

## Statewatch bulletin Vol 6 no 1 January-February 1996

### EUROPE

#### EU

#### Europol/EDU

#### To exchange of data with US

The provisional agenda of the Italian Presidency for the Council of Justice and Home Affairs Ministers (JHA) includes a report on: "Access of the United States to the data held by the Europol Drugs Unit, as a protocol". While this proposal comes out of a wider plan for EU-US cooperation (see *feature* in this issue) it confirms the suspicion that the Council of Ministers intends to further extend the remit of the Europol Drugs Unit (EDU) *prior* to the ratification and implementation of the Europol Convention, which is not expected before 1998 at the earliest.

In December 1994 the Council extended the role of the EDU, agreed in June 1993, from the single issue of drug trafficking adding three more: illicit nuclear trafficking; "clandestine immigration networks"; and vehicle trafficking.

The Joint Action on the Europol Drugs Unit, signed by the Ministers on 10 March 1995, specifically excludes giving "any personal information to states other than Member States or to any international organisation". In practice the "data" held by the EDU is only partly "personal" as it includes details of surveillance, "sting operations" and networks of groups.

#### UK ratifying while opposing ECJ

The UK government, as predicted in the last issue of *Statewatch*, started the ratification process for the Europol Convention on Friday 8 December. The rules of the unwritten British constitution (it is based on precedent) says international treaties (as this Convention is defined), should under the "Ponsonby rules" be published as a Command Paper and "laid" before parliament - both of which happened on Friday 8 December. By tradition being "laid" before parliament is taken to mean a listing in the substantial daily "order paper" of the House of Commons which MPs flip through to check what is due to be discussed. But on this occasion it was "laid" obscurely, on page 92, of the "Votes and Proceedings" report for 8 December. The Convention has now "laid" before parliament for more than the constitutional 21 days so the ratification process can be completed whenever the government decides to ask for the Royal Assent (a mere formality).

The week after the UK started its ratification process Maria Teresa Fernandes de la Vega, for the Spanish Presidency, reported to the European Parliament and, in a clear reference to the UK, "did not hide her frustration at what she termed the intransigence of one member state in particular for blocking agreement on Europol..."

The role of the European Court of Justice (ECJ) in the Europol Convention remains undecided - it was discussed at the JHA Councils in September and November, at the Madrid Council, and the Informal JHA Council in Rome on 26-27 January this

year. The UK government is opposed to the ECJ having any role, while the other 14 EU governments have signed a Declaration saying they will refer disputes to it. The deadline, set in Cannes in June 1995, for resolving the dispute is the end of the Italian Presidency of the EU in June.

The 14 EU governments want the ECJ to be included because the Europol Convention is the first of a string of Conventions in the pipeline and if the ECJ is denied a role in this one it will be excluded in future ones. Echoing the scarcely disguised frustration of the majority the Dutch government, at the instigation of its parliament, proposed at the Council of Justice and Home Affairs Ministers meeting on 23 November 1995 that a protocol should be attached to the Dublin Convention giving competence to the ECJ. The Dutch, who still have to ratify this Convention signed in June 1990, want the judicial guarantee of a harmonised interpretation of the provisions of the Dublin Convention (which introduced the "one-stop" rule for asylum-seekers).

#### Europol will take more than two years to set up

The work programme for the Europol Drugs Unit (EDU), for January to June 1996, is now divided into two parts. The first concerns the EDU's on-going work, the second "Preparatory activities for the post-Convention situation". The report confirms that the "Post-Convention Information System" will take two years to set up "plus the time it takes individual countries to implement their parts of it."

The decision of the UK government, therefore, to press ahead with ratifying the Europol Convention before the question of the role of the ECJ has been resolved and in light of the fact that technically it cannot be set up in under two or more years is mystifying.

Equally it may seem strange to more diligent parliamentary systems in the EU that even before they have started to consider ratifying the Convention that the EDU "has been instructed" to get on with setting up the computer systems for Europol. The 15 governments of the EU having signed the Convention are assuming the 15 parliaments will ratify it.

#### Presidency withdraws report

The Italian Presidency of the EU has withdrawn a report on the proposed data files of Europol which referred to hold information on a person's "racial origin; political views; religious or other convictions.. sexual behaviour" (see *Statewatch*, vol 5 no 6). Two MEPs, Marianne Eriksson (Sweden) and Kirsten Jensen (Denmark), put questions to the Council expressing concern that Europol would hold secret data on such personal information. Replying for the Presidency of the Council Mr Walter Gardini said: "The working document in which these factors are mentioned had now been dropped". He added that he was of the view that this kind of information was unacceptable but did not want to rule out files "containing potentially useful information." As there has to be an agreed Regulation for Europol on "Work files for the purpose of analysis" a new draft

will be closely examined by MEPs.

Drugs Unit, protocol"

*European Parliament* session 14.2.96, Strasbourg; *The Week*, 11-15.12.1995; *Europol Drugs Unit - Working Programme January-June 1996*, ref: 11640/95, Restricted, EUROPOL 113, 15.11.95; *House of Commons: Votes and Proceedings*, page 92, no 17, 8.12.95; *Migration News Sheet*, December 1995; *Provisional Agenda for the Justice and Home Affairs Council*, 19-20 March 1996.

EU

### Commission's 1996 programme

The European Commission's programme concerning the "third pillar" published on 16 November 1995 mainly concerns immigration and asylum. It will be putting forward proposals on:

- temporary protection of displaced persons;
- a Convention on admission of nationals of non-member states;
- a Convention on the harmonisation of national procedures for granting asylum.

It will also: a) try to take action to break the deadlock on the External Borders Convention (held up by a dispute between the UK and Spain over the status of Gibraltar); b) present action plans on the fight against drugs and the prevention of urban violence. The Commission already has in the pipeline three proposals on "free movement" which the Council is currently considering.

**The Commission's Work Programme for 1996**, COM (95) 512 final.

EU

### Justice and Home Affairs Council

The provisional agendas for the meetings in March and June of the Justice and Home Affairs Council under the Italian Presidency include the following issues:

#### Immigration

- Aid for voluntary return of foreigners with an irregular status
- Fight against illegal employment of third country nationals
- Conditions for the admission of asylum seekers
- Status of refugees recognised by the EU Member States

#### Police and Customs cooperation

- Four further sets of regulations on Europol
- Drugs: report from the "ad hoc group Caribbean" and work on harmonising legislation regarding drugs
- "Terrorism: statistics on racism and xenophobia, and extremist religious cults"
- "Access of the United States to the data held by the Europol

A meeting of a Council of Ministers on 21-22 December 1995 formally adopted the Recommendation on harmonising the means of combatting illegal immigration and illegal employment and improving the means of control (the measure was agreed in principle at the Justice and Home Affairs Ministers meeting on 20 June). Also formally adopted at the same meeting were: a Recommendation on concerted action and cooperation in carrying out expulsion measures (agreed in principle on 23 November).

### Admission of third-country nationals

Following its agreement in principle on 23 November 1995, the Council adopted on 21-22 December a Decision on monitoring the implementation of instruments already adopted concerning admission of third-country nationals.

"The Decision lays down, inter alia, that each year the Presidency shall forward to the Member States a questionnaire designed to show how they have implemented the instruments already adopted by the Council concerning the admission of third-country nationals.

The questionnaire will refer to the following:

- provisions adopted during the preceding year by the Member States in any of the areas referred to by the instruments already adopted;
- difficulties in adopting those provisions;
- the possibility of any provision in those areas being adopted in the near future;

application in practice of the instruments, irrespective of the adoption of internal provisions where appropriate.

A report on the application of the instruments referred to in Article 1 will be drawn up on the basis of the replies from the Member States and will be submitted to the Council. The first questionnaire will be sent to the Member States in the first half of 1996."

EU

### "Involuntary" extradition

At its meeting on 23 November 1995 the Council of Justice and Home Affairs Ministers adopted a Declaration on Extradition which set out the progress made on the draft "Convention on the improvement of extradition between Member States of the European Union". This draft Convention is known as the "involuntary" one as it is intended to complement the "Convention on Simplified Extradition Procedures" signed on 10 March 1995 (known as the "voluntary" extradition Convention where the individual consents).

The Declaration says that "most delegations agree on the principles which are to govern the extradition of nationals.." This is intended to override Article 6.1.a of the 1957 Council of Europe Convention on Extradition which states that: "A Contracting Party shall have the right to refuse extradition of its nationals". A report from the K4 Committee shows that there

was a major divide between the governments over this issue. "Detailed discussion of this question has shown it to be a particularly difficult issue". The German, Austrian, Finnish, Greek, Portuguese and Swedish delegations said the extradition of nationals was forbidden under their constitutional laws. The Danish delegation said that "while its constitution did not provide for such prohibition, extradition of nationals was a very delicate political matter in Denmark". The Netherlands delegation entered a reservation.

A connected issue is that of re-extradition between member states. The draft Convention says that the "requested state" (ie: where the person is being held in custody) does not have to consent to the "re-extradition" of the person by the "requesting state" to another Member State (Article 8; overturning Article 15 of the Council of Europe Convention)). This idea produced another major division of opinion. The Finnish, Portuguese, French, Irish, Danish, Swedish and Greek delegations opposed this proposal. The Netherlands, German, Spanish, Italian and UK delegations were in favour.

The most contentious issue, and the main motivation for seeking to bypass the Council of Europe Convention on Extradition, is that of "political offences" (Article 6 of the CoE Convention). The Declaration agreed on 23 November, and drafted by the Spanish Presidency, says:

"a solution should be sought to the question of refusal to extradite on the grounds of the political nature of the offence, in consideration of Member States' confidence in each other's legal orders and judicial systems."

Or as Mr Belloch told a press conference: "political crimes are unjustified in the EU... terrorists crimes are never political... we deny the very category of political crimes".

The Council of Europe Convention on Extradition 1957 says in Article 3:

"Extradition shall not be granted if an offence in respect of which it is requested is regarded by the requested Party as a political offence or an offence connected with a political offence."

The draft EU Convention says in Article 3.1:

"For the purpose of extradition between Member States no offence shall be regarded by the requested State as a political offence, as an offence connected with a political offence or an offence inspired by political motives."

Only the Finnish delegation indicated its opposition to this Article. The Danish, Luxembourg and Swedish delegations entered "scrutiny reservations" (ie: the government was not opposed but their parliaments might have to consult). The Irish government wanted it as a general rule with the possibility of entering reservations on its application. The draft Article 3 would allow a requested State to refuse extradition where it has "substantial grounds for believing" the request was based on a person's race, religion, nationality or political opinion (reflecting

Article 3.2 of the CoE Convention).

Finally, the Council of Ministers at last produced an "explanatory report" on the Convention on Simplified Extradition they had signed eight months previously on 10 March (see *Statewatch* vol 5 no 2). The report says that a statistical survey carried out for the year 1992 showed that out of 700 extradition applications between the then 12 EU member states the person concerned consented to be extradited in 30% of the cases. It also shows that in drafting EU Conventions under the "third pillar" attention has to be paid to different legal systems and to the Schengen Agreement. A person can be placed under "provisional arrest" following a documented request (conviction, statement of offences, and legal provisions) from another member state. However, "another starting point could be when a person is reported in the Schengen Information System". Moreover, in some member states a person will be entitled to "revoke" their consent to extradition, in most they will not. In the Benelux countries a person who has consented to extradition automatically renounces their rights under the "Rule of Speciality" - under Article 14 of the CoE Convention this means that a person can only be detained, charged and sentenced for the specific offence leading to the extradition request. In other EU states the person has to specifically renounce their rights.

*Declaration on extradition, 23.11.95, Brussels; Draft Convention on extradition between the Member States of the European union, K4 Committee, 7968/95, Restricted, JUSTPEN 86, 12.6.95; Explanatory report on the Convention on Simplified Extradition, 23.11.95.*

## **SCHENGEN Progress report**

A progress report on the implementation of the Schengen Agreement given to the Belgian parliament last autumn showed that during the first three months of its operation an observatory structure was "created in order to identify, analyse and resolve the technical difficulties". Although "it was not initially envisaged the Central Group decided to add points [to its brief] concerning visas, consular cooperation & the problems of asylum, for these are important & particularly visible elements of the Treaty."

The report says that: "the Schengen Information System (SIS) functions satisfactorily" and that there are now 9 directors & 18 technicians full time divided into 5 teams so that there is a permanent presence and the network works 24 hours a day. "The SIS is the largest European system and permits frontiers to be opened without an increase of crime & illegal immigration." On the operation of the SIRENE system, which permits the electronic exchange of information on granting visas: "It is used much more than was originally imagined."

Controls at exterior frontiers using the SIS the report says has worked well on the whole. But for control of seaports and visas for sailors it recommends that Schengen states adopt the "EISICS" (the European Information System of Immigration Control in Seaports).

However, the report raises a number of legal problems which have arisen including: that fact that Portugal does not permit the extradition of people condemned to life imprisonment;

"Magistrates need to fully integrate the Schengen mechanisms - only then will the legal cooperation be fully effective"; "Several embassies of Schengen states, principally in the Near and Middle East, grant an abnormally high number of visas with limited territorial validity (VTL): either because they don't have time for the necessary consultations with other states - which can take a very long time - or because they misinterpret the agreements on this type of visa. That certain embassies grant more VTL visas than Schengen visas is a danger to the Schengen system & this practice should be rapidly abandoned." The report concludes by saying:

"It has become clear that the Schengen Treaty is a sort of laboratory for the European Union - the experiments begun within it will doubtless one day be transferred to the whole of Europe. The admission of new members - Austria is the most recent example - without needing to alter the basic Agreement of 1985 is a fine example of the efficiency of the tactic of creating a hard core of states which experiment and show the way to the others."

*Schengen: Rapport du Groupe Central sur la mise en application de la Convention de Schengen*, Groupe central, Bruxelles, 19.6.95.

## Europe - new material

**Recent developments in European Convention law**, John Wadham & Philip Leach. *Legal Action* January 1996, pp17-21. This article summarises cases at the European Commission and Court of Human Rights which are relevant to Britain and Northern Ireland.

**In pursuit of the vernacular: comparing law and order discourse in Britain and Germany**, Lucia Zedner. *Social and Legal Studies* Vol. 4 No. 4 (December) 1995, pp517-534. This article attempts to understand "why so much political capital is invested in British discourses of law and order" by comparing it with German legal culture.

**Access v. Secrecy**, Tony Bunyan. *European Insider* No. 1, 29.11.95. This article examines the decision of the European Court of Justice to annul the Council of Minister's refusal to allow the Guardian newspaper access to minutes and reports of their meetings.

## Parliamentary debates

**The 1996 Inter-Governmental Conference: ECC Reports** *Lords* 12.12.96. cols. 1172-1256

**European Union** *Commons* 7.12.95. cols. 506-593

**Madrid Summit** *Commons* 18.12.95. cols. 1219-1235

## EUROPEAN PARLIAMENT

### Debates and resolutions

Debates

Uniform format for visas, *OJ* no 4-456, 16.1.95, pp5-7.

## Resolutions

EU treaty and Intergovernmental Conference, *OJ C* 151, 17.5.95, pp56-67.

Europol, *OJ C* 151, 19.5.95, pp376-377.

Processing personal data (co-decision procedure, 2nd reading), *OJ C* 166, 15.6.95, pp105-107.

Action plan to combat drugs, *OJ C* 166, 15.6.95, pp116-123.

Role of the Ombudsman, *OJ C* 249, 14.7.95, pp226-227.

On the Communication from the Commission to the Council and the EP on immigration and asylum, COM (94)0023 - C3-0107/94, *OJ C* 269, 21.9.95, pp156-163.

On the draft Council resolution on the admission of third-country nationals to the territory of the Member States of the EU for study purposes (C4-0005/95), *OJ C* 269, 22.9.95, pp200-202.

On the draft Council resolution relating to the limitations on the admission of third-country nationals to the territory of the Member States for the purpose of pursuing activities as self-employed persons (C4-0007/95), *OJ C* 269, 22.9.95, pp202-203.

On the draft Council conclusions on the organisation and development of the Centre for Information, Discussion and Exchange on the crossing of frontiers and immigration (CIREFI) (C4-0008/95), *OJ C* 269, 22.9.95, pp204-205.

Council declarations annexed to legislative texts, *OJ C* 287, 12.10.95, page 179.

[Resolutions and debates are listed here when they have been published in the Official Journal of the European Communities (*OJ*) and therefore more widely accessible]

## POLICING

### NETHERLANDS

#### Van Traa Commission:

#### severe restrictions in police methods required

The Parliamentary Investigations Commission into police methods, chaired by Mr Maarten Van Traa MP published its final report on 1 February after a year of intensive studies (see *Statewatch*, vol 5 nos 4 & 5). The Commission was set up after a series of scandals demonstrated how the authorities had apparently lost control over certain methods of covert policing.

The report speaks of a severe crisis in the criminal investigation policy touching the very foundations of the democratic rule of law involving everyone from detectives up to government ministers. The Commission comes to the conclusion that a complete overhaul of doctrine and working methods is required, after which every investigative method should be explicitly based on a written law. The method of covert importation and distribution of drugs, with the intention of gaining the confidence of criminals should be abandoned entirely, with the exception of a single test shipment of no more than a few kilos of cannabis products. The use of criminal civilian informers to actively infiltrate the criminal environment should also be terminated; only trained police under cover, or specialists such as

accountants should be allowed to penetrate criminal organizations.

