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# Concerns in Europe and Central Asia

## July to December 2002

### FOREWORD

This bulletin contains information about Amnesty International's main concerns in Europe between July and December 2002. Not every country in Europe is reported on: only those where there were significant developments in the period covered by the bulletin.

The five Central Asian republics of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan are included in the Europe Region because of their membership of the Commonwealth of Independent States (CIS) and the Organisation for Security and Co-operation in Europe (OSCE).

A number of individual country reports have been issued on the concerns featured in this bulletin. References to these are made under the relevant country entry. In addition, more detailed information about particular incidents or concerns may be found in Urgent Actions and News Service Items issued by Amnesty International.

This bulletin is published by Amnesty International every six months. References to previous bulletins in the text are:

|                          |  |
|--------------------------|--|
| AI Index EUR 01/01/98    | Concerns in Europe: July - December 1997 |
| AI Index EUR 01/02/98    | Concerns in Europe: January - June 1998  |
| AI Index EUR 01/01/99    | Concerns in Europe: July - December 1998 |
| AI Index EUR 01/02/99    | Concerns in Europe: January - June 1999  |
| AI Index EUR 01/01/00    | Concerns in Europe: July - December 1999 |
| AI Index EUR 01/03/00    | Concerns in Europe: January - June 2000  |
| AI Index EUR 01/001/2001 | Concerns in Europe: July - December 2000 |
| AI Index EUR 01/003/2001 | Concerns in Europe: January-June 2001    |
| AI Index EUR 01/002/2002 | Concerns in Europe: July - December 2001 |
| AI Index EUR 01/007/2002 | Concerns in Europe: January - June 2002  |

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## ALBANIA

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### ***Allegations of torture and ill-treatment***

There were further allegations that detainees, including children, had been ill-treated by police; in some cases the ill-treatment was so severe as to amount to torture.

On 12 August Engjëll Muka was arrested by police in Berat. When he denied their accusations that he had broken into a house and stolen money and jewellery, three police officers allegedly kicked and punched him and beat him with truncheons until he lost consciousness. He was released eight hours later. He subsequently sent a complaint, reportedly enclosing a forensic medical certificate and photographs, to the Minister of Public Order and the Ombudsperson.

On 22 October Ardian Muja was arrested on suspicion of having placed explosives in the car of the chief of police in Shkodra. Two days later he filed a complaint alleging that he had been beaten and severely injured by police officers at Shkodra police station to force him to confess. Although he was taken by police to hospital for treatment, his request for examination by a forensic medical expert had reportedly not been granted by 28 October.

On the evening of 7 December Fatjon Guxholli was arrested on suspicion of theft, which he denied having committed, and detained in the local police station in Pogradec overnight. He subsequently alleged that the next morning a police inspector beat him about the head with a mobile radio and with a truncheon until he fell unconscious. When he revived, he was then taken by police to hospital where he received stitches for a wound to his head. He was returned to the police station where he was forced to sign a statement that he had no complaint to make against police officers, before being released. Fatjon Guxholli reportedly had photographs showing the injury to his head and bruising on his face and body as well as a certificate issued by a medical forensic expert confirming these injuries. An internal police inquiry into these allegations was started.

### ***The ill-treatment of children in police custody***

In October monitors from the non-governmental organization Children's Human Rights Centre of Albania (CRCA) visited a number of police stations and reported that they found that police routinely ill-treated, and at times tortured, children (aged 14 to 17) to extract confessions from them. According to the CRCA: "The children we interviewed often showed clear marks of physical ill-treatment and of post-traumatic stress and fear. In some cases police had used lighted cigarettes or other objects to assault the children." Children were often held in cells together with adult detainees, in violation of the law. In Vlora and Saranda three boys were allegedly sexually abused by older detainees. The CRCA noted that children suspected of minor crimes were sometimes detained in pre-trial detention for long periods, and that during their detention they received inadequate food and no education, and could be visited by their parents only once or twice a week. In November another non-governmental organization, the Legal Clinic for Minors, which offers legal aid to children, also reported that children detained in the four Tirana police stations which it visited were routinely ill-treated by police.

### ***Investigation of allegations of police ill-treatment***

In December it was reported that the police authorities had dismissed from service 11 police officers who were found to have committed various abuses; among them was a border police officer who was dismissed for soliciting bribes from two people and beating them when they refused.

Although judicial investigations started or continued into some allegations of ill-treatment by police, other allegations were not investigated or not investigated effectively. During the year lawyers in Gjirokastra filed five complaints about police ill-treatment and other abuses by police with the district prosecutor, but reportedly by the end of the year none of these cases had been sent for trial.



Amnesty International learned of only one case which had gone to trial. In July Rrapo Xhavarra, a police officer, was tried by Saranda district court for allegedly ill-treating in June 2000 an 11-year-old boy whom he wrongly suspected of theft. The court found that he had not ill-treated the boy; instead he was convicted of "Abuse of office" for detaining the boy beyond the legal time limit and for interrogating him without the presence of a lawyer or guardian. The court sentenced him to 18 months' imprisonment, suspended for two years. Although Rrapo Xhavarra had been dismissed from service in the State Police force in June 2000, in June 2002 he was appointed Chief of Saranda Municipal Police; he remained in office following his conviction in July.

In September Z., a former chief of crime police in Vlora, was indicted on a charge of "Arbitrary acts".<sup>1</sup> According to the indictment, on 5 March he and two civilians had forced Sabaudin Çela, whom they believed to have information concerning a murder, into a car and took him to the outskirts of the city where he was questioned and severely beaten and injured. On 7 March Z. was suspended from service. According to the indictment, the police officer had not himself inflicted injuries on Sabaudin Çela; a forensic medical examination carried out on 8 March classified his injuries as light. However, representatives of AI and of the Albanian Human Rights Group, a local non-governmental organization, who visited him on 7 March in hospital observed what appeared to be severe bruising on his back, head and legs. The two civilians were charged *in absentia* with having assaulted and injured Sabaudin Çela.

In December a draft law, dealing with the Special Police, was presented on the initiative of the Ombudsperson to the Parliamentary Legislative Commission. Officers of this police force, as a measure of protection against revenge attacks, wear masks on duty to conceal their identity. Under the terms of the draft law, their identity would be disclosed in cases in which investigations were started into complaints of ill-treatment brought

<sup>1</sup> His name known to Amnesty International

## Injuries to Sabaudin Cela's back

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against them. The Ombudsperson reportedly stated that there had been many cases in which complaints that masked police had ill-treated people could not be properly investigated because their names were not made known.

