway, San Marino, Slovenia and Switzerland.

**Policy and action statement on ECRI's relations with non-governmental organisations**, *ECRI*, Council of Europe, Strasbourg, March 1998, pp14. Includes list of members of ECRI.

**ECRI general policy recommendation No.3: Combating racism and intolerance against Roma/Gypsies**, *ECRI*, Council of Europe, Strasbourg, March 1998, p6.

**ECRI general policy recommendation No.4: National surveys on the experience and perception of discrimination and racism from the point of view of potential victims**, *ECRI*, Council of Europe, Strasbourg, March 1998, p5.

**Human rights information bulletin No.42. An update on human rights activities within the Council of Europe. November 1997 - February 1998**. *Council of Europe*, April 1998, pp56.

**Minority policy in central and eastern Europe: the link between domestic policy, foreign policy and European integration**, *Katlijn Malfliet, Ria Laenen (eds)*, Leuven, 1998, pp205. The first chapter deals with Hungary's minority and foreign policy, and the situation of

Hungarian minorities in central and eastern Europe. The second chapter on Russia and the newly independent states (NIS) pays special attention to security aspects in the relationship between Russia and the Baltic states, and Russia's self-appointed role as peace keeper in the NIS region. The final chapter deals with the situation of minorities in the "new Europe". It includes an article on the former Yugoslavia, a comparison between the role of the Council of Europe and the NIS in minority protection, and the role of regional communities in eastern Europe in the process of European integration.

### Parliamentary debates

**European Communities (Amendment) Bill** *Lords* 16.2.98. cols. 12-118

**European Parliamentary Elections Bill** *Commons* 24.2.98. cols. 190-272

**European Parliamentary Elections Bill** *Commons* 26.2.98. cols. 509-596

**European Parliamentary Elections Bill** *Commons* 5.3.98. cols. 1210-1249

**European Communities Order 1997** *Lords* 9.3.98. cols. 67-77

**European Parliamentary Elections Bill** *Commons* 12.3.98. cols. 763-830

**European Communities (Amendment) Bill** *Lords* 12.3.98. cols. 309-380

**European Communities (Amendment) Bill** *Lords* 12.3.98. cols. 382-404

**European Communities (Amendment) Bill** *Lords* 24.3.98. cols. 1136-1163

**European Communities (Amendment) Bill** *Lords* 24.3.98. cols. 1177-1216

**European Communities (Amendment) Bill** *Lords* 26.3.98. cols. 1385-1454

**European Parliamentary Elections Bill** *Lords* 9.4.98. cols. 856-901

## LAW

### Law - in brief

■ **UK: Gandalf Three released on bail:** The three editors of the *Green Anarchist* (GA) magazine, Steve Booth, Sax Wood and Noel Molland, have been released on bail pending an appeal against their conviction and jailing for publishing information liable to incite persons unknown to commit criminal damage. The three editors of the magazine were jailed 3 years each in November last year (see *Statewatch*, vol 7, no 6). The Gandalf Support Campaign can be contacted c/o London Greenpeace, Panther House, 38 Mount Pleasant, London WC1X 0AP.

### Law - new material

**Witness care in magistrate's courts and the youth court**, Joyce Plotnikoff & Richard Woolfson. *Research Findings* No 68 (Home Office) 1998. This report looks at "the services available to witnesses in magistrates' courts and the youth court."

#### Parliamentary debates

**Crime and Disorder Bill** *Lords* 10.2.98. cols. 1000-1008

**Crime and Disorder Bill** *Lords* 10.2.98. cols. 1021-1130

**Crime and Disorder Bill** *Lords* 12.2.98. cols. 1265-1382

**Crime and Disorder Bill Lords** 24.2.98. cols. 548-559

**Crime and Disorder Bill Lords** 24.2.98. cols. 573-618

**Crime and Disorder Bill Lords** 24.2.98. cols. 634-674

**Crime and Disorder Bill Lords** 3.3.98. cols. 1097-1187

**Legal Aid Commons** 4.3.98. cols. 1059-1075

**Legal Aid Lords** 4.3.98. cols. 1200-1212

**Legal Aid Lords** 9.3.98. cols. 80-98

**Crime and Disorder Bill Lords** 17.3.98. cols. 575-640

**Crime and Disorder Bill Lords** 17.3.98. cols. 657-708

**Crime and Disorder Bill Lords** 19.3.98. cols. 822-862

**Crime and Disorder Bill Lords** 19.3.98. cols. 873-881

**Crime and Disorder Bill Lords** 19.3.98. cols. 890-950

**Crime and Disorder Bill Lords** 31.3.98. cols. 154-272

**Crime and Disorder Bill Commons** 8.4.98. cols. 370-452

## MILITARY

### UK

## Army has anti-riot chemicals

A report in the *Independent* newspaper claims that the British Army is stockpiling the CR (Dibenz-1:4-Oxazepine) chemical, which is more volatile than the controversial CS gas sprays currently used by police, to disperse crowds. The chemical, which would be fired from a water cannon, was declared under the Chemical Weapons Convention and is said to cause: "sore eyes and breathing difficulties. Although its effects are not thought to be lasting, it causes extreme discomfort."

The Royal Ulster Constabulary have denied that the chemical is destined for use in northern Ireland, saying that they prefer to use plastic bullets for crowd control. Other police forces have also denied keeping CR but the newspaper believes that it would "be used in circumstances where the army was called in to support them [police] against rioters."

CS gas cartridges were notoriously, and almost certainly illegally, used by the police to disperse crowds during the Liverpool uprisings of 1981. After the event chief constable, Kenneth Oxford, acknowledged "that some of the equipment used (Ferret cartridges) should not be used again to deal with public disorder..."; the CS equipment in question was for military use and designed for "barrier penetration" and designated "lethal". At least five people were seriously injured during this experiment in dispersing crowds.

*Independent* 17.2.98.

## Military - in brief

■ **Turkish, Greek credits will end:** The USA will terminate Foreign Military Sales credits to Turkey and Greece in the financial year 1999. With the end of the Cold War in 1991 the USA converted its aid into concessional credits - the burden for Turkey is estimated to be around \$9 billion. In recent years the USA charged about 10.5 per cent annual inter-est, almost equal to market rates. *Jane's Defence Weekly*, 4.2.98.

■ **Tartan Strike:** Members of the UK Royal Marines and the US Marine Corps participated between 1 and 5 February in manoeuvres in western Scotland to practise counter-insurgency skills and crowd-riot-control procedures. About 60

representatives from each service took part in the exercise "Tartan Strike". *Jane's Defence Weekly*, 4.2.98.

■ **Double crisis test for NATO:** From 9-21 March NATO conducted its first major exercise involving two simultaneous crises in separate geographical regions. "Strong Resolve 98" took place in Norway, Portugal and Spain, with more than 50,000 personnel from 15 NATO countries. "Crisis South" simulated a "peace support" operation out-of-area including "peace enforcement" (that is war fighting) and evacuation. "Crisis North" consisted of the defence of Norway. *Jane's Defence Weekly*, 11.2.98.

■ **USA's covert squads to counter WMD:** The US military has covert action teams to combat terrorism and counter-terrorist use of weapons of mass-destruction (WMD). The so-called Special Mission Units are under the control of Joint Special Operations command at Fort Bragg, north Carolina. The teams operate under two classified contingency plans that address counter-terrorism and counter proliferation. Barbara Starr, *Jane's Defence Weekly*, 11.3.98.

■ **NATO Balkan training exercise:** NATO has completed a training exercise for its Strategic Reserve Forces (SRF) as a demonstration of SRF's ability to rapidly reinforce the Stabilisation Force (SFOR) in Bosnia. During exercise "Dynamic Response '98", a Combined Task Force 503 formed by US and Italian naval ships deployed units of Poland, Romania, Turkey, the Netherlands, Italy and the UK using troops stationed in their home countries. *Jane's Defence Weekly*, 8.4.98.

■ **BALTBAT proves ineffective:** Plans for the tri-national Baltic Battalion (BALTBAT) to go on independent duty in Bosnia later this year have been cancelled on the advice of West European advisers who considered the unit unready after major exercises in November last year. In a face-saving manoeuvre a company-sized formation will be sent under Danish command. There were linguistic problems (due to inadequate knowledge of English the troops were forced to fall back on Russian, a language the international instructors did not understand) and the reluctance of the troops to take the field drill seriously. V. Rich, *Pointer*, March 1998.

## Military - new material

**The Italian Army - Restructure aims to meet changing roles,** P. Valpolini. *Jane's Defence Weekly*, 11.2.98, pp 22-25 (Country Report)

**The OSCE, NATO, and European Security in the Twenty-First Century,** Bruce George MP and John Borawski. *ISIS Briefing Paper*, no 17, January 1998.

**Das deutsche Heer** (The German Army). *Wehrtechnik*, no 1, 1998. Special 110 page report.

**Nuclear Futures: Proliferation of Weapons of Mass Destruction and US Nuclear Strategy.** *BASIC Research Report*, no 2, 1998.

**Report to the Congress On the military Requirements and Costs of NATO Enlargement,** February 1998.

**Hungary and the NATO Enlargement.** Summary Report on Hungary's access to NATO from Spring 1994 to the 15th of December 1997. Csapody Tamas (spokesman of Alba Kor), Budapest (1998)

**Refusing to bear arms: a world survey of conscription and conscientious objection to military service, Part I: Europe.** *War Resisters International*, November 1997. This 94-page report updates a similar detailed country by country survey last produced in 1968. The report says: "it is an especially useful reference tool for immigration lawyers and advocates working on political asylum cases". Available from: WRI, 5 Caledonian road, London N1 9DX.

**The defence review: your flexible foe,** David Fairhall. *Guardian* 24.3.98. p.15. This is an overview of the proposals in the government's

strategic defence review.

**The arms market: for sale (credit available for Iraqis)**, Richard Norton-Taylor and David Leigh. *Guardian* 17.2.98. This piece looks at Britain's weapons sales and criticises the "short-sighted, ask-no-questions attitude" that permits military exports to repressive regimes. It also considers Anglo-French proposals on the arms trade and concludes that they are seriously flawed.

#### **Parliamentary debates**

**Iraq Commons** 13.2.98. cols. 740-746

**Iraq Lords** 17.2.98. cols. 147-220

**Iraq Commons** 24.2.98. cols. 173-187

**Iraq Lords** 24.2.98. cols. 560-573

**Strategic Defence Review Commons** 25.2.98. cols. 301-323

**International Arms Trade Lords** 2.4.98. cols. 1435-1467

**Strategic Defence Review & The Reserve Forces Lords** 22.4.98. cols. 1157-1225

## **NORTHERN IRELAND**

### **Attempt to bug Sinn Fein negotiator**

Bugging equipment has been found at the home of a relative of Gerry Kelly, one of Sinn Fein's negotiating team at the recent talks. Two devices were found at the house and it is being assumed that Kelly was the target because the house is sometimes frequented by him. The listening devices are thought to have been in the house for up to three years and they were found by builders carrying out renovations. The discovery occurred several weeks ago and the bugs were concealed in the joists of a bedroom floor. The DUP MP Peter Robinson has claimed that Kelly was tipped off by Secretary of State Mo Mowlam who had seen reports compiled from the listening device among Cabinet papers. Sinn Fein sources have denied this. Kelly has said that "Sinn Fein activists have a working assumption that offices and homes are routinely targeted by the British for surveillance. At a time when Sinn Fein was involved in serious negotiations with the British government this was clearly an act of bad faith". He went on to describe the bugging operation as in keeping with the "securocrat" mentality which had led to the bugging of an office allocated to Sinn Fein at Stormont when the Party first began discussions with government ministers. On this occasion, a listening device was found by Sinn Fein's security staff in a photocopy provided in the office.

### **Parades Commission compromised by Blair**

The Parades Commission, established last year following the publication of the North Report on contentious Orange marches, has been plunged into crisis by the direct intervention of British Prime Minister Tony Blair and the resignation of two of its most recent appointees. Of the thousands of parades each year, only a handful are contentious. The Commission was set up to make rulings on parades, thus providing a civil element for decisions in this area and relieving political pressure on the RUC Chief Constable. This has been intense, particularly regarding the Orange Order march from Drumcree church down the Catholic Garvaghy Road, Portadown, in early July each year. The Chief Constable, however, retains ultimate authority and can still

override a Commission ruling in the interests of law and order.

In February, four new appointments were made to the Commission (which is chaired by retired trade unionist Alistair Graham) to cover resignations and to bring it up to strength. The appointments became controversial because the British government rejected a candidate proposed by the Irish government (it has become common to invite such recommendations) and appointed a former loyalist paramilitary (UDA) leader, Glen Barr, and a member of the Apprentice Boys (one of the Loyal Institutions), Mr Cheevers. The two Catholic appointees were criticised because one has acted professionally for the Police Federation and the other served on the Police Authority. The alleged lack of balance in these appointments was already the subject of a judicial review action.

The Parades Commission announced some time ago that it would publish its preliminary recommendations for the summer "marching season" in March. It has no statutory obligation to do this but must give five days notice of any decision on a particular parade/march. The launch date was then shifted to late April but hours before publication of the 7,000 word report, the Commission changed its mind after Blair personally contacted the Chairman. Reportedly, Blair thought the report might "overload the public system" at a very sensitive time following the Multi-Party Agreement.

Blair's action came after the Ulster Unionist Party leader David Trimble was tipped off that the interim report recommends that the Drumcree parade should be re-routed away from the Garvaghy Road. Trimble contacted Downing Street to complain and Blair moved immediately to have the report withheld. The report may also have been pulled in order to prevent threatened resignations. While Glen Barr denied he had any intention of resigning, he and Cheevers did so within 24 hours of the cancellation of the report's publication.