The Commission asserts that the so-called "IRT affair" (the scandal from which other investigations and the parliamentary inquiry originated) has caused great damage to society and has had a great impact on the public's trust in the ability of the authorities to combat serious crime in a democratic and effective manner. Over the last years, at least 285 tons of soft drugs and hundreds of kilos of hard drugs have been brought into the country under supervision of the law enforcement authorities, and about 100 tons of soft drugs and some of the hard drugs have subsequently disappeared to be sold on the market making the Dutch government the largest player in the cannabis market. Criminals, the report says, have earned millions in the process: one criminal informer turned infiltrator has earned an estimated 50 million guilders by selling the "controlled" drugs and keeping the profits. Another informer received two million guilders as "hush" money under direct orders from the Minister of Justice Mrs Winnie Sorgdrager. An entire regional criminal intelligence branch developed into an uncontrolled "state within a state"; its former chief and one of his staff are to be indicted for committing perjury while testifying under oath before the Commission. Criminal informants came to run police operations and virtually held the authorities hostage by claiming their lives to be in danger should the operations be terminated.

The Commission found that under the banner of fighting organized crime, a wide array of unregulated investigative methods has proliferated. Those responsible for maintaining the rule of law, including the public prosecutor's office, judges, police chiefs, and the ministry of justice, all remained largely ignorant of what was happening in the daily reality of crime-fighting. The former minister Mr Ernst Hirsch Ballin acted in an overtly "irresponsible" way by pleading ignorance about what those responsible to him were doing. All these authorities and parliament itself are to be held responsible for the serious situation.

The Commission advises that in the future, all information-gathering activities during an investigation ought to be written down in detail, so that the court can effectively oversee and judge every available piece of evidence. The so-called "closed CID procedure", which presently allows the possibility of hiding the origin of sensitive information, should no longer be allowed, although knowledge of certain most sensitive aspects should still be withheld from solicitors and their clients.

The 4,900 page report offers an unprecedented insight in the practices and doctrine of Dutch covert policing, with many details on almost every investigative method ever used. It details the number and nature of informers, the number of wiretaps, direction finders, call tracers, and various observation methods. The Commission advocates the development of technical surveillance tools, including directional microphones and audio bugs, instead of the more fallible human sources. The need for a proper framework of legislation and oversight is recognized, in which more intrusive methods require higher authorities to authorize their use. The Commission notes that in the past, the Binnenlandse Veiligheidsdienst (BVD) domestic security service has been engaged in improper policing tasks. Therefore, a new legal framework to harness the security service is required,

which would limit its role as much as possible and put all of its intelligence working methods in an explicit legal catalogue. The recourse to dealing with criminals-turned-witnesses, the so-called crown witnesses, should only be allowed after all other options have been ruled unsuccessful. The practice of selling drugs in so-called "pseudo-sell operations" should also be abandoned.

The Commission signals the increasingly serious efforts of mainly indigenous criminal groups to mount full-blown counter-intelligence operations against the police and judicial authorities. This ranges from the use of state-of-the-art electronic surveillance equipment through burglaries and corruption. Criminal counter-surveillance teams almost continuously monitor and follow covert police surveillance teams and relay their information to criminals. Some groups even run informants inside the police.

### **Conclusion**

Official reactions are not yet available: all police and justice department personnel has been instructed not to react in public before parliament has had its say, and the ministers of Justice and the Interior will only react after consultation with Prime Minister Wim Kok. As the Commission covers the entire political spectrum and carries great weight, its conclusions stand a good chance of being adopted. This would result in a fundamental overhaul of the Dutch systems of prosecutions, which will then become more similar to the American system with all evidence presented in open court. The main flaw of the otherwise very strong report is the fact that it blames everyone which could mean that nobody is in a position to cast the first stone. The recommendation to draw up a catalogue of allowable investigative methods and the near-total condemnation of the "controlled transit" of narcotics, the so-called Delta method, surprised law enforcement authorities.

Other European law enforcement authorities are watching with some apprehension as the report could instigate legislators and lawyers in their own countries to question the techniques of covert policing. Van Traa has complained that he had received little cooperation from foreign agencies such as the Drug Enforcement Administration (US) and the German Bundeskriminalamt, whose officers are also believed to run informants and covert shipments of drugs on Dutch soil. Parliament will debate the report in early March, but in the meantime, more disclosures, leaks and dismissals can be expected.

### **International meeting on Van Traa Report**

The European Institute of Public Administration (EIPA) at Maastricht is organizing a two-day Symposium entitled "Undercover Policing and Accountability from an International Perspective", to be held in Maastricht on 11 and 12 April 1996. The intention is to give politicians, academics and senior practitioners an opportunity to place the findings of the Dutch parliamentary inquiry on undercover policing into an international context. Among the speakers are the Dutch minister of justice Mrs W Sorgdrager, commission chairman Mr. M. Van

Traa, plus a host of professors and senior law enforcement practitioners from various Western European countries and Europol. The working language will be English. Registration costs: Dfl. 1,000 including reference material. Registration before 25 March 1996. Further information: Ms Jeannette Zuidema at +31 43 3296204, fax +31 43 3296296.

### **Opstand case dropped**

The public prosecutor's office has decided after 15 months to drop the case against Jan Muter and Hans Krikke, members of the "Opstand" journalists collective, because of lack of evidence. The two were arrested in March 1995 under suspicion of having written press statements for the mysterious "Rara" bombing campaign. However, fifteen months of intensive police investigations have brought no evidence apart from some press clippings from a national newspaper. Muter and Krikke have been pressing for a court trial, because only then could they expect to receive compensation for the damage to their careers and their organization. Many "respectable" customers have shied away from them under the impression that the prosecutor would at least have some ground for his vigorous pursuit of "Opstand". Now the case has been dropped without going to trial. The prosecutor has refused even to present a formal excuse, claiming that he has done the right thing and that such a failure is "all in the game". Thereupon, Krikke and Muter have laid down a claim for a half million guilders in damages. Under current jurisprudence however, they are unlikely to receive anything more than token compensation for the days they spent in custody. See *Statewatch*, vol 4 nos 5 & 6, vol 5 no 3.

### **DENMARK**

#### **New complaints system against the police?**

The Danish system through which citizens can make complaints against the police has been criticised for years. The main objection to the system is that the police themselves are too strongly represented and that as a result too many police officers are found not guilty or complaints were judged to be unfounded.

From January 1996 complaints will be investigated by the six regional public prosecutors offices under the Ministry of Justice, with the help of a number of deputy prosecutors. In principle they will undertake interrogations and investigations. But under the new Administration of Justice Act the public prosecutor can request assistance the national commission of the police allowing police officers to conduct the investigation. Moreover, the police will be able to - on their own initiative - take steps of an investigatory nature.

The new aspect of the reform is that the prosecutors offices, following the investigation take the final decision - although a disciplinary action must be sanctioned by the local chief constable. A police complaints committee will be set up in each of the six regions consisting of a lawyer and two laypeople. It will be informed of the steps taken in the investigation and the decisions of the public prosecutor. If there is a disagreement between the committee and the public prosecutor on the outcome of a complaint the matter will go to the courts.

In 1994 there were 448 complaints (as against 331 in 1990),

most of them from Copenhagen citizens. Of the cases decided in 1994 eight ended in a court case, 50 with a full or partial apology and 10 cases were transferred to the penal system. The extent of police misbehaviour however is said to be much higher as many people do not bother to complain as they do not trust the system. The question now is whether this latest reform will lead to any real change and whether there will be less distrust in the community.

*The Administration of Justice Act*, para 1019-1021H.

### **BELGIUM**

#### **Police chief linked with far-right group**

The chief of police in Schaarbeek has been linked to far-right groups. The Belgian newspaper *De Morgen* has alleged that police chief Johan Demol was a paid-up member of the far-right organisation Front de la Jeunesse (FJ), who were involved in a number of attacks on migrants in the early eighties. There have been further allegations that Demol was a member of a neo-nazi cell of police officers in the anti-terrorist group Diane which had links with fascist groups. There are also alleged links with the "Nijvel Gang", who were involved in a series of robberies connected to the Gladio network.

*De Morgen's* source is a report prepared in 1984 by Major Kensier, an officer in the Belgian gendarmerie (Rijkswacht). The report connects Demol with, among others Michel van Hove, a known fascist who was sentenced to three years in prison in 1982 after being convicted of an arson attack on a left-wing newspaper. Kensier also links Demol to a weapons theft from the "Diane" group. The weapons concerned later turned up in connection with the "Nijvel" gang.

Demol has denied being a member of the FJ. However *De Morgen* has since produced a follow-up article publishing a document in which the FJ leader Dossogne supports their claim that Demol was a fully paid-up member.

Demol once claimed that nearly all drug dealers in his community were second or third generation migrants: "We have arrested Albanians, Turks and Moroccans, but never any Belgians, or at least Belgians by descent."

Minister Vande Lanotte has reacted cautiously to the revelation about Demol's past activities, saying that "we should not draw conclusions about people on the basis of what they might have done ten years ago". However, the party newspaper of the fascist group Vlaams Blok published an extensive interview with Demol in its January issue.

*De Morgen*, 15.1.96; *Solidair*, 17.1.96 & 24.1.96.

### **SPAIN**

#### **Torture and extradition**

The practice of torture by the Spanish police has once again become the subject of public debate following three recent events.

\* The request for extradition of Benjamin Ramos from Germany who is accused of collaborating with ETA. During the final hearings before the Court of Justice of Berlin the persistence of torture in the Spanish State has been one of the main obstacles to the extradition request. After several months the extradition has

been agreed by this court but the Constitutional Court has just agreed to hear the appeal made by Ramos's lawyers so the extradition is currently on hold.

\* The extradition request to Belgium for Raquel Garcia y Luis Moreno, who are alleged to have collaborated with ETA. Last summer, this request was refused, but pressure from the Spanish Government meant the case was brought up again and this time the Ministry of Justice agreed the extradition. An appeal is currently being considered by the Council of State, which has to decide upon the political character of the alleged crimes and on the risk of torture the defendants could face if returned.

\* The annual report of the Association Against Torture, Madrid, for 1994. This states that the number of policemen and prison officers accused for torture and ill treatment - a total of 553 - has increased by about one hundred from 1993 figures. The cases concern 184 Spanish national policemen, 138 Civil Guards, 116 Municipal policemen, 17 policemen of the Autonomic Communities, 53 prison officers and 25 military personnel. 29% of them have received sentences, 28% have been acquitted and 43% are awaiting decisions by the courts.

*Kontrola Kontrolpean, Donostia, Euskadi.*

## **GERMANY**

### **Police raid Antirassismus Buro**

The offices, and homes, of volunteers working at the Antirassismus Buro in Bremen, Germany, were raided by police on January 17. The raid, in which computers, files and documents were confiscated, followed the publication of a leaflet mobilising for a protest march at the decision of German Interior Minister Kanther, to visit the city. Kanther has been responsible for the deportation of an estimated 89,000 people, according to figures gathered by the Buro.

The peaceful protest march, which took place a week before the raid, was attended by 600 people, many of them refugees. It was heavily policed by about 600 officers in riot gear, some wearing bulletproof vests, and supported by 200 paramilitary police from the *Bundesgrenschutz* (Federal Border police) who were on standby in a nearby park. The entire march was videoed and two water cannons were dispersed.

The raids that followed were carried out because of a leaflet, which highlighted the announcement of the planned mass deportation of 400,000 Bosnians and 40,000 Vietnamese during 1996, and which described the responsible politicians as "masterminds" (schreibtischtäter). The accurate use of the term "deportation" - a word with strong resonances of Nazi Germany - in the leaflet also upset the authorities. Several Bremen anti-racists have been charged with offences similar to those relating to inciting racial hatred, previously only used against neo-nazis and racists.

The Buro, which was founded in 1991 and has campaigned against refugee detention camps and police harassment, is calling for protest faxes to be sent to Herr Frischmuth at the Public Record Office, Bremen on 0049-421-361 96608 and to Herr Bortscheller, Home Minister on 0049-421-361 9006. The Antirassismus Buro can be faxed with messages of support on 0049-421-706445.

*Antirassismus Buro press release 20.1.96, 26.1.96.*

## **UK**

### **Shiji Lapite: unlawful killing**

In January the inquest into the death of 34-year old Nigerian asylum seeker, Shiji Lapite, returned a verdict of unlawful killing. Mr Lapite died after being brutally beaten when arrested by officers from Stoke Newington police station, north London, in December 1994. Two police officers were suspended from duty following the incident, but the Crown Prosecution Service (CPS) later decided that there was not enough evidence to prosecute them. The notorious Stoke Newington police station was the object of an internal police inquiry into drugs dealing, brutality and corruption between 1991-1994 (see *Statewatch*, vol 5 no 1).

The jury at the inquest heard that Mr Lapite was arrested after leaving a restaurant because police officers claimed that he was "acting suspiciously." Giving evidence to the inquest the arresting officers, PCs Paul Wright and Andrew McCallum, claimed to have seen Mr Lapite hiding drugs. When they attempted to arrest him they claimed that he violently attacked them. Describing Lapite as "the most violent man I have ever come across", they graphically portrayed a frenzied assault in which Lapite attempted to strangle PC Wright and was only deterred by being savagely kicked in the head by McCallum.

Their evidence was disputed by a Home Office pathology report which pointed to the lack of any marks around Wright's neck. The officers were also unable to offer an explanation as to why Mr Lapite had suffered between 36 and 45 separate injuries to his body while they bore only a few "superficial" bruises. Pathologists' testimony showed that Lapite eventually died after being held in a neck-lock that fractured his voice box leading to asphyxiation. The arresting officers told the court that they thought the asylum-seeker was pretending to be unconscious when he arrived at the police station; later he was taken to hospital, where he was pronounced dead on arrival.

In December 1993, following an inquiry into the police killing of another black man, Oliver Pryce, from a neck hold, guidelines were issued instructing officers to only use the strangleholds as a last resort. It is beyond doubt that these guidelines are deliberately and systematically ignored.

Following the inquest Mr Lapite's widow, Olamide, called for the two officers involved to be prosecuted. Her call was endorsed by Mr Lapite's solicitor and the Inquest group, which supported the Lapite family throughout the hearing. Amnesty International have also urged that any officers found responsible for criminal actions should be brought to justice; they also urged the government to "instigate a full, prompt, impartial and independent investigation" into the death. The CPS have said that they will "consider any comments made by the coroner's court and any further evidence or representations received." The Shiji Lapite Memorial Committee can be contacted c/o PO Box 273, London E7.

*Amnesty International*, press release EUR 45/04/95 13.7.95; *Guardian*, 26.1.96; *Independent*, 26.1.96.

### **Clashes follow demonstration**

Police clashed with protesters following an unsuccessful attempt to stop a spontaneous march through Brixton, south London, after a vigil outside the police station. The vigil was held in memory of Wayne Douglas, a black man whose body was found in a cell at the police station, after his violent arrest last December (see *Statewatch* Vol. 5 no 6).

Police anger at their failure to contain the march prompted them to exacerbate an already tense, but peaceful, situation by introducing riot and mounted police. They blocked off roads and unsuccessfully attempted to corral demonstrators, observers and shoppers into Coldharbour Lane. People were verbally abused, pushed and truncheoned when they attempted to escape the cordon. Word spread, provoking widespread anger and hostility, as people arrived and spilled onto Brixton Road. They witnessed mounted police making increasingly arbitrary - and undisciplined - charges into crowds of protesters and bystanders, (at one point a senior officer was reduced to chasing an enthusiastic mounted unit down Coldharbour Lane screaming: "Come back, for fuck sake come back...").

Within three hours of the picket of the police station the situation had ignited into hostility with riot police sealing off Brixton and abusing or attacking anyone who questioned their authority. As local people became increasingly exasperated small groups of youths responded with stones, bricks and eventually petrol bombs as the police completely lost control of events.

Despite the fact that the media was noticeably absent throughout most of the incidents that took place in Brixton their coverage was extensive and hysterical. Many of the tabloids denied that the death of Wayne Douglas, and the suffering of his family, had any bearing on the events. Others called for incitement charges to be brought against the organisers and speakers of the vigil outside the police station. The attack culminated in the Metropolitan Police Commissioner, Paul Condon's, call for the self-censorship of the black newspaper, *The Voice*, which published eyewitness accounts of the arrest, and death, of Brian Douglas.

### **Policing - in brief**

**Spain: the GAL case reaches the government of Felipe Gonzales:** Among the accused in the GAL case is now Barrionuevo, former Minister of Interior under Felipe Gonzales, Spain's Prime Minister. The Congress passed at the end of November a petition from the supreme Court to be allowed to prosecute Barrionuevo. When this was passed the judge accused him of three crimes: illegal arrest (the kidnapping of the French citizen Segundo Marey); embezzlement of public money and having relations with armed groups - his bail was set at PTS80 millions. The PSOE (Socialist Party) paid for his bail and have included Barrionuevo as a candidate on the lists for the elections in March 1996, a move criticized by all of the other political groups. *Kontrola Kontrolpean, Donostia, Euskadi*.