### **Conditions of detention**

Conditions of detention were harsh. Conditions in police cells, where detainees were held following arrest, in pre-trial detention, and sometimes following conviction, were particularly poor, and sometimes, due to overcrowding and lack of hygiene, amounted to cruel, inhuman and degrading treatment. In early October there were over 100 detainees held in Vlora police station in cells with a capacity of 40 to 50. Detainees had no beds or mattresses, cells had minimal light and ventilation; there was no running water and drains were blocked. A doctor examining sick detainees protested that the poor conditions exposed detainees to the risk of epidemics. Detainees, among them six convicted prisoners, were denied reading and

writing materials and access to radio or television. Similar conditions prevailed elsewhere: in November the Albanian Helsinki Committee (AHC), a non-governmental organization, reported that 70 detainees were held in cells in Kukës police station, which had a maximum capacity for 44. AHC also condemned the lack of hygiene, noting that there was only one shower, and that cells lacked mattresses and blankets.

#### **Trafficking of women and children**

Women and children continued to be trafficked for sexual exploitation or (in the case of children) for exploitation as beggars, despite measures taken by the authorities to suppress this trade. Although a considerable number of people suspected of trafficking were arrested, the conviction rate was very low. There was no law providing for witness protection and victims were often fearful of testifying against traffickers. The work of the International Trafficking Centre in the coastal town of Vlora reportedly led to a reduction in organized trafficking from Vlora where a Psychological-Social Centre works to promote public awareness of trafficking and domestic violence, and offers accommodation, counselling and reintegration programs to Albanian female victims of trafficking. In November a one-year project, funded by the OSCE Office for Democratic Institutions and Human Rights, working in co-operation with the International Organization for Migration and the Ministry of Public Order, began to offer legal advice and assistance to victims of trafficking returning to Albania, usually after being expelled for immigration infractions in their destination countries.

#### **Failure to implement Albania's obligation to report to human rights treaties' bodies**

By the end of 2002 Albania had still not submitted reports, due in 1995 and 1999, to the UN Committee against Torture. Other reports which were overdue included Albania's reports on its implementation of the International Covenant on Civil and Political Rights.

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## **ARMENIA**

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#### **Torture and ill-treatment**

Reports indicated that ill-treatment by law enforcement officials remained commonplace. Military conscripts continued to report cases of severe ill-treatment by, or with the complicity of, superior officers. It was alleged that a number of investigations into cases of torture or ill-treatment were inadequate.

In February, 22-year-old Artiom Sarkisian died shortly after beginning his military service. The military hospital stated that the cause of death was food poisoning, but a later autopsy reportedly revealed severe brain and abdominal injuries and loss of blood. A trial started in December in which 15 people faced charges in connection with his death. They included fellow soldiers, two of whom were accused of assault, and the unit commander. Five military doctors, according to whom Artiom Sarkisian was suffering from food poisoning, were also accused of complicity in his death. Artiom Sarkisian allegedly spent 36 hours in agonizing pain until a sixth military doctor sent him to hospital. In 2001, Artiom Sarkisian had taken part in highly publicized student protests against compulsory military service before the completion of studies. His relatives claimed to have been intimidated at the trial, which was adjourned at the end of 2002 because of the absence of heating in the court.

In July, parliamentary deputy Gevorg Hakobian was reported to have been physically assaulted in police custody by a number of law enforcement officials, including a senior figure in the Yerevan police. An internal government investigation conducted by the Prime Minister exonerated the senior official, who was promoted a month later to head a department in the Interior Ministry.

Agamal Arutiunian, one of President Kocharian's bodyguards, was given a two-year suspended sentence for "unintentionally assaulting" political activist Pogos Pogosian in September 2001 (see AI Index: EUR 01/001/2002). Forty-three-year-old Pogos Pogosian was found dead in the toilet of the

"Aragast" cafe in the capital, Yerevan, in the early hours of 25 September, 10 minutes after President Robert Kocharian had left the cafe. He had allegedly been beaten to death by the President's personal bodyguards. Some eyewitness accounts state that Pogos Pogosian had approached the President as he was leaving the club, and had verbally abused him, after which some of the presidential bodyguards began to beat Pogos Pogosian in the hallway of the club. He was then reportedly taken to the toilets of the club for a 'conversation' by another member of the security team, where he was subsequently registered dead at 12.40am on 25 September. On 27 September, the presidential press service announced that President Kocharian had suspended three of his bodyguards after the incident, and had insisted that the investigation into the incident be impartial. On 28 November, bodyguard Agamal Arutiunian was charged with manslaughter. There were allegations that witnesses were intimidated and feared to come forward.

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## AUSTRIA

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### **Police shooting**

AI called for a prompt, thorough and impartial investigation into the fatal shooting of a man on a busy street in the centre of Vienna on the afternoon of 31 August. At the time of the shooting he was unarmed and suffering from severe mental health problems. Binali Ilter, a 28-year-old Austrian national of Kurdish origin, had suffered from schizophrenia for several years and police in Vienna's 11th district, where he lived, were said to have been aware of his condition. On the afternoon he died his mother was said to have informed local police that her son was experiencing mental health difficulties and asked them to help her find him.

Binali Ilter left his house in the early afternoon on 31 August and wandered barefoot through the streets of Vienna until reaching a clothes shop located on *Himmelpfortgasse* in Vienna's first district at around 2.45pm. Binali Ilter was involved in an incident at the shop, during which he hit a

sales assistant in the face, after unsuccessfully demanding money from her. The shop owner, who informed the police, reportedly later stated that Binali Ilter was visibly confused and had not run away after the incident. Shortly afterwards, Binali Ilter reportedly asked another woman for money and made a half-hearted attempt to place his hand on her handbag.

The fatal shooting occurred at around 4pm after police intercepted Binali Ilter in the city centre. According to Binali Ilter's family, he was wandering barefoot, wearing a T-shirt, three-quarter length trousers and carrying a 33-centilitre size bottle of mineral water. Two police officers ordered him to stop, reportedly firing a warning shot after he failed to respond to their initial commands. Two other police officers reportedly overtook him in their car as he walked along the street. They then stopped, got out of their car, and one drew out his gun. One of the police officers who had been following Binali Ilter then shot him in the shoulder and stomach, after the unarmed and obviously disturbed man shouted and stepped towards him. Binali Ilter's family also alleged that although police called for an ambulance they apparently made no attempt to stem his bleeding. Binali Ilter died in hospital later that day. At the end of the year no response had been received from the Austrian authorities about the incident.

