

Statewatch bulletin

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IMMIGRATION

Refugees = terrorists

As part of its efforts to define the world as 'safe' for refugees (as opposed to trying to make it safe) the Home Office has recently devised some new formulae.

The Indian government, and in particular the Punjab regional government, has come in for a lot of severe criticism for human rights abuses by the security forces and police. An estimated 22,000 Sikhs are in prison, and another 50,000 have been killed in the last decade, many in false 'encounters' with the security forces (where they are captured, shot and claimed to have fired first). But if the victims of such abuses make it to Britain, they are increasingly being told that they are not refugees: either they are ordinary civilians, in which case they have nothing to fear from the security checks carried out by the authorities to protect them, or they are supporters of terrorist groups.

The logic of the position is now being applied to Kurds from Turkey: if they are supporters of the PKK they can't be refugees as they're terrorists by definition; if they are not supporters of the PKK they have nothing to fear. Same with Tamils from Sri Lanka, 11,000 of whom, according to the Guardian, the Swiss government is about to deport after sewing up an agreement with the Sri Lanka government (Guardian 20.4.94, and see Statewatch vol 4, no 2). This despite a series of recent (February 1994) Amnesty International reports condemning waves of arrests, detentions and torture of young Tamil men in and around Colombo, and the continuing civil war engulfing the north of Sri Lanka. Meanwhile, thousands of police manned checkpoints to prevent protests when 13 Kurds went on trial in Munich charged with occupying the Turkish consulate and seizing hostages in June 1993. There has been strong criticism of German arms sales to Turkey totalling £400 million in the past three years, amid persistent allegations that the arms are regularly used to suppress the Kurds rather than for any external defence. The recent ban by Germany on the PKK was warmly welcomed by the Turkish government as symbolising the removal of any German support for the Kurds. The Bavarian government announced that it would deport Kurds who take part in violent protests such as those which brought German motorways to a standstill in recent weeks.

'Safe' countries?

More and more asylum-seekers are being sent from the country where they claim asylum to a country of transit deemed 'safe', a number of those countries turn out not to be so safe. Austria has been condemned as unsafe by the UN High Commissioner for Refugees, in a recent report which says there is no guarantee that asylum-seekers will be given the right to apply for asylum there. Refugee agencies say that Austria has sent back asylum-seekers to Iran, Iraq and Syria. Switzerland's policies have been condemned by the UN Committee against Torture, which is not satisfied with the criteria governing the inclusion of countries on the 'safe' list; Switzerland deems all central European states safe, as well as India and Senegal and, of course, Sri Lanka, where up to 11,000 rejected asylum-seekers are to be returned. The UN Committee fears that asylum-seekers could be sent back to countries where they run the risk of being tortured. Sweden's policy of returning Kosovo Albanians has been criticised by the Swedish Red Cross on the basis of the miserable conditions they have to return to, and additionally, a group of returnees were maltreated at the border with Bulgaria by Serbian police who confiscated their passports when they were returned on 20 April. Meanwhile, the Netherlands has drawn up a list of 'safe' countries to which asylum-seekers can be returned, which is said to follow closely the German list.

Migration Newssheet May 1994; *Independent* 13.4.94.

France

Judges stand up to Pasqua

Battle has been joined between hardline interior minister Charles Pasqua and the judiciary over the new immigration and deportation laws. On 24 March, two Algerian youths were summarily deported for their involvement in violent demonstrations in Lyons. On 6 April a Lyon court ordered that the deportations be suspended, and the interior ministry had no choice but to authorise the youths' return to France. But Pasqua complained that the court's order had no legal basis, and accused the judges of making the law up rather than applying it. The judges' organisations protested that Pasqua was attempting to exert improper pressure on the judiciary, and told him to appeal to the Conseil d'Etat if he was unhappy with their judgments. The Justice minister has entered the fray on the side of the judges, telling Pasqua that he was 'wrong and unfair' to blame them for shortcomings in immigration policy.

Liberation 8, 13, 25, 27.4.94.

EU rights undermined?

The Draft European Economic Area Order 1994, debated in parliament in May, purports to bring UK law in line with the free movement provisions of the Treaty on European Union and the European Economic Area (EEA) Agreement, but was greeted less than rapturously by the Joint Committee on Statutory Instruments, which expressed the view that the order's provisions on students were in breach of EU law. As a result of the disagreement, the House of Lords debate was adjourned for clarification.

Legal commentators believe that the order's shortcomings are far more serious than even the Joint Committee reservations allow. They say the Order entirely fails to give effect to the rights flowing from European Union citizenship created by Article 8a of Maastricht as from November 1993, or the abolition of internal frontiers in Article 7a. The effect of this is that European Union citizens (including British citizens) and their families are obliged to prove their right to live in the UK instead of getting the benefit of a presumption that they have the right to live here.

Those family members entitled to join EEA citizens here are also defined more restrictively than EEA law allows. When this was challenged in the House of Commons, Home Office Minister Charles Wardle responded that there was no need to spell out all family reunion rights, since the EC regulation concerned has direct effect in UK law 'and therefore does not require separate transposition'. Another contentious area of the draft order is the exclusion from EEA rights of spouses who are parties to marriages of convenience. What this provision will do is to open up all EEA marriages to the same detailed scrutiny as marriages to British citizens are subjected to currently thus exporting British immigration controls.

Draft European Economic Area Order 1994; Hansard 9.5.94 cols 65-72.

Immigration: in brief

* **Joy Gardner prosecutions:** The Police Federation and supporters of the campaign to see justice over the death of Joy Gardner are agreed that the prosecution of three police officers for manslaughter, announced by the Crown Prosecution Service on 26 April 1994, while welcome, should not be allowed to replace a full inquiry into the authorisation of lethal restraining equipment in deportations. Ms Gardner collapsed after her mouth was taped as police and immigration officers attempted to take her from her home to deport her on 28 July 1993. She died in hospital four days later without regaining consciousness. Until her tragic death the use of body belts, surgical tape and a special police deportation squad to detain immigrants for deportation was

unknown to the public.

Guardian, Independent 27.4.94

* **Fatal fall during search:** The Police Complaints Authority is investigating the death of a Nigerian woman who died trying to escape from a north London flat where police and a bailiff went to serve a summons. The woman tried to climb from the balcony of the twelfth floor flat to the flat below, using a washing line, which snapped. Friends said she mistook the police for immigration officers. Speculative and unlawful immigration checks are commonplace in some areas on the part of police investigating other matters and have been the subject of complaint for decades. It is not known whether the police attempted to carry out immigration status checks in this case. *Independent 28.4.94*

* **Germany: racist attacks:** On 8 March 1994, the Federal Minister of Interior issued new figures on xenophobic attacks. According to these statistics, 1,609 criminal acts of xenophobic nature were registered in 1993, 37 percent less than in 1992 (2,544). This includes 248 arson attacks on accommodation centres and homes of foreigners and asylum-seekers (596 in 1992) and 3 bomb attacks (12 in 1992). A total of 6 foreigners were killed during these attacks (7 in 1993) and 906 were injured (946 in 1992). The Federal Minister of Interior said the decrease in the number of racist attacks is encouraging, but the registered number of attacks is 'still alarming.' According to the Federal Office for the Protection of the Constitution (FOPC) there are 41,400 right-wing extremists in 77 organizations throughout Germany, with a militant core of 4,400 members (skin-heads). The German Government recently announced harsher sentences for racially motivated criminal acts as well as the use of Nazi-like symbols.

* **Illegal swoop:** 70 people were arrested in one of the biggest ever immigration swoops, 'Operation Elgar', in which over 100 addresses were raided in a joint immigration service and Met police operation in April. 24 of the 70, mainly Ghanaian and Nigerian, were treated as illegal entrants, and 46 more were detained for questioning. Many of those detained worked for Southwark Council, who commented defensively that the council checked all employees' national insurance numbers and that checks on immigration status were not the employer's responsibility anyway. The Council did not make the point that those arrested worked as hard as everybody else and paid the same taxes. *Guardian 28.4.94*

* **Getting married:** Immigrants who, until now, have been reluctant to marry in British registry

offices for fear of the heavy hand of the immigration officer, can relax a little: Home Office instructions recognise that arrests of alleged illegal immigrants during their marriages are 'particularly sensitive and should normally be undertaken only where the individual's whereabouts before and after the wedding have been and will be unknown'. *Commons Hansard* col 703, 19.1.94.

* **Closing down on compassion:** A Colombian youth who was tortured and threatened with death by drug cartels is to be deported despite a plea by Immigration Appeal Tribunal to the minister. 19-year-old Harold Martinez has been detained in Feltham Young Offenders' Institute for the past 16 months, since claiming asylum. He came to Britain with his parents after the family's refusal to sell drugs from his father's hot dog van in Cali led to the van being blown up and Harold's being abducted and set on fire. His lawyers are to challenge the proposed deportation on the ground that it exposes Harold to a serious risk of death or torture and that Home Office Minister Charles Wardle's decision is illegal. *Guardian* 22.4.94.

* **Getting rid of children:** The Court of Appeal has upheld the right of the Home Office to deport children who are subject to residence orders under the Children Act. Children of separated couples are often the subject of orders defining custody. The removal from Britain of children subject to such orders is a contempt of court (as well as arguably being detrimental to their welfare) - but not, the Court decided, when the Home Office does it. *Teame v Aberash, Independent* 5.4.94.

* **Getting rid of justice:** Battle was joined between the liberals and the hardliners on the issue of asylum-seekers in the Court of Appeal in April as, by a two-to-one majority, the attempt by judge Stephen Sedley to bring some natural justice into asylum screening procedures was thwarted. The majority held that the procedures were already fair and reversed the landmark judgment (see *Statewatch* vol 4, no 2), in which Sedley had ordered the Home Secretary to disclose the material it relied on in fast-track, 'manifestly unfounded' cases. But Lord Justice Steyn agreed with Sedley and said that the procedure adopted, which did not include even-handed disclosure by the Home Office, 'rendered ineffective fundamental rights of asylum seekers'. *R v Home Secretary ex p Abdi, Independent* 21.4.94.

* **EP condemns refugee 'trading':** The European parliament has condemned the repatriation agreements whereby central and eastern European states agree to take back rejected asylum-seekers from western Europe in exchange for aid or

preferential trade terms, which resulted in 'refugees being traded like goods' (see *Statewatch* vol 3, no 6). In a strongly worded resolution adopted on 21 April 1994, parliament recognised the persecution of Gypsies in many central and eastern European states, and particularly condemned the agreement of 2 September 1992 between Germany and Romania, whereby Romania agreed to take back 10,000 Roma and received DM 1 billion in exchange. The resolution also called for the legal protection of gypsies and other landless minorities throughout Europe. *Migration Newsheet* May 1994

* **Repatriation of Croats agreed:** On 25 April, Germany signed an agreement with Croatia whereby around 70,000 Croats who fled to Germany will be returned. A limited amnesty for war-resisters and deserters will not protect all the deportees from prosecution. The Federal Interior Minister said it was important to show that war and civil war refugees could not stay in Germany indefinitely. Also in April, a number of Kurdish asylum-seekers from Turkey have been or are being deported after participating in demonstrations in March, despite the worsening situation in south and eastern Turkey, where the security forces are waging war on the Kurdish population. *Migration Newsheet* May 1994

* **Kwame Toure detained at Heathrow:** African-American Civil rights activist, Kwame Toure, was detained at Heathrow airport by immigration officials at the beginning of April. He was travelling from New York to Kampala, Uganda as a member of the US delegation to the Seventh Pan-African Congress when he was held at Heathrow during a change-over in his flight. He was released from detention following protests from other members of his delegation and interventions by the Ugandan High Commission and Labour MP, Paul Boateng. Kwame Toure was the subject of an exclusion order when he attempted to speak in Britain in 1984. *Caribbean Times* 5.4.94.

* **Holland: Jail for employers of 'illegal immigrants':** At a meeting of ministers responsible for immigration matters in Thessaloniki on 6 May, the Dutch Secretary of State Mr Aad Kosto has announced his intention to send employers to jail for employing 'illegal aliens.' Mr Kosto feels fines are too easily booked as corporate losses and have little deterrent effect. He stated that 'As long as you tolerate illegals, you undermine the rule of law and in fact allow a Third World economy in your own country.'

Immigration - new material

Jamaican flight JQ001 'Landed in Hell'.

Runnymede Trust March 1994, p6. An account of one of the 200 Jamaican visitors detained after a flight to Britain over Christmas.

Compelling circumstances - gay relationships and the UK immigration rules, Michael Davies. *Socialist Lawyer* 21:20-21, 1994. On the inequalities for gay men and lesbians in immigration law and proposals for reform.

Control of Immigration: statistics - First and second quarters 1993 and Control of Immigration: statistics - third and fourth quarters and year 1993. HMSO 1993 & 1994.

Starving to be free. *Exile* 77:1, 1994. On the recent hunger-strike of 250 asylum-seekers at Campsfield and nine other immigration detention centres.

Parliamentary debates

Asylum seekers 31.3.94. *Commons* cols. 1071-1082

CIVIL LIBERTIES

Benefits computer

The Benefit Agency is setting up a computer database to register all people found guilty or suspected of fraud of social security benefits. It is planned as a pilot project in London but is likely to be extended. The project has been developed in conjunction with local authorities and will be accessible by all local authority designated fraud offices. It will also be open to all benefit agency staff engaged in the prevention and investigation of fraud.

Economic League relaunched

The Economic League, the rightwing employment vetting agency, is reported to have been relaunched under a new name, a year after it disbanded. When it folded the card files that it held on thousands of trade unionists and labour activists were retained by their director of information, Jack Winder, and director-general, Stan Hardy. In May 1993 the two men registered a new company, Caprim Ltd, which offers services identical to those of the Economic League. These include tracking down left-wing activists, vetting potential employees and identifying environmental and animal rights activists. *Observer* 3.4.94.