### **3 murder suspects ex-UDR/RIR**

Three of the four suspects arrested for the murder of Phillip Allen and Damien Trainor, who were taken in as they sat in a bar in Poyntzpass, served with the Ulster Defence Regiment or its successor, the Royal Irish Regiment. First reports suggested that all four suspects had military careers but Armed Forces Minister, Dr Reid, has stated that his department has no record of David Keys having served with the UDR or RIR. Keys was found murdered in his cell in the LVF wing at the Maze prison one week after being charged with the killings. The latter do have service careers, however, Stephen McClean and Ryan Robley joined the UDR in 1988. McClean was discharged from the RIR (as the UDR became in 1992) in September 1993. Robley stayed on until July 1994. The remaining suspect, Noel McCready, joined the UDR in January 1989 and was discharged just over a year later in April 1990.

### **RUC computer spending**

According to recently released figures, Northern Ireland's police force is investing heavily in computer systems, including automated fingerprint recognition (£900,000 in 1994/5) and an Integrated Criminal Information System (ICIS). One million pounds has been set aside for the ICIS in 1988/9. In the same year, £3.2 million is expected to be spent on the RUC's Manpower Administration and Registry System. The Police Authority, which currently employs 3,500 administrative staff and under the new Police Bill will have the status of an advisory body, has spent around £2 million updating its systems in the last few years. The most expensive item listed is the RUC's Message Handling System and Data Network which cost £6.9 million in 1996.

*Hansard written answer, 21.4.98.*

## Northern Ireland - new material

**Statistics on the operation of Prevention of Terrorism legislation: Great Britain 1997.** *Statistical Bulletin* (Home Office) Issue 4/98, March 1998.

*Just News* (Committee on the Administration of Justice) Vol. 13 No. 3 (March) 1998. The latest issue contains articles on the US State Department Report (which considers Northern Ireland), the CAJ submission to the UNHCR, a piece on the media branding of 3 "IRA" suspects after a case at Belfast Magistrates Court and an article on "The Imprisonment of Teenage Girls".

**The hardest labour of all**, Sheila Kitzinger. *Guardian* 16.3.98. Article by the childbirth expert who visited Róisín McAliskey and her baby daughter in prison that describes "the hell McAliskey has been through" during her sixteen month incarceration.

### Parliamentary debates

**Public Processions (Northern Ireland) Bill** *Commons* 4.2.98. cols. 1090-1196

**Public Processions (Northern Ireland) Act 1998 (Code of Conduct) Order 1998** *Lords* 2.3.98. cols. 1022-1035

**Prevention of Terrorism** *Commons* 5.3.98. cols. 1250-1274

**Northern Ireland (Emergency Provisions) Bill** *Lords* 5.3.98. cols. 1384-1435

**Prevention of Terrorism (Temporary Provisions) Act 1989 (Partial Continuance) Order 1998** *Lords* 10.3.98. cols. 196-206

**The Maze Prison** *Lords* 16.3.98. cols. 487-494

**Northern Ireland Arms Decommissioning Act 1997 (Amnesty Period) Order 1998** *Lords* 19.3.98. cols. 881-890

**Northern Ireland (Emergency Provisions) Bill** *Lords* 26.3.98. cols. 1342-1363

**Northern Ireland (Emergency Provisions) Bill** *Lords* 2.4.98. cols. 384-389

**Maze Prison: Narey Report** *Lords* 2.4.98. cols. 389-396

**Northern Ireland Irish Settlement** *Lords* 20.4.98. cols. 934-48

**Northern Ireland Negotiations Order 1998** *Lords* 22.4.98. cols. 1227-1240

Outside of London the situation is hardly better. On Merseyside a taxi driver, George Randles, who was assaulted by police won a record £450,000 damages after a jury at Liverpool Crown Court awarded exemplary and aggravated damages after they heard that he had been assaulted by police following his arrest in 1989. Mr Randles told the court that he had been stopped by police while driving his taxi; following a disagreement he was kneeed in the groin, pushed to the ground and punched unconscious. The award came only two days after the Court of Appeal reduced the damages awarded to another victim of a police beating, Danny Goswell, from a record £302,000 to £47,600. Mr Goswell, who won his action against the police in 1996, was also ordered to pay police costs of £5,000.

In the Midlands a man was awarded £200,000 damages after serving five years in prison as a result of being racially abused, threatened with a syringe and beaten by police who then fabricated a confession. George Lewis was a victim of the infamous West Midlands Serious Crime Squad which was disbanded in 1989 after a Police Complaints Authority investigation confirmed anecdotal evidence of root and branch corruption. Among the police officers who framed Mr Lewis was DC John Perkins who also helped to fabricate the evidence that convicted the Bridgewater 3; they were jailed for life for the murder of schoolboy Carl Bridgewater but their conviction was overturned a year ago. Perkins, who is now dead, was allegedly involved in at least twenty other cases in which he fabricated evidence.

*Hackney Gazette* 8 & 22.1.98; *Guardian* 20.1.98 & 10.4.98.

## National Crime Squad launched

The creation of a National Crime Squad (NCS) has been planned since the National Criminal Intelligence Service (NCIS) was set up in April 1992. It was at the Conservative Party Conference in 1995 that the Prime Minister, John Major, announced that the NCS was to be set up and it was included in the Police Bill of 1996 - this became law by agreement between the frontbenches just before the election in May 1997.

The NCS will have 1,450 officers, 250 of which will be based at the London HQ. The other 1,200, based at 44 locations, will be drawn from the existing six Regional Crime Squads in England and Wales (which will be abolished). The NCIS, which is the EU's UK contact point, will work with the NCS to tackle crime in Europe and internationally. It became operational on 1 April 1998.

NCS's Director-General Roy Penrose, told *Police Review* that one of the main problems they faced was that of jurisdiction - apparently a German police officer is serving eight years imprisonment in Poland after the German authorities failed to ask for permission to operate across the border. Under a long-standing practice officers have to prepare a *Commission Rogatoire* with the necessary powers under UK law and of the requested country plus details of the case. The request is then forwarded by the Foreign Office to the presiding magistrate in the requested country who may, in turn, seek clarification. "In my view, all this needs to be swept aside", said Mr Penrose, "if the community as a whole is to have any real chance of fighting international crime with an international force."

Apparently one of the problems for EU police forces is their inability to infiltrate and get intelligence from migrant groups because they are, comments *Police Review*, "ill-equipped to penetrate ethnically-based groups because of the limited ethnic mix in their ranks."

See *Statewatch*, vol 2 no 2, vol 4 no 3, vol 6 nos 2, 4 & 5; *Police Review*, 27.2.98 & 3.4.98.

## GERMANY

## POLICING

### UK

## Policing - the beat(ing) goes on

The unrelenting payment of damages for assaults involving officers from the Stoke Newington police station, north London, continues unabated. In January the Metropolitan police were obliged to make two payments to black people. In the first case a couple who complained after witnessing the violent arrest of a man were subsequently charged with obstruction and assault. The charges were later dropped but Audley Harrison and Hazel Bruno-Gilbert brought a civil claim for unlawful detention, assault and malicious prosecution; they won £62,500 damages despite the police denying the allegations. In the second case Mikal Efekele won £7,500 for wrongful arrest, false imprisonment and assault. On awarding the damages the judge said: "This is one of many instances when police act on inadequate grounds to stop and search which does so much damage to their relationship with people who feel victimised just because they are young and black".

## Cooperation between border police, police and "militias"

The mother of youth who had been arrested by a *Bürgerwehr* (militia) near the Polish border has brought charges against the group for illegal detention. Her case has revealed secret cooperation between the German border police (BGS), the police and *Bürgerwehren* in Forst (Brandenburg) on the German-Polish border. At a public meeting in February, the representatives of the BGS and the police tried to deny the intensive cooperation with *Bürgerwehren*. However, members of the *Bürgerwehr* confirmed the cooperation with concrete examples and were obviously disappointed that the BGS and police were not prepared to publicly acknowledge the cooperation and thus legitimise the activities of the *Bürgerwehr*. The vice mayor and other members of the local government were surprised to learn of the existence of the *Bürgerwehr*, and had even denied its existence in the local press.

On 22 January 1998, a group of youths cycling on the Neissendamm along the European cycle route was stopped and checked by some members of the local *Bürgerwehr*. Among the cyclists was a young Kenyan. The group was detained for about half an hour. The attempt by the mother of one of the cyclists to bring charges against the *Bürgerwehr* was dismissed by a police officer with the comment that if "foreigners" were among the group he could not imagine that charges for illegal detention would be successful.

The meeting in February revealed that *Bürgerwehren* have existed since 1991/92 and that the cooperation between the *Bürgerwehren*, the BGS and the police has existed at for least the last six years. There are several *Bürgerwehren* in Forst, officially known are the BWG 9 and the BWG 39. They are equipped with CB transmitters, handcuffs, strong torches and blank pistols, including tracer bullets. They often patrol the border area with dogs and in uniform so that they look very similar to police officers - "on purpose, so foreigners respect us" according to a member of the BWG 9. According to the detailed explanations of the representatives of the *Bürgerwehr*, cooperation with the BGS has been smooth.

There is a division of labour, including instructions from the BGS and the police to the *Bürgerwehren*, such as ordering garden searches after the BGS "lost" migrants who crossed the border into Germany. During the last six years, the *Bürgerwehren* have handed over 18 stolen cars to the police, and recently 63 migrants to the BGS.

The head of the BGS office in Forst, Jan Christof Möller, denied that the BGS gave instructions to the *Bürgerwehren* but clearly expressed his sympathy for "self organisation". Since the activities of the *Bürgerwehren* became known, there have been proposals to carry out training for members of the *Bürgerwehren* and to incorporate them into the concept of the so-called security partnerships of the Brandenburg Interior Ministry, part of the regional crime prevention plan. It appears that the cooperation between police, BGS and *Bürgerwehr* will continue and be given official legitimisation.

*Refugee Council Brandenburg, Forschungsgesellschaft Flucht und Migration Berlin, see also Statewatch, vol 8 no 1.*

## Policing - in brief

■ **UK: NCIS conference on criminal intelligence:** on 17-19 March the UK National Criminal Intelligence Service (NCIS) hosted a conference in Manchester on "criminal intelligence". Most EU countries were represented plus the USA, Chile, Canada, Australia, Norway, Singapore and Hong Kong. Mr Bruggeman, the deputy director of the Europol Drugs Unit (EDU) in the Hague told the conference that "intelligence analysis" now

figured in a number of international agreements and it was no longer possible to just depend on the "old boy's network". This is a reference to the established practice of officers and officials building up unofficial and unaccountable personal contacts in EU and non-EU agencies - this practice is unlikely to cease with the advent of computerised databases. Mr Bruggeman said that different legal systems placed different limits on gathering and storing "intelligence" as distinct from "evidence" to be used in court. He confirmed that the EDU, which will become "Europol" when the ratification process is completed, will "immediately add terrorism" to its remit - the Europol Convention says that the Council can add this task "within two years" of ratification. *Home Office press release, 11.3.98.*

■ **UK-Canada: Agreement to share "hi-tec info":** on 7 April the UK signed a "Memorandum of Understanding" (MoU) with Canada to exchange information between the Royal Canadian Mounted Police and the UK Police Scientific Development Branch (PSDB). The information and experience to be shared includes: perimeter intruder detection systems; video tape enhancement techniques; CCTV; low light photography; explosive device detection; and digital speech processing. The UK PSDB has a number of MoU's in force, one with the National Institute of justice in Washington, and a "trilateral agreement" with the *Bundeskriminalamt* in Germany and the Dutch National Police. *Home Office press release, 7.4.98.*

■ **UK: Campaign against CS spray launched:** Following the Ibrahim Sey inquest verdict of unlawful killing, after he was sprayed with CS gas while handcuffed in custody by police officers (see *Statewatch* Vol. 7, no. 6), supporters have launched a National Campaign Against CS Spray. The Campaign is calling for an immediate ban of the spray, which was approved for use by the police in October last year, and is collecting further evidence on its (mis)use. They would like to hear from anybody who is "dealing with cases where CS is being used, or where its use has been threatened." Incidents can be reported to the campaign on their Incident Reporting Line (0181 555 8151) or sent to The Ibrahim Sey Memorial Campaign, PO Box 273, London E7.

■ **UK: Masons surrender police names:** Freemasons averted a confrontation with Parliament in March when they surrendered the names of seventeen members whose identities had been sought in connection with police corruption scandals. Representatives of the secretive United Grand Lodge of England waited until the last minute before handing the names to the Home Affairs Committee inquiring into freemasonry, thus avoiding being summoned to the House of Commons to explain their actions and - in theory - being imprisoned. The Committee, which is chaired by Labour MP Chris Mullen, had given the Lodge 14 days to supply the names of police officer masons connected to the now disbanded West Midlands Serious Crime Squad, the Birmingham pub bombings and the Stalker affair. However, there is evidence to suggest that the list is not comprehensive and the Grand Lodge has claimed that its records are incomplete. *Guardian, 6.3.98.*

## Policing - new material

*Conviction*. Newsletter 18, 1998, pp16. The latest issue of *Conviction* contains a question and answer piece with the Criminal Cases Review Commission and examines various miscarriage of justice cases including Beverley Shanahan, Samar Ali and Cheri Looker.

"I saw others go mad with rage, but I locked myself away. Now I'm still here and I'm still me", Heather Mills. *Observer* 29.3.98. p19. This article recounts the story of John Roberts who has been released from prison after serving 15 years for a murder that he did not commit. Roberts, who was a vulnerable young man at the time of his arrest, made a false and totally inconsistent confession after hours of intense police

interrogation.