**Police shooting** (update to AI Index: EUR 01/03/00 and EUR 01/003/2001)

In November the Austrian Ministry of Foreign Affairs informed AI of the outcome of the trial of a police officer who shot dead an unarmed man in Vienna's 14th district on 20 May 2000. On 4 June 2002 Wien-Fünfhaus District Court acquitted the police officer *in dubio pro reo* of the negligent killing of the criminal suspect, Imre Bartos. He was shot by the police officer, controversially using a privately-owned firearm, as the officer attempted to open the door of a vehicle in which Imre Bartos and his companion sat. At the time of the shooting the two men were under police surveillance on suspicion of possessing narcotics. Wien-Fünfhaus District Court reportedly ruled that the shooting occurred as a result of an

unintended gripping reflex of the hand in which his gun was held, as he opened the door of the vehicle. Imre Bartos' two sons lodged two complaints with Vienna's Independent Administrative Tribunal, the outcome of which were not known at the end of the year.

#### ***Alleged police ill-treatment***

On 17 October Vienna's Independent Administrative Tribunal found that police had insulted, degraded and excessively treated the Turkish born human rights activist Bülent Öztöplü during a police operation in Vienna on 12 September 2001. At the time Bülent Öztöplü was a vocal member of the national Human Rights Advisory Board. An officer posing as a newspaper journalist had arranged to meet Bülent Öztöplü on 12 September at the offices of *Echo*, a non-governmental organization specializing in the integration of second generation immigrants, of which he is the general manager. However, the undercover police officer arrived at the arranged time with a large group of armed police officers from the WEGA special police detachment and arrested him on an outstanding international arrest warrant relating to an incident alleged to have occurred in Mannheim, Germany in 1984. Vienna's Independent Administrative Tribunal found that, although Bülent Öztöplü willingly cooperated with the arresting police officers, he was, nevertheless, led away in handcuffs and then needlessly subjected to a strip-search at Vienna's seventh district police station. While the Tribunal deemed the handcuffing of the detainee to be excessive, it understood the latter to be "... a thoughtless practice, the degrading effect of which had not once been taken into consideration, let alone weighed up". Disturbingly, the Tribunal also found that, while in police custody, an officer had verbally abused Bülent Öztöplü as a "dirty bastard" when informing a colleague that the detainee was a member of the national Human Rights Advisory Board. Vienna's Chief Police Inspector Franz Schnabl subsequently issued an official apology to Bülent Öztöplü for the incident. Even though Bülent Öztöplü was acquitted of all charges against him in December 2002, by the end of 2002 he had not been reinstated to the

Human Rights Advisory Board, from which he was suspended shortly after his arrest.

#### ***Asylum-seekers***

There was widespread concern about a new asylum regulation introduced by the Ministry of the Interior on 1 October, which excluded certain categories of asylum-seekers from state-run accommodation centres. Under the regulation asylum-seekers from European Union accession countries faced eviction and exclusion from such accommodation centres during the processing of their asylum applications, potentially rendering them destitute. Asylum-seekers from certain other countries also faced eviction from state-run centres if they appealed an unsuccessful initial application, including - with certain exceptions - individuals from Armenia, Azerbaijan, Former Republic of Yugoslavia, Georgia, Macedonia, Nigeria, Russia and Turkey. The new policy also put considerable pressure on national relief organizations, which were forced to support evicted and excluded asylum-seekers, who were thought to number around 1000 individuals. The new regulation drew criticism from various quarters, including the United Nations High Commission on Refugees.

#### ***Unequal age of consent*** (update to AI Index: EUR 01/007/2002)

Following the June 2002 ruling of Austria's Constitutional Court that the country's unequal age of consent for gay men was unconstitutional both houses of Austria's parliament agreed to remove the offending article (209) from the Austrian Criminal Code in July. Under the Criminal Law Amendment Act, Article 209 of the Criminal Code ceased to be effective from 14 August.

Irrespective of changes to the Criminal Code, AI remained concerned that ongoing criminal proceedings against gay men accused of violating Article 209 were not immediately terminated. On 23 September the Austrian President, Thomas Klestil, intervened to pardon a 38-year-old gay man from serving a four-month prison sentence. The man had been convicted under Article 209 in October 2001 for having sexual relations with his then

17-year-old boyfriend (see AI Index: EUR 01/007/2002). On 3 December Vienna's Higher Regional Court upheld a three-month suspended prison sentence originally passed on a gay man in January 2002 for violating the since deleted criminal code article.

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## AZERBAIJAN

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***Allegations of torture, ill-treatment and excessive use of force - the events at Nadaran*** (update to AI Index: EUR 01/007/2002)

Aligasan Agaev was shot and killed by police during what began as a peaceful demonstration in the village of Nardaran on 3 June 2002. Residents had been campaigning to improve local socio-economic conditions for several years. The 3 June demonstration was a reaction to the unexpected cordoning-off of the village and the arrest of seven village elders. Dozens of villagers and several police officers were reported to have been injured in the clashes. An official report blamed the incident on "anti-Azerbaijani Islamic forces" in the village. At the end of the year a number of villagers faced serious criminal charges but no prosecutions of law enforcement officers were known to have been initiated. Police at Nardaran reportedly prevented injured people from obtaining appropriate medical treatment by blocking access to medical personnel, and beating and arresting injured people and those who went with them to hospital. Some of the Nardaran residents arrested at the hospital were reportedly tortured and ill-treated in detention.

Twenty-two-year-old 22-year old Rasim Alizade, who had a bullet wound in the shin, and another man named Mirzaga Movlamov were kept in hospital until 4 June because of the seriousness of their injuries. They were reportedly arrested in the hospital and tortured, first there and then in prison. The Nadaran events appeared to arise spontaneously from local grievances, although there were other allegations that the police used excessive force against demonstrations organized by opposition political parties.

***Death in custody - The case of Ilgar Javadov*** (update to AI Index: EUR 01/002/2002)

Ilgar Javadov died in the early hours of 13 May 2001, allegedly as a result of ill-treatment by law enforcement officers. The senior officer on duty at the time of Ilgar Javadov's death in police station No. 9 in Baku's Sabail district (his name is known to AI) was subsequently dismissed and charged with negligence. His trial, which had been subject to a number of delays, was still under way at the end of the period under review. The prosecution was asking for a sentence of three years' imprisonment, while Ilgar Javadov's lawyer was demanding seven years and the reopening of the case against three other police officers (their names are also known to AI). This case had been dropped after Ilgar Javadov's lawyer and family had given a press conference about their concerns. Proceedings against the senior officer were delayed yet again at the end of the year as he went into hospital. Although Ilgar Javadov's family had pressed successfully for a second post mortem, they then withdrew their permission for it on the grounds that there was no independent laboratory available in the country which could perform one.

***Council of Europe*** (update to AI Index: EUR 01/007/2002)

In January, the Parliamentary Assembly of the Council of Europe (PACE) requested the release of 11 political prisoners whom it had previously asked either to be released or retried. PACE put particular emphasis on Alakram Alakbar oglu Hummatov (also known as Alikram Gumbatov or Gummatov, see below), Iskander Mejid oglu Hamidov (also known as Iskander Gamidov), and Rahim Hasan oglu Qaziyev (also known as Raqim or Ragim Gaziyevev). No steps appeared to have been taken to release or retry two other political prisoners identified by PACE: Natig Efendiyev (also known as Natiq Efendiyev) and Suret Davud oglu Huseynov (also known as Suret Guseynov).