Civil liberties - new material

United Nations reference guide in the field of human rights, Centre for Human Rights. *United*

Nations, 1993. Contains sections on Civil and political rights, Equality and non-discrimination and threats and violations of human rights.

Data protection controls and safeguards: report by the comptroller and auditor general. HMSO, 1993.

A right to be left alone?: a response to the government's consultation paper 'Infringements of privacy'. *Liberty Briefing*, October 1993, £2. A response to the Lord Chancellor's consultation document.

No refuge, Pragna Patel. *Agenda* p10, February 1994. On the interconnections between domestic violence and immigration laws.

Going critical in the classroom: the nuclear industries in our schools, Olive Bowers. *Nuclear Policy & Information Unit, Manchester City Council*, 1993. This report investigates the content of the educational materials distributed to schools and the extent of the nuclear industry's educational programme in light of the shortage of funds for purchasing materials in most British schools.

Tory donations: another £1.6m. *Labour Research* 83(1):13-14. The Labour Research team publish further details of Conservative Party political donations for 1992-1993, but still fail to close the gap in the Party's accounts.

The Hidden persuaders, Mark Seddon. *Tribune* 8.10.93. Short piece on the government's 'special advisers' or Ministerial aides.

Pluralism or state autonomy? The case of Amnesty International (British section): the Insider/Outsider Group, Lars Christiansen & Keith Dowding. *Political Studies* 42(1):15-24, 1994. A case study of Amnesty's relationship with the British government.

Traveller law review, Luke Clements. *Legal Action* May 1994, pp14-16. Update on the law relating to travellers.

Parliamentary debates

Homosexual offences (Prosecution) *Commons* 14.3.94. cols. 715-722

Prevention of Terrorism (Temporary Provisions) Act 1989 (Continuance) Order 1994 *Lords* 17.3.94. Cols. 468-490

Travelling people (Colchester) *Commons* 21.4.94. cols. 1147-1154

Civil rights (disabled persons) Bill *Commons*

POLICING

Europol staff shortlist

The staff for the top posts in Europol, the new European Union police organisation, are now being considered by the K4 Committee in Brussels. The posts to be filled are those of Director of Europol, Deputy Director (Administration) and Deputy Director (Information). The interviews are being undertaken by the K4 Committee - which is comprised of twelve senior Interior Ministry officials, one from each of the EU states. It will recommend to the Council of Justice and Interior Ministers who should be appointed to the three posts (see Feature: on the draft Europol

Convention p16). The selection process is partly based on the abilities of particular candidates and partly on the trading that takes place on which country's turn it is to get a top appointment.

The K4 Committee agreed the procedures for the interviews at its meeting on 3/4 February and interviewed the 12 candidates for the three posts over the following three weeks. The candidates for the post of Director are: Mr Meca (Portugal), Mr B.Reynolds (UK, Deputy Chief Constable for Thames Valley police force), Mr Storbeck (Germany) and Mr Tourre (France). For Deputy Director (Administration): Mr Makiagas (Greece), Mr Rauchs (Luxembourg), Mr D Valls-Russell (UK, Chief Superintendent in the Kent police force; who set up the Channel Tunnel Policing Unit). For Deputy Director (Information): Mr Boocock (UK, a Detective Chief Superintendent in the Metropolitan Police force), Colonel Bruggeman (Belgium), Mr Aranda Guerrero (Spain), Mr Marotta (Italy) and Mr Tassiopoulos Nikolaos (Greece).

As a result of the first round of interviews only one of the UK candidates is still in the running, Mr Valls-Russell for the Deputy Director (Administration) post. Colonel Bruggemann is thought to be the strongest candidate for the Deputy Director (Information) post as he has been working with the European Drug Unit (the first arm of Europol to be set up).

Each of the candidates has been assessed on certain criteria.

For example, the candidates for the Director were assessed on:

experience of managing a large police force;
experience in police cooperation;
experience in the fight against international crime;

knowledge of international treaties and conventions, plus their

university background and knowledge of foreign languages. After the first interviews Mr Storbeck was in the lead for the Director post with 146.8 points out of a maximum of 180 with Mr Tourre second with 132, and Mr Reynolds third with 127.5.

A briefing note prepared for the Belgian representative on the K4 Committee gives an insight into the politicking that goes into appointments at this level. While expressing support for the Belgian candidate Colonel Bruggemann it goes on to say that Belgium could support the UK candidate for Deputy Director (Administration), 'who gave a good impression at the interview in order to bring together the non-Schengen votes to elect our representative. The Note says that the Belgian Foreign Ministry had been told that the southern European countries who find it hard to accept a situation:

'where they would have no representatives within Europol. The French candidate, although he did not give a very good impression at the interview, could represent the southern European countries.'

Work of the interview Committee for the recruitment of staff for UDE/Europol, Memorandum from the Presidency, European Union Council, Brussels, 23 February 1994, SECRET; Briefing Note to Belgian delegation.

Manchester police arrest 13 in gay pub raid

The truce that appeared to have been established between the Manchester lesbian and gay community and local police was broken early on the morning of April 24 when the 'Mineshaft' club was raided. Police burst into at 1.30am armed with warrants and arrested thirteen people. They stated that they carried out the raid following allegations that men were having sex in a back room in the club and that some customers had been seen smoking cannabis. One man was eventually charged with public order offence, another was cautioned for obstruction and eight men were given cautions for gross indecency.

The raid was described by one eye witness as 'frantic'. One man, who was cautioned for gross indecency, claimed that a man was dragged out with his trousers around his ankles by officers shouting, 'cuff them, cuff them', as they stormed the back room. He described the raid as 'shocking' and 'disgraceful.'

The circumstance of the raid and subsequent arrests have led to anger within the lesbian and gay community. A public meeting, called within hours of the raid taking place, attracted a hundred people and over 200 attended a protest rally the following Tuesday. More than 400 have since taken part in a

demonstration through the city centre as part of an on-going campaign.

Relations between the police and a gay scene so large that Manchester has been called 'the gay capital of the north' have been strained since the days that the force was run by James Anderton. Anderton was famous for his outspoken views on morality, once describing gay men 'swirling around in a cesspit of their own making'. Although the current Chief Constable, Derek Wilmott, is said to be more sympathetic to the demands of lesbians and gays the police officer responsible for liaising with the lesbian and gay community acknowledged, these events represent a 'major setback for community relations.'

Crime and punishment

'Perhaps the single biggest intervention affecting the level of crime and criminality might be the ability to offer the next generation of young people better prospects of realistic full-time employment than we appear to have been able to offer this one.'

This is a quotation from the Home Office, whose ministerial staff publicly and vocally disavow any connection between unemployment and crime. It comes from a draft paper (never, apparently, delivered) prepared for a seminar on law and order. The paper cited the conclusion of 397 separate research studies on young offenders, which demonstrated that programmes offering employment cut recidivism by a third. The same seminar, called 'What works?' was told by a clinical psychologist) that prison increased offending by 30%.

Questioned about the startling disparity between current policy and the paper, the Home Office emphasised that the paper was a very early draft, and designed for an 'occasion in which free and open thinking was encouraged'. In the wake of the leak, Home Secretary Michael Howard conceded in a speech to the Institute of Directors that 'previous offenders who get jobs are less likely to re-offend'.

Independent 8, 27.4.94; *Independent on Sunday* 10.4.94, 24.4.94; *Guardian* 23.4.94.

Pepper spray for police?

The Association of Chief Police Officers (ACPO) is calling for the introduction into Britain of a gas made from oil of peppers, oleoresin capsicum. They say there are no need for trials here as it is widely used by police in the US and Canada. It instantly incapacitates those sprayed, giving them severe respiratory problems for up to a minute, with further 'limited side effects' lasting up to an hour. However, the Police Scientific Development Branch (PSDB) say there are fears that the sprays cause cancer. The PSDB has sent a report to the Home Office after collating worldwide research. 'There are some

outstanding medical concerns expressed about the risk of cancer', said a PSBD source. Deputy Commissioner of the Met Sir John Smith called on the Home Office to approve the gas's immediate issue. There was no need for trials here, he said, since they had been carried out in the US. Suggestions that the spray is carcinogenic, were dismissed by John Hoddinott, Chief Constable for Hampshire, who said it was 'time to sweep away the niceties that might hinder us making progress'.

The only chemical agent the police are currently authorised to use is CS gas and this only in extreme public order situations or against armed besieged criminals. The Joint Sanding Committee on the Police Use of Firearms is still considering a report from the PSDB on 'less than lethal force' (all self defence and the use of truncheons are considered 'less than lethal').

Right to silence

Three leading barristers have said that removal of the right to silence raises a serious issue of compatibility with Article 6 of the European Convention on Human Rights (the presumption of innocence, and the right to a fair trial). The opinion of QCs Peter Duffy, Richard Plender and Roy Amlot was commissioned by Liberty, which plans to challenge the law at Strasbourg. Lord Runciman, who chaired the Royal Commission on Criminal Justice, said that the proposals would:

'put into reverse the main thrust of PACE ... If you think the problem of police malpractice has been eliminated you are not living in the real world. These measures will expose the frightened and confused suspect to undue and improper pressure that will risk wrongful convictions'. Lord Alexander, chair of Justice, the all-party law reform group, said the proposals were 'a charter for unlimited police interrogation'.

And out of a dossier of 50 miscarriage of justice cases compiled by Chris Mullin MP from the hundreds of cases sent to him, many were 'based on statements extracted in police custody or based on admissions allegedly overheard by cell-mates, a feature of controversial convictions that has not previously had the attention it deserves'. The dossier includes cases such as the Bridgwater 4, Satpal Ram (sentenced to life imprisonment in 1986 for a stabbing, he claims to have acted in self-defence after being 'glassed' by a racist); and Gerard Magee (convicted on confession evidence obtained after 30 hours of interviews and beatings at Castlereagh, and sentenced to 20 years for conspiracy to cause explosions).

Guardian 11 & 26.4.94; *Independent* 5, 15, 18,

19.4.94; *ACPO Standing Sub-Committee on sled defence, arrest and restraint*, 5.1.94; *Independent on Sunday* 10.4.94; *Guardian* 7.5.94.

Holland

Major police scandal

The Dutch police are currently in turmoil after a series of press disclosures and an official inquiry about the use of unconventional police methods in fighting organized crime. The affair started in January 1994, when newspapers published stories on how a inter-regional semi-permanent detective squad (the "Interregionaal Recherche Team", IRT) had been shut down in December 1993 as a result of serious mismanagement and controversies over its methods & tactics. These included the importation and distribution of some 25,000 kilos of soft drugs by a criminal police informer/infiltrator, and plans to have him import and distribute about 100 kilos of cocaine in an attempt to establish his credentials with a major criminal organization. An investigation commission (the Wierenga Commission) published an 750-page report in March in which many prominent police and Justice Department officials were quoted extensively criticizing their colleagues and revealed what seems like a structural lack of cooperation and control. During the parliamentary debate on 7 April, the Ministers of Justice and the Interior only managed to hold on to their positions because the governing coalition parties were unwilling to let a political crisis undermine their chances in the May 3 elections. In the weeks that followed, none of the senior officials shown to have failed in giving guidance to and overseeing the IRT have suffered any consequences from the affair - a situation which has contributed to cynicism both among the public and the police rank and file.

Parallel to the 'IRT affair', leaks to the press and journalist investigations brought more sensitive and embarrassing information in the open. The police were shown to have resorted to clandestine burglaries to check whether a formal house search would produce any incriminating evidence. This practice was initially denied by senior Justice Department officials who later had to concede that such practices did take place, but were mostly limited to storehouses, sheds and garages; houses were seldom searched in this way they said.

Newspapers published a taped telephone conversation in which two police criminal intelligence (CID) officers discussed how the CID department in Haarlem had advance knowledge of a fatal bomb attack on a drug dealer but had refrained from intervening. According to one source, the hit was ordered by the IRA because the drug trafficker had sensitive information about Republican arms transports, but other newspaper reports suggested

that certain police officers were deeply involved in illegal practices, and cooperated with major drug traffickers to put the competition out of business. On May 13, a television program featured a list, which is circulating among criminals and lawyers, with the names and addresses of several hundred police informers operating in the south of the Netherlands. Apparently the list originated from a highly secret police source. The Justice Department would only comment that the list was three to five years old and had no official status, and that some of the names on it referred to non-existing persons.

The IRT scandal and these subsequent exposures have left the public image and integrity of the Dutch police severely damaged - even if some of the information is incorrect or exaggerated.

Parliament has decided to initiate an investigation into police tactics and techniques to decide what should be legally allowed. The public prosecutors' offices in the meantime have decided to set up a central commission to check individual cases and give permission to use certain sensitive methods in an attempt to establish national standards in this field. The Justice Department has cleverly exploited the situation by introducing a permanent national police team which will 'support' regional teams in organized crime investigations and provide an additional safeguard against illegal police activities.

Many officials, MPs and others have expressed their anger over the leaks in the press. Newspapers have been criticized for failing to apply self-restriction and suspected leakers in the ranks of the police have become targets of a series of investigations. Yet it is only whistleblowing which allowed this alarming situation to become publicly recognized and prevented the government from putting the lid on the disclosures.

Switzerland

Swiss-Czech police cooperation

At a meeting in the Czech Republic on 12-13 May between the Swiss Minister of Justice and Police, Arnold Koller, and the Czech Ministers of Justice (Jiri Noval) and the Interior (Jan Rumi) the two countries signed a protocol to cooperate on 'organised crime', computer crime, money-laundering, drug trafficking, and immigration.

The two sides agreed that 'organised crime' and migration presented the biggest 'threats' to their internal security and that this required urgent and intensive cooperation. The Swiss Minister also offered support for the reorganisation and training of the Czech police force and invited the Czech police to special training courses. The Czech Minister offered in return to negotiate a readmission treaty with Switzerland which would allow the Swiss authorities to expel 'illegal' migrants who entered via

the Czech Republic back to that country.
Komitee Schluss mit dem Schnüffelstaat, Bern, Switzerland.