**Sweden:** The Court of Appeal (Svea Hovratt) has convicted the former chief of the CID, Tommy Lindstrom, for serious fraud. The sentence was a conditional imprisonment and the reason was that he had used "tip-off" money from an insurance

company to arrange a big party for the police staff. The court however did not regard it as punishable that Lindstrom had used faked documents in trying to get hold of some stolen paintings by Carl Larsson. Lindstrom has been suspended from duty ever since the suspicions were raised, and will now be dismissed. He is the fourth senior police officer in Sweden over the last few years to have been sentenced and convicted to (conditional) imprisonment and convicted, but he is the first to be actually dismissed.

**Sweden:** The Swedish police, from 1 February 1996, will be allowed to use hidden, remote-controlled, video-cameras while investigating suspected crimes which can result in more than two years imprisonment. Supervision, by a court, can only be given for a specific place over a specific period, but can be ordered as soon as someone is suspected on "reasonable grounds".

**New technology for the Met:** 1995 saw the adoption of a new range of computer technology and applications by London's police force: 1) CRIS, the Crime Report Information System, which records all aspects of a recorded offence, including details of witnesses and victims; 2) CRIMINT, quick access to intelligence on a suspect; 3) a programme which looks for hidden links in intelligence data; 4) Mapinfo: graphical Ordnance survey maps; 5) BIS: Bumblebee Imaging System, which compares digitally stored images of stolen items with those recovered; 6) NFIS: the National Fingerprint Identification Service. *The Job*, 5.1.96.

**Stop and searches:** A research project carried out by the Metropolitan Police, the Commission for Racial Equality and the National Association for the Care and Resettlement of Offenders, found that black people are five times more likely to be stopped and searched than white people. One in seven black people were likely to be stopped in a year compared to one in 32 whites. The research found that only one in nine stops led to an arrest. *Police Review*, 26.1.96.

**Germany: Police study condemns police racism:** An internal police study conducted by the Police Command Academy in Hilstrup and commissioned by the Interior Ministers of the Federal States has described mafia-like conditions amongst Germany's police forces. According to the report, police attacks on foreigners occur regularly, with officers "taking the law into their own hands in police stations". The report also speaks of ill-disciplined officers being sent to "punishment battalions" in specific city precincts, and that these police stations - such as Hamburg's Precinct 11 - are often responsible for attacks. The authors of the report called for regular psychological counselling for officers in problem areas and more efficient action against racism within the police force. *Taz*, 18.1.96; *Berlin Antiracist Information Network*.

**EU: Association of European Police Colleges:** an initiative to coordinate police training between the 15 EU states developed by the UK's Police Training College at Bramshill and their German and Netherlands counterparts was launched by European Commissioner Mrs Anita Gradin on 25 January. *Home*



Office, press release, 25.1.96.

**US: FBI asks for new tapping system:** The FBI have asked for funds to set up a national wiretapping system capable of monitoring simultaneously 1 out of every 100 phone lines which totals 148 million lines in the US. Currently there are 850 court-authorized wiretaps a year - or fewer than 1 in every 174,000. The FBI has set out its needs following the 1994 Digital Telephony Act. FBI officials maintain that advanced, high-capacity monitoring is needed as more of "modern life" and crime takes place as voice or computer communications over digital phone lines which are harder to put under surveillance than old-fashioned analog lines. *International Herald Tribune*, 3.11.95.

### **Policing - new material**

**Book review: Grenzenlose Polizei? - Neue grenzen und polizeiliche Zusammenarbeit in Europa** (Police without borders? New borders and police cooperation in Europe), Heiner Busch. *Verlag Westfälisches Dampfboot* 1995, ISBN 3-929586-46-0. This publication is Heiner Busch's doctoral thesis and is crammed with a wealth of facts, statistics and analysis. It is a study of national and international police cooperation against the background of the creation of a "Fortress Europe". Whereas the development of such cooperation is frequently justified by pointing to the fight against organised crime, the drug trade and illegal immigration, the evidence presented here indicates that the reality of the situation is in fact the reverse: these issues are being raised in order to justify an increase in police powers and the creation of a European information-system for the purposes of internal security.

In 356 densely-packed pages (with almost 80 pages of end-notes) the author covers the Internal Market and external borders; an analysis of the efficiency of borders in dealing with drug trafficking or organised crime; the developments of hostile measures against asylum seekers; international police cooperation, with case-studies of national police forces in Germany, the Netherlands, the UK and Spain; and the forms and methods of international cooperation, including an analysis of the Schengen Agreement as a prototype for the EU. Those who know Heiner Busch's previous work will not be surprised that the book is highly critical and that his criticisms are expressed sharply and coherently, based on extensive documentation and evidence. The book really needs an index to make its contents more accessible, but it is an invaluable source of information to anyone who can read German and who is concerned about the issues covered.

**Fine words can't stop gangsters**, Fenton Bresler. *European*, 7.12.95. Feature article by the author of a book on Interpol talks to Raymond Kendall who has been re-elected as Interpol's secretary-general.

**East meets West in crime.** *European Journal on Criminal Policy*, vol 3 no 4, 1995. Articles in this issue include: European Prison Rules in Central and Eastern Europe: progress and problems, R Walmsley, pp73-90; On judicial mutual assistance

in criminal matters between the states of Western and Eastern Europe, Peter Wilkitzki, pp91-98.

**On the ball**, Keith Potter. *Police Review* 5.1.96. pp19-20. Short piece on police preparations for the Euro '96 football championships.

**Keeping an eye on Eastern Europe**, Bill Tupman. *Policing* Vol. 11 No. 4 (Winter) 1995, pp249-260. This article asks whether Western European police forces are "aware of the implications of the insecure border with Eastern Europe?"

**Out of the shadows**, Patrick Hook. *Police Review* 19.1.96. pp22-23. This article argues for greater protection for police informants while echoing Met Commissioner, Paul Condon's, hackneyed argument that "the scales of justice have tilted too far in favour of the defendant."

**In the forest, in the dark**, John Vidal. *Guardian* 25.1.96. This is an account, by Guardian reporter Vidal, of his experiences as a security guard at Newbury where Reliance Security are taking their own kind of "direct action" against anti-road protesters.

**Digest 3: information on the Criminal Justice system in England and Wales.** *Home Office Research and Statistics Department* 1995, pp75 + annexes. This digest aims to present "a comprehensive picture of crime and justice in England and Wales". It includes sections on Crime, Victims, Offending and Offenders, Police and Court Action, Sentencing, Prisons and Parole, Reconvictions, Human Resources and Expenditure.

### **Parliamentary debates**

**Offensive weapons** *Commons* 26.1.96. cols. 589-618

## **CIVIL LIBERTIES**

### **UK**

#### **Leaked Report Says Gay Ban Should Be Scrapped**

The Ministry of Defence (MoD) is preparing to scrap the ban on lesbians and gay men serving in the UK armed forces. According to a leaked report from a MoD committee the government has concluded that the existing policy should be replaced with a "don't ask, don't tell" approach similar to the one already adopted by the US armed forces.

In practice this would mean an individual's sexuality would no longer as such be grounds for dismissal. Investigations into a person's sexuality would also be prohibited. However same-sex relationships between serving army personnel would still be banned, leaving a disparity between homosexual and heterosexual service men and women.

According to the *Sunday Telegraph*, sources close to the committee had expressed a desire to "take the heat out of the issue" whilst keeping the military on board. The proposed compromise is however unlikely to satisfy either side. The campaigning group Stonewall denounced the compromise as a

"license for homophobia" whilst senior army officials have made clear their opposition to any dilution of the current position. The MoD have denied any knowledge of the report calling its conclusions "purely speculative".

*Pink Paper*, 5.1.96.

## NETHERLANDS

### Human rights research centre

On 15 September 1995, the Netherlands Research School for Human Rights was opened in Utrecht by Professor P Baehr, Director of the Netherlands Institute of Human Rights. Professor C Flinterman, chairman of the board, and Mr P van Dijk, member of the Dutch Council of State, also spoke at the opening. The Research School is one of eighty Dutch scientific centres appointed by the Royal Netherlands Academy of Sciences. It intends to coordinate research activities in the field of human rights and establish a common training programme for doctoral candidates. The Research School for Human Rights is a joint initiative of the faculties of Law and Humanities of Utrecht University, the faculty of Law of Limburg University and the faculty of Law of Erasmus University of Rotterdam.

The central research theme will be: "The nature and meaning of international standards in the field of human rights, their application and promotion in the national legal order and international supervision of such application." For more information, contact: Professor P R Baehr, Director The Netherlands Institute of Human Rights (SIM), Janskerkhof 16

3512 Utrecht, The Netherlands. Tel: 00 31 30 2 53 80 33. Fax: 00 31 30 2 53 71 68. E-mail: sim@pobox.ruu.nl

*PIOOM Newsletter*, Winter 1995.

### Civil liberties - new material

*The Tottenham Picket* Issue 3 (December) 1995. This is the bulletin of the "JJ Fast Foods Locked Out Workers Support Group", which is supporting the reinstatement of workers sacked from the fast food firm after joining a trade union. The sacked workers are also demanding trade union rights, contracts and holiday and sick pay. Available from 72 West Green Road, Tottenham N15 5NS.

**Bill of Rights**, Liberty, December 1995, £1.50, 16 pages. Call for the European Convention of Human Rights and the UN Covenant on Civil and Political Rights to be incorporated into UK law.

**Identity cards: a consultation document (CM2879)**: response of the Data Protection Registrar, 40 pages, January 1996. The Registrar concludes that: "the benefits identified do not appear to outweigh the privacy and data protection costs". The Data Protection Authority conducted a survey which showed: 54% against the introduction of an ID card, 46% in favour; of the total surveyed 38% were in favour of a compulsory ID card or Smart card.

## IMMIGRATION & ASYLUM

### SWITZERLAND-GERMANY

#### "System of cooperative security" at the common border

Between January and November 1995 1,275 people were deported from Switzerland to Germany. The number for the year 1994 was 1,393. Most of the people were third country nationals - in 1995 only 15 Swiss people and 325 German were repatriated. The German Minister of the Interior said the numbers will rise by about 10% when the readmission agreement between the two states comes into force from 27 November 1995. The agreement signed in December 1993 and effected through an exchange of notes between the Swiss Justice Minister, Mr Koller, and the German Interior Minister, Mr Kanther.

The Ministers also signed a declaration which sets out a future "system of cooperative security". The details are to be negotiated by a joint working group under the direction of the General Secretary of the Swiss Justice Department, Mr Walpen, and the German State Secretary of the Interior, Mr Schelter. The other members of the group will be drawn from the Federal Border Police and the Police forces of the Länder on the German side and the Border Guard (part of Customs) and the police forces of the Swiss Cantones.

The declaration says the issues to be arranged are: 1) border police contact offices: to coordinate deportations and extraditions as well as the exchange of information. Germany currently has 11 such contact offices on the borders with France and the Benelux states which are also used for cross border observations; 2) designated commissioners on both sides to channel rapid contacts; 3) coordination of patrols and checks; 4) joint training of officers; 5) "compatible communications systems" - common radio frequencies.

As a second step cooperation will be extended to other aspects of policing and security such as the exchange of liaison officers between the BKA (German Federal Criminal Police Office) and the Swiss Federal Office for police matters (BAP) - which run several central units for drug trafficking, organised crime and central information systems. For about a year the BAP has - along with a number of other European police force central units - direct access via terminals to the data held on the wanted objects system of the German INPOL-data system. As this only holds references to "objects" - stolen cars, identity papers, weapons - inquiries concerning the owners must be directed to the BKA on the Interpol channels via fax. The BKA also provides training for Swiss cover police agents. Between 1991 to 1995 18 Swiss officers were trained in undercover courses.

*Deutscher Bundestag 13/3407*, Answer to a parliamentary question by Manfred Such (Green Party); *Abkommen zwischen dem Schweizerischen Bundesrat und der Regierung der Bundesrepublik Deutschland über die Rückübernahme von Personen mit unbefugtem Aufenthalt* (readmission agreement); *Gemeinsame Erklärung des Bundesministers des Innern und des Vorstehers des Eidgenössischen Justiz- und Polizeidepartements* (common declaration), Bern, Switzerland, 27.11.95; *Wochezeitung*, 26.1.96.

## NETHERLANDS

### Quick Check System

In the last months of 1995, a new online fingerprint verification system, the Quick Check System (QCS) has been used to screen thousands of people requesting asylum at the Dutch border and has been installed in three asylum reception centres. QCS consists of an infrared scanner which "reads" the two middle fingers and sends the data over a normal telephone line to the central "Havank" police database for cross-checking against some 770,000 records. The response time is normally less than an hour, and the system can also be installed in a patrol car. Of the 4,466 asylum seekers scanned, some eight percent had been rejected on an earlier request or were registered for criminal offences. These asylum seekers receive a train ticket and are requested to leave the country. The Scandinavian countries and Canada have shown their interest for QCS.

## SPAIN

### Dispute over Spanish asylum law

The Spanish ombudsman, Fernando Alvarez de Miranda, has criticized the Ministry of Justice and Interior for its practice of systematically rejecting asylum applications without looking at the details of each case. According to the ombudsman, of the 3,466 petitions for asylum during the first six months of 1995, 2,000 were not accepted into the procedure for being "manifestly unfounded". Miranda considers that this measure may only be applied to applicants for asylum in very exceptional cases. But Margarita Robles, the vice-minister of Interior, denied criticisms of the ombudsman, stating that in all cases of non-acceptance into the proceedings the decision had been made for objective reasons and after an individualized study. Nevertheless she admitted that in the future the decisions of the Office for Asylum, which are handed to the claimants, must be made in a clearer way and not, as they are now, using general arguments as reasons for non-acceptance.

The Ministry of Interior says that of those applying at borders, from 1 of January to 15 of December 1995, 130 applications were accepted and 132 rejected. Of the 4,280 applications (excluding those at the borders), 2314 were accepted into the procedure but asylum was only granted in 411 cases, and 137 persons have been "regularized" for humanitarian reasons.

Amnesty International is asking for a change in the "Law on Asylum" to ensure the protection of people "threatened by non-state agents" and to give asylum seekers the right to have a lawyer present.

*Kontrola Kontrolpean, Donostia, Euskadi.*

## CEUTA

Some of the refugees who had been living in Ceuta - generally through projects of different NGOs - are to go to the peninsula (mainland) but there is still another group living in very bad conditions in this Spanish enclave in north Africa. This group whose number, according to different sources, varies between 49 and 120 people, are in the youth camp at Calamocarro (Ceuta) and are exposed to bad weather and storms without proper

clothing and sometimes even without food. In a communique they say that if there is not a rapid solution incidents like those of October 1995 could recur. Another 60 refugees are living without any resources or help in the no mans land between Morocco and the Spanish enclave.

Those refugees from Ceuta who now are living on the Spanish mainland were given a one year residence permit but in most cases these had half expired before they finally were allowed to leave Ceuta. It is not known what will happen to them when the permits expire and they find themselves without work and with little possibility of renewing their permit.

*Kontrola Kontrolpean, Donostia, Euskadi; see Statewatch, vol 5 nos 3, 4, 5 & 6.*

## NORWAY

### Refugees and racist politics

In the local elections in Norway on 9 September 1995, the rightwing Progress party almost doubled its support winning 12 percent of the vote. The Progress Party centred their electoral campaign on the immigrant issue, but did not really succeed with their strategy. Later it was discovered that one of the leading members of the party attended a racist meeting. This was first met with criticism from the leader of the Progress Party, Carl I Hagen, but not with expulsion. Hagen instead took the opportunity to exploit the immigrant issue in the party's campaign. The strong criticism from other political parties and in the mass media followed by accusations of racism gave Hagen and The Progress Party the attention he and his party needed. He claimed repeatedly that different cultures cannot live together, this was "proved" in the gangfight which caused the death of a young boy.

The official policy towards refugees is becoming increasingly severe. Only four asylum seekers arrive in Norway a day, the lowest number in 10 years. During the first nine months of 1995, 1009 persons came as asylum seekers to Norway, compared to an average of 6-8000 a year at the end of the eighties. 3,379 asylum seekers arrived last year, while Sweden received 20,000. The drop in asylum-seekers arriving in Norway is due to carrier sanctions, the first "safe" country rule, and the need to have a visa.

The new official guidelines for the reception of refugees put emphasis on repatriation, and on humanitarian aid instead of receiving them in Norway. It is also confirmed in the National Assembly that refugees who get the permission to stay, may only remain on a temporary basis and it is up to the authorities to decide whether it is safe to go back or not. With refugees given the right to stay in Norway, before the new rules, were given permission to stay for as long as they wanted.

The official policy reflects repeated accusations in the newspapers and from racist organizations cited in the mass media, claiming that refugees abuse the social welfare system, get free houses and expensive furniture, that they refuse to learn norwegian and that they do not want to integrate.

Research and official documents show however that these are empty accusations, and that refugees in Norway do want to work, but are not given the opportunity. While unemployment statistics show that on a general level the unemployment rate is

going down, it is rising for the immigrant groups. For the population in general the registered unemployment rate fell from 5.6% to 5.2% from February 1994 to February 1995. For the African population the unemployment rate is 26%, for Asians 20.6%, and for Latin-Americans 17.3%.

Other elements of importance in this picture are: the lack of medical assistance for refugees suffering from torture and war traumas; lack of education in the immigrant childrens' maternal language at school, which handicaps them in the educational area; numbers of state initiated short contract jobs, which are characterized by their lack of rights and extremely low pay.