### **Changes to the Constitution**

In August a referendum approved 36 amendments to the Constitution. Some of these arose out of Azerbaijan's commitments as a member of the Council of Europe. For example, one of them introduced the concept of an alternative to military service, although no reports of enabling legislation were received during the period under review. Several other changes to the electoral system prompted allegations that they were designed to ease the succession from President Heydar Aliiev to his son Ilham Aliiev. Twenty-two prisoners serving life sentences sought to make use of one of the amendments which introduced the right of individual complaint to the Constitutional Court. The prisoners claimed that their sentences were effectively applied retrospectively in violation of the Constitution. The prison administration reportedly blocked 21 of these appeals. The exception was an appeal by political prisoner Alakram Alakbar oglu Hummatov, who went on hunger strike in protest at the lack of response from the Court. He ended the strike when the Milli Mejlis (parliament) approved legislation implementing the right of individual complaint to the Constitutional Court.

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## **BELARUS**

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### **Parliamentary Assembly of the Council of Europe**

In late September the Parliamentary Assembly of the Council of Europe (PACE) considered the overall political situation in Belarus, including its adherence to various civil and political rights. In doing so, PACE rebuffed any notion that Belarus' special guest status in the Assembly would be restored, stating in Resolution 1306: "At present, Belarus shows severe democratic deficits and it does not yet meet the Council of Europe's relevant standards. The electoral process is imperfect, human rights violations continue, civil society remains embryonic, the independence of the judiciary is doubtful, local government is underdeveloped and, last but not least, Parliament has limited powers."

Among PACE's wider concerns were freedom of expression, including press freedom, and the country's unresolved "disappearances". PACE stated: "[R]ecent developments in Belarus also give rise to growing concern regarding freedom of expression and of the media. The independent media continue to be subject to increasing pressure and harassment from the Belarusian authorities. The recent convictions of journalists for their opinions are unacceptable" (see below). In this respect PACE called on the Belarusian authorities to reconsider cases of imprisonment on political grounds, including those relating to convicted journalists.

Echoing the concerns of various other international bodies PACE stated that it was "... seriously concerned about the lack of progress regarding the cases of missing people" and "[d]espite assurances by the Belarusian authorities about ongoing investigations into their cases no reliable information let alone any concrete results are available at present". Resolution 1306, adopted by PACE on 27 September, subsequently resulted in the establishment of an investigative ad-hoc sub-committee of the Committee on Legal Affairs and Human Rights to probe into the circumstances surrounding the "disappearances". Member of the Russian Duma, Sergey Kovalev, was appointed chairman of the ad-hoc sub-committee, which reportedly met in September as well as in November to examine the investigation conducted by the authorities into the "disappearances".

### **Freedom of expression**

The authorities continued to resort heavily to the use of criminal libel against journalists in order to curb the legitimate exercise of the right to freedom of expression. On 16 September the editor of the independent newspaper, *Rabochy*, Viktor Ivashkevich was sentenced by a court in Minsk to a two-year term of "restricted freedom" after being convicted of slandering the President in a newspaper article in the pre-election period. The offending article accused the administration of corruption. As a result of the sentence of "restricted freedom" Viktor Ivashkevich will be subjected to forced labour

of the authorities' choosing for the duration of his sentence and will be forced to return to a guarded barracks at a given time each evening. In mid-December he was sent to Baranavichy, 140km south-west of the capital Minsk, where he will serve his sentence. Viktor Ivashkevich's conviction followed the June 2002 convictions of the *Pagonia* editor and staff writer Nikolai Markevich and Pavel Mozheiko in Grodno, who were respectively sentenced to two-and-a-half and two-year sentences of "restricted freedom", later reduced by one year on appeal (see AI Index: EUR 01/007/2002). AI considers all three journalists to be prisoners of conscience.

The frequent use of criminal libel against journalists in Belarus resulted in expressions of domestic and international concern. Shortly after Viktor Ivashkevich's conviction, the Organization for Security and Cooperation in Europe's (OSCE) Representative on Freedom of the Media, Freimut Duve, in a press release urged "... the Belarusian authorities to immediately cease its policy of criminal prosecution and intimidation of independent journalists, and to repeal the existing criminal laws on libel and defamation" and called upon "...the authorities to abide by the commitments to freedom of expression and freedom of the media that Belarus has subscribed to as an OSCE participating State". In early September the independent Belarusian Association of Journalists started a national campaign to remove three articles from the Belarusian Criminal Code which criminalize libel and insult. At the end of the year several other individuals were reportedly being investigated on suspicion of having libelled leading state officials, including the prominent opposition journalist Irina Khalip.

### **Human rights defenders**

Human rights defenders continued to be targeted by the authorities for defending and promoting human rights. Like journalists, lawyers were also not immune to prosecution on grounds of criminal libel. Leninsky District Court in Minsk convicted the lawyer, Igor Aksenchik, of criminal libel and sentenced him to an 18-month suspended prison sentence on 11 October. Igor Aksenchik had represented the mother of the missing

television cameraman Dmitry Zavadsky during the *in camera* trial of the four men accused of his abduction and murder earlier in the year (see AI Index: EUR 49/13/2002). Leninsky District Court convicted him of libelling a leading state official widely believed to have been involved in the "disappearance" of Dmitry Zavadsky by publicly naming him in a press interview in February 2002. As a result of his conviction he was expelled from the state-controlled bar association, Collegium of Advocates, from which he had reportedly been suspended in March 2002, preventing him practising a profession as a lawyer.

The prominent human rights lawyer and chairperson of the Human Rights Center, Vera Stremkovskaya, came under renewed pressure from the Belarusian authorities (see AI Index: 49/005/2001). She was informed by Minsk Collegium of Advocates on 30 September that it would not permit her to travel abroad in order to speak about human rights issues in Belarus. Belarusian lawyers must seek official permission from the Collegium of Advocates, of which membership is mandatory, before embarking on foreign travel. At the time of the refusal Vera Stremkovskaya intended to travel abroad in order to take part in two international conferences on democracy and human rights: in Brussels, Belgium on 10-11 October and Seoul, South Korea on 11-14 November. She was later permitted to attend the conferences, albeit only after lengthy negotiations on her behalf and interventions by international lawyers' and human rights groups. The decision to prevent Vera Stremkovskaya from travelling appeared to have been made shortly after she attended the OSCE's annual Human Dimension Implementation Meeting in Warsaw, Poland, in mid-September where she had spoken negatively about the Collegium of Advocates and the pressure it exerted on human rights lawyers.