Switzerland Amnesty report on policing

Amnesty International published a report in March on the ill-treatment of suspects by the Swiss police. The report covers a four year period, 1990-1994, and contains cases of ill-treatment on arrest and in police custody. It concludes that on the evidence law enforcement officers had allegedly 'used deliberate and unwarranted physical violence against people in their custody'. Amnesty reached this conclusion not just on the material gathered by their own inquiry but also by taking into account that gathered by the Council of Europe's Committee for the Prevention of Torture, the Association for the Prevention of Torture and the Swiss League of Human Rights. The 'allegations of ill-treatment have been made over a period of several years...originate from different sources and their nature and content are largely consistent [and] taken together indicate a substantial cause for concern'.

The Swiss Federal Court's response in 1993 to the 1991 Council of Europe's Committee report had previously indicated a system reluctant to recognise its faults. The Federal Court while accepting that an arrested person should have the right to inform a relative or third party rejected: the right of a suspect to have a lawyer present; the right of a detainee to be examined by a doctor of their choice; and the recommendation that police interrogations should be recorded.

The Association of Swiss Police Officers called the Amnesty report absurd and untenable on the grounds that it presented the views of those complaining but not of the police officers involved. However, Amnesty concern extended to the lack of redress for complainants. Most proceedings against the police were turned down, delayed or not accepted by the courts which often lead defence lawyers to advise their clients against taking proceedings as there is almost no chance of success.

Switzerland: Allegations of ill-treatment in police custody, Amnesty, March 1994, EUR 43/02/94; *Komitee Schluss mit dem Schnüffelstaat*, Bern, Switzerland.

Call for a national crime squad

The national coordinator of the police regional crime squads, Neil Dickens, has called for the creation of a national crime squad. In a speech to the spring conference of the Association of Chief Police Officers (ACPO) he said that the six regional crime squads in England and Wales and the Scottish Crime

Squad should be amalgamated into a 'single corporate body, a National Crime Squad'. This squad would be accountable to a committee of Chief Constables for operational activities and a standing committee consisting of Home Office and local authority representatives for finance and 'public accountability'. England, Wales and Scotland would be divided into six regions each with a director - the same structure at the National Criminal Intelligence System (NCIS). The regional director would manage the operational work of the existing crime squads and the existing NCIS regional intelligence offices. Ultimately the NCIS and this new National Crime Squad would merge into one national body undertaking intelligence and operations.

Mr Dickens argues that 'major criminal know no boundaries' and that 'there is no such thing as a regional criminal'. Moreover, he says, the 'international element of crime has increased considerably in recent years'. More and more regional crime squad officers are being sent abroad: 'The range of reasons include routine investigation, interviewing prisoners, handling informants, undercover deployment or surveillance on controlled deliveries'.

Mr Taylor, chair of ACPO's Crime Committee, told the Home Affairs Select Committee in April that the NCIS should be able to undertake a more proactive intelligence-gathering role by carrying out 'mobile surveillance of suspects', although this might involve them in making arrests which they are currently barred from doing.

Police Review, 18.3.94 & 8.4.94.

New stop and search powers

The Home Secretary Michael Howard has introduced an amendment to the Criminal Justice and Public Order Bill currently before parliament extending powers to stop and search people in an locality decided by the police. The existing power to stop and search a person or vehicle for offensive weapons under the Police and Criminal Evidence Act (PACE) 1984 requires 'reasonable grounds to suspect that...an offensive article will be found'. The amendment removes the requirement of 'reasonable suspicion' and allows a police superintendent (or in emergency an inspector) to authorise stop and searches in an 'area where trouble is expected'. This power to declare 'no go' areas can last for up to 24 hours and for six more hours if violence occurs. Failure to stop in a defined area when asked by the police to do so will be punishable by one month in prison or £1,000 fine. Records of those stopped, including their ethnic origin, are to be kept and published.

The Home Office and police staff bodies (who campaigned for the changes) are keen to deny this

means the reintroduction of the old 'sus' stop and search powers which were used extensively in the black communities. However, the introduction of random stop and searches without the need for 'reasonable suspicion' in 'areas' or locality (the extent of which are undefined and unlimited) will raise fears that the 'sus' law is back in a new guise.

Home Office press release, 'New powers to protect the public', 8.4.94; *POLICE*, May 1994; *Police Review*, 25.3.94.

Policing - new material

Police reform: problems of accountability and the measurement of police effectiveness, Barry Loveday. *Strategic Government* 2(1):7-23, 1994. On the Police and Magistrates' Court Bill, which will fundamentally alter the existing relationship between the police service and local and central government, established by the 1964 Police Act.

Police interrogation and social control, Richard A Leo. *Social & Legal Studies* 3(1):93-121, 1994. Analysis of police interrogation practices as one example of formal control in policing.

Putting freemasonry into perspective: the debate over freemasonry and policing, David Wall. *Policing and Society* 3(4):257-268, 1994. This article claims to 'put freemasonry into a factual perspective' and concludes that 'it is arguable that nowadays a police officer's golf handicap...is as, if not more, important than being a freemason.'

Firing back, Jim Sharples. *Police Review* 13.5.94., pp18-19. Sharples is the chief constable of Merseyside constabulary and chairman of the ACPO Joint Committee on Police use of Firearms. Here he defends the views of ACPO against the general arming of police officers.

Making their day, Kathryn Ayers. *Fortnight* 328:37, 1994. On the arming of women RUC officers and the implications for northern Ireland.

Follow-up report of the Finnish Government in response to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Finland from 10 to 20 May 1992. Council of Europe, Strasbourg, 1994, 34 pages, CPT/Inf (94) 3.

Response of the Government of the Federal Republic of Germany to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Germany

from 8 to 20 December 1991. Council of Europe, Strasbourg, March 1994, 71 pages, CPT/Inf(93) 14.

Parliamentary debates

Transport Police (Jurisdiction) Bill *Commons* 21.3.94. cols. 52-108

Transport Police (Jurisdiction) Bill *Lords* 24.3.94. cols. 809-826

PRISONS

Tough on the inside

Despite public criticism Mr Howard remained determined to press ahead with plans for a national network of 'child jails' or secure units for 12- to 14-year-olds which forms one of the main planks of the Criminal Justice Bill, despite threats of a defeat in the Lords at the hands of an alliance of Tory and opposition peers who argue that locking up children is not the way to deal with juvenile crime. Campsfield, Gringley (Notts), Medomsley (Durham) and Onley (Northants) were named as the first four sites, and criminal justice minister David Maclean said tender invitations were being issued for private companies to design, build, operate, maintain and finance the centres. They are supposed to house more than 200 offenders, who will serve up to 12 months there if they have committed three imprisonable offences or have breached a court order.

Guardian 23.4.94; *Independent* 12.5.94.

Prisons - new material

The Benefits of Home leave for prisoners. *Penal Affairs Consortium* March 1994. Report from the PAC that argues that 'the present system of home leave for prisoners should be simplified, extended and properly financially supported.'

Conviction No. 10. Contains an updated report on the appeal of John Brannan and Bernard Murphy and takes up the case of Susan May. Available from PO Box 522, Sheffield S1 3FF.

Consistency in sentencing. Various authors. *European Journal on Criminal Policy and Research* 2:1, 1994. This special issue focuses on European consistency in prison sentencing, as adopted by the Committee of Ministers of the Council of Europe in 1992.

The maintenance of security and control in prisons, including links with society, Arthur de

Frisching. *Penological Information Bulletin* December 1992, pp4-9. Argues that 'increasing the amount of contact between prisoners and staff and the wider community ...can improve security and control.'

Prison medicine and social justice. Paper by Professor Joe Sim, 29 pages. Institute of Crime, Justice and Welfare Studies, Liverpool John Moores University, Trueman Building, 15-21 Webster Street, Liverpool L3 2ET.

* **Prisons Ombudsman:** Sir Peter Woodhead, former Deputy Supreme Commander in the Atlantic has been appointed as the first prisons ombudsman. This appointment follows the recommendation of Lord Woolf in 1991 that an independent complaints adjudicator was essential to restore confidence in the prison service after the Strangeways riots. *Guardian*, 20.4.94.

Parliamentary debate

Prison overcrowding, *Lords*, 2.2.94. cols. 1269-1306

NORTHERN IRELAND

Collusion and protection

The Northern Ireland Office is maintaining its refusal of home protection grants to known targets of loyalist assassination attempts. In May Belfast Councillor Robert Lavery, whose son was shot dead in a loyalist attack on his home, was granted judicial review of the NIO's refusal to give him a grant on the ground of his Sinn Fein membership. The reason for refusing the grant was spelt out clearly by the NIO: 'the Secretary of State believes that it would be illogical and improper to expend public monies on the provision of special security measures to protect from terrorist attack persons who themselves are members of a party which supports terrorist violence or, at the very least, does not condemn or criticise such violence.' The judge found nothing wrong with this sentiment, but granted the order on the basis that the NIO was obliged to consider the personal circumstances of each applicant. During the hearing the criteria for eligibility for the protection grants became clear for the first time: only those individuals whose death or injury 'could damage or seriously undermine the democratic framework of government in northern Ireland or the effective administration of government and/or the criminal justice systems or the maintenance of law and order' qualify.

In re Robert Lavery's Application, May 1994.

Northern Ireland - new material

Where for art thou Romeo? *Red Action* 67 (Spring), p1 & 4, 1994. Piece on MI5 agent provocateur Pat Daly who received a £450,000 pay-off for organising an arms raid that resulted in two Irish Republican Socialists being jailed for twenty three and twenty five years.

McGovern judgement disappointing but not entirely unexpected...., Martin Wolfe. *Just News* 9(2):4-5, 1994. Kevin McGovern, a young unarmed student, was shot dead by the RUC in Cookstown in September 1991. This article discusses the law that has allowed another member of the security forces to walk free.

Different but equal, Alex Maskey. *Fortnight* 327, p28, 1994. On the nationalist campaign for equality at Belfast city council.

EUROPE

Schengen Agreement SIS delayed again

A report from the German Interior Ministry about political cooperation within the EU and between signatories of the Schengen Agreement sheds some light on the considerable delays in development of the computer technology at the heart of the Schengen Information System (SIS).

Since the drawing up of SIS systems architecture specifications in November 1988 and tendering for the central computer in 1991, the Schengen agreement has got bogged down in technical problems. Not only were the difficulties in communications technology for such a complex system underestimated, but also the system supplier was not able to deliver parts to specifications and to schedule.

In setting the conditions for the central mainframe tender, it was decided to adopt the X-400 communications technology standard as the basis for the SIS. The X-400 standard was chosen so as to ensure the necessary standardization of the SIS's communications links between the central computer (C.SIS) and the national terminals (N.SIS) as recommended in a Dutch report by the Bakenist company; the EU also put forward the X-400 as the future European yardstick for computer communications. Despite these recommendations, it soon turned out that, as the German Interior Ministry puts it, 'with our present knowledge, the X-400 standard is only partially suitable for interactive systems such as the SIS due to the fact that a series of extensions had to be added to cover the Schengen system's needs.'

In December 1991, the tender for development of the C.SIS was concluded with the selection of the French consortium SEMA (which includes Siemens-Nixdorf and Bull). The selection was made on the condition that the SEMA consortium would improve the price-performance ratio of their offer. This improvement took several months to negotiate as SEMA had identified several 'clear weaknesses in the development of the software', but the official contract with SEMA was eventually signed on July 24, 1992. The SIS officials hoped none the less to be able to get the SIS up and running by 31 December 1992, largely by shortening the planned development time of fifteen months. But this was not to be: in the words of the German Interior Ministry, 'it was

subsequently noted that SEMA was unable to deliver products on time and up to the required quality specification.' The start-up date for the SIS was therefore postponed first to July 1 1993 and then December 1 1993, but SEMA only delivered some of the key operational hardware for C.SIS - N.SIS communication ('User Agent') at the end of 1993, making the rescheduled start-up date of February 1 1994 unrealistic. In December 1993, the Executive Committee called in two independent experts to analyse the delays. In their first report on December 9 1993, the two experts concluded that the research effort required of SEMA had been underestimated and that there were 'serious software and specification problems for important components of the SIS'. One of the most serious shortcomings identified in the report was the inadequacy of the project management in monitoring the developments of so complex a data exchange system.

Further delays were caused by the discovery of four major malfunctions in an MTA communications component developed Siemens to link C.SIS to the German police network INPOL; two of the malfunctions have since been corrected. The Germans however remain optimistic and hope that the technical operability of the SIS can be achieved during their presidency of the first half-year of 1994. Complete operability will only be reached after a 'download phase' in which the national police and security services copy their files to the C.SIS. But then, as the German Interior Ministry says, 'No consensus could be reached amongst Schengen signatories about the scope of data [to be held by C.SIS], although this has a direct impact on the length of the 'download phase'.

Schengen: new checkpoints

The lifting of the internal borders controls under the Schengen arrangement has led to a French-Dutch police initiative to maintain checks to search for 'illegal' immigrants. 'Schengen' does not allow any systematic controls on the borders, so the police and Koninklijke Marechaussee have come up with a creative solution. On several of the major border crossings, a vehicle is semi-permanently posted near the border with a watchful observer equipped with binoculars in it. This officer alerts his colleagues waiting a little further down the road on motorcycles, who then stop and inspect the car and its passengers.

In a press presentation late April, journalists were shown how the alert officer could spot approaching vehicles that appeared to warrant closer inspection by noticing number plates, state of the automobile and nature of the occupants. Yes, the colour of the skin did play a role in this process, as a helpful marechaussee officer explained to inquiring journalists. Though it is mostly people from Eastern

Europe and the former USSR countries without a visa were stopped and returned.