The government has decided to construct a new detention centre for asylum seekers connected to the main airport at Gardermoen. The transit camp (transit reception), the police unit, the custody and detention centre will together form a new centralized control of asylum-seekers and foreigners. The centre will be ready in 1998.

The centre will contain as follows: a large reception centre for asylum seekers, which will give room for up to 500 asylum seekers; a central police unit for the east part of Norway, to investigate the cases; the same police unit will have a countrywide responsibility for the transport out of the country for those denied the right to stay; a police custody/prison/detention centre close to the reception centre and a police unit for those asylum seekers who have given a false identity; a detention centre for those waiting for a decision on their applications for asylum. The model is the same as in other European countries.

*Klassekampen*, 11.11.95.

## **Suicide**

A 19-year-old asylum-seeker set fire to his cell in Bergen and died from the injuries. The man was in his tenth month of custody because the Norwegian authorities doubted his identity. He had been given another two months custody when he set fire to himself. This has caused a debate about the use of custody for asylum-seekers without sufficient identification. Justice minister Grete Faremo has suggested a new prison for asylum-seekers who come to Norway with false or insufficient identity. Parliamentary Secretary. Øystein Mæland stated that "the planned building will allow this type of "prisoner" to have freedom of movement within a closed area. It will be situated closely to the new airport at Gardermoen".

A 21-year-old women from the Ivory Coast, is lying, seriously injured, in Ullevål Hospital in Oslo. She had jumped out of a window from the fifth floor when two policemen came to take her down to the police station to check if she was staying illegally in Norway. Two weeks later, two policemen barged into an apartment of a man from Zaire looking for the woman they thought was hiding at his home. The woman was still in hospital at that time.

*Dagbladet*, 26.1.96; NTB 27.12.95; *Arbeiderbladet*, 6.1.96; *Samora Newsletter*, January 1996.

## **GERMANY**

### **Deadline set for start of Bosnian refugees**

A working group set up by the Federal and State Interior Ministers has decided that refugees from Bosnia will be "compulsorily repatriated" starting on 1 July 1996. The repatriation operation will take place in three stages. The first stage includes "residency termination measures" for 120,000 Bosnian refugees who fled to Germany unaccompanied by children. They are to leave the country by 30 June 1997. Stage 2 is to start on 1 July 1997, when a further 200,000 refugees, mostly people with young children, are to be returned. The final stage covers refugees currently involved in academic or job qualification courses or undergoing medical treatment. This relatively small group of refugees will be allowed to finish what they are doing before being deported.

*Berlin Antiracist Information Network*.

### **Security firm hired to spy on asylum seekers**

*Taz* newspaper reports that the head of a hostel for asylum seekers in the Bavarian town of Landsberg am Lech has been paying 80,000 DM every month to a private security organisation to monitor the activities of hostel residents and to find out whether any have been working illegally. (According to German law, it is illegal for asylum seekers to work for money while their applications are being processed).

The Bavarian Commissioner for Data Protection, Dieter Vetter, described the hostel management's spying operation as "just plain illegal", and said that "there seems to me to be no connection between the general surveillance of resident's entry and exit times (to and from the hostel) and the tasks of the hostel". Elizabeth Kohler, Green Party spokesperson for refugee issues in the Bavarian parliament is quoted as saying: "This sort of observation and spying is a scandal and incompatible with the rule of law". Bavarian authorities have admitted that there are "further cases and groups of cases of control measures against hostel residents".

*Taz*, 4 & 5.1.96; *Berlin Antiracist Information Network*.

## **UK**

### **Deportation instructions**

A circular to Chief Constables, issued in August 1995, sets out the procedures to be followed by police forces when assisting immigration officials carrying out deportations. The circular says:

"Assisting immigration inquiries in the community is a highly sensitive area of police work and should be conducted with due regard and respect for the subject(s) of the enquiry and the concerns of community groups, while being consistent with Ministerial commitment to a firm, effective and fair immigration control."

In the wake of the death of Joy Gardner the circular is concerned with the police role where "history suggests that determined or violent resistance is likely".

Annex A says:

"the use of mouth restraints (which was suspended in August

1993) should not be resumed. The use of a belt with handcuffs to restrain the arms and belt to restrain the legs should be allowed, but only in strictly controlled conditions. In particular, there should be a prior medical examination in any case where the use of the belt with handcuffs is contemplated... Save in the most exceptional circumstances, arm and leg restraints should be used only on board aircraft and in the period immediately prior to boarding the aircraft... Further consideration should be given to whether acceptable means can be found to prevent biting, spitting and shouting by those determined to resist removal."

Annex B to the circular is a sample request form from the Immigration Service for police assistance. The information to be given covers: "Precise reasons for requesting police assistance" and includes: "History of mental/physical illness"; "Subject of media interest/topical issues"; "Dangerous associates - eg criminal/terrorist/extreme political".

Annex C divides immigration deportation raids into three categories:

"Lower tier visits... where no more than 3 immigration offenders are targeted or likely to be encountered."

"Middle tier operations... between 4 and 9 targeted immigration offenders.."

"Upper tier (major) operations... where 10 or more targeted immigration offenders are expected to be found.. these procedures may also be appropriate in the following circumstances: where the apprehension of a single or small number of offenders is likely to attract particular public, media or parliamentary interest... [and] will be reported to Ministers before they are conducted."

Annex E, "Escorted Removals" includes the instruction that:

"In asylum cases, escorts should not disclose the immigration history of the person under escort. This applies in particular to the authorities of the country of destination."

*Home Office/Police Review of removal procedures in immigration cases involving the police*, Police (CC) Circular No 12/1995, Restricted distribution - Chief Constables only.

### Immigration - in brief

**Sweden:** The latest figures on asylum-seekers to Sweden illustrates the effect of the "new" Swedish policy. In 1992 Sweden had 84,018 applications for asylum, in 1993 37,581, in 1994 18,640 and in the period January to June 1995 only 4,777. *Swedish answer to the Schengen questionnaire*, 10.10.95.

**Refugees Found Dead on Ship in Antwerp:** Two refugees were found dead in Antwerp docks the day before Christmas. The two apparently died of thirst and starvation. Four others who survived the journey were taken to Detention Centre 127 in Melsbroek. The newspaper *Solidair* reports that dock workers were prevented for two days from searching the ship to see if

there were other survivors. The four surviving refugees immediately claimed political asylum, however their claim was swiftly rejected and they remain in detention whilst their appeal is being heard. *Solidair*, 2.1.96-10.1.96.

### Immigration - new material

**Third country nationals: the right to equal treatment**, David B Winn. Immigration Law Practitioners Association (ILPA), 16 pages. A contribution to the 1996 Intergovernmental Conference.

**The Law on Aliens Controversy in the Baltic States**, Dagmara Vallena. *The Review* (International Commission of Jurists), no 54, June 1995, pp1-28.

*Anti-deportation news* Issue 1 (Winter) 1996. This is the first newsletter of the National Coalition of Anti-Deportation Campaigns. It is available from NCADC, 22 Berners Street, Lozells, Birmingham B19 2DR, Tel. (0121) 554 6947.

**Asylum and Social Security benefits.** *Runnymede Bulletin* 290 November 1995, pp2-3. This article looks at the proposed changes to social security benefits for asylum seekers in the UK; it provides an account of the proposals and extracts from various official responses.

**The unequal citizens of Europe**, Henry Martenson. *Runnymede Trust paper* November 1995. A comparative study of how citizenship status affects citizenship provisions in France, Germany, Italy, the Netherlands, Sweden and the UK.

**Portuguese nationality law in outline**, Ella Rule. *Immigration and Nationality Law and Practice* Volume 10, No. 1 1995, pp12-17.

**Some implications of European free movement rights on the acquisition of British nationality**, John McCarthy & Stephen Hardy. *Immigration and Nationality Law and Practice* Volume 10, No. 1 1995, pp16-18.

**Safe for profits, not for people.** *CARF* 30 (February/March) 1995, pp6-7. On the hypocrisy of creating "safe country" lists on the basis of economic interests.

### Parliamentary debates

**Asylum and Immigration Bill** *Commons* 11.12.95. cols. 699-808

**Dr Muhammad al-Mas'ari** *Lords* 11.1.96. cols. 258-263

**Asylum seekers: benefits** *Lords* 11.1.96. cols. 263-277

**Asylum seekers (benefits)** *Commons* 11.1.96. cols. 331-345

### LAW

### SPAIN

### New Penal Code

After fifteen years the Spanish Congress finally passed, on 8 November 1995, the new Penal Code, which will come into force on 24 May 1996. It contains the following measures:

\* Measures to replace short prison sentences: weekend detention; a system of fines according economic capacity of the person; community service; penalties of imprisonment of less than six months to be abolished; and suspended sentences extended from one to two years).

\* Some thirty new forms of crime are defined including ecological crime, corruption, genetic manipulation, provoking racist discrimination.

\* The age of criminal liability goes up to the age of 18 years.

\* There will be harmonisation of the sentences given by the courts and the period actually served, with a maximum of 20 years. An exception will be made for sentences on crimes concerning terrorism and drug-trafficking - which has been criticised as being incompatible with the principle of resocialization of punishment established in article 25 of the Constitution.

\* The option of punishment is maintained for drugs and narcotics, despite calls for their legalization or decriminalization.

\* The legalization of abortion has not been taken into account.

\* Euthanasia will be considered in the future as extenuated murder.

\* There is a heavy penalty of between 10-14 years for refusal to do military service and the civil service, consisting in absolute disqualification (in effect, "Berufsverbot"); this so-called "civil death", which means there is no possibility of getting any public office or job, to obtain subsidies, grant, etc. In addition the "insumisos" (those refusing military service or civil service) can be sentenced to between 3 month and two years in prison and fines between 12 and 24 monthly payments.

*Kontrola Kontrolpean, Donostia, Euskadi.*

## Law - in brief

**Spain: Popular jury:** In March 1996 the first trials with the new jury-system will start. 52,000 people have so far been selected to serve on juries who will deal with criminal cases against human life, freedom, honour, privacy and crimes committed by civil servants. The obligatory nature to take part in a jury has started a great debate. Refusal to take part can lead to a fine as well as the possibility of being put on trial for denigrating the juridical process. The right to refuse participation "en un sistema de juridical administration" for those sectors of the population who find themselves in radical disagreement with the functioning of this system has yet to be decided. **Abolition of the death penalty:** On 29 November 1995 the constitutional law abolishing the death penalty in times of war came into effect thus eliminating the death penalty from the legal system. **Hoods ban for demos?** The Council of Interior of the Basque Country is advocating that the Penal Code must include punishments for people who take part in demonstrations wearing masks or hoods. Recently the video recording of demonstrators and the use of those videos in trials has been subject of contradictory decisions by judges as to whether the videos are valid. *Kontrola Kontrolpean, Donostia, Euskadi.*

## Law - new material

**Public interest immunity,** Alan Beckley. *Policing*, vol 11 no 4, Winter 1995, pp282-290. Argues that sufficient precedents now exist for the police to make more use of pii. The immunity which courts can give to Crown documents may mean "the police service, with its authority under the Crown, could also claim similar privileges".

**Traveller law review,** Luke Clements & Ravi Low-Ber. *Legal Action* January 1996, pp11-13. Review of the law relating to travellers.

**Legal Advice Service for Travellers,** Paul Wheeler, *Legal Action* December 1995, p9. The Telephone Legal Advice Service for Travellers was launched in March 1995 to increase legal services for gypsies and New Age Travellers across England and Wales. The TLAST can be contacted at the Traveller Research Unit, Cardiff Law School, University of Wales, PO Box 427, Museum Avenue, Cardiff CF1 1XD. Telephone 01222 874580

**Juveniles and the criminal justice system,** Tony Hyams-Parish. *Legal Action* January 1996, pp14-17. Outlines the procedures for treatment of children and young persons as suspects or defendants taking into account the recent changes introduced by the Criminal Justice Acts 1991 and 1993 and the Criminal Justice and Public Order Act 1994.

**Public Order Review,** Jo Cooper. *Legal Action* February 1996, pp10-12. Review of trends and significant developments in public order and arrest cases.

**Criminal Justice Act's first birthday.** *The Law* October-December 1995, pp16-17. Piece on squats, ravers and hunt saboteurs, travellers and protestors and their experiences under the "oppressive and ignorant" Criminal Justice Act.

**Legal Defence & Monitoring Group.** *Annual Report* 1995-96, pp8. The LDMG was launched in March 1995 and has been regularly monitoring and providing legal back-up on demonstrations since then. The Group has 40 observers and has dealt with 47 arrests on events - the details of which are presented in this report. The LDMG can be contacted at BM Box HAVEN, London WC1X 3NN.

**J'Accuse.** Newsletter from Fair Trials Abroad, Winter 95. The group works to monitor and take up cases of people held in the legal system outside their own country. Available from: Fair Trials Abroad, Bench House, Ham Street, Richmond TW10 7HR.

## Parliamentary debates

**Criminal procedure and investigations Bill** *Lords* 27.11.95 cols. 462-506

## MILITARY

### Military - in brief

**Britain sets up Rapid Deployment Force:** The UK Ministry of Defence (MOD) plans to set up a Joint Rapid Deployment Force (JRDF) by 1 August 1996. It will consist of a reinforced brigade, with supporting naval and air components, that can undertake a broad range of missions in support of British and allied interests worldwide. The core will consist of 5 Airborne Brigade and 3 Commando Brigade, supported by elements of national contingency forces assigned on a rota basis. The force will have its own chief of operations. The MOD is examining the possibility of acquiring more specialized amphibious vessels, and the charter or lease of purchase of civilian ships and aircraft, to support JRDF operations. *International Defense Review*, no 12, 1995.

**Hidden French agenda for NATO?** According to an analysis in Jane's Defence Weekly some observers see France's partial return to the NATO organization as less than sincere. In December the French government announced resuming its seat on the alliance's Military Committee after 30 years. However France also stressed that it was not re-joining the NATO's integrated military command - that is placing any troops permanently under NATO authority and had no intention of participating in the Nuclear Planning Group. Some USA observers interpret France's return as a calculated gamble. The French would now contemplate a challenge to the US hegemony from within NATO instead of from outside. In this view, France could quickly emerge as a trouble-maker and a constant source of friction, much as the UK became the EC's "odd man out" not long after joining. Another theory is that France could be keen in forming an inner leadership within NATO with the USA on one side and Western Europe (France, the UK and Germany) on the other. *Jane's Defence Weekly*, 17.1.96.

### Military - new material

**Die Wundersame Geburt einer verbotene Luftwaffe** (The miraculous birth of a forbidden air force). *AMI* 11/1995. There are strong indications that Germany broke the UN arms-boycott against the states of former Yugoslavia by helping Croatia to create an air force.

**Study on NATO Enlargement: Destabilizing Europe**, Martin Butcher, Tasos Kokkinides and Daniel Plesch. Joint Report of the British American Security Information Council (BASIC) and the Centre for European Security and Disarmament (CESD). December 1995. To avoid a new division in Europe NATO should not expand unless Russia is included.

**The Security Implications of the Opening of Borders in Europe.** Draft Interim Report AM 258 of the Civilian Affairs Committee of the North Atlantic Assembly. October 1995.

**Structure and Functions: European Security and Defence Identity (ESDI) and Combined Joint task Forces (CJTF).**

Draft General Report AM 269 of the Defence and Security Committee of the North Atlantic Assembly. October 1995.

**The Enlargement of the Alliance.** Draft Special Report AM 274 of the Defence and Security Committee of the North Atlantic Assembly. October 1995.

**Towards a Security Strategy for Europe and NATO.** Draft General Report AM 293 of the Political Committee of the North Atlantic Assembly. October 1995.

**Agency seeks a role as the EU contemplates common defence**, Elizabeth Wise. *European Voice*, 9.11.95. Looks at the possible role of the Western European Union military alliance and its relationship with NATO.

**Hawks over East Timor: Britain arms Indonesia**, Mark Curtis. *Covert Action Quarterly* Winter 1995-96, pp52-57. This piece investigates British arms sales to the authoritarian Indonesian government who are waging a campaign of genocide in East Timor.

**Arms for Aid**, Ann Clwyd. *New Statesman & Society* 12.1.96. pp26-27. On the doubling of British aid to Indonesia despite its illegal annexing of East Timor.

**Gulf of Despair**, Peter Beaumont. *Observer* 14.1.96. An assessment of the British military performance in the Gulf War that concludes that it hovered between the "disastrous and the irrelevant".

### Parliamentary debates

**Reserve Forces Bill** *Lords* 28.11.95. cols. 520-556

**Chemical Weapons Bill** *Commons* 6.12.95. cols. 413-443

**Armed Forces Bill** *Commons* 13.12.95. cols. 1024-1069

**The Army** *Commons* 18.1.96. cols. 903-981

**Reserve Forces Bill** *Lords* 23.1.96. cols. CWH 1-42

**Reserve Forces Bill** *Lords* 25.1.96. cols. CWH 43-98

## NORTHERN IRELAND

### Mitchell Reports: Major Retorts

The International Body on Arms Decommissioning (see *Statewatch* vol 5 no 6), headed by US Senator George Mitchell, published its report on Wednesday 24th January. The report describes the sticking point for political progress in paragraph 33 as follows: "One side [the British and Unionists] has insisted that some decommissioning of arms must take place before all-party talks can begin. The other side has insisted that no decommissioning can take place until the end of the process, after an agreed settlement has been reached." The Mitchell Report then makes the key recommendation that, "The parties should consider an approach under which some decommissioning would take place during the process of all-party negotiations, rather than before or after as the parties now

urge. Such an approach represents a compromise." Although Sinn Fein's position is that demilitarisation has to take place on all sides and that it cannot speak for the IRA, the Commission clearly felt that the compromise was possible, as indicated in paragraph 25: "there is a clear commitment on the part of those in possession of such [paramilitary] arms to work constructively to achieve full and verifiable decommissioning as part of the process of all-party negotiations."