Shortly afterwards, the Human Rights Center also appeared to be targeted by the authorities. The Human Rights Center received an official warning from the Justice Department of Minsk City Executive Committee for various alleged violations of

the Law on Public Associations. Human rights organizations, like all other associations, are subject to a system of official warning which can result in their closure. In the past AI has expressed concern that warnings have been issued for the most spurious of reasons and the overall system of warnings has been used to unnecessarily regulate as well as harass and pressurize human rights organizations (see AI Index: EUR 49/005/2001). In its official warning to the Human Rights Center the Justice Department of Minsk City Executive Committee stated, among other things, that the organization had violated the Law on Public Associations by using an organizational emblem on the plaque of its offices different to the one officially registered by the organization.

***Prisoner of conscience – Professor Yury Bandazhevsky***

The health of prisoner of conscience Professor Yury Bandazhevsky reportedly deteriorated in the period under review (see AI Index: EUR 01/007/2002). Galina Bandazhevskaya, who visited her husband in the UZ-15 labour colony in Minsk in early September, stated that she witnessed a dramatic deterioration in Yury Bandazhevsky's health since her last visit three months previously. She believed that he was suffering from severe depression. His condition was not said to have improved by the time of her next prison visit in early November.

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## BELGIUM

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***Report of the Council of Europe's Committee for the Prevention of Torture on its 2001 visit***

In October the Council of Europe's Committee for the Prevention of Torture (CPT) published a report<sup>2</sup> on its third periodic visit to various places of detention in Belgium. The visit took place at the end of 2001. The government stated that it was taking the necessary steps to provide the Committee with a report

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<sup>2</sup> CPT /Inf (2002) 25

detailing the measures taken following its receipt of the CPT report in August 2002. The CPT expressed a number of concerns regarding the treatment of people in police custody and during forcible deportation operations under police escort which reflected many such concerns raised by AI in recent years.

**Forcible deportation operations**

The CPT stated that it had gathered a number of "very worrying" reports concerning restraint methods and the disproportionate use of force by police during the forcible deportation of foreigners via Brussels-National airport. It concluded that these deportation operations involved a "manifest risk of inhuman and degrading treatment." The CPT noted numerous measures taken by the authorities to reduce this risk, including the prohibition of any restraint techniques obstructing the respiratory tract. However, it underlined other dangers associated with the methods in use, in particular those relating to "postural asphyxia" and "economy class syndrome." It recommended that, in order to reduce to a minimum the associated health risks, the use of restraint methods which might involve such a risk should be the exception and subject to strict guidelines.

It also recommended that any person facing forcible deportation -- whether under police escort or not -- should be offered the possibility of a medical examination before departure and that, in cases where a deportation operation had to be aborted, the deportee should receive a comprehensive medical examination immediately upon return to the place of detention.

It advocated further exploration of the use of audio-visual monitoring for forcible deportations, including installation of surveillance cameras in access corridors to cells, and along the route taken by the deportee and police escort prior to boarding the aircraft.

The CPT emphasized that it was entirely unacceptable for a person subject to an expulsion order to be physically assaulted or subjected to threats as a form of persuasion



to board a means of transport or as punishment for not having done so

**Police custody**

The CPT visited various police facilities in Antwerp, Brussels, Liège and Namur. It collected a number of allegations of ill-treatment by law enforcement officials, usually inflicted at the moment of arrest and involving, in particular, kicks, punches, truncheon blows and abusive use of tear-gas spray. The Committee concluded that the risk of someone being ill-treated by law enforcement agencies during detention could not be dismissed.

In some instances the CPT collected medical evidence consistent with the allegations and cited several individual cases as illustrative examples.

- The delegation met a detainee arrested by Liège police the previous day who alleged that he had been struck in the face, thrown violently to the ground, handcuffed very tightly with his hands behind his back, and said that an officer had crushed his right hand under his boot. A medical examination, carried out by a qualified doctor who was a member of the delegation, found cuts and bruises compatible with his allegations.
- A minor told the delegation that, on his arrest a week previously by Charleroi police, he had been struck in the face and very tightly handcuffed. A medical examination by the delegation's doctor found bruises and abrasions compatible with his allegations.
- A detainee interviewed the day after his arrest by police in Forest claimed that, after police had sprayed tear gas directly into his face, he had to be taken to a hospital emergency room for treatment to his eyes. The delegation's doctor found that his eyes were still showing traces of inflammation compatible with his claims.
- The medical records of prisoners recently admitted to Antwerp Prison, examined by the CPT, indicated that on admission some 10 days before its visit, a detainee

had displayed and complained of injuries and pain to his eyes and face, apparently after being hit in the face by police officers at the time of arrest; another detainee admitted two weeks before the visit, displayed facial bruising on admission, allegedly caused by police brutality; another detainee admitted some 10 days before the CPT visit had complained of police brutality and abrasions to both elbows were recorded.

The CPT indicated that it was seriously concerned that very little actual progress had been made regarding the introduction of certain fundamental safeguards against ill-treatment in police custody which it had recommended following its first visit to Belgium in 1993 and reiterated following its second visit in 1998. These included recognition of the right of access to a lawyer from the beginning of the custody period ; the right of a detainee in police custody to have a relative or third party informed of their arrest and the systematic and prompt provision to detainees of a document setting out all their rights.

The CPT's October 2002 report called in particular for detainees to be allowed access to a lawyer from the beginning of deprivation of liberty and indicated that it had received a very positive response in principle from the Ministers of Justice and Interior. The CPT indicated that it considered that the time had come, given the momentum for change generated by the ongoing comprehensive reorganization of the police forces, to put into practice positions adopted in principle at the political level.

**Prisons**

The CPT visited the prisons of Andenne and Antwerp, the Psychiatric Annex and Disciplinary Units of Lantin Prison and a juvenile detention centre. It said that it had received very few allegations of ill-treatment committed by prison officers during its visits to Andenne and Antwerp prisons but numerous allegations of inter-prisoner violence. Although it noted vigorous efforts being made to reduce this phenomenon in Antwerp prison, it had collected detailed

allegations of passivity on the part of Andenne prison staff during violent incidents between prisoners. It also criticized chronic overcrowding in Antwerp prison which had a 140% occupation rate at the time of its visit, with prisoners sleeping on mattresses on cell floors because of insufficient space for beds. In addition to recommending measures to address overcrowding in Belgian prisons the CPT also pointed to recurrent problems of under staffing and inadequately trained personnel in the prisons.

At the Public Establishment for Youth Protection, Braine-le-Chateau, the Committee reported allegations of staff subjecting minors to racist abuse: at the time of the CPT's visit over 40 % of the inmates - all teenagers - were of North African origin.