Cooperation between French and Dutch border control services has been intensified with the posting of a permanent Dutch 'anti-crime team' in Paris to liaise with French authorities. Also, French border control officials and Dutch marechaussees now work routinely on each other's territory on board of international trains, where they check the status of travelling aliens in an attempt to intercept those without a visa while they are still in the country of departure.

Statewatch contributors (Brussels & Amsterdam)

Italy

Far-right sweeps polls

The far-right alliance, Forza Italia (Go Italy), led by media tycoon Silvio Berlusconi, won a disturbing victory in Italian elections at the end of March. They took 366 seats to obtain an absolute majority in the Chamber of Deputies and were also the biggest bloc in the Senate with 156 seats.

Forza Italia officially became a political party on February 1 with the explicit intention of merging the rightwing parties into an alliance to defeat the left. It incorporated the federalist Northern League, led by Umberto Bossi and the openly fascist Movimento Sociale Italiano (MSI) - renamed the National Alliance (NA) for the election - led by Gianfranco Fini.

Their twenty-five member government, announced after much squabbling six weeks after the elections, will include five ministers from the Northern League, seven from the Forza Italia and five from the NA. The latter include three members of the fascist MSI, Giuseppe Tatarella (Deputy Prime Minister with responsibility for post and telecommunications), Adriana Poli (Agriculture) and Altero Matteoli (Environment). The remaining ministers include four independent conservatives and several technocrats.

The Interior Ministry, which had been in the hands of the Christian Democrats since 1946, and which controls the police and secret service, went to the Northern League's Roberto Maroni, a close ally of Umberto Bossi. This will ensure that the federalist League will be able to exercise considerable power over local and regional government.

Other key posts went to Berlusconi's close associates. Cesare Previti, the lawyer to Berlusconi's financial empire, takes on Defence while Gianni Letta becomes Under Secretary at the Prime Minister's Office. Antonio Martino, who has been described as a Thatcherite, is the Foreign Minister who will take over presidency of the European community and host the G7 conference in the summer.

Berlusconi's electoral campaign was successful because it presented Forza Italia as untouched by the scandals that have rocked the Italian political system over the last few years. In fact, Berlusconi has always been associated with the old corrupt regime. His meteoric rise to fame - and fortune - went hand in hand with that of Socialist leader Bettino Craxi who is currently facing corruption charges.

In 1978 he became a member of the Propaganda Due (P2) masonic lodge which, with the assistance of the CIA, established a state within a state whose tentacles extended into the government and political parties, secret services, armed forces, civil service and the police. It also colluded with the Mafia and provided logistical and financial backing for rightwing terrorists during the 'years of lead'.

Berlusconi's partners have also attempted to distance themselves from their past. Gianfranco Fini has repeatedly denied any continuity between the MSI, which was founded by Mussolini's supporters, and NA. Nonetheless, he has consistently refused to purge his party of its violent elements. Since the elections the leader of the Northern League, Umberto Bossi, has been accused of corruption following allegations that he accepted an £85,000 bribe.

Holland

Election results

On May 3, the Dutch voted for a new parliament. The extreme right Centrumdemocraten (CD) gained 2.5% of the votes, thus securing 3 seats (was 1) in the 150-seat Tweede Kamer (Second Chamber, q Lower House). The even more extreme CP'86 gained 0.4%. Disturbingly, among the voters between 18-24 the CD took 6% of the votes.

Over the last two months several CD and CP'86 representatives in municipal councils and party officials have been exposed as being involved in criminal activities such as drugs dealing, fraud, illegal possession of firearms, violence against foreigners and racist insults. Investigative journalism including three cases of undercover infiltrations and extensive press coverage of the criminal and neo-fascist elements in the ranks of extreme right parties can be credited with a considerable loss in voters' support. A group of CD party members have come forward to accuse their chairman Hans Janmaat of monomaniac behaviour. They have demanded the purging of all openly racist and neo-fascist elements in the party because they fear to be banned to the political fringe or even outlawed as a party altogether. Meanwhile, the other parties have decided to allow the new CD faction in parliament access to the informal agenda-setting meetings and other fora from which Mr Janmaat as a single MP

has thus far been excluded.

European Court of Human Rights

The Committee of Ministers of the 32 states of the Council of Europe agreed in Strasbourg on 21 April to create a new single tier Court of Human Rights. This is to replace the old two-tier system under which the European Commission of Human Rights considered applications before they were heard by the Court of Human Rights. Under the new arrangements individuals will apply directly to the Court which will normally sit in chambers of seven judges. Only in exceptional cases will the Court sit as a grand chamber of 17 judges. Clearly unfounded cases will be dealt with by a committee of three judges. The change is intended to speed up the handling of cases which currently can take up to five years.

The UK government supported the creation of the new court but maintained its opposition to giving a *permanent* right to the individual to apply to the court. Since 1966 UK governments have made successive five yearly declarations recognising Court and the right of appeal to it by individual.

Financial Times, 22.4.94; *Hansard, Lords*, 12.4.94.

European Union Guardian secrecy case

The Guardian newspaper filed an application at the European Court of Justice in Luxembourg on 20 May accusing the governments of the European Union of violating fundamental principles of EU law by refusing to disclose documents from the Council of Ministers - the most secretive legislature in Western democracies (see *Stewatch*, vol 3 no 6; vol 4 nos 1 & 2).

The case arose when the Council (the permanent body representing the 12 EU governments) refused to provide background documents on the meeting of the Council of Justice and Interior Ministers in line with its commitment to provide 'the widest possible access to documents'. The Council did provide a set of background reports on a meeting of the Council of Social Affairs but later told Guardian journalist John Carvel that the material sent:

'should not have been sent to you. However, owing to the novelty of the procedure for allowing public access to documents of the Council and its practical implementation, this information was sent to you because of an administrative error'.

The case lodged by the Guardian says the Council has misused its discretionary powers, shows a lack

of reasoning and fails to balance the interests of confidentiality against the legitimate expectations of public access raised by the 'code' it had adopted. It goes on to say:

'The legal order of the European Union has no chance whatsoever to develop further (or even survive) without the active participation of the citizens of the union. What commitment can ever be asked from citizens vis-à-vis a legal order which is governed in secrecy and without effective democratic control?'

The newspaper's application has been presented to the lower-tier Court of First Instance in Luxembourg whose ambit was increased last year to cover complaints by citizens against the abuse of power by EU institutions. Although the case will take some time to be heard the Council is obliged to submit a defence of its actions within the next two months.

The case is being supported by the Netherlands government. In a statement to the General Affairs Council its delegation said:

'Netherlands voted against the code of conduct and the Council decision on 6 December 1993. The Netherlands has brought proceedings before the Court of Justice for the annulment of the decisions (Case c-58/94)... The criteria of confidentiality against the citizens right to obtain information [should be weighed] should such a weighing-up of interests in fact have taken place, the applicant ought to have been informed of this in a reasoned manner.'

The basic objection of the Council to providing information is simply stated in its own words, information on its work (reports, minutes, background documents) have to be withheld 'to protect the institution's interest in the confidentiality of its proceedings'.

A democratic EU?

The outcome of this case has implications for the role of the European Parliament. Article K (or Title VI, 'third pillar') of the Treaty of European Union, TEU, covers policing, immigration and judicial cooperation. Article K.6 says that the President of the Council and the Commission 'shall regularly inform the European Parliament of discussions in the areas covered by this Title'. It goes on to say that the parliament has to be consulted on 'the principal aspects of activities' and that its views will be 'duly taken into consideration', and further that it can question the Council on these areas and make recommendations.

When the Treaty of Union into effect on 1 November 1993 the Council put Article K into effect immediately - the K4 Committee held its first

meeting on 3 November - yet eight months later there is no process in place for effecting the relationship with the European Parliament set out above. The inter-institutional committee - involving the Council, Commission and Parliament - has left this job to the new parliament to effect in the autumn.

Last July the EP took a report from the Civil Liberties and Internal Affairs Committee and passed a resolution on the parliament's demands for information, consultation and the right to make recommendations. The resolution said that the intergovernmental framework which kept justice and internal affairs matters outside of the competence of the Community was to be deplored and that this resulted in 'a lack of effective parliamentary and judicial supervision and democratic procedures for decision-making in a field where the rights of the citizen are directly concerned'.

On 27 May the Legal Affairs Committee of the EP voted unanimously to back the Dutch government's case in the Court of Justice. Labour spokesperson Christine Oddy said: 'The endemic secrecy surrounding Council business must be ended'. Lord Inglewood, the Conservative spokesperson said: 'The Council of ministers is probably the only legislature in the free world which meets behind closed doors, and that state of affairs should not continue'.

The outcome of the cases brought by the Dutch government and the Guardian will determine the quality, or otherwise, of democracy in the EU and, inevitably, will set the limits for the role the EP will be allowed to play.

Public access to Council documents, Council decision 20.12.93 (93/731/EC); *Guardian*, 18, 19, 20, 28.4.94 & 21.5.94; *Reply from the Council to the Guardian*, General Affairs Council, ref: 5988/94 (Annexe I); *Report on cooperation in the field of justice and internal affairs under the Treaty on European Union (Title VI and other provisions)*, 1.7.93, A3-0215/93; *Resolution of the European Parliament*, 15.7.93.

European Union

New states insist on open government

Sweden and Finland have attached a declaration to their accession agreements to the EU asserting the importance of open government and public access to documents. The Finnish Declaration says that public access to 'official records is a principle of fundamental legal and political importance'. The Swedish declaration states: 'open government and, in particular access to official records as well as the constitutional protection afforded to those who give information to the media are and remain fundamental principles which form part of Sweden's

constitutional, political and cultural heritage'.

The 'Present Member States' have, in turn, attached a 'Declaration' in response which says:

'The Present Member States of the EU take note of the unilateral declaration of Sweden concerning openness and transparency. They take it for granted that, as a member of the EU, Sweden will fully comply with Community law in this respect'.

It would appear that this reference to 'Community law' alludes to the Council (the body representing the 12 governments) decision on 'Classified information' agreed in December 1993 which is being challenged in the European Court of Justice (see *Statewatch*, vol 4 no 1 & 2, and story in this issue).

Although the Swedish 'open government' policy does allow information to be restricted where it might damage foreign relations it is not clear how this could be used to for matters under Title VI of the Treaty of European Union covering policing and immigration.

It is therefore quite surprising that a further Declaration attached to the Act of Accession agreed by all four countries joining the EU - Norway, Austria, Finland and Sweden - says that they will accept all the decisions taken by the current 12 states on Justice & Home Affairs up to the point of formal accession (1 January 1995). By then a whole body of policy, the K4 Committee and Europol will have been agreed over which they will have had no say. The Declaration says that the four countries will 'participate in subsequent negotiations relating to those conventions and instruments only on those points still be resolved'.

Council, ref: AA-AFNS 6 Final, 1994.

Europe: in brief

* **Council of Europe:** Mrs Catherine Lalumière the Secretary General of the Council of Europe for the past five years was ousted from the post on 12 April and replaced by Mr Daniel Tarschys. Mrs Lalumière is a French socialist, Mr Tarschys is a former Swedish conservative MP. The reason given was that Mr Tarschys speaks Russian and this is seen as an asset in responding to applications to join the Council from Russia, Belarus and the Ukraine. *Financial Times*, 14.4.94.

* **European Convention on Human Rights:** The Council of the EU (the body representing the 12 states) has referred the question of whether the EU can accede to the European Convention of Human to the European Court of Justice for its opinion. The question the Court has been asked is whether its adoption 'would be compatible with the Treaty of Rome'. Until now some governments have

maintained that an individual with a grievance against the Council (and its associated bodies) could not take action against it because it was not a 'state' (nationals take a case against their own states).

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Romania: IBM computer to register population:

The Romanian Interior Ministry is to purchase an IBM computer system which will be a 'national information system'. The system will be used to manage a countrywide database on population registration and to administer the use of personal ID cards which are to be issued to citizens for the purpose of using social security, health care, education and tax collection. IBM Eastern Europe said that: 'the identification system is based on an idea originally proposed by the European Community'. The central system is to be linked to 41 regional offices and 302 local offices. *Balkan News*, 17.4.94.

* **Exposure defended:** The European Commission for Human Rights has ruled that the confiscation of an entire edition of the activist newspaper *Bluf!* in 1987 was in conflict with the guarantees for freedom of expression and the diffusion of information protected under the European Convention. In the special edition, *Bluf!* published most of the contents of a confidential BVD security service quarterly report. Although none of the three arrested *Bluf!* editors were ever prosecuted, the Dutch Supreme Court judged that the distribution of the report had endangered national security. The Court however found that since the press has a watchdog function in a democracy, *Bluf!* carried out a democratic task by publishing the BVD report.

Europe - new material

The Securitate and the police state in Romania 1964-89, Dennis Deletant. *Intelligence and National Security* Vol 9(1):22-49, 1994. Second part of Deletant's look at the Securitate.

Stalking the wolfman, Anna Husarska & Nikoli Ignatiev. *Independent magazine* 2.4.94. Portrait of Russian neo-nazi, megalomaniac and Liberal Democrat Party leader Vladimir Zhirinovskiy.

Europe: Montrez patte blanche! This pamphlet looks at the new frontiers imposed by the Schengen Agreement. It is available, in French, from: CETIM, 37 Quai Wilson, CH-1201, Genève, Switzerland, price 35 Swiss Francs.

France: a fundamental racism. *CARF* 20, p10, 1994. On state racism and anti-Muslim hysteria in France.

Turkey: crackdown on freedom of expression. *Article 19*, pp1-2, 1994. On the crackdown on the media by the Turkish authorities.

Federal Border Police (*Bundesgrenzschutz, BGS*): Special issue of *CILIP* journal, no 47 (in German). This issue looks at the development of the BGS created in 1951. It is a para-military force which has been used to counter public protests. Articles look at its history and development; the recent creation (1993) of the Border Police Support Forces to support the BGS in sealing off Germany's Eastern borders against refugees; fatal shootings in 1993; and racist police brutality in Berlin. DM 10 from: *CILIP*, Malteserstr. 74-100, 12249, Berlin, Germany.