The emphasis on negotiations is a far cry from Britain's "Washington principles" which demanded the surrender of some weapons before preparatory talks. Although the Commission subscribed to the view that "there is no equivalence between such [paramilitary] weapons and those held by security forces", it is at pains to accord full legal status and immunity from prosecution to anyone involved in de-commissioning. The Report suggests that the parties should have the option of destroying their weapons themselves: "Groups in possession of illegal armaments should be free to organise their participation in the decommissioning processes as they judge appropriate". It continues, "individuals involved in the decommissioning process should not be prosecuted for the possession of those armaments; amnesties should be established in law in both jurisdictions". It also recommends that the armaments themselves must not be used for forensic evidence or future prosecution.

In being granted such a decriminalised status in the decommissioning process, parties to the negotiations are asked to affirm "total and absolute commitment" to principles of "democracy and non-violence". The Mitchell Report states six such principles. Parties must commit themselves to exclusively peaceful means of resolving political issues; to total disarmament of paramilitary organisations; to verify disarmament; to renounce the use of force and threats of force by themselves and others as a way of influencing negotiations; to accept the outcome of negotiations (ie not to use force to alter the outcome in the future); and finally to take steps to prevent "punishment" killings and beatings.

Within hours of the Report's publication, and without discussion with the Irish government, the British Prime Minister John Major made a statement in parliament sweeping aside the central Mitchell compromise. Major applauded those parts of the report emphasising the "non-violence principles", the need for verifiable decommissioning, and the declaration that there is no equivalence between security force weapons and those of the loyalist and republican armed groups. Furthermore, he welcomed "the body's broad recommendations on the modalities of the decommissioning process". He concluded, however, by reducing the current impasse to a one-sided problem of confidence. The parties cannot confidently sit down together for talks with the threat of paramilitary violence hanging over them: "self-evidently the best way to generate the necessary confidence is for the paramilitaries to make a start on the decommissioning process. We see no reason why they should not".

Major then plucked one paragraph from the section of the Report on "further confidence building measures", a section written by banker Harri Holkeri, the former leader of the conservative National Coalition Party of Finland. Major ignored paragraph 53 which stated that "continued action by the Governments on prisoners would bolster trust". He also made no

mention of the proposal that "a review of the situation with respect to legally registered weapons and the use of plastic bullets, and continued progress toward a more balanced representation in the police force would contribute to the building of trust". Instead he fixed on paragraph 56 which states: "Several oral and written submissions raised the idea of an elected body... If it were broadly acceptable, with an appropriate mandate, and within the three strand structure, an elective process could contribute to the building of confidence". Major's conclusion, then, was that such an elective process offers "a viable alternative direct route" to all-party talks.

The British response to the Mitchell Report pleased Unionists but angered the Irish government, the SDLP and Sinn Fein. At Westminster John Hume pointed out that the election idea was not part of the Commission's terms of reference and was not therefore a recommendation as such. He also urged Major to set a date for all-party talks "rather than the 17 months you have wasted up to now". The Irish government eventually countered Major's proposals by advocating a "Dayton-type" negotiation process, or "proximity talks" (named after the talks which produced the current "settlement" over the former Yugoslavia). In the Dayton talks, no party was obliged to sit at the same table as any other party to the negotiations. This would accommodate the Unionists who refuse to meet the Irish government to discuss the future of the North of Ireland, as well as Paisley's Democratic Unionist Party which appears to be reluctant to meet with Sinn Fein under any circumstances.

### **IRA ceasefire ends**

At 5.45pm on Friday 9 February, a man called the Irish News in Belfast to say that a massive bomb had been planted at South Quay station in the Isle of Dogs, London. He said that the area should be evacuated immediately. Simultaneously, a second caller contacted Radio Telefais Eireann to announce that the IRA ceasefire would end at 6.00pm. The bomb at South Quay exploded just after 7.00pm. The statement accompanying the end of the ceasefire said in part: "It is with great reluctance that the leadership of Oglagh Na hEireann announces that the complete cessation of military operations will end at 6pm on February 9... The blame for the failure thus far of the Irish peace process lies squarely with John Major and his government."

According to Irish News reporter Brendan Anderson, senior figures within the IRA's northern and southern commands were surprised by the London bombing. Strict secrecy surrounded the operation with only the handful of IRA members of the GHQ staff and the ruling Army Council knowing that a "sleeping" unit in London was to be reactivated.

*Irish News*, 10.2.96.

### **Emergency Legislation Renewed**

At the height of the hunger strike in July 1981, the Secretary of State for Northern Ireland, Humphrey Atkins, declared that "If the terrorists drop their campaign, we can drop the emergency provisions." Some 16 months after the IRA ceasefire, however, the British government renewed the Northern Ireland (Emergency Provisions) Act (in December 1995) for a period of



two years, but with minor amendments. The Act removes the powers which deal with "the confiscation of the proceeds of terrorist-related activities", since such powers are now incorporated in the Proceeds of Crime (Northern Ireland) Order 1995. It retains the power of internment without trial and creates a new offence of failing to stop and be searched when required to do so by a police officer or member of the armed forces. In January, the Secretary of state announced new regulations which will permit the silent video recording of RUC interrogations at "holding centres". This was recommended by Lord Colville in 1990.

At the same time, a number of reviews of powers and procedures have been launched. Lord Lloyd of Berwick has been appointed with the following terms of reference: "to consider the future need for specific counter-terrorism in the UK if the cessation of terrorism connected with the affairs of Northern Ireland leads to a lasting peace, taking into account the continuing threat from other kinds of terrorism and the United Kingdom's obligations under international law". Lord Berwick is Chair of the Security Commission and of the Advisory Panel established under the 1971 Immigration Act to consider cases involving "issues of national security". A review of the police complaints system is being carried out and a report is due by the summer of 1996. Firearms legislation is also being reviewed by a team working under the direction of a steering committee consisting of "a senior Northern Ireland Office official" a senior (unnamed) RUC officer and "a person of standing with relevant experience". The team is due to report in August.

#### **Northern Ireland - in brief**

**Britain loses again:** The European Court of Human Rights has once again ruled against Britain in a case involving the conviction of John Murray. Murray claimed that he was denied proper legal advice while held under the 1987 Northern Ireland (Emergency Provisions) Act, and that it was wrong for the trial judge to infer guilt from Murray's silence. In a 14 to five judgement, the Court ruled that inferring guilt from silence did not necessarily violate the principle of the presumption of innocence. The Court ruled, however, that 48 hours was too long a period to deny legal representation. This ruling on the violation of the Convention may lead to a flood of appeals according to the Committee on the Administration of Justice which claims that around 100 prisoners in the North could pursue cases based on the ruling. *Irish Times*, 9.2.96.

**US Transfers Irish Prisoner:** Three months after Ireland signed the International Convention on the Transfer of Sentenced Prisoners, the US Justice Department agreed to transfer Michael Martin from Oakdale prison, Louisiana, back to Ireland at the end of January. Martin was serving 16-months for a charge relating to the purchase of detonators. *Irish Times*, 30.1.96.

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

**The crisis in policing: dangers and opportunities.** *Common Ground* Vol. 2 no 2 (Winter) 1995. Examination of policing in northern Ireland; "on the one hand the opportunity exists to

create...a policing structure which could win widespread acceptability...on the other hand there is a clear danger to the entire peace process if movement is not made soon within the stultified structures of the NIO and the RUC."

**"Human Rights: the agenda for change".** *Committee on the Administration of Justice* (December) 1995, p60. This report comes out of a conference - "Human Rights, the Northern Ireland conflict and the peace process" - held in Belfast in March 1995. It includes the text of talks by international jurists and the programme "Human Rights: the agenda for change", which tackles the key issues that arose during the conference.

**The secret life of Lindsay Robb,** Daire McMahon. *Fortnight* 346 (January) 1996, p12. Lindsay Robb, a member of the Progressive Unionist Party delegation which met the Government ministers for peace talks, was recently arrested for procuring weapons for the UVF. This piece examines his role as a key state witness in the conviction of Lurgan man, Colin Duffy, who was sentenced to life plus 20 years for the killing of an ex-UDR soldier.

**On the Verge of Disaster,** Mitchell McLaughlin. *An Phoblacht-Republican News* 4.1.96. p3. Extract of a speech by McLaughlin which condemns the manoeuvrings of the British government and restates "the commitment of Sinn Fein to a strategy for peace".

#### **Parliamentary debates**

**Northern Ireland Lords** 29.11.95. cols. 581-593

**Northern Ireland Commons** 29.11.95. cols. 1199-1211

**Northern Ireland (Emergency Provisions) Bill Commons** 9.1.96. cols. 31-115

**Northern Ireland: report of International Body on Arms Decommissioning Lords** cols. 24.1.96. cols. 1070-1082

**Northern Ireland (Mitchell Report) Commons** 24.1.96. cols. 353-370

#### **PRISONS**

##### **UK**

##### **Pregnant women chained during labour**

The barbaric practice of using chains or handcuffs to prevent pregnant women prisoners from escaping while they are in hospital during labour is to be "relaxed" following a storm of protest during January.

The shackling of pregnant women during hospital visits was initially defended by Home Office minister, Ann Widdecombe, who asserted that "hospitals are not secure places". Following media coverage of the case of a Holloway prisoner, Annette, who spent ten hours in labour chained to her bed at Whittington Hospital, London, the minister denied that shackles had been used. Her claim was contradicted by the consultant obstetrician in the case, Fredericke Eban, and by the chairwoman of the Association for Improvements in Maternity Services, Beverley

Lawrence Beech, who accompanied Annette during her labour and birth. Eventually, after almost universal criticism, the minister reluctantly admitted to "concerns...about decency and delicacy and the use of male officers in these circumstances."

It was further alleged that at least three seriously ill women had been shackled while in hospital. In one case, Jane, a 34-year old unconvicted woman, who is seriously ill with HIV complications, spent nine days wearing shackles 24 hours a day after being admitted to hospital.

Both of the women threatened court action over their inhumane and degrading treatment. This, along with condemnation of the practice by health, maternity and human rights groups, prompted Home Secretary, Michael Howard, to belatedly announce that in future "no woman who goes into hospital will be restrained from the time she arrives at the hospital". Nonetheless, he ignored demands by MPs that he should apologise to the women for the appalling treatment they received.

If the treatment of women prisoners who need to visit hospital is barbaric the situation in Holloway Prison is hardly better. In 1992 HM Inspector of Prisons, Judge Stephen Tumin, deplored the conditions at Holloway's Mother and Baby Unit which was located in "a cockroach infested semi-basement". In December 1995 a team of prison inspectors walked out of an unannounced inspection of the prison in disgust at the appalling squalor, which included infestations of lice, rats and cockroaches, and harsh security measures where inmates were locked in their cells for 23 hours a day. The inspectors have stated that they will not return until conditions - including desperate overcrowding - are improved. In January part of the hospital wing was closed when "vermin overload" and the rotting corpses of dead rats were revealed to pose a health risk.

Overall, the number of women in British prisons has increased by 37% over the last two years, reaching 2,150 in December 1995. The Howard League has reported that 37% of those who entered prison in 1993 were fine defaulters and another 22% were guilty of petty crime; 39% of the women had no previous convictions.

*Guardian* 11.1.96.

### **Suspicious death of black prisoner**

Alton Manning collapsed and died on December 8 1995 at Blakenhurst (private) prison, near Birmingham, West Midlands. Prison authorities have claimed that he choked to death but their evidence has been contradicted by allegations that he was beaten-up by warders shortly after being strip-searched. Alton had complained of harassment and violence by the prison authorities for four years before his death. The allegations are by the Manning family, who believe that attempts were made to prevent them from seeing Alton's body, which apparently had extensive injuries.

A Home Office pathologist's report, released in January, made reference to bruising and suggested that he died as a result of "pressure on the neck" leading to asphyxia. These findings are consistent with the claims that a struggle took place and that he was subjected to an illegal neck hold. At least two other black men - Kenneth Severin (Belmarsh) and Denis Stevens (Dartmoor) - died in similar circumstances at the end of last year.

A second report, on behalf of the family, has confirmed asphyxia as the cause of death. A Justice for Alton Manning CAmpaign has been launched; it can be contacted at: *BRAMU*, 339 Dudley Road, Winson Green, Birmingham B18 4HB, Tel. 0121 454 9500.

### **New HM Chief Inspector of Prisons**

General Sir David Ramsbotham was appointed HM Chief Inspector of Prisons on December 1 1995. Ramsbotham was educated at Corpus Christie College Cambridge and joined the army in 1958 where he served in a number of posts, including Director of Public Relations, Computer Study Director, Commander UK Field Army and Inspector General of the Territorial Army. After leaving the army in 1993 he became director of the International Affairs for Defence Systems security company. He lists shooting as one of his interests. Ramsbotham succeeds Judge Stephen Tumin, who was Chief Inspector for the last eight years.

*Home Office press release* 30.11.95.

### **Prisons - new material**

**Use of mechanical restraints by prisons.** *Howard League* 1995 pp11. This report concludes that "mechanical restraints are used too frequently inside prisons and during escorts." and recommends that "their use should be time limited and very carefully monitored." Available from The Howard League, 708 Holloway Road, London N19 3NL.

**Outside help: practical information for the families and friends of people in prison.** *National Association for the Care and Resettlement of Offenders* 1995 pp44. This booklet provides useful information on "Keeping in touch", "Money", "Accommodation", "Information on release" and "Prisoners in police cells". Available from NACRO, 169 Clapham Road, London SW9 0PU.

**Prisons - some current events.** *Penal Affairs Consortium* 1996 pp7. Looks at "Rising numbers", "Security measures" and the Learmont Report". Available from: 169 Clapham Road, London SW9 0PU.

**Sentencing and early release: the Home Secretary's proposals.** *Penal Affairs Consortium* December 1995 pp7. This report estimates that the prison population would increase by nearly 30,000 under the Home Secretary's proposed tougher laws on sentencing and early release.

**Prison Watch press release no. 158.** *Prison Watch* 28.12.95. This press release documents 74 deaths in prisons during 1995. It also examines the records of prison deaths over the past 5 years and particularly condemns Liverpool prison for "a gross failure of management."

**Driving forces behind prison growth: the mass media,** Thomas Mathiesen. Paper by Professor of the Sociology of Law at Oslo University published by The Sentencing Project, 918 F

St, N.W., Suite 501, Washington DC 20004, USA.

## Parliamentary debates

**Prison Service Security** *Lords* 13.12.95. cols. 1328-1366

**Holloway Prison** *Commons* 9.1.96. cols. 19-25

**Violence in teenage institutions** *Lords* 10.1.96. cols. 186-220

**Women in prison** *Commons* 24.1.96. cols. 265-285

## RACISM & FASCISM

### GERMANY

#### Nazi leader jailed

The leader of the German neo-nazi Nationalistische Front (NF) was jailed for 27 months, at a Dortmund court, in November 1995. Two other NF committee members were sentenced to 10 months in prison.

Meinhoff Schonborn was imprisoned for continuing to run the NF three years after it was banned in 1992, following police raids on its offices that uncovered weapons, ammunition and bomb making material. Following the ban Schonborn continued to run a flourishing business in fascist NF material from his home. Sentencing Schonborn judge Manfred Reichel expressed amazement that the police had ignored the nazi leader's activities over the past three years.

*International Herald Tribune*, 9.11.95.

### AUSTRIA

#### Accused released as bombs continue

Two neo-nazis, part of the so-called "Bavarian Liberation Army" which has been linked to Gottfried Kessel's People's Parliamentary Opposition, were acquitted of charges of bomb making and conspiracy. Peter Binder and Franz Radl were charged with involvement in a series of letter bombs sent to prominent anti-racists two years ago.

Binder was arrested shortly after the first wave of letter bombs, sent in early December 1993, when traces of bomb making chemicals were found in his car. Radl was considered to be the organiser of the campaign and had compiled a computer file containing details of the victims. Following their acquittal one of the victims of the bomb attacks, former Vienna mayor Helmut Zilk, dismissed the trial as a "cabaret" and criticised "catastrophic defects in the investigations."

At the beginning of December another four letter bombs, sent from the southern city of Graz days before the parliamentary elections, exploded prematurely in a letter box.

*Interpress*, 22.12.95.

#### Electoral setback for Haider

The far-right Freiheitliche Partei Osterreichs (FPO), led by yuppie fascist, Jorg Haider, suffered an electoral setback in the December 1995 general election in Austria. The elections saw the first drop in support - admittedly by only 0.5% - for the FPO since Haider took over as leader of the party in 1986. The FPO

finished as the third largest party with 22% of the vote.