The CPT was also concerned to find that, as during its two previous visits to Lantin Prison, the Psychiatric Annex still did not have either the kind of staff or infrastructure suitable for the provision of psychiatric care. It considered the situation unacceptable and during its visit called on the authorities to provide details of remedial action within three months. In March 2002 the authorities informed the CPT that the unit was being closed and the prisoners transferred.

The Committee also expressed concern about the frequency with which containment measures were used in a psychiatric hospital which it visited in Brussels, as well as the length of time people were subjected to such measures. It found that in some cases people had been strapped down on couches for periods amounting to a total of 120 to 180 days within a single year and stated that such treatment could not be justified medically and amounted to ill-treatment. It recommended a review of the use of containment methods in the hospital.

***Universal jurisdiction over genocide, crimes against humanity and war crimes***

Legislation enacted in 1993 and amended in 1999 made provision for Belgian courts to exercise universal jurisdiction over genocide, crimes against humanity and war crimes in international and non-international armed

conflict. In June 2001, following Belgium's first trial based on universal jurisdiction, four Rwandese nationals resident in Belgium were convicted of war crimes committed in the context of the 1994 genocide in Rwanda (see AI Index: EUR 01/003/2001). In addition, between 1998 and the end of 2002 criminal complaints were lodged against people from some 20 countries residing *outside* Belgium. Those facing complaints included past and present heads of state and lower-level officials.

During 2002 separate chambers of Brussels Court of Appeal declared three such complaints inadmissible on the grounds that the law was not intended to permit a criminal investigation unless the suspect was in Belgium. One complaint alleged that in 1982 the Prime Minister of Israel, Ariel Sharon, then Minister of Defence, and others, were responsible for war crimes, crimes against humanity and genocide in the Sabra and Shatila refugee camps in Lebanon. AI stated that the court's restrictive interpretation of national law was inconsistent with international law. An appeal against the court's decision was still awaiting ruling by the Court of Cassation at the end of December.

In July, the government approved two legislative proposals which, among other things, would allow investigation and prosecution in such cases, regardless of the suspect's location. They were still awaiting parliamentary debate at the end of December.

AI called for any amendment of the law to ensure that Belgium could continue to act on behalf of the international community in investigating and prosecuting the worst possible crimes, when states where the crimes occurred failed to fulfil their responsibilities under international law.

## **BOSNIA-HERZEGOVINA**

### **General political background**

Presidential elections took place in early October, which resulted in ethnically-defined parties gaining the majority of seats in both the Republika Srpska (RS) entity and the State Parliaments. A new State Presidency was inaugurated in late October, and Dragan Čavić was sworn in as RS President in November. However, no new government on any level had been established by the end of the year.

In the wake of the elections the High Representative of the international community, Paddy Ashdown, dismissed the head of the newly-established Federation intelligence services FOSS (*Federalna obavještajna sigurnosna služba*), Munir Alibabić, reportedly because confidential information, alleging that former Bosniak government officials and politicians had been involved in criminal activities, had been leaked from his office.

In December, the High Representative, Paddy Ashdown, imposed a new law on the State Government (Council of Ministers), introducing new posts for the Ministry of Internal Affairs and Justice – which had previously only existed at the entity government level.

### **Impunity**

#### **Prosecutions at the International Criminal Tribunal for the former Yugoslavia (Tribunal)**

Ten trials, involving 13 accused, were conducted before the Tribunal, which issued two guilty verdicts in October and November, in the cases of Bosnian Serbs Milan Simić and Mitar Vasiljević. In October, Biljana Plavšić, the former RS President, pleaded guilty to one charge of crimes against humanity as part of a plea agreement with the Tribunal Prosecutor. The remainder of charges against her (including genocide) was dismissed and her case was awaiting sentencing at the end of the year. The trial against former Federal

Yugoslav and Serbian President Slobodan Milošević reopened in September, examining the prosecution case charging him with superior responsibility for genocide committed in Bosnia-Herzegovina.

At the end of the year a total of 19 publicly indicted suspects remained at large for crimes under international law committed in Bosnia-Herzegovina, many of whom were believed to remain either in the RS or in the Federal Republic of Yugoslavia (FRY). The Tribunal estimated that, given sufficient state cooperation, it could complete its investigations by 2004, and envisaged that another 100 additional suspects throughout the region would be indicted.

The NATO-led Stability Force (SFOR) arrested one publicly indicted suspect, Radovan Stanković, who had been charged with war crimes and crimes against humanity committed against the non-Serb population in Foča. Despite repeated pledges by various SFOR commanders to arrest Radoslav Karadžić, who was publicly indicted for genocide, several high-profile SFOR raids in eastern RS were admittedly not related to a direct attempt to arrest him and were criticized by the Tribunal Chief Prosecutor as public relations exercises.

### **Domestic war crimes prosecutions**

Debate continued around the establishment of a separate Chamber in the new State Court which would take over cases of crimes under international law from the Tribunal, although there were concerns that not enough international funding was available for this process. A handful of prosecutions for war crimes continued before Cantonal Courts in the Federation, which had been examined and cleared beforehand by the Office of the Prosecutor of the Tribunal under the Rules of the Road procedure. These included the retrial of Bosnian Serb Veselin Čančar, who in 1998 had been convicted by the Sarajevo Cantonal Court of different war crimes against the civilian population in Foča and sentenced to 11 years' imprisonment. After having been transferred to the RS he was released from prison after having been reportedly amnestied by the then RS President. However, trial

proceedings against him were postponed on several occasions as RS police in Foča repeatedly failed to deliver him to the Sarajevo Court, reportedly claiming that the Sarajevo Cantonal Court had not followed the right procedure for such a transfer under the judicial cooperation agreement between the two entities. In late November it emerged that Veselin Čančar had left the RS and gone to neighbouring FRY.

In August the Sarajevo Cantonal investigative judge reopened the investigation into the so-called *Kazani* case, concerning war-time executions of Sarajevo Serb civilians, following the extradition of one of the alleged perpetrators from Germany.

In mid-December the trial of Dominik Ilijašević, a former commander of a special operations unit in the Bosnian Croat armed forces, the HVO (*Hrvatsko vijeće obrane*), opened before the Zenica Cantonal Court. He was charged with war crimes in central Bosnia, including a massacre of Bosniak civilians in Stupni Do hamlet. Dominik Ilijašević had been arrested in 2000 and subsequently tried for his suspected involvement in the murder of the Bosnian Croat Deputy Interior Minister, Jožo Leutar, in March 1999, which led to the acquittal of all six accused in December 2002.