**Three lives shattered**, Paul Foot. *Guardian* 24.2.98. Disturbing article on the Bridgewater 3 - Jimmy Robinson, Michael Hickey and Vincent Hickey - who were wrongly convicted for the murder of schoolboy Carl Bridgewater in 1978. In the year since their release from prison two of the men are in hospital while the third suffers from "intense anguish but is gradually coming through."

**Phoenix rising**, Stewart Goodwin; **A national force for an international problem**, Patrick Hook. *Police* Vol. XXX No. 4 (April) 1998, pp6-7 & 12-15. Two pieces on the launch of the National Crime Squad.

**No hiding place**, John Weeks. *Police* Vol. XXX No. 4 (April) 1998, pp9-11. This article looks at the National Police Training Specialist Crime Centre, Leicestershire, which was set up to standardise training in conventional surveillance in 1994.

**Scrutiny of evidence relating to the Hillsborough football stadium disaster**, Rt Hon Lord Justice Stuart-Smith. *HMSO Cm 3878* (February) 1998, pp222 £22.

**It's time to stop the rot**, David James Smith. *Sunday Times magazine* 12.4.98., pp22-28. Feature on Stoke Newington police station that reviews an unappealing history - 5 black "deaths in custody" between 1971 and 1987 - including the Operation Jackpot corruption enquiry. It asks whether a new regime at the station can finally win local respect, perhaps overlooking the fact that respect has to be earned.

**Offending on bail and police use of conditional bail**, David Brown. *Research Findings* No. 72 (Home Office research and Statistics Directorate) 1988.

**Europol und operative Ermittlungsmethoden (Europol and operational investigative methods)**, Hartmut Aden, *CILIP* No.58, 1997, pp65-69. The article looks critically at Europol's envisaged operational powers and questions the effectiveness of such investigative methods.

#### Parliamentary debates

**Police Grant Report** *Commons* 4.2.98. cols. 1065-1089

**Police Bill** *Commons* 13.2.98. cols. 731-737

**Police Disciplinary & Complaints Procedures** *Lords* 23.3.98. cols. 1016-1026

## PRISONS

### UK

## Alton Manning inquest - unlawful killing verdict

The jury at the inquest into the death of Alton Manning, who was one of three black prisoners (the others being Dennis Stevens and Kenneth Severin) to die after being restrained by prison officers between October and December 1995, reached a unanimous verdict of unlawful killing in March. Manning died at Blakenhurst prison, Redditch, Worcestershire, which is run by UK Detention Services Ltd (a subsidiary of Corrections Corporation of America), as the result of an unlawful neckhold by one or more prison officers. Seven prison officers have been suspended on full pay pending a decision by the Crown Prosecution Services on whether to bring charges against them. The director general of the Prison Service, Richard Tilt, attempted to dismiss the spate of black deaths in custody by asserting that black prisoners had differences that made them more susceptible to suffocation than white prisoners.

The events leading-up to Alton Manning's death were

initiated when prison officers removed him from his cell to carry out a search after claiming that there was a smell of cannabis in the area. Although later tests showed that he had taken neither drugs nor alcohol, he was removed to another cell for a strip-search and co-operated without protest, removing his t-shirt, then his boots and trousers. However, when ordered to squat, for an inspection of his genital and anal areas, he refused and a struggle ensued in which several more prison officers became involved. Interestingly, one of the prison officers claimed that anal and genital searches were standard procedure at the prison - a fact that would mean that the privatised prison was breaking Home Office regulations.

The prison officers told the inquest that Manning attacked them and was restrained in Home Office approved manner. None of the eight officers were able to offer an explanation for his visible injuries nor the means of his death; indeed all of them denied seeing injuries or using excessive and unreasonable force. Their evidence was contested by other prisoners who witnessed them using an illegal neckhold; their evidence was consistent with the injuries to Manning's neck and the cause of death as established by pathological evidence "that the cause of Mr Manning's death was respiratory impairment/restriction during restraint leading to asphyxia".

When giving evidence to the inquest the two most senior officers also pleaded ignorance concerning Home Office guidelines, issued in 1992, warning officers of "restraining prisoners in the prone position or applying pressure to the neck, chest or abdomen." The officer responsible for the training of control and restraint techniques, and his deputy, also denied seeing Home Office guidelines before 1995. Moreover, it became apparent during the inquest that UK Detention Services Ltd operated the prison without even having a copy of the Control and Restraint Manual for at least a year.

The jury took less than four hours to conclude that Alton Manning was unlawfully killed and had died from asphyxia after warders restrained him face down. He was the third black man to die under restraint in prison in a period of less than three months between October and December 1996. The inquest into the death of Kenneth Severin returned an open verdict (indicating that the jury were not satisfied with the official version of events) while the inquest into the death of Dennis Stevens returned a highly controversial accidental death verdict. Following the result of the Manning inquest Deborah Coles, of the Inquest organisation, criticised the "alarming failure at both individual and management level within Blakenhurst and within the Prison Service as a whole...". Pointing to the "catalogue of lies and evasions by officers and management at HMP Blakenhurst and lawyers acting for UK Detention Services Ltd" she went on to demand "a close scrutiny and examination of the case by the Crown Prosecution Service with a view to instigating criminal proceedings against the officers responsible for the death."

Following the inquest and in what was widely perceived as an attempt to divert attention from the Manning case the director-general of the Prison Service, Richard Tilt, made the astonishing claim, in a television interview, that: "Afro-Caribbean people are more likely to suffer positional asphyxia than white people." Challenged to provide evidence of his claim and contradicted by Home Office pathologists Tilt apologised for any offence that he had caused and said that he would commission further research.

*Inquest press releases 16 & 28.3.98.*

## Inquiry into Wormwood Scrubs "abuses"

The Prison Service has begun an inquiry into allegations that prisoners were beaten, racially abused and tortured at Wormwood Scrubs prison in west London. The inquiry was

announced after a dossier of complaints, alleging that a group of about twenty prison officers had systematically assaulted at least eight inmates, was handed to the Chief Inspector of Prisons, Sir David Ramsbotham. These allegations received support from the Board of Visitors' annual report, published in March, which expressed "serious concern" at "inmate allegations of abuse by officers." The jail, which holds almost 1,400 remand and sentenced prisoners, received further criticism from David Shaw, of the Prison Reform Trust, who said he was receiving more and more complaints about conditions at the jail, many of which had been confirmed by an inspection at the beginning of the year.

*Independent* 20.3.98.

## Prisons - new material

**The prison population in 1997**, Philip White & Jo Woodbridge. *Statistical Bulletin* (Home Office) Issue 5/98 (March) 1998, pp24. This bulletin records a 10% increase in prisoners since 1996 with the highest average (61,100) ever recorded. Female prisoners increased by 19% (to 2,680) and young offenders by 12% (to an average of 10,810); there were 11,500 prisoners from "ethnic minority" groups. The prison population is projected to reach 82,800 during 2005.

**Coming of age: the changing face of prison**, Scott Stevens. *Prison Report* (Prison Reform Trust) Issue No. 42 (Spring) 1998, pp4-5. This article compares the changes in prison life in the thirty years since 1967.

*Prison Privatisation Report International* (Prison Reform Trust) Nos. 17 & 18 (February & March) 1998. These issues contain useful articles on UK Detention Services and the death of Alton Manning, deficiencies at the first two privately financed, designed, built and run prisons (HMP Park in Bridgend, Wales and HMP Altcourse in the northwest), and a short piece on Campsfield House Detention Centre, recently condemned as "permanently on a knife edge with a catalogue of abuses..." by Asylum Watch.

### Parliamentary debates

**Life prisoners** *Lords* 18.2.98. cols. 284-304

**Prison Service** *Lords* 25.3.98. cols. 1228-1278

**Prison Health Service** *Commons* cols. 1511-1518

## RACISM & FASCISM

### UK

## C18 leader was police informer

Charlie Sargent, the former leader of Combat 18 (C18) who is currently serving a life sentence for the murder of fellow nazi, Christopher Castle, was a police informer according to a BBC television documentary, *World in Action* on April 6. The programme presented evidence that confirmed suspicions that the fascist organisation had been deeply infiltrated by the police. It also raised serious questions about the Special Branch guidelines that govern the use of informers.

Anti-fascists had been aware since the early 1990s that some C18 players had close contacts with the police when, following clashes in central London, several key C18 activists were observed being driven to safety in unmarked police cars. The alarming regularity with which senior C18 members avoided prosecution after carrying out brutal attacks on opponents who, in many cases, were able to identify them, merely confirmed that the nazis were being allowed to operate unhindered by the law.

The arrest of Eddie Whicker and jailing of Terry Blackham during 1993-94 (see *Statewatch* Vol. 3, no 3) for attempting to smuggle weapons to loyalists in Northern Ireland confirmed not

only deepening links with the criminal underworld/loyalism but more importantly the extent of the police penetration of the organisation. At this key juncture, the programme alleged, Sargent began to work directly with the UDAs Commander in east Belfast passing on shipments of ecstasy and at least two consignments of weapons from C18.

By January 1995 the police had raided the homes of several top C18 organisers including Sargent's former right-hand-man, Will Browning, and seized material including bomb-making manuals and instruction books for snipers. They also uncovered documents that showed that the group were surveilling targets, including *World In Action* journalist, Quentin McDermott, who had worked on an earlier programme exposing the fascists. Former C18 organiser, Darren Wells, confirmed that McDermott was under observation and that the group had decided to "up the stakes" by targeting him. The plans were abandoned following the police raid on Browning. Nonetheless, numerous other figures, such as the Anti-Nazi League's Jill Emerson, were attacked; Emerson only survived an arson attack on her home because a fire door had been fitted after previous threats.

According to the programme doubts about Sargent grew among the C18 leadership following the arrests but they did not have evidence to support their suspicions. During the planning of their 1997 Danish letter bomb campaign (see *Statewatch* Vol. 7, no. 2 & 4) they took precautions to ensure that Sargent was not supplied with an up-to-date list of targets and, in the days after the letter bombs arrived, the outdated names appeared in the press and other media. An undercover policeman who had also infiltrated C18, and attended high-level planning meetings, confirmed that the names could only have come from Sargent. He also claimed that police appeared to have knowledge of events prior to his informing them and was convinced that Sargent was the source of their information.

Following Sargent's exposure and expulsion he established the rival National Socialist Movement (NSM) which he led briefly until his imprisonment. The NSM have mainly been active in providing heavies to support ventures by the minuscule National Front which is attempting to fill the gap on the streets left by the parliamentary ambitions of the British National Party. The C18 remnants led by Will Browning have become increasingly bellicose in their propaganda; however, they too have been deeply penetrated by the police. At least one of the fascists who was observed getting into the police car, mentioned above, was a key player in the current C18 line-up.

### DENMARK

## Nazi video encourages shooting named anti-racists

Four named and pictured individuals from the Copenhagen anti-racist movement are featured in a new nazi-video that targets their main enemies. In one sequence the four individuals faces are shown in close-up and their names given - and in one case also their address. Then a gun is pointed to the back of their heads and they are shot. The four anti-racists have asked the police to investigate the case and started a campaign under the slogan "Never again nazism - we will not be intimidated!". The campaign has had a good response and a number of people and groups say that they will take out advertisements in the press and participate in demonstrations to make clear their stand to defend the threatened individuals.

The call to kill the four anti-racists is published in a video called *Kriegsberichter* no 4, distributed as a video by a CD publishing company controlled by NS 88 which has its headquarters in Denmark. NS 88 has long been central to the European nazi-movements extensive financial operations and

operates from two mail boxes in the Copenhagen area (see *Statewatch*, vol 7 no 2).

Further information about the campaign can be obtained from Demos, Postbox 1110, 1009 Kobenhavn K., Denmark.

## Racism & fascism - in brief

■ **UK: NF return to Dover:** Less than six months after being chased out of Dover, Kent, by anti-fascists the National Front (NF) returned to continue their campaign of violence against Roma asylum-seekers at the end of February (see *Statewatch* Vol 7, no. 6). Less than forty fascists turned out but, protected by a large police presence, they were able to complete a short march despite being outnumbered by protestors. The fascists also held a minutes silence in memory of Enoch Powell, the notorious Conservative and Unionist MP and racist, whose vitriolic attacks on black immigration were a cornerstone of "Thatcherism" and lent a degree of "respectability" to racism. Twenty four anti-fascists were held for several hours before fourteen were charged with offences ranging from obstruction to assaulting a police officer. Although the NF have little support on the ground they can be expected to increase their activities particularly as their rivals in the British National Party appear to have abandoned the streets to pursue the chimera of electoral success.

■ **UK: Saptal Ram parole rejected:** Saptal Ram, who was jailed for murder after defending himself when he came under attack from a group of white youths, had his application for parole turned down last December (see *Statewatch*, vol 4 no 3 & vol 6, no 6). Saptal, who has regularly challenged his imprisonment, has now served over eleven years in prison and argues that this is effectively a second "racist attack" upon him. During this time he has been "ghosted" (transferred) from prison to prison fifty-three times, frequently held in solitary isolation and shackled in body belts. Saptal is asking for letters protesting at his treatment to be sent to the Home Secretary, Jack Straw. The Saptal Ram Campaign can be contacted at PO Box 3241, Birmingham B8 3DP. *Letter to Community Action* Issue 14 (Spring) 1998

■ **Italy: Post-fascist lectures gays on morals:** Gianfranco Fini, who claims to have eschewed the fascism of the MSI for the post-fascism (whatever that may be) of the National Alliance, is up to his old tricks. In April, Mussolini's heir called for the banning of gay teachers, particularly in junior schools, and warned that they would damage the morals and stability of those that they were teaching. While Fini's outburst would not be unusual in the context of an unreformed MSI, it is extraordinary given the "doublespeak" of the National Alliance. Shortly after his statement Alessandra Mussolini, granddaughter of the fascist leader, suggested that Fini's remarks were a mistake. She claimed that Fini, who is renowned for his political oratory, got confused about the use of the word homosexual and paedophile - an argument almost as convincing as the outfits change of name.