Between hope and disaster: aspects of neo-fascism in Europe. Produced by an International Quaker Working Group under the auspices of the Quaker Council for European Affairs. 20pp. BF250. From: Quaker Council for European Affairs, 50 Square Ambiorix, 1040 Brussels, Belgium.

In the European Court

Human rights roundup

In 1993 52 cases were referred to the European Court of Human Rights, which delivered judgements in 60 cases. The majority of complaints were of violations of the right to a fair trial under Article 6.

During the year, Malta and Denmark incorporated the European Convention on Human Rights into their national law, and Sweden, Norway and Iceland are actively considering incorporation. Estonia, Lithuania, Romania and Slovenia signed the Convention (and the Czech Republic and Slovakia re-signed separately) and Poland accepted the right of individual petition and the compulsory jurisdiction of the court.

At its Vienna conference in October 1993 the Council of Europe decided to replace the current control machinery of the Convention by a single court. The text of the amending protocol is due for signature in May 1994.

Selected cases dealt with at Strasbourg October 1993-May 1994:

The Commission declared admissible (cases that will proceed):

* *Zana v Turkey* (No 18954/91): conviction following publication of remarks made to journalist in support of PKK contrary to Art 6S1 (right to fair trial) and Art 10 (freedom of expression).

* *A v France* No 19776/92): restriction of

asylum-seekers to airport transit zone contrary to Art 5S1 (right to liberty).

* *Benham v UK* (No 19380/92): detention for failure to pay poll tax and unavailability of legal aid for magistrates' court proceedings, contrary to Art 5S1 (freedom) and Art 6S1 (fair trial) and S3 (legal aid).

* *John Murray v UK* (No 18731/91): drawing of adverse inferences from remaining silent during police questioning and at trial, contrary to Art 6S1 (fair trial) and S2 (presumption of innocence).

* *Peignier v France* (No 20408/92), *A L v France* (Nos 18974/91 and 19334/92): interception of telephone conversations by the police in context of criminal investigations, contrary to Art 8 (private life).

* *Saunders v UK* (No 19187/91) (see *Statewatch* 4:1).

The Commission declared inadmissible:

* *Brind v UK*: ban on broadcasting of Sinn Fein spokespersons (NB Equivalent case in northern Ireland, *McLoughlin v UK*, is still awaiting a decision).

The Commission communicated to governments for their comments:

* an application (No 22384/93 v UK) concerning the drawing of adverse inferences from accused remaining silent during police questioning and from his refusal to give evidence in his defence, contrary to Art 6S1 (fair trial) and 6S2 (presumption of innocence).

* an application (No 23065/93 v Finland) on the refusal to allow a Kosovo-Albanian Muslim to join his family who were granted residence permits for humanitarian reasons.

* an application (No 20605/92 v UK) on alleged interception of telephone conversations by the police after the applicant, a senior police officer, had brought proceedings alleging discrimination on grounds of sex in relation to consistent failure to recommend her for promotion.

Cases referred to the Court for hearing:

* *Vereniging Weekblad "Bluf!" v Netherlands* (No 16616/90): seizure and withdrawal from circulation of issue of weekly newspaper in which information about Internal Security Service published: Commission found a violation of Art 10 (right to impart information).

* *Welch v UK*: the complaint was that a confiscation order against applicant under the Drug Trafficking Offences Act was a retrospective criminal penalty in breach of Art 7. The Commission delivered an opinion that there was no violation of Art 7 in October 1993.

* *Allet de Ribemont v France*: the complainant was publicly accused of involvement in a murder by the French minister of the interior at a press conference in 1976. He was immediately arrested and spent four years in custody before charges were dropped. The Commission delivered an opinion that the public accusation was a breach of Art 6S2 (presumption of innocence) and the delays in the proceedings breached Art 6S2.

* *Yagci and Sargin v Turkey*: officials of the Turkish Communist Party were arrested on return from exile and detained pre-trial for over 2 years on political charges. Commission found violations of Arts 5S3 (liberty) and 6S1 (fair trial).

* *Vogt v Germany*: teacher subjected to suspension, disciplinary charges and dismissal on ground of membership of Communist Party. Commission found violations of Arts 10 (freedom of expression) and 11 (freedom of assembly).
Judgments of court:

* *Hurtado v Switzerland* (28.1.94): A Colombian national was arrested in connection with drug dealing by six police who threw a stun grenade into his flat, forced him to the ground, broke a rib, handcuffed and hooded him. His clothes got dirty and he was not allowed to change them for a day. He was not allowed treatment for the broken rib for six days. The Commission opinion of July 1993 was that, while the refusal to allow medical treatment and a change of clothes breached Art 3 (freedom from inhuman or degrading treatment), the manner of his arrest did not. Subsequently the Swiss government paid compensation and the Court struck the case out.

* *Burghartz v Switzerland* (22.2.94): On the other hand, the Court held that a husband who was not allowed to have his name written in front of his wife's was a victim of sex discrimination (Art 14) and of a violation of his right to private life and correspondence (Art 8).

* *Stanford v UK* (23.2.94): A defendant's inability to hear some of the evidence given at his trial, because of a glass screen erected in front of the dock, was no violation of Art 6 (fair trial) because the man's solicitor and barrister did not complain or get him moved.

* *Bendenoun v France* (24.2.94): The failure to produce all the documents from a customs file did not deprive the applicant of a fair trial (Art 6S1) in the administrative courts in relation to tax surcharges.

Parliamentary debate

Council of Europe and Western European Union
Commons 18.3.94. cols.1229-1286

European Parliament

Interinstitutional agreement, debate, 17.11.93, pages 105-111. *OJ* No 3-438.

Democracy, transparency and subsidiarity - Ombudsman (regulations and conditions), resolution, 17.11.93, pages 132-141. *OJC* 329.

Racism and xenophobia, debate, 1.12.93, pages 3-14. *OJ* No 3-439.

Racism and xenophobia, resolution, 2.12.93, pages 19-21. *OJC* 342.

Police cooperation, debate, 15.12.93, pages 148-150 and 229. *OJ* No 3-440.

Combatting international fraud, debate pages 233-235. *OJ* No 3-440.

Small scale crime, debate, pages 235-236. *OJ* No 3-440.

Equal rights for homosexuals and lesbians, resolution, pages 40-43. *OJC* 61.

Respect for human rights and the economic exploitation of prisoners and children worldwide, resolution, pages 106-107. *OJC* 61.

Constitution of the European Union, resolution, pages 155-171. *OJC* 61.

Criminal activities in Europe, resolution, pages 235-238. *OJC* 61.

RACISM AND FASCISM

BNP lose Millwall seat

An unusually high turnout of voters - over 65% - in Tower Hamlets, east London, saw the defeat of both the fascist British National Party (BNP) and the ruling Liberal Democrats in the May local elections. The council was regained by the Labour Party which lost control of it ten years ago.

The BNP stood eight candidates in Tower Hamlets, hoping to capitalise on the chaos that accompanied the election of Derek Beackon, in the Millwall ward, last September. Three of their candidates, including Beackon, stood in Millwall where they increased their number of votes but only took 28% of the overall total. Three other BNP candidates gained

23% of the vote in the Holy Trinity ward.

The defeat of the BNP, and the Liberal Democrats - who had been criticised by their national party for their openly racist tactics - owed a great deal to an alliance of community groups and political activists who worked to ensure a large turnout of voters. A team of election observers from Liberty also helped to ensure that the intimidation of Asian voters by BNP thugs, that characterised the September poll, was not repeated.

In neighbouring Newham, where no far-right candidate had stood since 1974, the BNP fielded five candidates. In the same wards five official Conservative Party candidates stood as Conservatives Against Labour's Unfair Ethnic Policies (CALUEP). Despite vigorous campaigning by the Newham Monitoring Project, the BNP averaged 33% in the Beckton ward and 24% in Custom House and Silvertown; the combined racist vote, of the BNP and CALUEP, was greater than that of the Labour Party who narrowly retained their hold on Newham council.

The importance of the east London elections to the BNP was

indicated by their attempt to present their candidates and party in a respectable light. This began with the prescription, in the run-up to the elections, of Combat 18. This move backfired and resulted in an ongoing and bloody feud between the two groups that left several key BNP activists and one of their election candidates hospitalised.

Elsewhere in London the BNP stood candidates in Hillingdon and Hounslow in west London, and in south London. None of these candidates received a significant vote although Jenny Oliver, their candidate for Sutton, has been accused of breaking election law by falsifying her nominees. William Hitches, their candidate in Greenwich, south London is reported to be facing assault charges after punching a rival candidate.

Outside of London the BNP focused its attentions on the north, although none of its candidates made a significant impact. David Bruce, the BNP's deputy leader, got 10% of the vote in Rosedale, Hertfordshire.

Of the other far-right parties the National Front (NF), boosted by a £100,000 windfall left to the party on the death of a member, concentrated its campaign in the midlands. The NF has lost most of its support elsewhere in the country to the BNP. Several of its candidates got around 10% of the vote.

The minuscule Third Way, led by Patrick Harrington, stood three candidates, only one of whom got above 2% of the vote. Several fascists stood as independent candidates, the notorious nazi, Tony Malski, getting 19% of the vote in Redbourne, Hertfordshire.

Saptal Ram given judicial review

After eight years in prison Satpal Ram has finally been granted a judicial review of his case. In 1986 Mr Ram was convicted of murder following an incident in which he was assaulted by six white men following a row in a restaurant, in Birmingham, after they racially abused staff. Mr Ram was attacked when he attempted to intervene.

Although Mr Ram was taken to hospital, where he needed stitches, his defence counsel advised him against pleading self-defence. Also, three key Bengali-speaking witnesses were not provided with interpreters, which meant that the all-white jury were unable to understand their testimony. As Mr Ram put it himself: 'All the evidence suggests that I defended myself from a racial attack, yet I am still in prison serving a life sentence.'

Supporters of Mr Ram have been conducting a campaign demanding that his case be re-opened. Over one hundred people attended the picket outside the High Court in May where he was granted a judicial review. The campaign will continue and supporters are asked to write to their MP or the Home Secretary. *The Free Saptal Campaign* can be contacted at 101 Villa Road, Handsworth, Birmingham B19 1NH.

Romania: Romani murdered

An inquiry report by the International Federation of Human Rights and the 'Agir ensemble pour les droits de l'homme' has found official inaction and racist attitudes in reaction to the murder of a Romani (gypsy) and the burning of houses in Hadrani on 21 September 1993.

The village of Hadrani has a population of 863 people - 595 Romanians, 193 Hungarians and 130 Romani. Following the killing of a Romanian in a fight with two Romanis nearly the whole Romanian and Hungarian population gathered around a house where the gypsies had fled and set it on fire - two escaped but one died. The crowd then set fire to another fourteen houses and destroyed fifteen others as the occupants fled to the surrounding countryside. These events took place despite the presence of two police officers.

The inquiry team found that officials excused these actions by pointing to 'anti social behaviour' of a section of the gypsy community. This view was reflected in the media which portrayed Romani as being thieves, violent, traffickers, uncivilised and undesirable. They found that no one had been arrested for the murder and attacks even though lawyers for the Romani knew the perpetrators. The authorities had also used these events to forcibly move members of the Romani community out of the

area by using an old law, Law no 5 of 1971, on 'the rights of residence of Romanian citizens'.

La Lettre, FIDH, 24.3.94.

Holland Deaths in police custody

The police sergeant responsible for the arrest and violent handling of the Turkish man H Kksal, who subsequently died in police custody in Venlo in early 1993, has been acquitted by the court. The public prosecutor had demanded a month conditional imprisonment plus a 1500 guilders fine. The prosecutor's office held that several medical and pathological investigations indicated that the man would have died, even if he had been taken to a hospital when he was found on the street unconscious, instead of being thrown in a police cell. Still maltreatment with intent was considered proven by the prosecutor.

On 3 May a 21-year old Syrian-orthodox Mr Paulus Kurt committed suicide by hanging himself in a police cell in Hengelo out of desperation because he expected to be expelled and feared for his life. A day earlier, after intervention from the christian-democratic faction in parliament the ministry had agreed not to send the man back to Turkey. The police was informed of this decision around eleven the following morning, but failed to notify Mr Kurt who took his life later that afternoon.

Human rights organizations have demanded an investigation of the Hengelo aliens police department, because several incidents were reported last year. An investigation by the local social democrat party produced 18 complaints and concluded that the department could not be accused of grossly violating the law, but maintained a very formal attitude and was rude both to foreigners and Dutch persons. In the report a jurist was cited saying that they could not be accused of discriminating: 'they just hate everyone who comes from abroad.'

Holland Racist violence

Two researchers at Leiden University have published a report on racist violence which shows that it is more widespread than previously thought and that many incidents are not recorded. They compiled incidents of racist and extreme rightwing violence based on media reports, police data, BVD data (*Binnenlandse Veiligheidsdienst*, the internal security service, which funded the research) and from the anti-fascist research group *Fascisme Onderzoeks*.

The study shows the number of incidents rising from 4 in 1988, to 29 in 1991, 189 in 1992, and 279 in 1993. There were 6 bombings and 40 bomb threats in 1992; 1 bombings and 26 bomb threats in 1993. The number of firebombings in 1992 and 1993 averaged 3 a month. The number of attacks on asylum centres, homes of immigrants and mosques rose from 116 in 1992 to 123 in 1993. Seventeen people were physically attacked by racists or extreme rightwing groups in 1992 and this rose to 58 in 1993. The study also noted an increasing tendency for these groups to direct their attacks against their political opponents, and while a significant number of those arrested were members of these groups many arrested were not formally aligned.

The authors conclude that the present hardening of the political climate on migration and minorities issues could contribute to the occurrence of extreme rightwing violence.