The Banja Luka District Court continued the investigation into the "disappearance" case of Father Tomislav Matanović and his parents (See AI Index: EUR 01/007/2002), although proceedings were held up by lengthy delays. In July, the five former RS police officers who had been arrested on suspicion of their involvement in the illegal detention of the Matanović family were released on bail. Meanwhile a second investigation was opened against 21 serving and former other police officers, thought to have participated in the looting and destruction of the parish building in Prijedor. Investigation files on these additional suspects were only referred to the Tribunal Prosecutor after another delay, caused by counter-complaints from the suspected police officers, and were sent back by the Prosecutor with clearance in November. In mid-December the Tribunal Prosecutor also approved the judicial investigation of another six former police officers, also suspected of

involvement in the illegal detention case. No charges were brought against any suspects by the end of the year.

#### **Police investigations**

In late October, Amnesty International wrote to the Secretary General of the European Union, Javier Solana, in light of the imminent transfer of the supervision of the Bosnian police forces from the International Police Task Force in the United Nations Mission in Bosnia-Herzegovina (IPTF/UNMIBH) to the European Union Police Mission (EUPM). Amnesty International expressed concern about the lack of prompt, impartial and independent police investigations into current and past human rights violations – including those amounting to war crimes – and urged that a special unit be established in the organizational structure of the EUPM which would coordinate and oversee such investigations. The organization underlined the urgency with which the EUPM should take on this new task, in view of the pervading impunity for war-time related human rights violations and given the fact that the few ongoing investigations into such crimes had been undermined by continuing obstruction and delays. In subsequent meetings with Amnesty International, officials of the Council of the European Union declined to set up such a unit, although they acknowledged that the record of the Bosnian police forces concerning investigations into human rights violations so far was inadequate.

#### **Minority returns**

A record number of minority returns was registered by the end of 2002, with the total number of returns surpassing 100,000. At the end of the year, official statistics indicated that the implementation of property legislation, returning private and social accommodation to pre-war occupants, had reached 70 per cent countrywide. However, concerns on the sustainability of returns persisted, especially in view of an increased number of attacks on minority returnees and the failure of the police and judiciary to bring to justice those responsible. The number of attacks directed against minorities sharply increased during the pre-election period in

September. For example in Prijedor and nearby Kozarac, where the pre-war Bosniak population has returned in significant numbers, violent attacks increased in September and October, revealing the lack of an integral approach in addressing tensions between the two communities by police and municipal authorities.

In October, 14 Bosnian Serb men were convicted and sentenced to up to 14 months' imprisonment for violent assaults they committed in May 2001 during the rebuilding ceremony of the destroyed Ferhadija mosque in Banja Luka (see AI Index: EUR 01/003/2001). However, no one has to date been brought to justice for the death of an elderly Bosniak man, who was critically injured during the rioting. UNMIBH/IPTF officials publicly denounced the police investigation as unprofessional and inadequate.

On 24 December, Bosnian Croat returnees Andjelko Andjelić and his two daughters Mara and Zorica were shot dead in Kostajnica. Their cousin, Marinko Andjelić, was seriously injured. The following day local police arrested a Bosniak man who confessed to the murder, which he had reportedly committed on religious grounds. Police sources also alleged that the perpetrator was associated with armed Muslim extremist groups in the Konjić region.

In practice, returns continued to be hampered by the widening gap in international funding for reconstruction. According to the United Nations High Commissioner for Refugees (UNHCR) at least 50,000 housing units were still awaiting reconstruction funding. Persistent discrimination in access to social and economic rights – in particular access to employment, education and health care – also acted as a barrier against the return and reintegration of minorities. In November, entity and cantonal education ministers reportedly signed an agreement, sponsored by the Organization for Security and Co-Operation in Europe (OSCE), detailing steps to implement the March interim agreement guaranteeing the right to education by minority returnee children (See AI Index: 001/007/2002), as implementation of this

agreement in practice had thus far been negligible.

#### **Violations of human rights in the context of anti-terrorism measures**

On 11 October, the Human Rights Chamber issued its decision on admissibility and merits in the cases of four Algerian men (who had held Bosnian citizenship) who had been transferred to United States (US) custody in January (See AI Index: EUR 001/007/2002). The Chamber found that multiple violations had been committed of the men's rights under the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), including the right to security and liberty of person and the right not to be arbitrarily expelled in the absence of a fair procedure. In addition, the failure of the Bosnian authorities to seek guarantees that the men would not be sentenced to death before handing them over to the US violated Article 1 of Protocol 6 to the ECHR (concerning the abolition of the death penalty). Further, the decision of the Federation authorities to remove the men's Bosnian citizenship was in breach of their right to be presumed innocent until proven guilty (as criminal proceedings against them had not yet been concluded at the time of the removal). The Bosnian authorities were ordered to pay the men compensation and to use diplomatic channels and retain lawyers in order to protect their basic rights while in US detention. The six men (applications for two of them remain pending before the Human Rights Chamber) remain in US detention in Guantánamo Bay, Cuba.

On 26 October, US forces of the NATO-led Stabilization Force (SFOR) detained a Bosniak man, Sabahudin Fijuljanin, in Gornje Maoče, near Brčko, reportedly on suspicion of espionage and illegal possession of weapons. SFOR spokespersons later claimed that Sabahudin Fijuljanin might be connected to the *al Qaida* formation, but never offered further details on this connection. He was taken to the US/SFOR Eagle Base near Tuzla, and was not allowed to see his lawyer, or his family, for over a month. In November, Amnesty International wrote to the Tuzla Base Commander, as well as to the SFOR

Commander, urging them to clarify the legal basis for Sabahudin Fijuljanin's detention, stating that the organization refuted SFOR's claims that it was authorized to detain persons without a national or international arrest warrant.

Amnesty International further urged SFOR to adhere to principles of national and international law, including the right of person deprived of their liberty to challenge their detention before a court, and the rights to have prompt and unimpeded access to a lawyer and to notify and have contact with family members. Three days later, Mr Fijuljanin's lawyer was finally allowed to speak briefly to his client, but in the presence of SFOR officials who had the conversation translated and videotaped. Another short visit in December took place under similar conditions. Although the SFOR Commander wrote to Amnesty International in late November, indicating that a formal reply to the organization's letter would be forthcoming from the NATO Headquarters in Brussels, no such reply was received by the end of the year. Sabahudin Fijuljanin remained in SFOR detention at the end of the year.

#### **Trafficking in women and girls**

Amnesty International remained seriously concerned by ongoing human rights abuses against large numbers of trafficked women and girls and at the failure of international and domestic authorities to bring to justice suspected perpetrators, in particular where these include including international police and army personnel temporarily deployed in the country.