■ **Austria:** The right-wing party Freiheitliche Partei Österreichs (FPÖ) has removed all officials in the federal land Salzburg. This step concerns 600 to 700 functionaries from the communal to the federal level. The background is an internal conflict at the top of the party in Salzburg which culminated in the resignation of the chairman Karl Schnell. *die tageszeitung*, 22.4.98.

## Racism & fascism - new material

**Electoral politics and the far right.** *CARF* No 43 (April/May) 1998, pp9-11. This article looks at the changing political landscape of western Europe and observes that the far right is eating into the Conservative

vote and the Conservatives are running scared and prepared to do deals with the likes of the French Front National's Le Pen.

**The Powell effect.** *CARF* No 43 (April/May) 1998, pp6-7. Examination of the career of Enoch Powell, the Conservative and Unionist MP, who made racism "respectable" when he unleashed his "rivers of blood" speech. With his recent death politicians and most of the media ignored the racist bigot to pay tribute to "a sincere man".

**Ethnicity and Victimisation: findings from the 1996 British Crime Survey,** Andrew Pacey. *Statistical Bulletin* (Home Office) Issue 6/98 (April) 1998, pp42. The findings in this report cover the areas of "Crime, victimisation and ethnicity", "Racially motivated crime", "Racial harassment" and "Fear of crime".

**Police kept neo-nazi on payroll,** Henry MacDonald. *Observer* 5.4.98. This piece, based on a *World in Action* documentary, recounts the demise of Charlie Sargent and Combat 18. Particularly interesting on the loyalist connection.

**No port in a storm,** Claude Cahn, Michael Foley and Jeremy Hardy. *Index on Censorship* Issue 1, 1998 pp40-51. These three articles cover the flight of victimised Roma from Slovakia and the Czech republic to Dover and consider the role of the media. Hardy concludes: "...the British government has used the media here and in the Czech and Slovak Republics, to tell Gypsies that it's no good fleeing poverty, unemployment, homelessness, discrimination and violence there, because they will face more of the same here."

*Antifaschistisches Infoblatt* no 43, 1998. Special issue on the rise of the *Nationaldemokratische Partei Deutschlands* (NPD), the role of its youth organisation *Junge Nationaldemokraten*, and its strong links to the nazi-scene.

Der Schatten von Blucher (The shadow of Blucher), *Antifaschistisches Infoblatt* No.43, 1998, pp52-53. Detailed article on the war between Combat 18 and the Swedish Nordland Movement over the control of the nazi rock music market.

### Parliamentary debate

**Irish people in Britain** *Commons* 4.3.98. cols. 1016-1024

## SECURITY & INTELLIGENCE

### DENMARK

## Surveillance of political activity admitted

A former agent used by Danish Police Intelligence Service (*Politiets Efterretningstjeneste* - PET) to infiltrate a legal left political party and organisations went on the television channel TV2 at the beginning of March and in two programmes revealed his year long work. Among other things he talked about passing over membership lists, copying internal papers, lists of election supporters in *Socialistisk Arbejderparti* (SAP - Danish section of Fourth International). He also described how he was ordered to infiltrate anarchist groups, the South Africa anti-apartheid committee Landsforeningen Sydafrikakontakt/ Sydafrikakomiteen. He also revealed the surveillance of trade union and legal strike meetings.

All this took place in the first half of the 1980's. Most of this took place with government approval from 1983, when the Conservative led government gave orders to the PET to infiltrate named political parties on the left, peace organisations, trade unions, solidarity committees and right wing groups.

The television programmes also showed how PET sent an agent to bug a public meeting of the Danish-Kurdish Friendship Committee in the city of Aarhus. A report on the meeting was reported back and filed. When the journalists asked the chief of

PET, Ms. Birgitte Stampe, about the tape she told them - and later also told both the Justice Minister, Mr Frank Jensen and the Parliamentary Control Committee - that the tape had been destroyed. But what she did not say was that the participants in the public meeting - which included trade union leaders, politicians and human rights experts - had been registered in the PET files in a written report contrary to guidelines laid down in a government declaration of September 1968 which said no one should be registered solely for their political opinions.

The Justice Minister ordered the chief of PET to make an immediate report about the work of the intelligence service over the last 20 years. This report was published on 1 April confirmed the main findings of the TV2 programmes and raises more questions than it answers.

The remit of PET is to prevent threats to the stability of the state and public order. But there is no specific law regulating the work of PET. Their working methods are described in the general law covering police work and the justice system and detailed practices are given in ministerial guidelines. Authorization to open a file on a person has to be given by a special committee (called the Wamberg Committee after its first chairman) appointed by the Minister. Parliamentary control is handled by a committee composed of the five major parties in parliament.

The report describes how PET uses different methods to collect information, ranging from open information to direct infiltration of an organisation. Apart from the rules regulating general police work PET is mainly governed by the government declaration of 1968. The new report revealed how PET has developed a very refined interpretation of this declaration to evade the limits on registering individuals. The declaration states that people should not be registered for their political opinions. But since organisations are not mentioned in the declaration PET decided that they are allowed to register people without asking the Wamberg Committee if the individuals are filed under the name of an organisation.

The agent first infiltrated an anarchist group in the city of Aarhus between 30 January and November 1981 and it was authorised by the then Social Democratic Justice Minister, Mr Ole Espersen. But the report also shows that the agent kept on working for PET and that he infiltrated the Socialist Workers Party (SAP) from January 1982 until autumn 1983 without ministerial approval. During his membership of the SAP he gave PET membership lists, candidate lists for the national elections and was ordered to make copies of the key to the office. On television the agent said that he provided some of the 20,000 names of people who according to the election law had signed for the SAP to run in the election. According to the report no one employed today in PET remembers anything about this operation but it is well known that the PET officer running the agent is no longer employed by PET. The report thus carefully avoids answering the question whether PET violated a basic democratic right to support a political party running in an election.

After the report was published the Justice Minister, Mr Frank Jensen, said that he was satisfied with it and that the government's security committee - comprised of the Prime Minister, the Foreign Secretary, the Minister of Defence and the Justice Minister - had decided not to start an independent investigation of PET.

From the political right there has been unquestioned support for this decision. The Liberal Party, The Conservative Peoples Party, the Danish Peoples Party and the Progress Party all support the government's decision. The centre parties - the Center Democrats and the Christian Peoples Party - also support the decision. The Social Liberals - who are part of the government - have been through an internal crisis. Their political leader - who is Minister of Economy, Ms Marianne Jelved - has gone back on an election promise to demand an investigation. This has caused a major row with other MPs in her party and also

with party leaders. The left - the Socialist Peoples Party and The Red-Green Alliance - have demanded an investigation and are supported by lawyers, trade unionist and a broad range of the media.

*The Secret Service* a TV2 program (1 March and 3 March); Report about certain aspects of the Police Intelligence Services activities, March 1998; press reports.

## UK

### Debate on MI5 file destruction

During a debate in the House of Commons on 25 February the Home Secretary Jack Straw revealed that: "In 1992, following the end of the cold war, the service [MI5, the internal Security Service] launched a review of its file holdings, and started to destroy documents that were no longer relevant to its requirements and did not need to be retained for statutory or historical purposes" (see *Statewatch*, vol 8 no 1). The Home Secretary also refused to budge on his highly contentious position that:

*It has to be for the professional judgement of the service itself to decide which files it can safely destroy and which must be retained for operational, statutory or historical reasons.*

Liberal Democrat MP Norman Baker was one of those who has questioned MI5 being allowed to decide which files are to be destroyed and which are to be kept and eventually placed in the Public Records Office (PRO) for use by historians, journalists and others.

Mr Baker had asked the Home Secretary what was the oldest file still being kept secret (that is, not placed in the PRO)? It transpired that it is a file dated 1874, 124 years old, concerning the Irish Secret Service which pre-dated MI5 (founded in 1909). The Home Secretary agreed to put the file in the PRO but said:

*the names of the informants, which were on the file, should be kept secret. Although it is now well over 120 years since the events to which the file relates, given the folk memory in Northern Ireland, if those files were made available, some living individuals could be placed at risk.*

*House of Commons debate on Security Service files, 25.2.98.*

### MI5 update

Annie Mahon a former MI5 officer, and the partner of David Shayler ex-MI5 officer, has been told that the government is not to prosecute her. Annie Mahon was arrested but not detained in 1997 after she returned from visiting Shayler who is in hiding in western Europe. After Shayler disclosed details of MI5 surveillance of political targets including prominent Labour politicians Mahon revealed further instances including thousands of pounds spent on spying on the annual conference of the Socialist Workers Party where the only reported activity was alleged excessive drinking. Nor is Mahon to be prosecuted for allegations of passing money to Shayler.

The Court of Appeal has ruled that MI5 officers have the right to give evidence in criminal trials hidden from defendants and the public and with their identities kept secret. The Court argued that their safety could be put at risk if their identities were revealed: "Considerations of national security can justify a departure from the principle of open justice." Though this judgement concerned a case where two men were jailed for planning an IRA bombing campaign it comes as MI5 are increasingly becoming involved in traditional policing areas - tackling serious crime and drug trafficking.

*Guardian, 31.3.98 & 8.4.98; see Statewatch, vol 8 no 1.*

## NORWAY

### Race files

Between 1948-1968 around 11,000 Norwegian families were filed in a special register based on their race. The register set up by the Department for Social Security was used by the security police (POT). Characteristics concerning race, mental health, nervous disorder, epilepsy, and alcoholism, says the Norwegian newspaper *Dagbladet* were recorded. According to the newspaper the files were illegal and never revealed to the parliament. Families registered were faced the possibility of internment or castration.

*Dagbladet, 29.4.98.*

## SWEDEN

### People to see their files?

One of the repercussions of the Leander case, the Swedish government has laid a proposition before parliament that Swedish citizens, from 1 January 1999, will be allowed to look at their own files held by the Security Police. However, the Security Police will be allowed to decide and refuse the exercise

of this right if they decide access would damage their operations or responsibilities.

At the same time it is proposed that all future registration (files on individuals and groups) by the Security Police will be steered by open legislation. Until now the rules governing what the Security Police are allowed and obligated to file have been covered by secret government instructions. The new legislation will however only cover what is to be filed in the computerised register, not what the Security Police might hold in manual files.

In June the final decision will be taken on the research projects to be started with the 20 million crowns funding agreed by the government last December covering research on military intelligence in Sweden up to 1980. So far, all Swedish academics and researchers working in the field have rejected the boundaries set by the government for the research. Academics from many disciplines - history, political science, law etc - have united to demand that the research must include the Security Police and should not stop at the year 1980.

### Security - new material

**New Labour's friends of America**, Robin Ramsey. *Chartist* March/April 1998, pp22-23. This article examines Labour's "American connections"

## UK: International row over waste to Dounreay

A year ago the US Department of Energy said the Dounreay nuclear complex in Scotland was a proliferation threat because of its trade in weapons-grade highly-enriched uranium (HEU). Now, the plant and the UK are being hailed as non-proliferation heroes because of the agreement to take 4.3kg of unirradiated and 0.8kg of irradiated HEU fuel from the Georgian Institute of Physics research reactor outside Tbilisi.

This is only one of the many ironies in an affair which has highlighted a vital international issue - and caused argument and controversy in both political and environmental circles in the UK and internationally. The HEU from Georgia arrived in Scotland on a US aircraft early on Friday 24 April and was taken from RAF Kinloss to Dounreay by road.

The UK authorities say the unirradiated fuel may be converted for medical purposes - although Scotland Against Nuclear Dumping (SAND) has argued that if this is technically feasible it should first be down-blended to non-weapons-grade low-enriched uranium. Suggestions that the fuel will not, and cannot be used for the medical purposes claimed by the Government have been angrily denied by Ministers. However a number of nuclear and medical experts have said that while HEU could be used to produce medical isotopes it would be extremely difficult and complicated - and pointless as there were plentiful supplies of other suitable material already available.

Dounreay is hoping the Georgia fuel will improve its standing in Government circles and increase support for its reprocessing work. Doubts have also been raised whether Dounreay has regulatory permission to process the unirradiated Georgian HEU.

Dounreay is pinning its hopes on the plant re-opening so it can bid for 1,100 spent HEU fuel elements from Australia - and there remains the possibility of more shipments from former-Soviet Union territories, although the Government at present is still saying the Georgia fuel was a "one-off" shipment which required relaxation of waste laws and did not create a precedent.

### No reprocessing plant open

The future of the five fuel rods which have 0.8kgs of irradiated HEU is less certain. Dounreay's reprocessing plants are presently

closed and cannot re-open until the regulatory authorities have completed a full safety review and any necessary improvement work carried out. It is possible the plants will not re-open if the repair costs are too high. No reprocessing work has been carried out at Dounreay for about 18 months. The main mixed oxide plant is closed after a leak and needs expensive repair work which has not yet been approved, while the HEU plant has had no work - and the economics of re-opening it for just the five Georgia rods must be debatable.

If the five rods are reprocessed, the resulting intermediate-level waste (ILL) will fill two waste drums at the plant - where over 14,000 ILL drums are already in store. A small amount of radioactive waste will be discharged into the sea and atmosphere. The HEU recovered by reprocessing will probably be used to make new fuel - the very trade the US administration objects to.

There has been concern over the HEU at the Tbilisi reactor for several years. Russia was on the point of accepting the fuel, in return for £50,000, but pulled-out of the deal and the US has funded the safety work already carried out at the plant. America first raised the issue with the UK in August 1997. France had rejected the fuel, its laws prevent importing nuclear waste except fuel which it provided in the first place. America has similar laws and would also have had to carry out a full environmental impact assessment, with public consultation, before the fuel could have been allowed into the USA. The UK has no such requirements - a point raised by several environmental groups.