Extreem-rechts: aanhang, geweld en onderzoek, Frank Buijs and Jaap van Donselaar. Leiden, LISWO. ISBN 9071042650.

Racism and Fascism - in brief

Euro-elections: fascist candidates: Six fascist candidates are standing in the European elections on 9 June. They are: William Binding, National Front (London, West); Kevin Lowne, National Front (London South-East); Oliver Tillett, Third Way (London East); Andrew Carmichael, National Front (Birmingham West); John Mcauley, National Front (Hertfordshire); Robert Jones, National Front (Staffordshire East). John Tyndall, the leader of the British National Party is standing in the parliamentary by-election on the same date.

Stephen Lawrence: The Crown Prosecution Service (CPS) has decided that there is not enough evidence to prosecute the white youths accused of the racist murder of 18 year-old Stephen Lawrence in Eltham, south London in April 1993 (see *Statewatch* vol 3, no 3). Two youths were originally charged with Stephen's murder, but the case against them was dropped when the CPS decided there was insufficient evidence. At the inquest into Stephen's murder, last December, dramatic new evidence was presented identifying three new suspects. A spokeswoman for the CPS said that after studying the evidence it had decided against pressing charges. Stephen's family may now bring a private prosecution against the suspects. *The Stephen Lawrence Family Campaign* can be contacted at PO Box 3433, London SE18 3SS.

Racism & fascism - new material

Inside Racist Europe, Liz Fekete and Frances

Webber. Institute of Race Relations' Europe Race Adit, 66 pages. Section 1 looks at the 'non-citizen as suspect'; policing a suspect community; suspecting the victims. Section 2 'Exporting immigration control'. Section 3 provides a country by country summary of immigration policies and racist and fascist groups. Essential reading. Copies £4.00 each from: Institute of Race Relations, 2-6 Leeke Street, London WC1 9HS. Tel: 071 837 0041.

Recreating the 'colour bar'. *CARF* 20:4-5, 1994. This article examines the return of the 'colour bar' in housing and employment and concludes that 'anti discrimination legislation and equal opportunities policies are failing to protect black workers...'

Winning the island race, Paul Anderson; **Tolerance and the intolerable**, Umberto Eco *New Statesman & Society* 22.4.94., pp14-15 & 18-19. On the run-up to the local elections on the Isle of Dogs, where the fascist British National Party won a seat last year, and the 'no platform' policy.

Communities of Resistance: Annual report 1993-94. *Newham Monitoring Project* pp64, (Available from NMP, 382 Katherine Road, London E7 8NW). 1993 saw a tremendous upsurge of racist activity across East London following the election a British National Party candidate in local elections in the Isle of Dogs. The NMP annual report documents the fightback in Newham and continued harassment from the police.

Parliamentary debates

Race Relations (Remedies) Bill *Lords* 15.3.94. Cols. 182-188

Racism and Anti-Semitism *Commons* 31.3.94. Cols. 1115-1122

SECURITY & INTELLIGENCE

Controlling the airwaves

The Clinton Administration has announced that it plans to proceed on every front to make the Clipper Chip encryption scheme a national standard and to discourage the development, sale and export of alternative devices. Clipper is an encryption chip that the National Security Agency and the FBI hope will one day be in every phone and computer in America. It scrambles communications, making them unintelligible to all but their intended recipients, except the government. It would hold the 'key' to the chip and would legally be able read any communication. The implications are far-reaching

and is equivalent to insisting that all current postal mail was put in transparent or unsealed envelopes and sent to their recipient via MI5 or MI6.

The US administration hopes to impose the Clipper not through statute but by manipulating market forces. By purchasing massive numbers of Clipper devices they intend to induce an economy of scale which will make them cheap while the export will render all competition either expensive or non-existent.

Many other countries are likely to follow suit. It has emerged that the Dutch Department of Justice has been pressing for legislation on encryption. A Parliamentary Committee is currently working on a proposal that would effectively outlaw possession, use, and trade in encryption devices. It is considering a proposal which would tie a license to use of government approved encryption devices. The proposal is being prepared in secrecy but some details have already been obtained and they include fines for the use of encryption on a telephone line and the loss of the telephone connection for a number of days.

The British government also is reported to be on the verge of adopting a modified Clipper chip strategy on the advice of GCHQ. Users would be able to use strong encryption devices but there would be procedural control which would allow officials to overcome the effects of the encryption. It is suggested that the 'key' would be held with a 'third party' making it accessible to security services. *Wired*, April 1994; *Computing* 5 May 1994.

Holland Cryptology ban

Minister of Justice Mr Ernst Hirsch Ballin has proposed a bill outlawing the uncontrolled use of cryptography. According to a press statement about the still confidential bill private individuals, including criminals, now have access to cryptographic software and hardware of similar quality to 'potentially hostile foreign powers'. Therefore the minister feels they have to be treated accordingly. Under the proposed legislation cryptographic software and hardware, both for communications and stand-alone security purposes, will become subject to a licensing regime which prevents uncontrolled distribution. Users will have to deposit the key to their appliances with a central depository agency that may supply this information to police and security services if needed. Privacy protectors and representatives of computer industries and banks have already protested against the proposal.

This Dutch proposal implies a much greater intrusion in civil liberties than the 'Clipper Chip' proposal currently under discussion in the US. It can

be foreseen that the government will eventually 'give in' to protests and settle for a US-type solution of an mandatory, state-controlled cryptography system.

Denmark: New security scandal at university

In March it was revealed that over a ten year period, ending in 1991, the names, addresses and identity numbers of about 40,000 students at Copenhagen University were illegally given to the Police Intelligence Service (PET).

Lars-Erik Allin, the Legal Advisor to the University Rector, was responsible for security matters until the exposure of his involvement in the first security scandal at the university (the bugging case, see *Statewatch* vol 4 no 1). Then when he met the new Rector, K Møllgård, in January this year he revealed the wholesale passing of information on students to the PET. The Rector said this was 'an unacceptable break in the confidence that any student must have in the university's way of handling personal information in a responsible way'.

Prior to the Law on Data Protection (Registerlovgivningen) passed in 1982 lists of students were publicly available, the effect of this law however made the handing over of lists illegal.

The head of PET, Birgette Stampe, told the press that the lists had been used for investigation purposes to confirm peoples' identity and was the same as the telephone book! Confronted with the fact that identity numbers are not in the phone book she replied that PET has access to identity files anyway.

Law Professor, Vagn Greve, of the Institute of Criminology at the University has been asked by the Rector to investigate the matter.

Information, 5 & 6.3.94.

Surveillance warrants: up again

The number of warrants issued for telephone tapping and mail-opening in 1993 was one of the highest since records began in 1937. A total of 998 warrants were issued in England and Wales (covering telephone tapping and mail-opening) to the Metropolitan Police Special Branch, the National Criminal Intelligence Service (NCIS), and HM Customs and Excise.

The figure allegedly also includes those issued to the Government Communications Headquarters (GCHQ) in Cheltenham but the number of warrants issued by the Foreign Secretary - who is responsible for GCHQ - are not published this is misleading. Past evidence of massive trawling by GCHQ suggested that they monitor over 35,000 communications a year (telephone, faxes etc). Nor

are the figures for warrants issued by the Northern Ireland Secretary of State published.

The figures for 1993 published in the annual report of the Commissioner for the Interception of Communications Act 1985, Sir Robert Bingham, show that 893 warrants were issued for telecommunications tapping and 105 for mail-opening - as these figures relate to 'warrants' these may refer to an individual or an organisation (through which many individuals may be surveilled). The table below gives the figures for the past five years and the past top numbers for warrants. This shows that the 1993 total was the highest outside of the Second World War (1939-1941) and the 1948 dock strike.

1939: 1002
1940: 1682
1941: 1042
1948: 973
1989: 458
1990: 515
1991: 732
1992: 874
1993: 998

The figure for Scotland was an all-time high since the number of warrants issued was first published in 1967. The number of warrants issued by the Secretary of State for Scotland in 1993 was 112 for telecommunications and 10 for mail-opening, a total of 122 warrants. This surpasses not just the 92 warrants in 1992 but also the post-1967 high of 75 during the 1984/5 miners strike. The figures for Scotland are:

1984: 75
1985: 68
1989: 64
1990: 66
1991: 82
1992: 92
1993: 122

The Commissioner reports states that there had been in the 'past a reluctance on the part of some [Scottish] police forces to apply for warrants' - this has, the report says, now been rectified. The Secretary General of the Scottish Trades Union Council, Campbell Christie, commented: 'this report will never cover interceptions without warrants..[it] does not reflect the true extent of interceptions taking place'. Mr Christie has begun a legal action against the UK government in the European Court of Human Rights after a former official in the Joint Intelligence Committee (JIC) based in the Prime Minister's office said that in 1992 he was the target of mail and telex interceptions.

The report states that there has been a significant increase in the number of warrants issued to HM Customs, the National Criminal Intelligence Service, MI5 (because of the anti-terrorist work it has taken over from the Special Branch) and the Northern Ireland Office. It also says, like the past two years, that no individuals and 'only a very few organisations' are placed under surveillance on the grounds that they are 'subversive' (that they are a threat to 'parliamentary democracy or national security').

A disturbing omission from the report is that, for the first time since the Commissioner was appointed, no figures are given for the number of complaints made to the Tribunal by the public are given.

Report of the Commissioner for 1992, Cm 2522, HMSO, March 1994; *Tapping the Telephone*, POEU pamphlet; *Interception of Communications in the UK*, Cmnd 9438, 1985; *State Research*, no 18, June/July 1980; see also *Statewatch*, vol 1 no 4, vol 2 no 5, vol 3 no 5.

Menwith Hill Station

The last major contribution made by Labour MP for Bradford South Bob Cryer in parliament before his tragic death in a car accident was to draw attention to the US National Security Agency (NSA) base at Menwith Hill in North Yorkshire - which has been described as the biggest tapping centre in the world. Bob Cryer led an adjournment debate on the subject after government Ministers had been thrown into confusion, not knowing whether Bob Cryer's questions reflected his lifelong commitment to parliamentary accountability or his enthusiasm for railways. Civil servants in the Ministry of Transport searched in vain for Menwith Hill railway station. Not being marked on the maps the spy station Menwith Hill could not be found. This ignorance highlighted the very point he was making. If government officials could not discover Menwith Hill, how was the public to discover the truth? He raised the issue because successive Ministers had refused to answer parliamentary questions hiding behind the response: 'the use of Menwith Hill...is subject to confidential arrangements between the UK and US government'. In order to break through the secrecy surrounding the issue Bob Cryer took the opportunity to place the facts on the record.

'The Menwith Hill story starts with the purchase in 1955 of a 246-acre farm on rural moors west of Harrogate. On 15 September 1960, after the expenditure of \$6.8 million, the US army security field station opened. On 1 August 1966, control of the station was transferred to the ostensibly civilian National Security Agency of America...the takeover occurred because the army resisted eavesdropping

on diplomatic and economic targets'.

A former employee in the monitoring station describes its work in the book 'The Puzzle Palace'. Their work was to: 'keep a special watch for commercial traffic, details of commodities... Changes were frequent. One week I was asked to scan all traffic between Berlin and London and another week between Rome and Belgrade..' The station, said Bob Cryer had some 1,200 US employees and there were now 21 radomes (enormous monitoring shells). British Telecom had installed a 32,000-telephone line capacity connection to the Hunter's Stone Post Office tower - which is the pivotal point for more than 1 million miles of microwave connections in the UK. Moreover, the cable from the post office tower runs directly to Menwith Hill. Why, Bob Cryer asked, was this station still there, occupying moorland, when the reason for its justification, the Cold War, was now over? He then cited a 'Dispatches' programme on which someone who had worked at Menwith Hill told of intercepting a US Senator's phone call. 'Can the Minister assure us that Menwith Hill never listens in to any telephone calls of UK MPs, not directly in the UK, but bounced back over the various satellite systems?

He called for the 'confidential' agreement to be published and asked what rights UK citizens had if they believed they were being spied on?

For the government, Minister of State for the Armed Forces, Jeremy Hanley, replied. Mr Hanley said: 'Although the end of the Cold War has brought about changes in the focus of US and UK defence concerns, the need for Menwith Hill station to continue its role as part of a world-wide defence network remains...we continue to live in a very uncertain world.' But the Minister reserved his main defence of the monitoring station by attacking peace campaigners - who Bob Cryer supported. He said:

'the irresponsible activities taking place at Menwith Hill cannot be interpreted by any stretch of the imagination as being in our national interest. I am afraid I can only despise the actions of hon. Members who seem only too happy to jump on that particular bandwagon and to indulge in damaging innuendo and downright untruths about what goes on there.'

This attack was prompted by the actions of the group of women campaigners who had frequently entered the perimeter of the base. The Minister said it was the job of the Ministry of Defence Police to guard the base and this was reimbursed by the US. But if:

'overtime is occasioned by the activities of protestors, including those mentioned by the hon. Member for Bradford South, that is a direct cost

to the UK. That amounted to nearly £500,000 in the last financial year. These people are not clever. They are merely destructive and wasteful'.

Bob Cryer said:

'Members of Parliament are denied information on the appropriation of more than 200 acres of land by the US government, who now run a spy station in the heart of our country, which is linked up to a global network. This is unexcusable. If there is parliamentary accountability, the moon is made of green cheese'.

Hansard, Commons, 25.3.94.

Security & Intelligence: new material

A sidelight on Bletchley, 1942, RV Jones. *Intelligence and National Security* Vol 9(1):1-11, 1994. On the organisation of Hut 3 at Bletchley and 'Enigma' material.

The fall and rise of France's spymasters, Percy Kemp. *Intelligence and National Security* Vol 9(1):12-21, 1994. On the structural problems affecting the organisation of the French foreign intelligence services.