Following the election investigators in Haider's home town of Klagenfurt announced that they would be conducting an investigation relating to possible charges for reactivating nazism. Haider was filmed, on an amateur video, addressing a rally of German and Austrian war veterans, including former Waffen-SS members. He was seen to embrace the former Waffen-SS men and described them as "decent men of good character." Following the disclosure the right-wing *Kurier* newspaper described Haider as the "son and heir" of the nazi regime. *Independent*, 18.12.95; *Times*, 18.12.95.

#### Racism & Fascism - new material

**The Welling 37**, Keith Potter. *Police Review* 22.12.95, pp14-15. This piece - on the October 1993 demonstration at the British National Party's headquarters in Welling - is primarily of interest as an example of inept propaganda. Based on anonymous "intelligence reports" of "large numbers of extremists" plotting to "burn [the BNP hq] down to the ground."

**Still following the leader**, Francis Beckett. *Independent on Sunday* 24.11.95. Piece on the "Friends of Oswald Mosley", who still meet to commemorate the leader of the British Union of Fascists, who were active between 1932 and 1940.

**Racism, xenophobia and football: a preliminary investigation**, Mark Carver, Jon Garland & Michael Rowe. *Centre for the Study of Public Order* Research Paper 3, 1995, pp43. This is a preliminary outline that looks at the background and trends of racist abuse at football matches; it includes a chapter on anti-racist initiatives.

**"Kicking racism out of football": an assessment of racial harassment in and around football grounds**, Brian Holland. *New Community* Vol. 21, no 4 1995, pp567-586. This article is based on research, carried out between 1989 and 1994, in Leeds, Bolton and Newcastle.

**European Race Audit**. *Institute of Race Relations* Bulletin 16 (November) 1995. Bi-monthly roundup of racism and fascist developments in Europe.

**Accounting for racism: the human costs**. *CARF* 30 (February/March) 1995 pp8-11. CARF annual review of racist deaths across Europe for 1995 reveals state racism and institutional neglect as the most significant factors.

**Universalism and difference: race and the post-modernists**, Kenan Malik. *Race & Class*, vol 37 no 3, 1996, pp1-18. Exposes the racism of "the so-called politics of "difference".

**The evolution of anti-Traveller racism in Ireland**, Jim MacLaughlin. *Race & Class*, vol 37 no 3, 1996, pp47-62.

## SECURITY & INTELLIGENCE

## MI5 in Scottish Court

Three members of MI5, the Security Service, including one woman, gave evidence from behind screens for the first time in a Scottish court in December. They were giving evidence about their surveillance of the six men accused, and convicting of plotting to smuggle two guns and 33 rounds of ammunition to the UVF. Among the six was Lindsay Robb of the Progressive Unionist Party who was part of the loyalist delegation involved in peace talks, attending some eleven meetings with the government. According to Severin Carrell of *The Scotsman* newspaper senior Scottish police were very concerned about the poor quality of evidence provided by the MI5 witnesses. Carrell reported, "the first wrongly identified one accused as having light brown hair, a goatee and earrings and being 30 to 35 years. The accused was 44, clean shaven, had grey receding hair and no earrings." Such a poor performance bolsters the argument of those who oppose the extension of MI5 into traditional areas of police work on grounds of lack of training in evidence gathering. Another interesting aspect of the case was that, although the MI5 officers were screened from press and public, they were not screened from the defendants because Scottish judges believe that defendants have a right to see their accusers.

Ironically, Lindsay Robb himself had recently given evidence from behind a screen in a murder trial in Northern Ireland, only on this occasion, witnesses were fully screened. Robb was one of two eye-witnesses in the trial of Colin Duffy, sentenced to life imprisonment last July on a charge of murdering a former Ulster Defence Regiment sergeant in June 1993. Although directly contradicted by other eye-witnesses, a person (not Robb) informed the RUC that Duffy was one of the killers even though he was at the time of the killing at his mother-in-law's house with his daughter. Some time after Duffy's arrest became public knowledge, Robb used the confidential telephone to tell the RUC that he could identify Duffy as one of the killers even though there was no evidence that he had met him since he was 16 (and even this meeting is in doubt). Notwithstanding his alibi and the dubious eye-witness evidence, Duffy was found guilty by the Diplock court judge.

Following the trial, Robb was advised by the RUC that he might be an IRA target, even if there was a ceasefire. The RUC supplied him with £2,000 and a personal firearm, and he left for Scotland. This may have been part of an attempt to "neutralise" Robb. At one of the government/loyalist meetings in the summer of 1995, Robb read out an uncompromising statement from the mid-Ulster UVF and it is thought that he was put under close surveillance afterwards.

*Spotlight*, *BBC Northern Ireland*, 8.2.96; *The Scotsman*, 23.11.95 & 21.12.95.

## Security and intelligence - new material

**Spain's dirty war**, Darrin Wood. *Covert Action Quarterly* Winter 1995-96, pp46-51. Substantial piece on the Spanish government sponsored *Grupos Antiterroristas de Liberacion* (GAL) who ran a campaign of terror against Basques suspected of having links to ETA.

**On Her Majesty's Secret Service**, Richard Norton-Taylor & Nick Davies. *Guardian* 29.1.96. On the Secret Service Bill, which gives MI5 the authority to combat "serious crime". This allows MI5 to enter the area of "law enforcement" - previously the terrain of the police - with an almost total lack of accountability or democratic control.

**Culture shock**, Patrick Hook. *Police Review* 26.1.96. pp15-16. Interview with Scotland Yard's John Grieve about "intelligence-led policing, MI5, and the way ahead."

## Parliamentary debates

**Security Service Bill** *Commons* 10.1.96. cols. 215-303

## BOOKS RECEIVED

**Power in struggle: feminism, sexuality and the state**, Davina Cooper. *Open University Press* (Buckingham) 1995, pp182 £10.99 pk. This book draws on post-structuralist and Marxist theory to conceptualise the state, power and sexuality.

**Gender and crime**, Dobash, Dobash & Noaks (eds). *University of Wales Press* (Cardiff) 1995, pp438 £13.99 pk. Contains analyses of the diverse experiences of women and men as offenders and victims by criminologists from several countries.

**Let him have justice: the true story of Derek Bentley, hanged for a crime he did not commit**, Iris Bentley (with Penelope Denning). *Sidgwick & Jackson* (London) 1995, pp356 £16.99 hb. This is a biography of Derek Bentley by his sister.

**Contemporary issues in Criminology**, Noaks, Levi & Maguire (eds). *University of Wales Press* (Cardiff) 1995, pp436 £14.95 pk. This volume is divided into 4 sections: international perspectives on criminology and criminal justice; policing and persecution; criminal justice issues and crime, justice and the underclass.

**Social currents in Eastern Europe**, Sabrina Petra Ramet. *Duke University Press* (Durham & London) 1995, pp598 £22.95 pk. This book looks at eight eastern European countries: East Germany, Poland, Czechoslovakia, Hungary, Yugoslavia, Romania, Bulgaria and Albania.

**My five Cambridge friends**, Yuri Modin. *Headline* (London) 1994 pp346 £6.99 pk. Account of the Cambridge spy ring by the man who ran them.

**Sellout: Aldrich Ames, the spy who broke the CIA**, James Adams. *Michael Joseph* (London) 1995 pp322, £16.99. On the CIA double-agent.

**Disarming Patriarchy: feminism and political action at Greenham**, Sasha Roseneil. *Open University Press* (Buckingham) 1995 £12.99 pk. This book uses a sociological study of the Greenham Common Women's Peace Camp to

examine "ways in which feminists can resist and transform relations of male domination and female subordination"

**Shifting responsibility: Carriers' liability in the member states of the European Union and North America**, Antonio Cruz. *Trentham Books* (Stoke on Trent) 1995, pp122 £9.95. Examines the incompatibilities of carrier's liability with human rights obligations and international instruments of refugee protection.

**The frontier of national sovereignty: history and theory 1945-1992**, Alan S Milwood et al. *Routledge* 1993, pp234. The authors consider the process of European integration and its future drawing on research into the national archives of the member states of the EU and the USA.

**Blackstone's guide to the Criminal Justice & Public Order Act**, Martin Wasik & Richard Taylor. *Blackstone Press* (London) 1995, pp349 £19.95 pk.

**Free to hate: the rise of the right in post communist eastern Europe**, Paul Hockenkos. *Routledge* 1994 pp330. Surveys the far right in Germany, Hungary, Romania, Czech Republic and Poland.

**Immigration and nationality law handbook**. *Joint Council for the Welfare of Immigrants* 1995 pp340, £12.99 pk. Revised and updated version of the 1992 edition that covers changes in immigration and refugee law since then.

**Pressing problems in the law Volume 1. Criminal justice and human rights**. PBH Birks (ed) *Oxford University Press* 1995 pp155, £25 pk. This volume contains 13 essays on reshaping the criminal justice system, fraud and the criminal law and freedom of expression.

**Racism and migration in western Europe**, John Wrench & John Solomos (eds). *Berg Publishers* (Oxford) 1995, pp293 pk. Contains sixteen essays on various aspects of racism and migration. Includes entries on France, Germany, Italy, Sweden, Holland and Britain and Scandinavia and migrant women.

**Fighting for Ireland: the military strategy of the Irish Republican Movement**, MLR Smith. *Routledge* (London) 1995, pp265 £25 hd. Smith concludes that the Irish Republican Movement is characterised by "a sense of chronic insecurity", an argument that is hardly justified after 25 years of struggle against British military occupation.

**Human rights, human wrongs: the alternative report to the United Nations Human Rights Committee**, Connor Foley (with Liberty). *Rivers Oram Press* (London) 1995, pp464. This work catalogues human rights abuses in England, Wales and Northern Ireland from 1989 to 1994. It contains chapters on criminal justice, racism, Northern Ireland, womens' rights, lesbians and gays, disabled rights, mental health, migrants and refugees, censorship and rights in the workplace. It provides a useful overview.

**Case law of the European Court of Human Rights, Vol III, 1991-1993**, by Vincent Berger. Dublin, Round Hall Press, May 1995. £47.50. Concise and clear summaries of over 200 cases decided by the court between the relevant dates.

**The best police in the world, an oral history of English policing**, Barbara Weinberger. *Scolar Press* (Aldershot) 1995, pp224, £39.50 hk. Examines, through interviews with police officers, the "golden age" of policing between the 1930s and the 1960s.

**The Octopus: Europe in the grip of organized crime**, Brian Freemantle. *Orion* (London) 1995, pp422, £16.95 hk. This book presents an EU gripped by organised crime and uncontrolled mafias; the author sees the fledgling Europol as a potential European cavalry, coming to the rescue.

**Immigration, "race" and ethnicity in contemporary France**, Alec G Hargreaves. *Routledge* 1995, pp267, £13.99. Discusses developments in France since the "end of immigration" in 1972, mainly in terms of "integration" and "assimilation."

**The Nemesis file: the true story of an SAS execution squad**, Paul Bruce. *Blake* (1995), pp280 £15.99. Among the allegations in this book is the claim that the author took part in SAS executions of unarmed Nationalist civilians and IRA volunteers during the early 1970s.

**The ultimate crime: who betrayed the UN and why**, Linda Malvern. *Allison & Busby* 1995, pp442 £20 hd. This book examines the role of the United Nations since its birth in April 1945 and reveals "the staggering hypocrisy which exists at the heart of international diplomacy."

**Criminal Justice: an introduction to the Criminal Justice System in England and Wales**, Davies, Croall & Tyrer. *Longman* 1995, pp388 £16.99 pk. Includes sections on criminal justice, crime, police, courts and prisons.

**The Oxford history of the prison: the practice of punishment in western society**, Norval Morris & David J Rothman (eds). *Oxford University Press* 1996, pp490 £25 hd. Part 1 of this volume includes eight essays on the history of prisons from the ancient world to the present; Part 2 includes chapters on prison for women (Lucia Zedner), juvenile reform school (Steven Schlossman) and the political prison (WB Carmochan).

**Western European penal systems: a critical anatomy**, Vincenzo Ruggiero, Mick Ryan and Jose Sim (eds). *Sage Publications* 1995, pp241 £12.95 pk. This collection on essays describes the organisation of prisons - and alternatives to custody - in eight European countries. Contributions by van Swaaningen & de Jonge (Holland), Ruggiero (Italy), Gallo (France), Ryan & Sim (England and Wales), Messner & Ruggiero (Germany), Bergalli (Spain), Leander (Sweden) and Tomlinson (Ireland).

**Policing gender, class and family**, Linda Mahood. *UCL Press*

1995, pp215. This is a study of "juvenile reformatories and the moral regulation of children and adolescents in the period 1850-1940."

### **Asylum package: Revolt makes headway**

Campaigners against the government's package of anti-refugee and anti-immigrant measures celebrated some limited victories during the committee stage of the Bill, and in providing some checks to the social security regulations.

As reported in *Statewatch*, vol 5 no 6, the first part of the package is a new Asylum and Immigration Bill, which aims to deter asylum-seekers and clamp down on those helping them, as well as to criminalise employers. It also allows the removal of social housing and child benefit rights from "classes" of immigrant chosen by the Secretary of State. The second and interlocking part of the package is the new social security regulations which deny all benefits to asylum-seekers who claim asylum and to all whose claim is rejected and who appeal. Benefits are also denied to "sponsored immigrants", even after they become settled in Britain and even if their sponsor suffers redundancy or ill-health making continued support impossible.

#### Committee's advice

The regulations, announced by social security minister Peter Lilley at the Tory party conference in October, were referred to the Social Security Advisory Committee, which took submissions from 225 organisations and individuals, and in December presented its unanimous recommendation to the minister that the regulations should not be implemented.

Undeterred, Lilley laid the regulations before Parliament on 11 January, with only minor amendments which deleted retrospective effects. By then, a legal challenge from two London councils had been given the go-ahead by a High Court. Westminster and Hammersmith & Fulham councils were concerned not so much with the plight of destitute and starving refugees but with their duties to house homeless people and to provide assistance (including cash) to children "in need" and their families. The councils' argument was that they should not be left to pick up the bill and that the regulations should await the abolition of all housing duties to asylum-seekers which is to be enacted shortly in the Bill.

#### Soup kitchen

On the day the regulations had been due to come into effect, 8 January, West Midlands Anti-Deportation Campaign organised a "soup kitchen" protest outside the DSS office in Handsworth, Birmingham to draw attention to the inevitable poverty and destitution that will be caused by the removal of benefits.

Finally, the efforts of the campaigners forced a Parliamentary vote on 23 January, which was won by the government by only 15 votes. On the day they came into force, 5 February, the Joint Council for the Welfare of Immigrants mounted another legal challenge, this time on the basis that the regulations infringed the

UK's obligations under the Geneva Convention on Refugees, by dissuading asylum-seekers from exercising their appeal rights and starving them out of the country. Judge Henry Brooke, brother of Westminster Tory Peter who voted against the regulations, granted leave for the challenge to proceed. Both challenges, from the opposite ends of the political spectrum, were to be heard together later in February.

#### Labour isn't working

The Bill, meanwhile, has been going through its committee stage. Contrary to the hopes and expectations of campaigners, the parliamentary opposition in committee has been less than committed in its opposition, apparently fearing the label of "bogus refugee-lover" too much to be effective. Notable straws in the wind for those seeking indications of Labour's attitude in office have included:

- \* refusal to table amendments to provisions giving police draconian new search and seizure powers
- \* refusal to table meaningful amendments to provisions criminalising employers of "illegal" workers
- \* refusal to support an amendment relating to gay cohabitants.

Thus the Bill is expected to emerge from committee in late February with its main provisions intact, including employer sanctions. This despite Home Office research showing that with such sanctions in place, a majority of employers would not hire any black staff at all, rather than run the risk of a penalty.

#### Arms and the refugee

Another hugely controversial measure which has survived the committee stage is the notorious "white list" of countries deemed safe by the minister. Asylum claimants from these countries will be "fast-tracked" and will have to rebut a legal presumption of safety. The measure ignores the fact that ministerial "safe third country" certificates are overturned by adjudicators in over one-third of the cases, and went through despite the scandal of Mohamed al-Masari, the Saudi dissident ordered to be expelled to Dominica because of his forthright criticism of the Saudi regime's human rights violations. Ministers admitted that the expulsion was at the behest of the Saudis, through the mediation of one of Britain's biggest arms dealers, Sir Colin Chandler, chief of Vickers.

The Masari affair revealed the vulnerability of human rights judgments to contamination by commercial considerations. As details of the deal to get rid of Masari in exchange for £2 billion a year in arms sales emerged in January, it was also revealed that another Vickers director, Andrew Green, was to become Britain's ambassador to Saudi Arabia. It is such diplomats who provide the Foreign & Commonwealth Office with information for country assessments subsequently relied on by the Home Office and by adjudicators judging asylum claims.

At the beginning of February, Masari launched his appeal against the proposed expulsion to a country he has never been to and which has been given an extra £200m in aid for 1996 (coincidentally, the figure cited by ministers as the cost of

supporting around 50,000 asylum-seekers on income support and housing benefit for a year). The judge ordered the Home Office to disclose details of its discussions with the Dominican government. Masari has also lodged a judicial review application in which the court will examine the propriety of Michael Howard's decision.