### UK restrictions relaxed

However, the UK Government has had to agree special dispensation from two legal regulations or restrictions to allow the Georgian deal to go-ahead - leading some people to ask why similar action could not have been taken by Russia, the USA or France.

It has been UK government policy since the late 1970s not to allow foreign nuclear waste to be imported for storage or disposal in the UK. All reprocessing and other wastes have to be returned to the country of origin. A special dispensation to this rule was issued to the UK Atomic Energy Authority (UKAEA),

which operates Dounreay, for the Georgian shipment. This was "accepted" by the Scottish Environment Protection Agency (SEPA) which wants to reduce the present 25-year return of waste limit to 10-years.

Just the week before news of the Georgian shipment became public, the Nuclear Installations Inspectorate (NII) regulatory authority had banned any transport of nuclear fuel to Dounreay. The NII said no new fuel could be taken to Dounreay until full safety reviews and assessments had been carried out on the two main plants and one small new plant the operators want to start. A special relaxation of this ban was agreed.

The Government, NII, and SEPA have all stressed that these dispensations were special "one-off" cases which did not form a precedent - however many critics believe a precedent for similar shipments has now been established.

### **Wider concerns**

The quantities of HEU fuel still found in research reactors and similar establishments around the world has been a cause of great concern for a number of years. The Clinton Administration opposes Dounreay's work trading in reprocessing and fabricating new HEU fuel because of proliferation concerns. The US agreed to take back thousands of spent HEU fuel elements, which the USA originally supplied, from reactors rather than allow reprocessing at Dounreay.

This has caused wide-scale political and environmental concerns in the country with several legal actions to stop the transports because of safety concerns either en-route or at the storage facilities.

America has also taken hundreds of kilograms of HEU, mainly from Russia and Kazakhstan, while Russia has taken 137kgs of HEU from Iraq. In Georgia there is an estimated 2kgs of HEU at another reactor in Sukhumi, the capital of the Abkharian region, where there is a separatist civil war. According to some experts this reactor presents a much greater safety and security threat than the Tbilisi reactor. Georgia has a nuclear waste dump at Tskhinvali and two military bases, at Lilo and Vaziani, where there is radioactive waste.

Another aspect of the affair which has raised concern is the transport of the HEU to Scotland. The material was flown to the RAF base at Kinloss in a US military aircraft. The aircraft would

not have been allowed into American air-space where nuclear material cannot be flown for safety concerns. Regulations require material to be flown in a flask capable of withstanding an actual plane crash - a standard no flask can reach.

It should also be noted that news of the proposals only became public because of a leak to the New York Times. The UK Government planned to keep the whole thing top-secret, although the government insists it would have released full details once the fuel arrived at Dounreay. It is this issue which has raised possibly the most criticism in the UK. A Government apparently committed to "open government" has been attacked for its secrecy and for not allowing a public debate on the issue. This criticism has come not just from political parties, but in editorials in a number of newspapers.

### **The political and environmental arguments**

The shipment of the Georgian fuel to Scotland has focused international attention on Dounreay and caused widespread political and environment debate. In the Scotland and the UK Greenpeace, Friends of the Earth, the Scottish National Party, CND, Western Isles Council and KIMO, the international local authority organisation, have all criticised the Government and Dounreay arguing the shipment should not have been allowed. Scotland Against Nuclear Dumping (SAND) which is the main Dounreay opposition group, said that it was better for the material to be in Dounreay than Georgia for proliferation and safety concerns.

There is also the whole problem of what should be done with HEU at reactors around the world, much in areas of similar concerns to Georgia. A number of politicians and environmental groups have argued for a full international debate and agreement on the problem rather than dealing with each site individually, as has happened in this latest case.

*Further information and details are available on the Web sites of the UKAEA, the US DoE, the UK Government, SEPA, Greenpeace, Friends of the Earth, SAND, KIMO etc which can all be found on the N-Base Internet Pages (<http://www.users.zetnet.co.uk/n-base>). N-BASE BRIEFING 127 & 128, April & May 1998. NENIG, Bains Beach, Commercial Street, Lerwick, Shetland ZE1 0AG. 01595 69 40 99 (tel and fax); e-mail: n-base@zetnet.co.uk*

## **Northern Ireland: documents confirm collusion; Bloody Sunday; Multi-Party Agreement**

### **Documents confirm collusion**

Secret records of meetings between a British Army military intelligence unit and agent Brian Nelson reveal British Army complicity in murders carried out by the loyalist Ulster Defence Association between 1987 and 1990. Writing in the *Sunday Telegraph* (29.3.98), BBC journalist John Ware quotes from the records which provide the strongest evidence to date that the British Army's Force Research Unit practised "assassination by proxy", assisting the UDA with intelligence to such an extent that UDA assassinations would, as a consequence, be made on the basis of what the Army considered to be proper targeting. While strong circumstantial evidence of collusion has existed since the early 1970s, the "contact records" referred to by Ware provide positive written corroboration. The documents also confirm the real name of FRU, previously thought to stand for Field Research Unit or Future Research Unit.

Brian Nelson's military career is well-known to Statewatch

readers (vol 2 no 2, vol 2 no 5, vol 3 no 2, vol 3 no 4, vol 4 no 3.). He started off in the Black Watch regiment at the age of 17, moved to the UDA in the early 1970s and received a seven year prison sentence in 1974 for the kidnap and torture of a partially sighted Catholic. On release from prison, he returned to the UDA, later offering his services to military intelligence. Nelson left Northern Ireland in the mid-1980s but was invited back by the commanding officer of the Force Research Unit in 1987. Nelson agreed to re-join the UDA and, with the assistance of his British Army handlers, quickly rose to the position of head of intelligence for the UDA. Ware claims that Nelson was paid £28,000 a year as a British Army agent. Former Labour spokesperson on Northern Ireland, Kevin McNamara, has tabled a series of parliamentary questions about Nelson and FRU, including, what was the exchequer cost of FRU's financial arrangements with Nelson. Another of McNamara's questions asks for the number of officers and soldiers attached to FRU and the annual cost of a) the Force Research Unit and b) its

replacement in each year of their operation. New Labour's open government does not quite extend this far, however. In every case the answer has been the same: "I (Dr. Reid) am withholding this information under exemption 1 of the Code of Practice on Access to Government Information".

A number of security force killings in the early 1980s had led to allegations of a "shoot-to-kill" policy and to the thwarted Stalker inquiry. In these circumstances, some commentators believe, military intelligence renewed its interest in the tried and tested strategy of using unofficial forces - referred to in Army manuals as "pseudo gangs" - to undermine the common enemy. In the early 1970s, the unit responsible for such a strategy was called the Military Reaction Force. By the late 1980s, it was the turn of the Force Research Unit. MI5 has also been linked to the strategy because it had full knowledge of Nelson's arms-shopping trip to South Africa which resulted in a substantial weapons shipment being delivered to loyalist groups in January 1988.

The records of the FRU/Nelson meetings show how the Army put their well-placed agent to use. The aim was to provide the UDA with profiles of IRA suspects so that the loyalist "kill all Catholics" policy would be replaced by the targeting of "known players". One document, dated 3 May 1988, records that under FRU/Nelson influence, "targeting has developed, and is now more professional". On 4 August that year it was noted that Nelson's "appointment enables him to make sure that sectarian killings are not carried out, but that proper targeting of Provisional IRA members takes place prior to any shooting".

It was exactly this boast which the UDA made after shooting Loughlin Maginn a year later in the summer of 1989, backing up the claim by publishing an official intelligence file which identified Maginn as an IRA intelligence officer. This led to the setting up of the Stevens inquiry into the leaking of security force "suspect files" in September 1989. Immediately, the FRU began to cover its tracks. Nelson was warned that should he ever be questioned by the Stevens' team, he was not to reveal his work for the Army. FRU documents state that "Nelson was instructed never to mention his work for this office. Even if an officer from Special Branch... may state that he knew he [Nelson] was an agent, [Nelson] was to deny all knowledge". Three days later, the record states that "Nelson was again reminded at some length that, should he be arrested, he must make absolutely no mention of his work for this office, no matter what tack is used by his interrogators or with what consequences he may be faced". This was not the only way Army officers sought to undermine Stevens. A few days after Stevens arrived in Northern Ireland, FRU told Nelson to hand over the entire collection of "P-cards" (summary information on targets for the convenience of UDA assassination squads) which FRU had helped compile. Clearly, FRU's intention was not to give the collection to Stevens to assist the inquiry, but to conceal Nelson's true role and status. This might have worked but Nelson's fingerprints (which the RUC had from the conviction mentioned earlier) were found on some of the UDA leaked documents collected by Stevens. The inquiry team therefore planned to arrest Nelson at dawn on 11 January. But Nelson must have been tipped off because he fled to England the evening before. That same night at around 11.00pm, the Stevens team returned to their offices, located within a secure RUC complex at Carrickfergus. Mysteriously, they found smoke billowing out of their offices. One of the team smashed the glass on the fire alarm, but there was no response. None of the alarms in the building were working. She also tried to telephone for the fire brigade but astonishingly, none of the telephones were working. By the time the fire engines arrived, Ware claims, many of the vital statements and documents collected by the Stevens team had been destroyed. Ware also reports that Stevens regarded the RUC investigation into the fire, which found nothing sinister, as "a travesty and a disgrace", though this conflict was never made

public.

Nelson returned to Belfast but was still arrested by the Stevens team. Contrary to FRU's instructions, Nelson told Stevens that he was an Army agent. The inquiry turned to the Army and requested evidence of Nelson/FRU contact, as well as the suitcase of P-cards which Nelson had given to his handlers. There followed a long and bitter dispute as the Army refused to handover any documents. Finally, Stevens' deputy (Detective Chief Superintendent Vincent McFadden) threatened to arrest a number of senior Army officers for the obstruction of justice, at which point FRU capitulated.

The head of FRU, who came to be known as Nelson's subsequent trial as Colonel J, told the Stevens inquiry that FRU's strategy was indeed to use Nelson to persuade the UDA to target republicans rather than Catholics in general. But he also claimed that the overall purpose was to save lives. With clearly identified targets, FRU could then warn the RUC who was at risk. There appears to be little evidence in the newly revealed documents, however, that FRU intended to use knowledge of planned UDA operations to prevent murder. On the contrary: "time after time, the secret contact forms which report meetings between Nelson and his handlers demonstrate their complicity in attempts by UDA death squads to assassinate Republicans" writes Ware. Further support for this comes from statements by RUC Special Branch officers to the Stevens inquiry. A superintendent is reported as saying: "I have been asked if I can name an individual whose life was saved as a result of Nelson's information, and I cannot". Only in two cases was FRU's information for Special Branch sufficiently specific to anticipate an attack, one of these being an attack on the President of Sinn Fein, Gerry Adams. (Adams was shot and wounded while travelling in a car near Belfast City Hall. He also had his home mortared by loyalists.)

The FRU documents show that in at least 92 cases, FRU had detailed knowledge of who the UDA was going to shoot, including when, where and who would actually carry out the killing. Nelson himself, while acting as paid agent of the British Army, was involved in at least 15 murders, 15 attempted murders and 62 conspiracies to murder. Very little information came out through cross-examination at his trial, however, because he was persuaded to plead guilty to lesser charges. Nelson received a 10 year sentence and was released last year. While on remand, Nelson wrote a 90,000 word account of his work for FRU which BBC's Panorama unit used for a programme in 1992. This book has never been published although a group of Irish-Americans has offered Nelson a seven figure sum. The *Sunday Telegraph* report claims that Nelson is now living in England with "financial assistance from the Army".

FRU was disbanded after the Stevens inquiry but the *Sunday Telegraph* report suggests it was reconstituted under another name. Writing in the *Irish Times* (30.3.98), Jim Cusack claims there are strong suspicions that "this same group (the FRU successor) was involved in the mysterious incident in north Belfast in January, in which an RUC officer was shot and seriously injured by a British Army woman soldier in plain clothes". The shooting happened during the spate of loyalist sectarian killings which followed the murder of the breakaway Loyalist Volunteer Force leader Billy Wright by INLA in the Maze Prison (Long Kesh). The undercover soldier's car had been seen earlier with another car, said by local people to contain loyalists, in the Catholic Ardoyne area. The RUC spotted the cars and gave chase down the Crumlin road. The undercover soldier crashed and, seemingly, emerged dazed from her car, shooting at a uniformed RUC officer. "No explanation has been given for the incident", writes Cusack, "although it raised concern and suspicions among a range of people from nationalists to regular RUC officers". Cusack further claims that "senior loyalist sources" have told him that the British Army is once again operating in clandestine fashion with elements associated with

the LVF.

### **UN Report**

A number of things remain unclear from the latest revelations. Has John Ware seen originals of the secret Army documents or is he quoting from the unpublished Stevens inquiry report? It is strange that the Sunday Telegraph articles make no reference to one of the most controversial murders of the Nelson era, that of solicitor Pat Finucane. The timing of the article is interesting, both in terms of the Stormont talks and the publication of a UN report which calls for a judicial inquiry into the Finucane killing. The latter was written by Param Cumaraswamy who is the UN's Special Rapporteur on the independence of judges and lawyers. Cumaraswamy visited N. Ireland in October 1997 and his findings (98 paragraphs) were published as an addendum to his fourth annual report on 5 March.