Under surveillance: critical citizenship and the internal security services in western Europe, Barbara Forbes. *Quaker Council for European Affairs* pp65. (Available from QCEA, 50 Square Ambiorix, B-1040, Brussels). Survey of internal security services with an emphasis on data protection.

Who killed Hilda Murrell?...and why?, Commander Robert Green. *The New Reporter* March/April 1994, pp4-5. Green is the nephew of Hilda Murrell and a former Staff Officer (Intelligence) to the Commander-in-Chief fleet at Northwood hq. This is a brief account of his anti-nuclear activities in the ten years since the death of his aunt.

Parliamentary debates

Intelligence Services Bill *Commons* 27.4.94. cols 251-355

LAW

Public interest immunity

'The courts should be less awestruck by the mantra of national security and readier to scrutinise the

legitimacy and weight of these claims (on public interest immunity)' said Lord Justice Simon Brown at a civil service lawyers' conference on 25 March. On 28 March, the House of Lords rejected an attempt to force the disclosure of MI5 and MI6 documents to help ex-foreign office civil servant Andrew Balfour in his unfair dismissal claim. Pii certificates were signed by Foreign Secretary Douglas Hurd and ex-Home Secretary Kenneth Baker to prevent Balfour having access to the documents. Hurd said in an affidavit that disclosure would put at risk the effective discharge by the security and intelligence services of current and future operations. Balfour claims that he was ordered to become friendly with a man in Dubai, but was then dismissed in 1990 for accepting £5,000 from the man for issuing a visa. He was arrested under the Prevention of Terrorism Act, questioned by Special Branch and accused of assisting a terrorist (the man he had been told to get friendly with). He is suing the Foreign Office and the Met police for unlawful arrest following his PTA detention, and may go to the European Court of Human Rights. Meanwhile, the 'terrorist' friend Ansari was granted a new visa to enter UK, and still comes here freely. *Guardian* 11.4.94, *Independent on Sunday* 10.4.94.

Production order illegal

A judge's grant of a search and seizure order for documents held by solicitors and accountants was unlawful, and the Home Secretary, who had directed police to apply for it, should pay the costs, ruled the High Court in March. The Home Secretary was responding to a request by the Australian authorities to obtain documents which they believed relevant to suspected offences of tax evasion when he told police to get a warrant under the Criminal Justice (International Cooperation) Act 1990. But there was no prior approach to the solicitors or the accountants holding the material, and no evidence that they would not have handed the documents over voluntarily. The Court said the order should not have been applied for or granted. *R v Central Criminal Court ex p Propend Financy Pty Ltd*, *Independent* 29.3.94.

PTA challenges

Two PTA excludées, Gerry Adams and Kevin McQuillan, were granted leave to challenge the exclusion orders which prevent them from coming to Britain. Sinn Fein president Adams claims that the right to move freely between Britain and Northern Ireland is untrammelled and unconditional since the Treaty on European Union came into force in November 1993. McQuillan, a former IRSP executive member excluded from Great Britain since

1987, was allowed to come to the Old Bailey in December to give evidence after being witness summonsed, but was excluded again immediately afterwards. He has been the subject of two UFF assassination attempts, in 1991 and March 1994, and claims that the order condemns him to death at the hands of loyalist terrorists and so breaches his right to life and to freedom from inhuman treatment under the European Convention of Human Rights. *Independent* 4 & 6.5.94.

Holland

New preparatory offences

On 1 April new legislation came into force which enables criminal prosecution for the preparation of any criminal offence punishable with at least 8 years imprisonment. The prosecution must demonstrate the preparatory measures by showing that the suspect actually has artifacts, materials, money, information carriers, spaces or transport facilities at his or her disposal that are obviously intended to carry out the intended crime. Additionally, the crimes have to be planned to be carried out with more than one perpetrator. The change of law was motivated with the need to be able to intervene with the full force of the law when serious crimes such as a bank robbery or pornographic child abuse are being prepared, without having to wait until the crime is actually carried out and people's lives may be endangered. However, following an adaption of the narcotics law in the early 1980s which allows for similar prosecution of preparatory measures, that clause has so far mainly been used to allow the police to operate in a proactive phase and to reinforce the evidence in a later trial. Proponents of the new legislation have put forward the argument that investigating magistrates will now be in a better position to become fully involved in police investigations in an earlier phase, thus allowing for better procedural controls.

Law - new material

Research undertaken for the Royal Commission on Criminal Justice. *Home Office Research and Statistics Division Research Bulletin* 35, 1994. Special edition that summarises research studies that resulted in 352 recommendations to the RCCJ.

Police interrogation: the defence lawyer's role, Ed Cape. *Legal Action* April 1994, p10. Cape outlines what a defence lawyer should do to protect the client's interests during a police interview.

Scapegoats not solutions, Nadine Finch. *Socialist Lawyer* 21:16-17, 1994. Examination of the Criminal Justice Bill and miscarriages of justice.

Speaking up for silence, John Fitzpatrick. *Legal Action* May 1994, pp8-9. Argues that the attack on the right to silence, in the Criminal Justice and Public Order Bill, is a challenge to constitutional rights.

Parliamentary debates

Police and Magistrates' Courts Bill 21.2.94. *Lords* cols. 423-508;

22.2.94, cols 517-581; 22.2.94, *Lords* cols 591-624; 15.3.94, *Lords* cols 104-181; 15.3.94, *Lords* cols 188-228; 24.3.94. *Lords* cols. 747-809

Legal Aid and advice (Scotland) 16.3.94. *Commons* cols. 923-931

Criminal Justice and Public Order Bill *Commons* 28.3.94. cols. 649-768; *Commons* 12.4.94, cols 35-187; *Commons* 13.4.94. cols. 214-395

Police and Magistrates' Courts Bill *Commons* 26.4.94. cols 110-216

Europol:

Draft Convention examined

One of the key objectives of Article K of the Maastricht Treaty (now called the Treaty of European Union, TEU) on justice and home affairs (Title VI or more colloquially the 'third pillar') is the creation of Europol. The first step was taken last June when it was formally agreed to set up the Europol Drugs Unit (EDU). The second was to agree a permanent base for Europol in the Hague, Netherlands. The third will be the adoption of the *Convention of the establishment of Europol*, which is planned to be adopted by the Council of Justice and Interior Ministers during the German Presidency of the EU in October. Europol's role will be to exchange and collate information and intelligence from the national contact agencies in the member states of the EU (in the UK this agency is the National Criminal Intelligence Service, NCIS). Like all 'third pillar' issues decisions, agreements and Conventions are inter-governmental, that is they are between the 12 individual member states and not part of the legislative programme of the European union (EU).

The Europol Convention will have to be ratified by the 12 EU parliament plus those of the 4 countries which will join at the beginning of 1995. At this stage it is not clear how the UK parliament will be involved in ratifying the Convention. Home Secretary Michael Howard in an explanatory memorandum, date 22 February 1994, says 'it is unclear whether ratification will require amendments to United Kingdom law'. If no changes in the law are needed it may simply be presented - like the Dublin

Convention on asylum-seekers on which there was no parliamentary debate - as an international treaty to be ratified under the 'Ponsonby rules' (which means it is 'laid' before parliament and a debate only occurs if enough MPs are sufficiently concerned to insist it is debated).

This Convention has been drafted by the Ad Hoc Working Group on Europol which is permanently chaired by the UK and reports to the K4 Committee via Steering Group 2 on Security and Law Enforcement. This article looks at the draft Convention (date 8 November 1993) and its implications.

Europol: objectives and tasks

Article 1 of the draft Convention (the [] contain alternative or additional forms of words) says that Europol should be created with links to national units. *Article 2* states that the 'objective' of Europol is to improve police cooperation in 'preventing and combatting unlawful drug trafficking and other serious forms of international crime' (Spain and Greece want terrorism to be specifically included). A meeting of the Ad Hoc Working Group on Europol on 14 December 1993 set out the objectives more clearly: the 'list of the forms of crime' include: money laundering; international trafficking in hijacked vehicles, including cargo; international trafficking in arms, ammunition, explosives and military equipment; counterfeiting of money, credit cards etc; trafficking in nuclear substances and dangerous waste; trafficking in human beings; extortion, blackmail and protection racket; abduction and hostage-taking; 'association of malfaiteurs', criminal organisations; homicide; and computer crime. These crimes are to be included to the extent that a) the form of crime is liable to prosecution in all members states [or can be subject to police investigations]; b) the form of crime takes place in at least two member states. The Management Board (see later) will be able, by unanimous decision, to add new forms of crime to this list.

Article 3 sets out the 'tasks' of Europol as collecting and analysing information (hard facts, eg: name, address, criminal record etc) and 'intelligence' (which of its nature can include speculation and opinions); preparing 'situation reports' and 'crime analyses'; and, in a new development, 'maintain a central database of national data and new data'. *Article 3.2* says the Council (the body representing the member states) may add task - although several states (Germany, UK, Netherlands and Denmark) say this might require further national ratification.

Europol and national units

The relationship between Europol and the national agencies of member states is set out in *Articles 4-5*. Every EU state has to have a national agency

(contact point, NCIS in the UK). All information is exchanged between national agencies and Europol - other internal, regional agencies do not have access. National agencies will provide information on their own initiative or in response to a request from Europol. It is the job of the national agencies to guarantee the information provided meet national data protection requirements. Unlike the relationship between Interpol and national police forces the national agencies will be *obliged* to provide Europol with information with only three exceptions. These exceptions are where it: a) is incompatible with national legislation; b) seriously undermines the protection of the individual (what this means is not spelt out, maybe it refers to informers or undercover agents), ongoing enquiries or imperatives of [national][internal] security.

Data protection

Articles 6-14 deal, to the extent that they are spelt out, with the information to be stored and with data protection provisions. (The German delegation's report to the Bundestag suggests that a EU convention on data protection covering police, immigration and justice is being prepared).

Article 6 says all EU member states should have adopted the Council of Europe Convention of 28 February 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data. It then adds 'they [the member states] shall *take account of* the principles of Recommendation No R(87) 15 of 17 September 1987' which regulated the use of information of a personal nature in the police sector. Recommendation 'R (87) 15' concerns two provisions which the UK government has entered 'reservations' on (ie: it will not follow them). The first is one that ensures that individuals are ultimately informed that information recorded without their knowledge is still on file (Principle 2.2). The second (Principle 2.4) prohibits the 'collection of data on individuals solely on the basis that they have a particular racial origin, particular religious convictions, sexual behaviour or political opinions or belong to particular movements or organisations which are not proscribed by law'. It is thus not clear what provision is to be made when member states have derogated from key data protection clauses - for example, intelligence provided by the UK will not respect the limitations placed by Recommendation No R (87), nor will its use of intelligence provided via Europol.

The draft makes clear that Europol is to have a central computer database (this is in addition to the Schengen Information System/European Information System, SIS/EIS, and the Customs Information System, CIS). The categories of data to be kept and the persons affected has not yet been decided (*Article 9*, is blank). All the draft Convention sets out

in *Article 8* is that there will be two categories of data: a) national data; b) new data: which will be national data amended or altered by the Central Unit of Europol and over which it will control as to its use. Although national data will be owned by the respective national agency, national agencies will not be allowed to retrieve all the information held in the Europol computer database.

Article 10 says that 'under no circumstances' will the database be connected to another computer system. But under *Article 14*: 'Europol may communicate new and national data to third countries and other international bodies and receive data from the said countries and bodies'- information and intelligence on individuals and organisations may be added. The Management Board will be empowered to establish the rules for these contacts.

Structure

The structure of Europol will include: a *joint supervisory authority* to oversee the processing of personal data; this will comprise two representatives of each national supervisory authority (in the UK the Data Protection Agency). It will present an annual report to each member state. The *Management Board* will be composed of one representative from each member state, chaired by the country holding the Presidency of the EU. This probably means 12 officials from Interior Ministries. The European Commission will attend its meetings as an observer. It will probably meet twice a year. The Board with the Director of Europol are to draw up a three-year work programme and a report every six months for submission to the K4 Committee, the Council of Interior and Justice ministers and the Council. A point still being discussed is whether the Council should be able to set 'activities' for Europol. *The Director* and two assistant Directors of Europol will be appointed either by the Management Board or by the Council. A '*common audit body*', with one representatives from each member state, will oversee the annual accounts.

Europol is to 'have a legal personality' and 'be a party to legal proceedings' (*Article 15*, Legal status). Judicial control will be provided by the European Court of Justice but only for the member states - who may challenge a decision of the Management Board - but not for individuals (the UK 'sees no role for the European Court of Justice', memorandum from the Home Secretary). Individual access to the information held on them is not covered - different states may have provisions or not for access to information given by the national agency to Europol but how is access to be given to the 'new' data compiled by Europol centrally?

The proposed Convention covers the setting up of Europol and limits its role to the collection and dissemination of information and intelligence - it

will not have an operational role (ie: no power to direct national police forces or to make arrests). However, under the Maastricht Treaty this is due to be reviewed. A Declaration attached to the Treaty, on the initiative of Germany, says the Council will consider a report in 1994 which will include Europol supporting 'national criminal investigation and security authorities, in particular in the coordination of investigations and search operations'.

Aspects of this draft Convention on Europol are still being discussed but the main lines of thinking are clear. First, officials are to be given enormous executive powers with little accountability to democratic institutions (European and national parliaments). Like all 'third pillar' matters 'accountability' is to the Council of Justice and Interior Ministers - a process which means this Council is both legislature and executive, accountable only to itself. Second, no clear line is set out to differentiate between the role of the police and internal security agencies (who, across the EU, are assuming increasing roles in 'policing' matters). Third, the data protection provisions are minimalist. It is expected that the Commission's proposal on data protection will be supplemented by a separate inter-governmental Convention to cover policing, immigration, customs and internal security which will create all kinds of 'exceptions' where data subject access will be denied - as it is for the Schengen Information System.