## Nigeria and Shell

Another court rejected a challenge to the deportation to Nigeria of Ade Onibiyo, whose father has not been heard of since his deportation in October. The case of Abdul Onibiyo came to national prominence because his deportation to a country considered "safe" by the Home Office, from which 99% of asylum claims had been rejected as "bogus", was closely followed by the execution of Ogoni human rights and environment activist Ken Saro-Wiwa, along with eight colleagues. The executions, which took place during the Commonwealth summit in Auckland in November, led to international condemnation of General Abacha's regime in Nigeria, but the British government continues to arm and train Nigerian police, saying that the arms boycott approved in the wake of the annulment of elections in 1993 covered only the military and not the police.

The executions revealed the close relationship with the Nigerian authorities enjoyed by the oil multinational Shell, which has used soldiers from the vicious Internal Security Task Force to quell protests in Rivers State, Ogoni, where its oil and gas plants are situated, treated injured soldiers in its own hospital and imported arms which have gone to the death squads brutally suppressing the Ogoni people.

Although the Home Office removed Nigeria from its proposed white list in the wake of the Saro-Wiwa executions, the country remains on its "short procedure" list of countries on a fast-track assessment procedure. Practitioners say that nationals of countries on this list, including Sri Lanka, Algeria and Nigeria itself, have an extremely high refusal rate and that the list operates as an informal "white list", in parallel to the formal white list which includes India, Pakistan and Romania.

*Commons Hansard* 11.1.96; 23.1.96; *Report of the Social Security Advisory Committee on the Social Security (Persons from Abroad) (Miscellaneous Amendments) Regulations 1995*, HMSO, January 1996 (social security regulations); *Asylum and Immigration Bill*, November 1995; *Prevention of illegal working: consultation document*, Home Office, November 1995; *Independent* 1.2.96 (Asylum Bill); *Independent* 6.1.96, 2.2.96 (Masari); *Observer* 17.12.95, 28.1.96 (Nigeria); *CARF* no 30, Feb-March 1996 (general).

## EUROPE

### Book reveals mass clandestine expulsions

A Belgian Journalist has revealed new details of the effects of the anti-immigration campaign now being waged by governments across Europe. In his book, *Haal De Was Maar Binnen* (Bring the Washing In) Chris De Stoop, a journalist who works for

*Knack* magazine, exposes the huge increase in deportations in the last three years, the increasing involvement of private companies in the expulsions and some of the individual tragedies behind the statistics.

De Stoop's new book reveals how the figures for the last few years show a steep increase in the number of people being deported across the European Union. From 15,000 in 1990 De Stoop estimates that over 100,000 people were deported in 1993 and the figure doubled again to 200,000 in 1994. De Stoop says this started in a systematic way after the Berlin conference of 1991, which "declared war on illegal migrants". Germany in particular is regarded by De Stoop as a leading advocate of a hard deportation policy.

De Stoop also shows that as part of the Europe-wide offensive against migrants rights have been constantly abused. He describes the rise of the Asylum centres across Europe, pioneered in Holland with the *Grenshospitium* in Amsterdam, followed by infamous centres such as Campsfield in Britain, Transit Centre 127-bis in Steenokkerzeel, Belgium and Cortemark in Germany, a one-time garrison that has now become the biggest and most notorious asylum centre in Europe. At least one centre, 127-Bis, has been called a "concentration camp" after a government report described how people were getting caught in the razor-wire and then thrown into isolation cells with their wounds still open and bleeding. The Belgian government has now proposed a law which would allow asylum seekers to be detained indefinitely.

He describes how private companies are increasingly being employed to carry out deportations. Companies such as Manager Travel Service in Germany, who already carry out up to 12,000 deportations a year, or the Romanian Jaro company who employ former Ceausescu bodyguards to deal with deported Roma. De Stoop interviews James. T. Budd, of the Budd Company, who explains how his company deals with deportations for the Belgian government to countries that are too dangerous for Belgian Government employees to go to themselves.

De Stoop also looks at the reality of deportation for the victims, called "depos" by the companies paid to deport them. De Stoop describes the special trains built in Germany, nicknamed Bavarian specials, constructed so that the doors and windows cannot open from the inside. He saw these "specials" at Germany's Regensburg prison where they were later hooked up to the Eurocity between Munich and Prague. He also discusses the Euro-charter, a Dutch idea that has a lot of support in France, in which a airplane would fly around Europe picking up refugees from the same part of the world at the various capitals. This exercise has already been tried out with Zairian refugees. De Stoop's claim that C-130 military aircraft had been used on at least one occasion in Belgium has led to an admission from the Internal Affairs Minister. A parliamentary inquiry is now under way into how a practise that had been thought of as an idea so barbaric that only the fascist Vlaams Blok had even considered it ended up being Government practise.

Deportation in such circumstances is obviously traumatic. It can also often end up being physically dangerous. De Stoop points out examples such as the Romanian Constantin Rudaru, who became severely brain damaged after having his mouth covered in sticky tape, in a case similar to that of Joy Gardener,

who died in similar circumstances. Another fatality listed by De Stoop is the Nigerian Kola Bankole, who died after being given an injection of tranquilisers. De Stoop claims every European county has its own roll-call of fatalities in transit. The violence involved with deportation is so intense that even police forces have complained. De Stoop quotes the example of the Belgian Rijkswacht [gendarmerie] who wrote a memo complaining about the violence they saw at Zaventem airport: "it is evident that a considerable amount of repression is needed in order to deport thousands of people who will often desperately resist".

The fate that awaits many people deported from the EU is also covered in "Haal De Was Maar Binnen". Although, as De Stoop acknowledges, the information on deportees once back in their own country is often very sketchy, largely due to the complete absence of any government monitoring, he quotes examples of people who were perceived to be in no danger in their "own" country who on arrival have either been arrested or have disappeared. Kuldeep Singh, for instance, who was deported from Germany in May 1994 and was tortured to death on his arrival in New Delhi.

However the strength of this book is in its case-studies of individual asylum-seekers such as Aziza Mandova, a Macedonian who fled the former Yugoslavia after being persecuted because of her Roma origins. After seeking asylum in Germany she became the target of both the German Government, who eventually deported her, and the Far-Right Deutsches Liga, who covered Cologne with posters asking for information as to her whereabouts. She then went to the Netherlands, where she settled and lived quietly for two years. However she has since been refused permission to stay there and for the second time in five years has been deported back to Macedonia.

The impact that *Haal De Was Maar Binnen* has in Belgium has been so strong that the at least one parliamentary inquiry has been launched. The internal affairs Minister Johan Vande Lanotte complained to the *De Morgen* newspaper that De Stoop had not interviewed him, to which De Stoop replied that the minister had not been available for interview despite repeated requests on his part. Students in Louvain have proposed Chris de Stoop for an honorary doctorate in opposition to the award of a similar honour to Chancellor Kohl.

Excerpts from *Knack Magazine*, 17-23.1.96; Additional Information from *de Morgen*, 18.1.96 and *Solidair*, 24.1.96.

## UK MI5 and organised crime

The UK parliament is currently discussing a Bill to extend the powers of MI5 (the Security Service) in two ways: 1) to allow it to conduct intelligence gathering in criminal cases and 2) to extend its powers to "bug and burgle" including cases involving "conduct by a large number of people in pursuit of a common purpose." This will involve MI5 employing surveillance, informants, infiltrating agents, and using technical devices (hidden "bugs", video cameras, and tracking devices). MI5's existing roles are: counter-espionage, counter-sabotage, counter-subversion, and counter-terrorism.

The proposal is one of four, put forward by the Prime Minister, at last year's Conservative Party Conference. The other three are: creating "a national tier of police response" through the six Regional Crime Squads; the creation of a new Directorate of Organised and International Crime within the Home Office (from April 1996); and a review of the roles of the National Criminal Intelligence Service (NCIS) following calls for to have operational powers on top of its present one of intelligence-gathering.

The last proposal, extending the powers of NCIS to operations is as far-reaching as that under the present Bill. But NCIS's role is not to be legislated for until 1997. Will NCIS's role be extended to include conducting operations? Will the eventual split in roles mean MI5 conduct all surveillance into serious crime with NCIS and the Regional Crime Squads being solely the operational wing? To whom will the NCIS be made accountable - currently it has no statutory basis with officers seconded from local forces paid for by local police authorities. Will other national roles currently run by the Metropolitan Police be passed over to a new MI5/NCIS national agency?

Introducing the Security Service Bill on 20 December 1995 Mr Howard, the Home Secretary, said:

"The skills and experience of the Security Service, honed over the years in countering espionage and terrorism, can bring an added dimension to the work of the law enforcement agencies."

*Police Review* reported "Home Office sources working on the police-MI5 initiative" as saying:

"tactics employed by agents will include planting false information, disruption and "dirty tricks" if there is insufficient evidence to bring cases to court. "Disrupting the activities of organised criminals may be a desirable role if MI5 is not able to bring them to justice", the source said."

The Bill will add the "prevention and detection of serious crime" to MI5's roles and allow it get obtain warrants to "bug and burgle" (to enter property and to place "bugs" and to "plant" or remove any item) in the UK in pursuit of "serious crime" (a role previously the exclusive preserve of the police force). The Bill does not limit their role to "organised crime" but to "serious crime" which is defined as including:

"conduct by a large number of people in pursuit of a common purpose."

### The Bill's provisions

The Bill seeks to amend Section 1 of the Security Services Act 1989 by adding to the roles of MI5:

- 1.1.. (4) It shall also be the function of the Service to act in support of the prevention and detection of serious crime.
- 1.2[adds to the 1989 Act in sub-section 2 of section 2] (c) that there are arrangements for co-ordinating the activities of the Service in pursuance of



section 1(4) of this Act with the activities of police forces and other law enforcement agencies.

Section 2 of the Bill will lift the restriction, under the Intelligence Services Act 1994, placed on MI5 not to "bug and burgle" in the British Isles (the limitation remains on MI6 and GCHQ, though of course GCHQ can still tap telecommunications within the UK). MI5, therefore, under this Bill will be able to apply for a warrant to "bug and burgle" in this country when it concern "serious crimes" as defined below.

Section 2 (new 3A) allows MI5 to apply for a warrant if it is related to the new section 3B below.

(3B) is taken directly from 10.3 (a & b) of the 1985 Interception of Telecommunications Act:

This relates to "conduct" constituting "one or more offences and either":

"(a)it involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose; or

(b)the offence or one of the offences is an offence for which a person who has attained the age of twenty-one and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more."

What constitutes a "large number of persons" is not defined, the only observation that can be made is that this presumably is intended to refer to more than 2 people. The "either" and "or" are not without significance - if both were deleted and the word "and" inserted at the end of sub-paragraph (a) then at least a "large number of persons" undertaking a "common purpose" would be limited to offences bringing three years in prison.

As it stands the Bill will enable MI5 to apply for warrants to "bug and burgle" simply where there is "a large number of persons in pursuit of a common purpose" - which could easily be applied to a whole range of political activity such as those opposing veal exports or those objecting to the building of a motorway through woodland.

Section 3 of the Bill extends MI5's new roles to Northern Ireland.

### Debate in parliament

There was a lively debate during the Second reading of the Bill on 10 January. Home Secretary Michael Howard opened the debate saying its purpose was to "combat the threat that is posed by organised crime" - an assertion which led MPs to ask why the Bill talked about "serious crime" rather than "organised crime". Seeking to justify MI5's involvement in an area traditionally the preserve of the police force he referred to "criminals, who share many of the characteristics of terrorist groups".

Several MPs interrupted his presentation. Alan Beith MP

(Liberal) asked: what the relationship between MI5 and the NCIS would be and did he not appreciate how difficult it was to work out this relationship when the national structure was not known? Chris Mullin MP (Labour) asked:

"Is not the background to all this the fact that the Security Service is running out of threats, and that a new one is having to be invented to save large public spending cuts that might otherwise have to be introduced to these bloated organisations?"

David Winnick MP (Labour) asked that if MI5's role was to be extended: "is that not all the more reason to ensure accountability exists?" Again, Alan Beith MP intervened when Mr Howard spoke of the primary role in tackling crime being that of the police. Mr Beith, a member of the Intelligence and Security Committee, said it was laid down that the Director-General of MI5 "tasks" it (ie: decides what operations to undertake) and it was "self-tasking in relation to its existing statutory functions". Was this not a conflict which should be clarified?

MPs were also concerned over MI5 going to the Home Secretary (or any Secretary of State, Minister) to get a warrant to "bug" property while as Mr Howard spelt out:

"There is no specific statutory authority for the present arrangements whereby chief officers of police may themselves authorise the use of intrusive surveillance equipment in tackling serious crime."

Even Tom King MP, ex-Defence and Northern Ireland Conservative Minister and Chair of the Intelligence and Security Committee, saw "the need for a better definition of serious organised crime". He went on to observe:

"It could be argued that one should not proceed with the idea of introducing the Security Service into dealing with serious organised crime until it was clear with what body it would be working and what the ultimate arrangements in law enforcement would be."

When Alan Beith MP took the floor he criticised the Bill on several counts. Under Section 1.2 of the Bill:

"The Director-General of the Security Service is told, as it were, to write the rules for coordination between the Security Service and the police... It is not adequate to let - in effect - the Security Service write its own rules... [which] are not subject to approval by anyone."

He said the NCIS was not mentioned in the Bill and "the police national squad is still a creature of Government speculation and imagination rather than reality." Referring to the Home Secretary authorising MI5 warrants to "bug" while the police simply had to get permission from a Chief Constable Mr Beith asked what was to stop MI5 saying: "Lets do it with one of your warrants". And to whom would the public complain if something went wrong with an operation where MI5 were acting in support of the police to the Police Complaints Authority or to the Security Service Commission (which has not upheld a single complaint since its

inception in 1989)?

Ken Livingstone MP reminded parliament of MI5's less than laudable history against trade unions, Labour governments, and political activists:

"I believe nothing that Stella Rimington [the current head of MI5] has done has changed the culture of treason and anti-Labour bias. I believe the existence of MI5 is a threat to democracy in this country, and has been terribly damaging - fatal in some cases - to those who have been on the receiving end of it."

A number of MPs expressed concern over MI5 agents' ability to collect evidence sufficient to be used in evidence in court and over changes in court procedure. In a recent case in Scotland three MI5 agents, two men and a women, were identified only as Mr C, Ms D and Mr G. They gave evidence from behind a screen which shielded them from the press and public but not from the six accused - Scottish judges holding to the maxim that defendants have the right to see their accusers. One of the MI5 agent completely misidentified one of the defendants and another who was asked to estimate how far one of the accused had travelled replied: "I am not very good at distances" (see Security & intelligence section).

On 30 January during the Committee stage of the Bill David Maclean, Home Office Minister, tabled an amendment stating that MI5 would act "in support of the activities of police forces and other law enforcement agencies" to prevent and detect serious crime. He also said that MI5's operations should not be restricted by defining in the Bill what was meant by serious crime.

*Home Office*, press release, 20.12.95; *Report on Security Services work against Organised Crime*, Intelligence and Security Committee, HMSO, Cm 3065, £2.00; *Commons Hansard*, Second Reading debate, cols 215-304, 10.1.96; *Guardian*, 10, 29 & 31.1.96; *Police Review*, 19 & 26.1.96; *Scotsman* 21.12.95.

## FEATURE:

### EU reaches for global role?

A series of "Summits" and meetings at the end of 1995 showed the EU has started to bid for a global role. Two "Summits", partly based on economic agreements, EURO-MED and EU-US, contained important implications for "third pillar" issues and accountability within the EU. These were followed by a, largely unreported, meeting in Ottawa, Canada, initiating a globe-trotting counter-terrorist initiative.

The ideology running through these meetings is a familiar one - the linking of terrorism, the threats of immigration and drug trafficking, and consequent organised crime and money-laundering

- except this time the focus is global as well as European.

Nor do the issues raised contain any surprises. They are the

"threats" to European and global "security" that have "emerged" in the post-Cold War era. The "threats" which internal security agencies - who previously countered the threats of espionage and subversion - have used to increasingly take on policing roles in Europe.

### Madrid European Council, 15-16 December 1995

The Conclusions of the Madrid Summit in December, which marked the end of the Spanish Presidency of the European Union, noted "with some satisfaction some significant achievements... in which the European Union has played a decisive role". The Summit Conclusions go on to list: 1) the "new Transatlantic Agenda and the Joint EU-US Action Plan" which would "revitalise and strengthen our association.. moving on from a stage of consultations towards a new stage of concerted and joint action.. It hopes that other Atlantic democracies will share the goals of the New Transatlantic Agenda." 2) the "Barcelona Declaration", which came out of the Euro-Med Conference, "a new, comprehensive Euro-Mediterranean association which will promote peace, stability and prosperity throughout the Mediterranean through a permanent process of dialogue and cooperation". 3) the "Inter-Regional Framework Agreement between the European Union and Mercosur, the first agreement of this type... the final objective of which is to achieve political and economic association." ("Mercosur", is the new acronym for Latin America). 4) the signing of an Agreement on "precursors" signed on 18 December between the EU and the five countries of the Andean Pact to combat drugs. No more information is given in the Conclusions of the Summit except on drugs (see below).

For more detail of these "significant achievements" the reports on other meetings have to be examined.