Cumaraswamy discusses Finucane's murder in some detail. He points out that Finucane received a number of death threats from the RUC, delivered via his clients. He also records that, during a debate on the Prevention of Terrorism Act, Douglas Hogg, then Parliamentary Under-Secretary of State for the Home Department, stated that: "I have to state as a matter of fact... that there are in Northern Ireland a number of solicitors who are unduly sympathetic to the cause of the IRA... I state it on the basis of advice that I have received, guidance that I have been given by people who are dealing with these matters". A more general argument along these lines was given by the RUC Chief Constable and his deputy when interviewed by Cumaraswamy. In para. 21 of his report, the UN Special Rapporteur writes: "The Chief Constable alluded to an agenda in which paramilitary organisations ensured that detainees remain silent and alleged that solicitors may be involved in conveying this message to the detainees. Further he stated that there is in fact a political divide in Northern Ireland and part of the political agenda is to portray the RUC as part of the Unionist tradition. These allegations concerning police intimidation and harassment of solicitors is part and parcel of this agenda. The Assistant Chief Constable also admitted that during the course of an interrogation an officer may express the view that the solicitor is providing bad advice to the client and not acting in his interest, for instance, by advising the client to remain silent".

A couple of weeks after Hogg's statement in parliament, Finucane was killed by the Ulster Freedom Fighters who shot him 14 times in front of his wife and three children on 12 February 1989. Cumaraswamy notes that Brian Nelson's prison diary claims that Nelson informed FRU that Finucane was lined up as a target as early as December 1988. Nelson provided the assassins with a P-card on Finucane three days before the murder and although British government sources told Cumaraswamy that Brian Nelson's work had saved 70 lives, the RUC denied that any information concerning the planned assassination of Finucane was passed on to them.

Given that the Stevens inquiry report was never published and that Stevens himself has stated publicly that he knows "absolutely" who killed Finucane, the UN Special Rapporteur wrote to Stevens on 27 November 1997. His letter asked if the military knew that Finucane was a planned target of loyalist assassins and, if so, did the military notify the RUC. If they did not tell the RUC, why not and why did the military not warn Finucane and/or provide protection for him? If the RUC was told, why was Finucane not afforded police protection or warned of the threat? Stevens replied over six weeks later on 14 January: "As you will be aware the reports submitted by me are the property of the Secretary of State for Northern Ireland and the Chief Constable of the RUC. I am therefore not in a position to release these reports or indeed divulge any of the contents. The reports are highly classified and the authority of the above persons will be required before information is released".

In addition to the recommendation for an independent investigation into the Finucane killing, the UN report concludes that the authorities should "conduct an independent and impartial investigation of all threats to legal counsel in Northern Ireland". It calls for an end to closed visits (between lawyers and some clients in England and Wales), the right of solicitors to be present during interrogations (in Northern Ireland), the right of clients to immediate access to solicitors (denied under the PTA), and the video and audio recording of all interrogations, with tapes available to clients' solicitors. Other recommendations include the restoration of the right of silence, the restoration of jury trial, the abolition of "the permissive standard for the admission of confession evidence" which exists under the Emergency Provisions Act, and the introduction of human rights training (regarding the jurisprudence of UN and ECHR provisions) for Northern Ireland's judiciary.

### **Bloody Sunday Inquiry**

In characteristically arrogant style, the British government has already dismissed the Special UN Rapporteur's call for an inquiry into the murder of Pat Finucane. It has, however, set up a new inquiry into the British Army's killing of fourteen protestors in Derry on 30 January 1972, after years of campaigning by the relatives of the dead and following the presentation of a dossier of material by the Irish government (full text accessible from <http://www.irlgov.ie/taoiseach/>). The Bloody Sunday Inquiry, as it is officially called, is being conducted by Lord Saville with the assistance of Sir Edward Somers (New Zealand) and Justice William Hoyt (Canada). In his opening statement launching the inquiry on 3 April, Saville made it clear that the new inquiry will not restrict its concerns to events on the day in question (as the discredited Widgery Tribunal did) but will pay "proper regard to what led up to those events". It remains to be seen whether the likes of Edward Heath (Prime Minister at the time) will be called to give evidence but Saville has stated that: "The statute under which this Inquiry is established gives the Tribunal the power to require persons to give evidence or to produce documents. We hope that it will not be necessary to invoke this power, but we shall do so if we conclude that our search for the truth requires it". Saville has also said that the costs of witnesses' legal representation will be considered by the Tribunal. He has not, however, recommended to the Attorney-General that witnesses should be immune from prosecution (in order "to encourage people to come forward and to speak frankly") but the Tribunal may change its mind on this later. The failure to rule out immunity has caused one Bloody Sunday victims family to withdraw their cooperation from the Saville enquiry. The proceedings of the Inquiry will be available on the internet at: <http://www.bloody-sunday-inquiry.org.uk>.

### **Multi-Party Agreement**

After two years of the Stormont talks chaired by retired US Senator George Mitchell, a document has been agreed (on 10 April) by the participants including the British and Irish governments, and most of the political parties within Northern Ireland. Ian Paisley's Democratic Unionist Party and the UK Unionist Party stayed outside of the talks and, on 15 April, the DUP launched a "no" campaign for the referendum on the agreement which is to be held on 22 May. There will also be a referendum in the Irish Republic on the same day. Northerners will vote for or against the agreed document; Southerners will vote on amendments to the Irish constitution which will be contingent on a "yes" vote in the North.

The status of the "agreement", officially called the Multi-Party Agreement, or the Belfast Agreement, is unclear at this stage, notwithstanding section one which is a six paragraph "declaration of support". The only parties to sign anything at the end of the talks were the British and Irish governments who

agreed a four article intergovernmental agreement which replaces the Anglo-Irish Agreement of 1985. The new Agreement commits the two governments to implement the institutional aspects of the Multi-Party Agreement. Both the Ulster Unionist Party and Sinn Féin have taken the document to their respective parties for discussion and, at the time of writing, there seems to be dissension within each, with more than half of the UUP's MPs opposing the deal and an initial rejection by the Orange Order. The Order is opposed to a commission on the future of the RUC and is unhappy about the early release of prisoners. Irrespective of the level of disagreement within Sinn Féin, there would have to be changes in the Party's constitution if some aspects of the Agreement are to be embraced. George Mitchell himself has warned of the very preliminary and fragile nature of the Agreement and is more aware than most of the difficulties of implementing a model of "partnership, equality and mutual respect" when the Ulster Unionist delegation, led by Party leader David Trimble, refused to speak to Sinn Féin members throughout the negotiations" - despite exhortations from President Clinton.

The agreement document follows the shape indicated in the November/December 1997 issue of *Statewatch*. The British and Irish governments have a "binding obligation" to legislate for a united Ireland but "only with the agreement and consent of the people of Northern Ireland". Hence, the following declaration will be included in British legislation to replace the Government of Ireland Act 1920: "Northern Ireland in its entirety remains part of the United Kingdom and shall not cease to be so without the consent of a majority of the people of Northern Ireland". On the other hand, the Irish government proposes to change the territorial definition of the Irish nation in Article 2 of the Irish constitution to read as follows: "It is the entitlement and birthright of every person born in the island of Ireland, which includes its islands and seas, to be part of the Irish nation...". Article 3 will be re-written to state that: "It is the firm will of the Irish nation, in harmony and friendship, to unite all the people who share the territory of the island of Ireland, in all the diversity of their identities and traditions, recognising that a united Ireland shall be brought about only by peaceful means with the consent of a majority of the people, democratically expressed, in both jurisdictions in the island..." As some Unionist critics have pointed out, the reference here to "both jurisdictions" is ambiguous and does not necessarily mean that consent of the Northern majority alone is sufficient to veto change. Support for the option of Irish unity can only be tested by referendum if at any time it appears likely to the Secretary of State for Northern Ireland that a majority would favour this option, and such a poll cannot be held more frequently than once every seven years.

The third section of the document describes a new Northern Ireland Assembly. This is to be elected on the basis of existing Westminster constituencies. With each constituency getting six seats, this results in a 108-seat Assembly which will be elected by PR (single transferable vote system). The Assembly will have authority for all "devolved" matters. The British keep control of law, order and security policy, and will continue to allocate public expenditure to Northern Ireland as a programme within the UK public expenditure round. In other words, the Assembly, just like the old Stormont parliament, will have no taxation powers.

Assembly decisions which are likely to be contentious across the unionist/nationalist divide will be identified in advance or can be raised by minority petition (at least 30 members). Such decisions will require either "parallel consent" (a majority of both unionists and nationalists present) or by "weighted majority" (60%), including at least 40% of both nationalist and unionist members present. The Assembly will establish scrutiny committees for each of the main executive functions of the new administration. Chairs and deputy chairs

will be allocated on the basis of the d'Hont system, that is in proportion to party representation in the Assembly. Executive authority will reside in an Executive Committee headed by a First Minister and deputy, supported by up to ten ministers with departmental responsibility. As with the scrutiny committees, all these posts will be allocated according to party strength.

Section four of the document concerns North/South institutions. The first of these is the North/South Ministerial Council. This will meet in plenary format twice yearly, but the Council will meet more regularly than this in "specific sectoral formats" and to consider institutional or cross-sectoral matters or to resolve disagreements. The composition of the Council will include the North's First Minister, Deputy First Minister and any relevant ministers, and the South's Taoiseach and relevant ministers.

The first task of the Council is to draw up a work programme, in consultation with the British, covering at least 12 designated areas (the Agreement includes an Annex with a somewhat restricted list of possibilities such as "aquaculture and marine matters", tourism, teacher qualifications and exchanges, social security fraud, cross-border accident and emergency arrangements). This work programme has to be agreed before the end of October 1998.

Part of the work programme is to identify at least six matters for "co-operation and implementation" which will require new cross-border or "all-island implementation bodies", and six matters which can be implemented through the co-operation of existing bodies in each jurisdiction. Any further development of cross-border or all-island implementation bodies has to be endorsed by the Assembly (and of course the Oireachtas). Section five provides for the establishment of a British-Irish Council (previously referred to as a Council of the Isles) which is designed to meet twice yearly and to consist of representatives drawn from the British and Irish governments and the devolved institutions in Northern Ireland, Scotland and Wales, the Isle of Man and the Channel Isles.

Section six deals with the British-Irish Intergovernmental Conference. This will replace the Anglo-Irish Intergovernmental Council and the Intergovernmental Conference set up under the Anglo-Irish Agreement. "Co-operation on security matters" was always a feature of the latter, with police and security advisers regularly in attendance, and this is set to continue under the new body. The meetings of the Conference would also deal with all-island and cross-border co-operation on "non-devolved issues" and relevant members of the North's Executive Committee can be involved in the meetings. The Conference, however, will have no power to override "the democratic arrangements set up by this Agreement".

The remaining sections of the Multi-Party Agreement deal with "Rights, Safeguards and Equality of Opportunity" and "Validation, Implementation and Review". The former includes a number of matters already signalled by the British and Irish governments, including the incorporation of the European Convention on Human Rights into Northern Ireland law via a Bill of Rights. The Rights Bill will expand the ECHR to include principles of "mutual respect for the identity and ethos of both communities and parity of esteem". The Irish government will ratify the Council of Europe Framework Convention on National Minorities, implement enhanced employment equality and equal status legislation, and establish a Human Rights Commission. A similar body will be set up in the North and the two Commissions may establish a joint committee. The Agreement recognises "existing work on the needs of victims of violence" and calls for this to be properly resourced. It also anticipates that the British will establish a unitary Equality Commission for Northern Ireland to replace the Equal Opportunities Commission, the Fair Employment Agency, the recently set up Commission for Racial Equality (NI) and the Disability Council.

The Agreement contains several clauses on economic development and the targeting of social need, and there are eight specific points concerning the promotion of the Irish language.

*Stawatch* readers will be most interested in what the Agreement says about "decommissioning, security, policing and justice". The key clause on decommissioning reads as follows: "All participants (accordingly) reaffirm their commitment to the total disarmament of all paramilitary organisations. They also confirm their intention to continue to work constructively and in good faith with the Independent Commission, and to use any influence they may have, to achieve the decommissioning of all paramilitary arms within two years following the endorsement in referendums North and South of the agreement and in the context of the implementation of the overall settlement". Following the publication of the Agreement, there has been widespread debate of this clause and its effect in relation to the operation of the Assembly. Trimble only accepted the Agreement document after British Prime Minister Tony Blair wrote him a letter "clarifying" this issue. The Blair letter reassures Trimble that he will not have to operate an Executive Committee which would include potentially two members of Sinn Féin unless there is progress on decommissioning by June.

Under security the British undertake "to make progress towards the objective of as early a return as possible to normal security arrangements in Northern Ireland, consistent with the level of threat and with a published overall strategy". Clearly this is not troop withdrawal and the idea that British military activity and spending in Northern Ireland has some sort of objective relationship to loyalist or republican armed activity will be greeted with derision in areas such as South Armagh where the investment in hill forts and other installations appears to be inversely related to any threat. No firm undertaking is given as to when the "published overall strategy" will appear, but when it does, it will include the removal of security installations; the removal of emergency powers and "a reduction in troop numbers and deployment to levels compatible with a normal peaceful society". It has always been the intention of the British government to replace Northern Ireland's "emergency legislation"; the Agreement fails to acknowledge, however, that significant powers will remain under UK-wide anti-terrorist legislation as proposed in the Lloyd Report (see *Stawatch*, vol 7 no 1).

The Agreement's clauses on policing, justice and prisoners are causing particular disquiet in unionist circles. As mentioned earlier, the Orange Order is looking for reassurances that the RUC will remain much as it is now. Apart from statements of aspiration and intent, what the document actually proposes is the setting up of an independent Commission "which will be broadly representative with expert and international representation among its membership and will be asked to consult widely and to report no later than Summer 1999". The Chief Constable, Ronnie Flanagan, has also been quick to set out his stall, warning that many of his officers are unhappy with the Agreement and what it says about the release of prisoners. He has set up an internal RUC hotline so that worried officers can be reassured on the contents of the Agreement and subsequent developments. He has also appointed a special group of senior officers to prepare for the commission which Flanagan regards as "the best opportunity we have of countering the propaganda with which people have been bombarded, often at an international level and without any basis in fact or evidence".