Provisional text of the draft Convention on the establishment of Europol, ref:9757/93, ENFORC 3, Restricted, 8.11.93; *Progress Report from the Presidency on drawing up the Convention on the establishment of Europol*, COREPER, 22.11.93, 9756/2/93, Rev 2, ENFORC 2; *European Police Office (Europol) - Draft Convention text*, explanatory note submitted by the Home Office, 22.2.94; CILIP, Berlin.

Political Killings in Northern Ireland, Amnesty reports

Amnesty Attacked

On 9 February, Amnesty International published its latest report on the UK, entitled *Political Killings in Northern Ireland*. It was immediately dismissed by the Secretary of State for Northern Ireland, Sir Patrick Mayhew, the RUC and Ulster Unionist politicians. At the same time, an official United States report was being presented to President Clinton which, like the Amnesty report, is highly critical of the British Army and RUC.

Ken Maginnis MP, who speaks for the Ulster Unionist Party on security issues, said that 'Amnesty has clearly set out to discredit the security service and by doing so discredits itself. Amnesty's 'glaring

disregard for the main cause of human rights abuse, which is carried out by terrorists, is indicative of a lack of concern for the victims . . . there is no place for this self-appointed jury'. Twelve pages of the report, however, deal with killings and human rights abuses by 'armed political groups', Republican and Loyalist.

Referring to police officers and soldiers, and allegations of collusion with Loyalist groups, Deputy Chief Constable, Blair Wallace, attacked the Amnesty report by saying, 'it is unjust and insulting to these brave men and women to infer that they are anything other than even-handed.' He repeated the now standard rejoinder: more loyalists than republicans were charged with offences last year - 'do these facts suggest collusion?' (The Chief Constable's Annual Report for 1992 states, 'Some 405 persons - 214 republican and 191 loyalist - were charged with terrorist-type offences'.)

Collusion is at the centre of the report. It charts the origins of the Stevens inquiry which lay in UDA/UFF claims that their killing of Loughlin Maginn in August 1989 was not sectarian but based on information from RUC files that he was an IRA member. Within weeks, photocopies of intelligence files on over 250 suspects had been leaked to the media and pasted on Belfast street walls - 'these were security force documents and included pictures, names, addresses, car registration numbers and sometimes other details about Republican suspects' movements'. There was a regular flow of such documents to Loyalist groups, it was claimed.

The Stevens inquiry

The Stevens inquiry, the report states: 'failed to identify members of the security forces involved in passing on information to Loyalist armed groups. It also clearly failed to enjoy the full cooperation of the British Army'. This was evident in the way military intelligence held on to hundreds of documents given to them for safekeeping by their agent, Brian Nelson. Nelson was highly placed within the UDA and was the only person to be charged with conspiracy to murder as a result of the Stevens inquiry. Amnesty concludes that:

'the Stevens inquiry would have been very important if its scope had been wide enough to look at the issue of collusion as a whole... It did not look at evidence that collusion between members of the security forces and Loyalist armed groups had been going on for many years, or at the overall pattern as it related to both targeted and random killings of Catholics. It did not examine the authorities' record during this time in bringing criminal proceedings against security personnel in this regard, or the official response to evidence of partiality and discriminatory treatment'.

The killing of Pat Finucane

A major opportunity for investigating collusion was presented by the Nelson case. But just before the trial, the most serious charges against him, including two murder charges, were dropped; he then pleaded guilty to the remaining charges. This led to a trial in which 'only fragments of the truth bearing on allegations of collusion emerged'. Nevertheless, it was revealed that military intelligence had taken the entire set of UDA files into its temporary possession (for the purpose of updating and streamlining them), that 'the army and the RUC were aware of the flow of their own intelligence reports to the UDA, and their use in targeting suspects for killings, at least as early as May 1987', and that the army was aware of the plan to kill solicitor Pat Finucane two months in advance. During the Nelson trial, however, 'the court did not hear of a single arrest, or interception operation, carried out on the basis of information provided by Brian Nelson'. Similarly, although military intelligence had detailed knowledge of a Loyalist arms shipment from South Africa 'the army failed to intercept' (part of the shipment was seized by the RUC).

A former detainee told Amnesty that a year before Pat Finucane's murder, 'detectives suggested that the UVF should shoot the solicitor'. Five weeks before he was killed, one of his clients alleged that an RUC officer 'informed me that my solicitor was working for the IRA, and would meet his end... like every other Fenian bastard'. Detectives at Castlereagh had made similar statements about Finucane to Loyalist detainees. According to Nelson's own diary, he was directly involved in targeting Finucane yet 'he was never charged in connection with the killing and his claims have never been examined in open court'. In the spring of 1993, Stevens was requested by the DPP, through the RUC Chief Constable, to investigate a number of allegations arising from Nelson's diary and TV documentaries. In the only official statement on this (see *Belfast Telegraph* 22.9.1993), the Chief Constable said:

'The DPP asked me to pick up on one or two confidential issues which were part of the original inquiry and ask Stevens to give a personal view on them. I can categorically say there is no new inquiry. Stevens is not coming back to the province and has no men working here. I do not anticipate any other arrests or prosecutions'.

Since the Stevens inquiry, official intelligence documents continue to find their way to Loyalist groups. In addition, other forms of collusion are alleged:

'when killings by Loyalists take place it has

sometimes been claimed that just before the killing there was a heavy security presence in the immediate area but that this was then removed... The facility with which Loyalist gunmen raid homes in stringently monitored and controlled Catholic neighbourhoods and then leave without hindrance has contributed to the lack of confidence in the RUC to provide full protection for the Catholic community and to pursue Loyalists with the same vigour as the IRA is pursued.'

Another allegation is that 'the security forces provide detailed layouts of suspects' homes to Loyalist gunmen.' Catholics who have been attacked by Loyalists, or warned by the RUC that Loyalists have threatened to kill them, have been refused permits for personal protection firearms and in some instances, legally held weapons have been removed by the RUC prior to murders by Loyalists.

Investigation needed

Amnesty argues that 'whenever clandestine groups claim they are supporting a government's security forces and a governmental system through political killings, the governments in question have a special obligation'. It therefore calls for a wide-ranging investigation into the human rights implications of covert intelligence operations and urges the British government to establish a thorough and impartial investigation into collusion.

The section of the Amnesty report on killings by armed political groups goes into considerable detail on Loyalist and Republican actions. The IRA bombing of Musgrave Park Hospital in November 1991, which killed two soldiers and injured ten people, is described as a 'blatant violation of international humanitarian standards'. The report draws attention to the IRA killings of thirty people doing contract work for the security forces between 1985 and 1993. These killings, Amnesty says, are in breach of minimum humane standards. The report is critical of 'punishment' shootings and beatings. It discusses the IRA's internal code of discipline and the use of the death penalty for certain breaches of 'Green Book' orders. In 1992, for instance, six people were killed for acting as informers.

The report points out that the number of killings by Loyalist groups has sharply increased since 1990 and that there are clear signs that firearms for Loyalist killings come from a common arms pool, probably based on the Ulster Resistance share of the South African arms shipment which escaped capture by the RUC. The main victims of Loyalist killings are ordinary members of the Catholic community and 'random firing into houses by Loyalist gunmen is a common occurrence'. In addition, both Sinn Fin and SDLP activists have been targeted.

Amnesty concludes by urging the leadership of

armed political groups to take steps to ensure that members do not torture, kill prisoners or civilians, and do not take hostages.

Role of the army and RUC

Another section of the report discusses killings by the British Army (including the SAS) and RUC. These forces are directly responsible for more than 350 deaths since 1969, but Amnesty's main concern is with deaths in disputed circumstances and allegations of a shoot-to-kill policy since the early 1980s. It points out that 'between 1969 and 1991, twenty-one members of the security forces were prosecuted for killings using firearms while on duty in Northern Ireland'. Nineteen were found not guilty, one was found guilty of manslaughter and given a suspended sentence, and one was convicted of murder but released after serving only two years and three months of a life sentence. He re-joined the army but subsequently left. Since 1991, four incidents have involved prosecutions of soldiers or RUC officers. One soldier was found guilty of murdering Karen Reilly (who was travelling in a stolen car) and another of attempted murder. In two of the other three incidents (the Caraher and McGovern killings), the judge brought in not-guilty verdicts.

Amnesty draws attention to the failure to prosecute in a number of incidents, the circumstances of which are disputed or suspicious. Included here are the cases of the three robbers of a bookies shop, shot by members of an undercover unit from 14th Intelligence Company, and the cases of Brian Robinson and Pearse Jordan.

The report then goes on to consider the role of inquests and the routine use of public interest immunity certificates: 'since court proceedings involving the prosecution of security force personnel for disputed killings are rare, one of the main mechanisms for investigating suspicious deaths has been the coroner's inquest'. It concludes that 'the investigative procedures in Northern Ireland do not meet the minimum standards for proper investigations of disputed killings, as laid out by the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions'. These require 'promptness, impartiality, thoroughness, and publication of the findings of the investigation'.

Amnesty is also critical of the laws and regulations governing the use of lethal force in Northern Ireland. 'Amnesty International sought clarification in 1991 on what steps the government has taken to bring international standards to the attention of various official bodies within the United Kingdom, and in particular Northern Ireland. The organisation asked whether the government was considering formulating appropriate legislation and policy directives in order to implement the UN Basic

Principles on the Use of Force and Firearms by Law Enforcement Officials. No reply to these questions has been received.'

United Kingdom: Political Killings in Northern Ireland (EUR 45/01/94) is available from Amnesty International, 1 Easton Street, London WC1X 8DJ.

RESEARCH & INFORMATION NOTICEBOARD

Sustainable security: The International and National Steering Committee of Nuclear Free Local Authorities (ISC & NSC): Peace Pavilion at the forthcoming Global Forum '94 to be held in Manchester: 24 June - 3 July, 1994. Details from: National Steering Committee of Nuclear Free Local Authorities, Nuclear Policy and Information Unit, Manchester Town Hall, Manchester M60 2LA. Tel: 061 234 3222. Fax: 061 236 8864. Contact: Stella Whittaker.

The use and abuse of power: Beyond control? 22nd Annual Conference of the European Group for the Study of Deviance and Social Control. August 25-28, 1994 at the Democritus University of Komotini, Thrace, Greece. Papers welcomed on: new definitions of crime; crimes of the powerful; national identities and migration; political and judicial corruption; economic rationality in education, welfare and other social institutions. Projected cost, including conference fee, £100. Outline of proposed papers should reach Paddy Hillyard (University of Bristol tel: 0272 303030 or Mick Ryan tel: 081 316 8964. Details from: Mick Ryan, University of Greenwich, Woolwich Campus, Wellington Street, Woolwich, London SE18 6PF.

Towards peace in Ireland: conference in London on 2 July, 1994. Issues to be discussed include: the Hume-Adams initiative, the Irish economy, human rights and peace. John Hume MP will be giving the keynote speech. Details from: Towards peace in Ireland, BM Box 5355, London WC1N 3XX.

People's right: International Conference on Public Legal Services: organised by the Law Centres Federation and the University of Kent. 27-30 June 1994. Contact: Law Centres Federation, 18 Warren Street, London W1P 5DB Tel: 071-387-8570.

Criminology in the 1990s: Black Women, the law and mental health. Day Conference at the Law Society's Hall, 113 Chancery Lane, London WC2 on Monday 10 October 1994. Cost £80. Contact for

details: Ruth Chigwada, 20 Sussex Road, East Ham, London E6 2PS. Tel: 081 471 8058.

Technologies, surveillance and protection: Privacy International annual meeting in the Hague, Netherlands, 5 September 1994. Topics include data matching, smart cards and closed circuit television surveillance. Details: Simon Davies: Fax: (++44) 081 313 3726.

Practical European networking against racism, nationalism and fascism: UNITED Conference in Salzburg, Austria. 6-9 October 1994. Contact: UNITED, Postbox 413, NL-1000, AK Amsterdam, Netherlands. Phone/fax: ++ 31 20 6234902.

The European Parliament in the wake of the Euro-elections: Day Conference organised by the Centre for European Union Studies. 17 June 1994 at the UK Office of the European Parliament, 2 Queen Anne's Gate, London SW1. Details and registration: Lizzie Harris, Department of Politics, University of Hull, Hull HU6 7RX. Tel/fax: 0482 466 208.

CONTENTS

Immigration	1
Wave of hunger strikes	
Denmark: Border controls	
Germany: Yugoslavs to be deported	
Switzerland: contract on 'illegals'	
In brief	
New material	
Law	3
France: new penal code	
Holland: Absent witnesses	
ECHR: UK vs. the rest	
Criminal Justice Bill	
Disenchantment with Mackay	
New material	
Policing	5
Europol HQ opened	
Holland: surveillance techniques	
Operation Jackpot	
Scotland: cross-border curbs scrapped	
Police Bill changes	
Holland: speculative police raids	
New material	
Northern Ireland	7
Chancellor sees all	
Review: Terrorist threat to Safe Shopping	
New material	
Racism & fascism	8
TUC march against racism	
Holland: race statistics criticised	
New material	
Europe	10
EU: secrecy law	

EU: New Council Directorate	
Justice & Interior Ministers	
Turkey detains Kurdish MPs	
Smart card passports	
In brief	
EU: debates, resolutions and proposals	
New material	
Civil liberties	12
New material	
Security & Intelligence	12
UK employs 10,766 spies	
New MI6 Head	
New UK secrecy definitions	
France: New laws on intelligence	
Hilda Murrell	
Switzerland: restricted access	
In brief	
New material	
Prisons	14
Prison suicides increase	
New material	
Books received	14
Feature: Germany: 'Internal security' laws - moral panic and elections	15

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Official secrecy in the European Community? *Statewatch briefing*, May 1992. Cost: £3.00 inc p&p (Europe £3.50; outside Europe \$10 or £4.00 sterling).

Gladio briefing: introduction and background country by country. Total: 16 pages. Cost £2.00 inc p 7 p.

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