### EURO-MED Summit, Barcelona, 27-28 November 1995 "the Barcelona Declaration: a new, Euro-Mediterranean association"

The Euro-Mediterranean Conference resulted in the "Barcelona Declaration which, while offering economic aid and a "free trade area", is not a precursor to membership of the EU - unlike the Association Agreements with the countries of central and eastern Europe (CCEE) (see *Statewatch*, vol 5 no 4). The Conference was attended by the Maghreb countries of north Africa, Cyprus and Malta, and Egypt, Israel, the Palestinian Authority, Jordan, Lebanon and Syria. US officials were deliberately excluded, even as observers, for this was to be one initiative run by the EU. The *European* newspaper summed up the purpose of the Conference:

"Above all, the aim of the rich EU is to hold back the millions in north Africa, a tide of illegal migrants waiting to percolate through the thousands of kilometres of the frontier of the Mediterranean coast" (30.11.95)

Another commentator, Sajid Rizvi, of the UPI press agency, said: "For Europe, the whole thing is about buying security. Even immigration is not a political issue; it is a security issue."

The Declaration is, of course, nowhere near as explicit, speaking of:

"the will to give their future relations a new dimension, based on comprehensive cooperation and solidarity, in keeping with the privileged nature of the links forged by neighbourhood and history."

The clauses on immigration were amended at the insistence of the Maghreb countries. Where the draft Declaration spoke of "facilitation of readmission" of nationals "illegally" in the EU - in plain language an agreement to send back migrants to the Maghreb countries - the final text said:

"in the area of illegal immigration they decide to establish closer cooperation. In this context the partners, aware of their responsibility for readmission, agree to adopt the relevant provisions and measures, by means of bilateral agreements or arrangements, in order to readmit their nationals who are in an illegal situation. To that end, the Member States of the European Union take citizens to mean nationals of the Member States, as defined for Community purposes"

The long-term effect of the Barcelona Conference may depend more on the regular meetings of K4 Committee officials (police, customs and immigration officials, security experts and officials from internal ministries) and their counterparts than the high sounding phrases of the Declaration itself. These ad hoc meetings will cover terrorism, policing, drug trafficking, customs controls, "combatting illegal immigration", "stepping up exchanges of information and improving extradition procedures" with a view to "strengthening cooperation" and reaching bilateral agreements.

### **EU-US Summit, Madrid, 3 December 1995: "the New Transatlantic Agenda and the Joint EU-US Action Plan"**

The Joint EU-US Action Plan, signed by President Clinton and Felipe Gonzalez, President of the European Union, is an attempt to redefine the "Atlantic Alliance" in the post-Cold War era. The Plan, drawn up by the EU-US Senior Officials Group is an insight into the global ambitions of the two power blocks (it does not cover defence or propose a transatlantic free trade area).

One of the four main areas set out, "Responding to global challenges" says:

"We are determined to take new steps in our common battle against the scourges of international crime, drug trafficking and terrorism. We commit ourselves to active, practical cooperation between the US and the future European Police Office, EUROPOL. We will jointly support and contribute to ongoing training programmes and institutions for crimefighting officials in Central and Eastern Europe, Russia, Ukraine, other new independent states and other parts of the globe."

The full-text of this section of the Plan is reproduced opposite.

It is subsequent meetings and reports which show that cooperation between the EU and the US on "third pillar" issues may be more than rhetoric and pose substantial questions of accountability.

### **New P8 group declaration, Ottawa, 12 December 1995**

The P8 Ministerial meeting in Ottawa on 12 December agreed a Joint Declaration to combat international terrorism following parallel meetings of Ministers and officials. This new group takes its name from the G8 group which meets to discuss economic issues. G8 is described as "the Group of seven most industrialised nations - USA, Canada, UK, France, Germany, Italy and Japan - plus Russia." The "P" of P8 denoting the political rather than economic nature of the meetings. The meeting was also attended by the EU represented by Mr Belloch for the Spanish Presidency.

The declaration says the group had agreed to step up cooperation against terrorism in the following areas:

- the international and domestic legal framework
- the exchange of expertise and information
- the taking of hostages
- new terrorist threats
- preventing the movement of terrorists
- transportation security
- the protection of public facilities
- terrorist fundraising

Home Office Minister, David Maclean, proposed that "Centre of Excellence" (following in the footsteps of Mr Howard's similar proposal to the Council of Justice and Home Affairs Ministers in November 1995) to combat terrorism should be created and:

"immediately offered to share British expertise by training other countries in:

- bomb searches
- the handling of continuing terrorist incidents - such as hostage taking and hijackings
- fraudulent document detection
- border control techniques
- video surveillance"

Mr Maclean said: "the specialist skills could then be made available on request to relevant organisations in other P8 countries." The UK's response to the problem he told the meeting included the forthcoming review of counter-terrorist legislation and the importance of frontier controls.

According to the communique on the meeting the French officials called for the expansion of Europol to cover terrorism and for legislation to deal with "those who made propaganda calling for violence". The latter statement sounded very similar to UK's concern at the meeting:

"not just about those engaged in terrorist activities but about other political activists who promoted unconstitutional change or destroyed the good relations enjoyed by the UK with other

governments."

### **Interregional Cooperation Agreement (Mercusor), 15 December, Madrid**

This trade agreement between the EU and the countries of Latin America (Mercusor) has 22 points. Point 15 reads:

"The Parties will also promote other areas of cooperation such as cooperation regarding training and education, communication and culture and *cooperation in combatting drug trafficking and its many ramifications, including those of a financial nature.*" (emphasis added)

### **Report of the Group of Experts on drugs, adopted at the Madrid Council**

The Madrid Summit adopted a report of the Group of Experts on Drugs and "invites the incoming Italian Presidency, in collaboration with the future Irish Presidency" to consult with Member states, the Commission, the European Monitoring Centre for Drugs and Drug Addiction, and the *Europol Drugs Unit* [emphasis added] to prepare a "programme of activities" based on the above report. A priority in this context will be to "establish a mechanism for cooperation between the European Union and Latin America, including the Caribbean, to combat drugs". The Summit Conclusions go on to "welcome the Franco-British initiative on the Caribbean" for regional action "which is also included in action under the Transatlantic Agenda." The Council and the Commission are asked by the Summit to prepare a report for April 1996 through a new "ad hoc Working Party on drugs".

The report prepared for the Madrid Council by the third pillar's Group of Experts on Drugs sets out specific policies which include: surveillance, new roles for the Europol Drugs Unit, liaison with "third countries" (eg: the US), and the creation of a new structure to deal with drugs in the EU.

The report, uncritically, lumps all drugs together - heroin, cocaine, cannabis, amphetamines, LSD and XTC (Ecstasy) - and says a "global and integrated response" is required. The only reference to the argument over the legalisation of "soft drugs" is: "It is obvious that all forms of legalisation of non-medical use of drugs are incompatible with these efforts"; a footnote is appended: "The Group did not reach consensus on this last sentence". Overall the report assumes the criminalisation of all forms of drugs, soft and hard. To combat trafficking it calls for:

"the necessity for cross-border observations, controlled deliveries and undercover activities.. and improved international cooperation between law enforcement agencies, such as for.. hot pursuit or the use of undercover operatives or informants.. "

At the EU's external borders it proposes enlarging the scope on the "future exchange of intelligence between law-enforcement authorities actually being prepared by EDU with Member States, [which] should be studied and possibly coordinated, among others, with the Customs Information System" - suggesting the linking of computer systems. It goes on to call for "improved

exchange of intelligence between... intelligence units of Member States as well as Third Countries' authorities."

The report concludes by mandating COREPER (the Permanent Representatives Committee representing EU governments) which "coordinated the activities of the Three Pillars" to create a "permanent mechanism of cross-pillar coordination on drugs issues, possibly consisting of national drugs coordinators."

### **K4 structure to effect the plans**

The grand-sounding objectives set out in the "Declaration" and "Joint Plans" examined here would be just that unless there was in place a mechanism to put them into practice - and there is. Back in September 1994 the K4 Committee put up a report to COREPER (the Committee of Permanent Representatives from each EU government) on "relations with third countries in the fields of Justice and Home Affairs". The report was adopted by the Council of Justice and Home Affairs Ministers (JHA) at its meeting on 30 November 1994.

The preamble to this report recalls the "tradition of contacts with certain third countries in the earlier context of intergovernmental cooperation" (a reference to the ad hoc Trevi Group) and sets out "flexible general principles" to be applied in this work.

The Council of 30 November 1994 instructed the K4 Committee to act as the "Presidency's special partner in organising contacts with third countries" by organising meetings as it sees fit. The "third countries" to be considered are "those with which, under Trevi, such contacts were traditional: the United States, Canada, Switzerland and Morocco", plus the countries of central and eastern Europe (CCEE), applicants for EU membership, the Baltic states. The list is not intended to be exhaustive (point II). These meetings could, the report says, take place at Ministerial level - at JHA Council meetings, informal ministerial meetings, meetings of Association Councils. They could be meetings of the whole JHA Council, the "Troika" (present, past and future Presidencies) or:

"organised at Article K4 Committee or at Steering Group level... meetings of experts may also be organised." (point III)

The K4 Committee is given carte blanche to organise meetings with third countries on "all the topics covered by Title VI." The same report decided not to make any changes in membership of the "Dublin Group" which handles assistance to drug producing and transit countries - the members are; the EU member states, US, Canada, Japan, Australia, Sweden, Norway and the UN.

*Draft conclusions of the JHA Council on relations with third countries in the fields of Justice and Home Affairs, K4 Committee, ref: 8808/94, Restricted, CK4 64, 1994.*

It was a report from the Working Party on Drugs and Organised Crime - part of Steering Group I on police cooperation - which fed in the police perspective. This speaks of: "a global coherent approach, covering activities with the remit of the Three Pillars". More specifically:

"there is a need to exchange so-called hard and sensitive data between Member States for operational use by the various law enforcement agencies involved in the fight against illicit drugs... The continuous and better organised collection, exchange and coordination of information and intelligence, nationally and internationally, is therefore essential... "

The report, which is part of the part adopted by the Council, proposes the "use of satellites to monitor the situation in the producing countries" and notes the measures in the Barcelona Declaration planned for November and the meeting with the Andean countries of 26 September.

"Specific priorities" it says should be set out in the following areas:

"exchange of intelligence (EDU and neighbourhood EU countries) and operational (cross-border) cooperation of neighbourhood countries of transit." ("neighbourhood countries" = countries bordering on the EU through which drugs have to pass to enter)

*Draft report on the combatting of drug trafficking - the Third Pillar contribution*, ref: 8941/4/95, REV 4, ENFOPOL 79, Confidential, 8.11.95.

## JOINT EU/US ACTION PLAN

This Action Plan for expanding and deepening EU-US relations reflects a framework with four shared goals:

- Promoting peace and stability, democracy and development around the world;
- Responding to global challenges;
- Contributing to the expansion of world trade and closer economic relations;
- Building bridges across the Atlantic.

## II. RESPONDING TO GLOBAL CHALLENGES

We are determined to take new steps in our common battle against the scourges of international crime, drug trafficking and terrorism. We commit ourselves to active, practical cooperation between the US and the future European Police Office, EUROPOL. We will jointly support and contribute to ongoing training programmes and institutions for crimefighting officials in Central and Eastern Europe, Russia, Ukraine, other new independent states and other parts of the globe.

## II. RESPONDING TO GLOBAL CHALLENGES

We share a common concern to address in an effective manner new global challenges which, without respect for national boundaries, present a serious threat to quality of life and which neither of us can overcome alone. We pledge our actions and resources to meet together the challenges of international crime,

terrorism and drug trafficking, mass migration, the degradation of the environment, and nuclear safety and disease. Together we can make a difference.

### 1. Fight against organised crime, terrorism and drug trafficking

We will cooperate in the fight against illegal drug trafficking, money laundering, terrorism, organised crime and illicit trade in nuclear materials.

We will enhance bilateral cooperation and institutional contacts. We will also enhance the capabilities of criminal justice and investigative systems and promote the rule of law through international training programmes at regional institutions such as the International Law Enforcement Academy in Budapest, the Italian Judicial Training Centre, the Middle and East European Police Academy and a similar administration of justice institution for the Western Hemisphere.

We will take steps to establish an information exchange mechanism on cooperation between US and the EU and its member States in the law enforcement and criminal justice fields, especially regarding activities in providing training, technical assistance and equipment to other nations.

We will foster the exchange of law enforcement and criminal justice expertise between the US and the EU in three areas:

- scientific and technological developments;
- exchanges of experts and observers between appropriate institutes and agencies;
- the sharing of information such as studies and analyses of emerging trends in international criminal activity.

When mutually agreed, we will jointly prepare reports to include recommended courses of action.

We will discuss the possibility of establishing interim cooperative measures between competent US authorities and the European Drugs Unit and begin implementing the possibilities provided for in the convention on EUROPOL, to facilitate relations between EUROPOL and the US Government.

We will examine possibilities for cooperation in support of the UN Drug Control Programme marine interdiction initiatives.

We will coordinate alternative development programmes to counter drug production.

We will jointly support the establishment of cooperative links between appropriate EU institutions such as the European Monitoring Centre for Drugs and Drug Addiction and the Comisión Interamericana para el Control del Abuso de Drogas.

We will coordinate our counter-narcotics assistance programmes and projects in the Caribbean.

We will take action to strengthen the Dublin Group by reinforcing and supporting its members' counter-narcotic

measures.

We will work to conclude an agreement in order to exchange, among other things, sensitive information for the pre-clearance of shipments of essential and precursor chemicals used in the production of illegal drugs and cooperate in joint training programmes in chemical diversion control.

We will cooperate on assessing and responding to terrorist threats.

## 2. Immigration and asylum

We will:

- strengthen information exchanges on illegal immigration and on asylum taking into account, inter alia, the work of the Geneva Intergovernmental Consultative Group;
- cooperate in the fight against the traffic in illegal immigrants;
- cooperate in the fight against the traffic in women;
- exchange information on asylum trends and on successful asylum system reform;
- establish common responses to refugee crisis situations, notably by early-warning mechanisms and coordination;
- develop a common stance on temporary protection in United Nations High Commission for Refugees;
- coordinate positions on the Conference on Refugees and Migrants in the Commonwealth of Independent States;
- improve existing arrangements and exchanges of intelligence in areas of mutual concern, for example, forged identity documents and transport carriers' liability;
- convene seminars in 1996 and compare the results of our respective studies on migration flows both into the US and into the EU.

## 3. Legal and Judicial Cooperation

We will:

- identify means of strengthening international judicial assistance and cooperation in the obtaining of evidence and other relevant information;
- cooperate on judicial seizure and forfeiture of assets;
- identify means to strengthen and improve international mechanisms for extradition, deportation, mutual legal assistance and other cooperative action to ensure that international fugitives have "nowhere to hide";
- cooperate in promoting the work of the Hague Conference on Private International Law and the International Institute for Unification of Private Law (UNIDROIT).

*Draft report of the Group of Experts on Drugs to the Madrid European Council*, ref: 10979/2/95, REV 2, Restricted, CORDROGUE 46, 22.11.95; *The Transatlantic Agenda (and Joint Action Plan)*, European Council, 3.12.95; *Guardian*, 2.12.95; *Presidency Conclusions, Madrid European Council*, 15

and 16 December 1995, ref: SN 400/95; *Euro-Mediterranean Conference, Barcelona Declaration, Final Version 2*, 28.11.95, European Commission; *European*, 30.11.95; *Home Office*, press release 12.12.95; *Final communique*, Ottawa meeting; *Independent*, 28.11.95; *Interregional Framework Cooperation between the European Community and its Member States, of the one part, and the Southern Common Market and its Party States, of the other part*, press release, 8.1.96; *Statewatch*, vol 5, no 4.

## CONFERENCES

**World Congress on Violence and Human Coexistence:** Dublin, Ireland. 17-21 August 1997. Theme: Violence and the Future of Society. Suggested topics include: Organised crime; recidivist violence; violence and juvenile imprisonment; official and state violence and resistance to; domestic violence. Details from: Jessica Bates, Congress Secretary, University College Dublin, Belfield, Dublin 4, Ireland. Fax: 00 353 1 7061125. e-mail: Jess.Bates@ucd.ie

**People's diplomacy, non-violence and migration**, Conference, Roverto, Italy, 25 August-14 September 1996. Sessions on: The human cost of migration (2-3 September); Legal aspects of migration (4 September); The economics of migration (5-6 September). Details: International University of Peoples' Institutions for Peace, Secretary's Office, Fondazione "Opera Campana dei Caduti", Colle di Miravalle, 38068 Roverto (TN), Italy. Tel: 00 39 464 434412.

**Annual conference: Socio-Legal Studies Association.** 1-3 April 1996, University of Southampton. Details from: Faculty of Law, University of Southampton, Highfield, Southampton, SO17 1BJ.

**European-wide Action Week Against Racism**, 16-24 March 1996, UN day against racism and **International Refugee Day**, 16 June 1996. Both organised by UNITED, Postbus 413, NL-1000 AK, Netherlands. Tel: 00 31 20 6834778. Fax: 00 31 6834582.

**Regulating Europe: criminology, care and control:** 24th Annual Conference of the European Group for the Study of Deviance and Social Control, University of Wales, Bangor. Thurs 12 September - Sunday 15 September. Papers are invited on the following themes: The criminological enterprise in Europe; The new European order; Constructing policies and problems; Institutional violence. Contact: Chris Powell, University of Wales, School of Sociology and Social Policy, Bangor, Gwynedd LL57 2DG, Wales.

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