Prison and police officers face the most immediate threat from the Agreement because if violent conflict declines the minimum expected reform will involve "downsizing". Whether the Agreement is implemented or not, the RUC continues to be under the political spotlight. The latest reason is the leaking of a confidential internal survey of "Religious and Political Harassment and Discrimination in the RUC". 12,800 uniformed

officers were sent survey forms but only 34% returned them. 10% of these were Catholics (compared to about 7% Catholic representation in the RUC as a whole). Two-thirds (63%) of Catholic officers reported that they had been subjected to religious or political harassment by other RUC officers (compared to 10% of Protestant officers). 9% of Catholics reported harassment in the form of physical assault. 34% of Catholic officers were disillusioned with their career and 21% had considered leaving the RUC (see <http://www.serve.com/pfc/>). The Maze Prison could be closed within two years because the Agreement commits the Irish and British governments to an accelerated programme "for the release of prisoners, including transferred prisoners, convicted of scheduled offences... or similar offences". The British scheme involves increasing remission for fixed-term prisoners by 15% (to 65%). The text continues, "In addition, the intention would be that should the circumstances allow it, any qualifying prisoners who remained in custody two years after the commencement of the scheme would be released at that point".

In summary, the Multi-Party Agreement consists of two principle streams. Firstly, there is the range of "non-devolved" matters - arguably the most important aspects of sovereignty, such as taxation, the NI budget, rights issues and law, order and security - which the British government retains control of and always intended to modernise as political and other conditions prevailed. This first stream will continue to proceed with or without the backing of referenda, and will continue to involve regular co-operation and consultation with the Irish government through the now permanent British-Irish Intergovernmental Conference. The second stream involves a network of institutions and policies, including the new Assembly, the North/South Ministerial Council and the British-Irish Council. The Agreement interlocks these institutions and policies in an attempt to bind together moderate nationalist and unionist political forces. It also makes participation in the Executive, the reform of policing and prisoner releases, all conditional upon continuing ceasefires, and decommissioning (though unionists are concerned that this is fudged in the wording of the Agreement). If the programme of work for the North/South Ministerial Council is not agreed before the end of October, the Assembly will not be permitted to operate - it will exist in "shadow" mode until then. Well before the negotiations were concluded, the British government had begun its "yes" vote campaign. More subtle than previous attempts to influence public opinion, television commercials and billboards contrast images of peace and conflict, with the underlining statement: "It's your choice". The Northern Ireland Office's new Director of Communications, Tom Kelly, circulated his eight-page "information strategy" for the referendum to government ministers and top civil servants on 4 March, but this was leaked to the Democratic Unionist Party. Particular embarrassment was caused by the revelation that the government intends "to draw up a database of key movers and shakers" and to mobilise Robin Eames (head of the Church of Ireland), other church leaders, the heads of voluntary organisations, trade unions and business people. Eames was furious. The leaked document points out that consultants McCann Erickson had already been commissioned to carry out quantitative and qualitative research "without it being seen to be government inspired". The results of this, if favourable, would be selectively released to build up the momentum for the "yes" vote.

Unionists in favour of the Agreement argue that "the union is more secure". They intend to resist the development of the North/South elements and are claiming to have a veto in every institution. There can be nothing "transitional" about the North/South Ministerial Council, they argue, because ministers can only do what the Assembly lets them. And Trimble is determined that Sinn Féin will not be allowed into the Executive until the IRA hands over its weapons. Paisley's "No" campaign

sees any cross-border activity as “Dublin rule”. From this perspective, “the Agreement is the thin end of the wedge” constitutionally, and is designed to weaken the RUC.

On the nationalist side, the SDLP are most comfortable with the Agreement, seeing themselves as the architects of many of its provisions. For Sinn Fein, however, the Agreement poses serious policy issues. There will have to be a change in the Party's constitution, requiring a two-thirds majority, to allow members

to sit in the new Assembly. Its participation in the Executive will be fiercely resisted by unionists in the absence of IRA decommissioning, which appears unlikely. The logic of the Party's recent trajectory is to accept the new institutions as a basis for developing support for, and transitional demands towards, the re-unification of Ireland. This was confirmed by a special *ard heis* held in Dublin on 10 May at which changes to the party's constitution were supported by a 96% majority.

## France: Regional elections

The French regional elections of 1998 will be remembered as a watershed in French political life, marking the point at which the extreme-right *Front National* (FN) made its most significant inroads to date into mainstream politics, with the explicit assistance of politicians of the traditional right. Moreover, the problems of the electoral system introduced by Francois Mitterand for regional elections have been thrown into sharp relief by the events of recent weeks.

The particular form of proportional representation used at regional level has been criticised by the left and by members of the traditional right for its tendency to allow small, extremist parties to become power brokers and to encourage political deals at the expense of political integrity. These two problems were manifest in the aftermath of the initial voting on March 15. The Minister for parliamentary relations, Daniel Vaillant, has since promised that a bill will be drafted before the summer to change the way regional elections are conducted.

The initial poll gave the left coalition, (Socialists, Communists and Greens), a total of 611 seats on the regional councils, next to the traditional right's (RPR and UDF) 547. The FN won 275 seats, 15.3% of the 3.3 million votes, (in 1992 it took 13.3% of the vote). These results gave the left a relative majority in twelve of the twenty-two regions. However, this did not translate into success for the left when the presidents of the regional councils were elected on March 20.

The FN, which on the basis of the initial vote held the balance of power in several regions, found itself in a position to exploit its success by offering its support to traditional right candidates against those of the left coalition. On March 16, Le Pen made his party's position explicit, offering to back Gaullist and UDF candidates in return for their acceptance of 6 demands, including a pledge not to raise taxes and a pledge to “defend French cultural identity”. However, the leaders of the two largest parties had already made their positions clear. Seguin, for the RPR and Leotard, for the UDF, had made a “no deals” pledge as soon as it became clear that the FN would be in a power-broking position, intimating that defiance of this order would result in expulsion.

This stance opened the way for the implosion of the traditional right which has followed these elections. In five regions traditional right candidates nevertheless accepted the support of the FN and were elected. The five were: Charles Millon (Rhône-Alpes), Jacques Blanc (Languedoc-Roussillon), Bernard Harang (Centre), Charles Bauer (Picardie) and Jean-Pierre Soisson (Bourgogne). On March 25 Soisson resigned, followed later by Harang. The other three presidents remain in place and have been expelled from the UDF.

In other regions, traditional right candidates preferred to concede the presidencies to the left candidates rather than risk being elected with the support of the FN. Eduard Balladur, the former RPR prime minister, conceded the presidency of the Paris-based Ile-de-France region to the left coalition for this reason.

In previous elections Le Pen had also preferred to concede power to the left than to assist the traditional right, because of his

personal dislike of Chirac. Yet in spite of the new-found spirit of cooperation, his own bid for the presidency of the Provence-Alpes-Cote d'Azur region was a failure. Traditional right councillors refused to support his candidacy in spite of his claims that their support was due in return for the FN support of candidates in the five regions mentioned above. A Socialist candidate won the presidency of the region.

The results of the elections and the collaboration between the traditional and the far right have provoked a wave of protest demonstrations across France. On March 28, as many as 200,000 people, (50,000 in Paris alone), marched in protest against the FN and those who collaborated with them. On March 23 2,000 students walked out of classes to voice their opposition to the newly elected FN and their collaborators. On March 15, demonstrators expressed their solidarity with migrants, whose presence is violently opposed by the FN, by throwing sleeping bags to a group who are occupying a Paris church in protest at having been refused residency permits. On the same day there were protests at the inadequacy of the government's anti-poverty strategies.

SOS Racisme is planning further actions over the course of the next few weeks. On April 17 there were protests in Montpellier, (Languedoc-Roussillon) and one in Dijon, (Bourgogne), on the 27th. On May 1, the day on which the FN traditionally holds patriotic celebrations in memory of Joan of Arc, SOS Racisme has called for a day of anti-fascist demonstrations across France in addition to the traditional Labour Day marches. A spokeswoman for the organisation described the situation as very serious, adding that the fascist's strategy for gaining power has become clear in the wake of the elections. She also pointed out that the government has its part to play in preventing the further rise of the FN; it must address the problems of France's declining and poor urban areas as a matter of priority.

This election has seen a notable change of strategy on the part of the FN, a change which is widely attributed to Bruno Megret, the FN's second in command, who many believe is aspiring to the party leadership. They have offered their support and cooperation to the traditional right in such a form as to make it acceptable, that is without making it dependent on the explicit acceptance of their anti-immigrant (repatriation) policies. Yet to many politicians and their supporters on the traditional right, cooperation with the FN is unacceptable and now threatens to tear the republican movement apart. Seguin has tried to take an optimistic view of the situation in public, bidding “good riddance” to those who have done deals with the FN, as though the coalition had been effectively purged in the aftermath of the election.

Yet opinion within the coalition remains divided; it is suspected that the RPR and the UDF may well split, and that the UDF in turn may divide into left- and right-wing factions. The possible leaders of these factions are Alain Madelin, the Thatcherite leader of the right-wing *Democratie Liberale* who congratulated the rebel presidents on their success, and Francois Bayrou, leader of the centre-left *Force Democrat*, who

condemned them. The overall leader of the UDF, Francois Leotard, is said to be opposed to the formation of a new centre-right party, for which it would be almost impossible to find a leader with sufficient strength and support to reunite and revive the traditional right. Leotard has attributed M. Bayrou's calls for a new party to "personal rather than collective considerations".

The fact remains that opinion on the issue of cooperation with the FN has divided the traditional right, demonstrating that France's historical struggle between the forces of republicanism and democracy and those of ultra-right authoritarianism is a long way from having reached its final chapter. Historians have compared the current climate to that of the 1930's, "when large elements of the right became spellbound by fascism". The FN and those on the traditional right who see fit to collaborate with them are regarded by many as heirs to the political philosophy of the Vichy regime; *Liberation* claimed the rebel presidents had opened the door to "the aggressive heirs of Vichy leader Phillippe Petain".

The presence of such a party in the mainstream political arena gives great cause for concern. FN influence over regional spending on culture, for example, is an extremely worrying prospect. In Montpellier, (Languedoc-Roussillon), the FN leader Alain Jamet has already spoken of his intention to end the "cultural dictatorship of the left", promising to ban "degenerate" art from the region; "the chance to stop the spread of subversive ideas will not be neglected". Jamet has made it clear that the FN will block any regional cultural subsidies being given to institutions to which the FN is politically opposed.

So the ideas remain the same, but are now being promoted by a man who is not content for the party to remain on the fringes of power. Bruno Megret now finds himself well-placed to take control of the party, following the recent conviction of Le Pen on criminal charges. On April 2 a Versailles court found Le Pen guilty of riotous behaviour; he had assaulted a female socialist candidate in the course of the 1997 election campaign and was banned from holding public office and from voting for two years. His membership of the European Parliament could also be revoked. Although this does not stop him from leading the FN, many now regard his position as terminally weakened, especially given his party's emphasis on law and order as being central to its programme. He is also facing the prospect of being charged with inciting racial hatred by Germany, after repeating his belief that

the Holocaust will be remembered as a detail of history, in Munich last December. In short, Le Pen is becoming more and more of an embarrassment to politically ambitious members of his party, such as Megret.

But how different is Megret? Much is made of his educational credentials, (attendance of one of the prestigious *Ecole Polytechniques* and an MSc from Berkley) and of his campaigning skills, (which have turned the electoral fortunes of the FN around since the late 1980's). He is held to be a much "smoother operator" than Le Pen, whose overtures to the traditional right parties are facilitated by the fact that he was previously a member of the RPR. His ideas are nevertheless every bit as pernicious as those of Le Pen. He was responsible for the codification of the FN's "national preference" policy in a 50-point list, which is said to draw heavily on the anti-Jewish legislation of the Vichy regime. He speaks of the decadence of Judeo-Christian Europe and advocates a return to the pagan values of blood and the soil which will ensure the triumph of the white race. (The purity of those who work the land compared with the decadence of cosmopolitan city dwellers was also a core motif of Vichy propaganda). He has also found himself on the wrong side of the law, having previously been disqualified from standing for mayor in Vitrolles due to corruption. His wife, Catherine, received a 3 month suspended sentence last year for promoting racial hatred (see *Statewatch*, vol 7 nos 4 & 5).

The results of the regional elections have had a dramatic impact on the French political landscape. The presence of the FN is now far more tangible in several parts of the country and a precedent for cooperation between the FN and the traditional right has finally been established. As *Liberation* observed, "...For the first time since the war, the unspoken rule preventing any pact with the successors of the collaboration has been broken", and this in the same month as France indicted the Vichy police chief Maurice Papon for crimes against humanity, upholding the internationally established principle that there is a moral duty to disobey immoral orders. As Paul Webster has commented, the question of personal choice in the face of reprehensible authority is one which will now be faced by civil servants in administrations run or influenced by the FN. It is to be hoped that these individuals will be attentive to the lessons of history.

## Europol to exchange unregulated data

The meeting of the Council of Justice and Home Affairs Ministers (JHA Council) on 19 March agreed as an "A" Point (without debate) rules allowing Europol to accept information from non-EU sources. The report covering the receipt of data from "third States and third bodies" has the most minimal safeguards on the way the data is gathered (see *Statewatch*, vol 7 no 6, for Europol giving out data to third states and non-EU sources).

Article 1 ("Definitions") states that the "rules" cover the bodies listed in Article 10.4 of the Europol Convention: EU institutions, third states, "international organisations and their subordinate bodies", "other bodies governed by public law which are based on an agreement between two or more States" and the International Criminal Police Organisation. It also says in Article 1.h that "personal data" includes "one or more characteristics of his/her physical, mental, economic, cultural or social identity" which could cover race, sexuality, or political views.

Article 2 deals with "Agreements". The JHA Council has to agree unanimously on "third States and non-EU-related bodies"

with whom agreements are to be negotiated (2.1). The Management Board (a committee of interior ministry officials from the 15 EU member states) will "determine" the "EU-related bodies" agreements to be negotiated (2.3).

Articles 2.4 and 2.5 authorise the Director of Europol to negotiate both sets of agreements (EU and non-EU). Agreements are to be concluded with the approval of the JHA Council (non-EU) and the Management Board (EU bodies) after: "the opinion of the Joint Supervisory Body" has been obtained "as far as it concerns the receipt of personal data." The Joint Supervisory Body is comprised of data protection registrars/commissioners from the member states. However, the "opinion" of the Joint Supervisory Body has no legal force and could be ignored and does not cover "non-personal data" (which is often hard to separate).

Article 3 is entitled "Assessment of the source and of the information". Remarkably it allows:

*the third State or third body to assess as far as possible the*

*information and its source in accordance with the criteria laid down in Article 11 of the rules applicable to analysis files.(3.1)*

This is a reference to Article 11 of the "Rules applicable to analysis files" adopted by the JHA Council in May 1997. This Article says that all information has to be "assessed as far as possible" whether the source: a) "has proved to be reliable in all instances"; b) "in most instances proved to be reliable"; c) "in most instances proved to be unreliable" and d) "The reliability of the source cannot be assessed". This mechanism for self-assessment has nothing to do with data protection standards and allows information to be held and used whether the source of information is "unreliable" or where it cannot be assessed.

Where this self-assessment is not provided by non-EU states or bodies then Europol itself:

*shall attempt as far as is possible to assess the reliability of the source of information on the basis of information already in its possession (3.2).*

What constitutes information "already in its possession" is not defined.

In case even these less than minimalist checks fail provision is made in Article 3.3 for Europol and the third State or third bodies to "agree in general terms on the assessment of specific types of information and specific sources.."

Provisions for Europol to delete information from non-EU sources is provided in Article 4.3 but in Article 4.2 where the third State or third body tells Europol that the information provided has been corrected or deleted Europol is not obliged to follow suite:

*Europol shall not delete information if it has further need to process that information for the purpose of the analysis file or, where the information is stored in another Europol data file, Europol has a further interest in it, based on intelligence that is more extensive than that possessed by the transmitting third State or third body...*

As the whole purpose of the analysis files is to bring together information from different source and to add its own evaluation every analysis file will be "more extensive than that possessed by the transmitting" party.

Article 4.4 is a classic, it reads:

*information which has clearly been obtained by a third State in obvious violation of human rights will be marked by Europol.*

The information is not to be removed but simply "marked" and retained and, if necessary, used or passed on by Europol.

Information provided by a "third body" which may be in "violation of human rights" is apparently not covered.

The rules make no mention of Article 14 of the Europol Convention on "Standard of data protection" which says all EU member states must have in law standards "at least" corresponding to the Council of Europe Convention of 28 January 1981 and take into account Recommendation No R(87)15 of the Council of Ministers of the Council of Europe of 17 September 1987 - even these standards are very basic.

The rules set virtually no limits on information that can be sent to Europol, held by Europol or forwarded by Europol (which in some cases may lead to the opening of a file for the first time) from non-EU states and bodies.

### **Europol Assistant Co-ordinator expresses reservations on data exchanges**

Mr Bruggeman, the Assistant Co-ordinator of the current Europol Drugs Unit in a thoughtful talk to a seminar in Maastricht in February said that there are several problems concerning Europol's collection and use of information which remain "unsolved". Among the questions he raised were the following. The Convention of 1981 and the Recommendation of 1987 only covered automated data, not manual files. The standards of national legislation on data protection vary greatly and do not offer equal protection to EU citizens (the Data Protection regulation currently being ratified by EU member states does not cover justice and home affairs issues). Some EU member states have only recently adopted data protection law (Greece, Italy, Belgium and Spain) and a "radical change in the culture of the national force concerned" is needed and, "when this is added to the feeling among some police officers (both here and abroad) that the ends may justify the means where catching criminals are concerned, the potential danger is apparent."

As to receiving and passing information to and from third States and third bodies he commented: "The pressure to exchange data with such countries in the interests of mutual assistance might well in practice outweigh considerations of strict data protection."

*Rules concerning the receipt of information by Europol from third States and third bodies, 8033/5/97 REV 5, EUROPOL 28, Limité, 13.11.97; Proposal for rules applicable to analysis files, 6100/4/97, REV 4, EUROPOL 10, Limité, 22.5.97; The Europol Convention, formally adopted July 26.7.95.*

## **EU: A step towards more openness?**

Examines proposals for a public register; documents that can't be "traced"; *Statewatch* award

At its meeting on 19 March in Brussels the Council of Justice and Home Affairs Ministers (JHA Council) agreed two reports on openness and transparency. The first covers justice and home affairs, the second, making available a public register of documents covering all areas of the Council of Ministers work.

The Declaration on "Openness and transparency in justice and home affairs" included the following:

*a) making available to the public the calendar of the K4 Committee and other JHA working groups;*

Readers will recall that *Statewatch* was refused access to the calendar of meetings and this "right" was only established after *Statewatch* lodged (in 1996), and won, a complaint taken up by the European Ombudsman.

*b) increasing the number of press briefings;*

*c) making available a progress report towards the end of each Presidency;*

*d) having an open debate during each Presidency;*

It has been agreed that, under the UK Presidency, this will be a "debate" on "organised crime" at the May JHA Council.

*e) making available to the public proposals in the field of JHA at the same time as they are made available to the European Parliament;*

This would advance the commitment to do this included in the Amsterdam Treaty (which has yet to be ratified). It should be noted that "proposals" only comprise a fraction of the decisions and reports adopted by the JHA Council, the K4 Committee and its working parties.

*f) making available a list of measures adopted by the Council in the field of JHA.*

This too was the subject of a complaint taken to the European Ombudsman by *Statewatch* in 1996.

The decision on the "Public register of Council documents"

is printed in full in Appendix 1. Five comments need to be made on the proposals.

First, the register is to include "unclassified Council documents". As can be seen from the classification code reproduced in Appendix 2 the third classification category "RESTREINT" is defined as documents containing information:

*unauthorised disclosure of which would be inappropriate or premature*

While it is true that the majority of documents are classified as "LIMITE" (which is not subject to "special protection" and is not a "security classification") a number of documents which should be in the public domain are classified as "RESTREINT". The fact that disclosure could be "inappropriate" or "premature" suggests this category is used to keep secret documents governments might find embarrassing. There could also be a temptation to classify a document as "RESTREINT" rather than "LIMITE" in order to ensure it is not available.

Second, there is no procedure for reviewing the classification of documents either in the 1995 Decision on classified information nor in the 19 March Decision on the public register. Third, it is expected that the public register will go online at the end of this year or the beginning of 1999. But it will not be retrospective, that is to say it will not cover the hundreds of documents discussed prior to the launch of the register.

Fourth, the statement in point 5 that the "implementation" of the register "will not require any additional budget provision or additional staff" is correct as the Council will now have two separate internal registers, one to be made public, and one to be kept secret. However, the demand created by the publication of the register will inevitably lead to a major increase in the number of requests for documents, and in the number of appeals when applicants are refused access.

Finally, there is the statement in point 2 that "to preserve the Council's right not to communicate a document, the register will not display the content of the documents". This places applicants in the same situation *Statewatch* and others have been in for years namely the struggle to get access to documents. This is a lengthy, time-consuming, and often frustrating job.

### Documents which can't be "traced"

A few recent examples of *Statewatch's* requests for documents illustrate the ongoing problems of getting access to EU documents on justice and home affairs.

Recently copies of the minutes of working group meeting in 1994 were applied for. Most were supplied but five sets of minutes "could not be traced". In simple terms, they had been lost. The "lost" minutes concerned meetings of the working groups on: Centre for Information, Discussion and Exchange on asylum (CIREA), migration, customs cooperation, international organised crime and extradition. An appeal has

been lodged on the grounds that the EU has an obligation to deposit all documents in the historical archives of the European Community and that if the Council does not have copies they should be acquired from one of the member states.

The following response has just been received from the Council of Ministers of the European Union in response to an appeal (confirmatory application) by *Statewatch*.

Copies of four documents concerning "the influx of immigrants from Iraq" were initially applied for. The response, on appeal, from the Presidency of the European Union says that because the documents contain "references to relations with other third countries" access is to be denied as disclosure "would impede the efficiency of the Council's discussion" on the issue and "could be harmful to future cooperation with the countries in question".

Another document requested in the same batch was a note from the Asylum working Party sent to the K4 Committee "containing a draft joint handbook on the application of the Dublin Convention". Access to this document is denied on the grounds that it "contains internal instructions intended for practitioners" and "contains sensitive information, such as means of proof in the framework of the Convention, specimen laissez-passer for transfer of applicants and a summary of national implementing measures in each Member State." The official letter, dated 5 May 1998, from the Presidency of the EU, ends by saying:

*The Council considers that disclosure of this document could jeopardise the good functioning of the implementation of the Dublin Convention, as this information could be misused by asylum seekers.*

## Statewatch gets award for tackling secrecy in the EU

*Statewatch* was given a "Freedom of Information Award" for its work "challenging the secrecy of the European Union's Council of Ministers".

The annual awards made by the Campaign for Freedom of Information (CFI) in the UK were presented by the Lord Chancellor, Lord Irvine at a presentation ceremony on 28 April. The award for advancing freedom of information in Europe was presented to *Statewatch's* editor Tony Bunyan.

The CFI said *Statewatch's* challenges on access to documents and its complaints to the European Ombudsman "represent significant steps towards holding this powerful body at least partly accountable for its decisions".

## APPENDIX 1

### Decision by the Council of Justice and Home Affairs Ministers on 19 March

1998

#### TRANSPARENCY

##### Public register of Council documents

*The Council, bearing in mind to make the policy of access to its documents more effective, has decided that the register of unclassified Council documents should be made public on the basis of the following guidelines:*

1. *In the context of openness and transparency, a register of Council documents will be developed by the Council General Secretariat as a complement to the existing system of electronic storage of Council documents, as soon as possible, preferably during 1998.*

2. *The register will contain titles, dates and document codes of unclassified Council documents. To preserve the Council's right not to communicate a document, the register will not display the content of the documents.*

3. *The register will be made available to the public via the Internet. It will be a multilingual tool offering an adequate range*

of facilities enabling any citizen to identify Council documents.

4. The General Secretariat will take appropriate organisational measures in order to guarantee its reliability and exhaustiveness.

5. According to the General Secretariat, the implementation of the register will not require any additional budget provision or additional staff.

6. The General Secretariat will take steps to publicise the existence of the register and submit a report on its functioning after six months of operation.

## APPENDIX 2

### Decision on measures to protect classified information, which came into force on 1 March 1995.

The new classification system differs from the one currently in force in that the criterion adopted is not one of distribution but of security.

The classification categories are as follows: "SECRET", "CONFIDENTIEL" and "RESTREINT" (restricted). Each category is defined in Article 2 of the Decision by reference to the harm which would be done to the European Union and its Member States if unauthorised information were disclosed. Obviously information will be classified only where there is good reason to do so.

The classification "SECRET" for instance is applied to "information

unauthorised disclosure of which could seriously harm the essential interests of the European Union or of one or more of its Member States".

There will be very few "SECRET" documents. The "CONFIDENTIEL" category will comprise more documents, although these will still be comparatively few in number: the criterion "harm the essential interests of the European Union .." is strictly applied. These two classifications are for occasional, even exceptional, use.

The "RESTREINT" classification will henceforth apply to documents containing information "unauthorised disclosure of which would be inappropriate or premature" (Article 2 of the Decision).

The existing RESTREINT classification for its part is replaced by the reference "LIMITE" (limited circulation). Documents marked as such will be circulated only to authorised addressees but they will not be the subject of any special protection, i.e. they will not be given a security classification.

"LIMITE" will thus become the most common classification.

Decision on measures to protect classified information, 1.3.95; Decision on openness and transparency in justice and home affairs, 19.3.98; Decision on transparency, 19.3.98; Openness in JHA Business, Presidency to K4 Committee, 5146/98, Limité, 9.1.98; Public Register of Council documents, General Secretariat of the Council to COREPER (Part 2), 6423/1/98 REV 1, Limité, 11.3.98.

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## Statewatch briefing

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**XXVI Annual Conference of the European Group for the Study of Deviance and Social Control to be held on**  
**27-30 August 1998**  
**Spetses Island, Greece**

The theme of the conference includes issues around the trafficking of people, immigration control, the treatment of refugees and racism. The opening session will look at the future of critical perspectives in the social sciences.

Details: Ida Koch, Aatrupvej 61, 4340 Tollose, Denmark and Vassilis Karydis, 56 Sina Str., Athens 10672, Greece (tel: 00 30 1 3612406; fax 00 30 1 3622067)

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### ○ Press cuttings & articles

Please send us cuttings etc you think would be of interest to Statewatch readers. We can translate articles from a number of languages - French, German, Dutch, Spanish, and Italian.

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## Web database

Statewatch has a searchable database on the World Wide Web. The url is: <http://www.poptel.org.uk/statewatch/>

## Contributors

Statewatch, was founded in 1991, and is an independent group of journalists, researchers, lawyers, lecturers and community activists.

Statewatch's European network of contributors is drawn from 12 countries.

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