The number of prosecutions of Bosnian traffickers increased during 2002, especially in the Federation, where trafficking in human beings is not yet a criminal offence, but were perpetrators were tried on criminal charges of pandering and (extremely rarely) enslavement. In the RS, statistics released by the Ministry of Interior in November stated that some 22 persons were being prosecuted for crimes of slavery and prostitution. By and large however in both entities criminal proceedings against persons suspected of trafficking in women were only initiated after

sustained pressure by international organizations. Many convicted perpetrators were sentenced to suspended and short terms of imprisonment, although lengthy sentences are available in the applicable criminal legislation for crimes of slavery and forced prostitution, especially where the victims are minors.

There were reports of extensive collusion by local police officers who either participated in violations against the victims or ensured that traffickers and bar owners who exploited and abused women and girls escaped justice. In August the Federation Ministry of the Interior was reportedly conducting internal investigations against 25 police officers who were suspected of involvement in trafficking.

A major report by Human Rights Watch, which was issued in late November, revealed substantial evidence that a significant number of IPTF and SFOR personnel had themselves procured services of trafficked women and girls, though they were aware that these women were being held in slavery-like conditions. However, international police and peacekeeping staff reportedly enjoyed virtual impunity from prosecution in local courts who have no jurisdiction over international personnel in Bosnia-Herzegovina, and the authorities in their home countries were either reluctant to prosecute them or were not made aware of their alleged involvement in these crimes. No mechanism existed to ensure that UN employees could be held accountable for responsibility for human rights violations, nor was the possibility to waive immunity from prosecution for involvement in criminal activities used against any alleged suspects. In addition Amnesty International delegates were informed by EU officials in December that immunity of employees of the EUPM could not be lifted in order to enable prosecutions in cases of their suspected involvement in human rights violations - as recommended by the organization in its memorandum to Javier Solana (see above under "Policing").

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## BULGARIA

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### ***Systematic discrimination against people with mental disabilities***

On 10 October 2002, Amnesty International and the Bulgarian Helsinki Committee (BHC) jointly organized an international meeting in Sofia to discuss concerns regarding discrimination against people with mental disabilities in Bulgaria. Irene Khan, the Secretary General of Amnesty International, presented the organization's first comprehensive report in this field, *Bulgaria: Far from the eyes of society, Systematic discrimination against people with mental disabilities* (AI Index: EUR 15/005/2002) and a 20-minute documentary film with the same title.

The report extensively details a broad range of violations of basic human rights which concern issues such as legal provisions and practices regarding compulsory treatment in psychiatric hospitals and placement in social care homes which result in arbitrary detention and violations of fair trial rights; lack of adequate rehabilitation for children with mental disabilities; and shocking living conditions and inadequate treatment available in social care homes for adults.

*"We are outraged at the systematic discrimination, stigmatization and isolation of people with mental disabilities in Bulgaria. They are the victims of prejudice at all levels of society. They are victims of the policy of institutionalization and segregation. They are practically the last in the line to receive social assistance in a country that has limited resources. By putting them in institutions, often in remote locations, not only are their rights ignored and violated, their very existence is being conveniently forgotten by government as well as by society. They are left to perish far from the eyes of society: out of our sight and out of our minds",* stated Irene Khan in her opening speech.

Highlighting the report's recommendations she called on the Bulgarian government: to initiate a long-overdue comprehensive program of reforms of mental health, social

assistance and education services for people with mental disabilities that would ensure Bulgaria's full compliance with international standards; to immediately ensure, before winter set in, that all the institutions had the resources for heating, food, clothing, bedding and medicines, in order to prevent unacceptably high mortality rates recorded in the 2001/2002 winter in institutions such as Dragash Voyvoda, Radovets, Razdol and Oborishte; to public acknowledge the discrimination and the denial of human rights of people suffering from mental disabilities. "We need to change social attitudes - and that is done through public awareness, social mobilization and political leadership", stated Irene Khan. Amnesty International also appealed to the international community to help provide necessary resources for comprehensive reform provided that the Government of Bulgaria would ensure such reforms fully comply with international human rights standards as well as professional best practices.

The meeting which brought together over 90 participants, including representatives of organizations and institutions which play a major role in the reform of mental health services in Bulgaria, was also addressed by a special representative of the Council of Europe's Commissioner for Human Rights as well as a representative of the UN Special Rapporteur on Disabilities and World Network of Users and Survivors of Psychiatry. The Bulgarian authorities were represented by two deputy ministers, for health and for labour and social policy. They acknowledged the severity of the situation and did not dispute Amnesty International's findings. They also gave assurances that maximum efforts were being made to revise legislation and provide more resources for mental health institutions and services. At the time of writing of this report, senior government officials have still not publicly acknowledged the severity of this human rights problem and demonstrated their commitment that the discrimination of people with mental disabilities would no longer be tolerated.

In November the Office of the Chief Prosecutor informed Amnesty International that, following the organization's appeals in

April 2002, Pleven County Prosecutor opened a preliminary enquiry into the deaths of 27 residents of Dragash Voyvoda (see AI Index: EUR 01/007/2002). In the course of this inquiry which was still in progress, the social care home was inspected by the Hygiene and Epidemiological Institute which ordered the home's closure by the end of the year. On 20 September, 70 residents, 55 of whom were described as 'mentally retarded' were transferred to other institutions throughout the country. Seventy residents remained in the facility at the end of the year. It was not clear whether they would be moved to a refurbished facility in the village of Govezhda, in the Montana Region, another remote location some 6 kilometres from Bulgaria's western border with Serbia, or whether the existing facility would be modernized.

An investigation into allegations of ill-treatment of women held in Sanadinovo (see *Bulgaria - Sanadinovo: "This is truly a ghastly place"*, AI Index: EUR 15/002/2002) was completed without anyone being charged on the grounds that inadequate living conditions and care resulted from lack of resources. In June the home was closed down and most women transferred to a refurbished institution, visited by Amnesty International's representatives in July. Improvements were mostly cosmetic and women with most severe disabilities remained without appropriate care. Seven women had been transferred to Razdol where the conditions and care were no better than in Sanadinovo. The transfer of people with mental disability from one remote and inappropriate institution to another is not in line with the Bulgarian authorities' obligation under international standards to deinstitutionalize and reintegrate into the community people with mental disabilities. Such transfers are particularly inappropriate when residents are moved to a facility which is not even adequate for their needs. Fifteen men from Dragash Voyvoda, reportedly suffering from schizophrenia, were moved in September to Rusokastro, a social care home specialized to care for men with intellectual and developmental disabilities.

In December Amnesty International wrote to Lidiya Shuleva, Deputy Prime Minister and Minister for Labour and Social Policy,

expressing concern that the situation in Pastra, an institution described in its report published in October, had further deteriorated.

On 9 December BHC representatives visited Pastra, a social care home which cares for around 100 men with mental disabilities. They investigated reports that three men were being systematically subjected to sexual abuse and rape by another resident and that the staff had reportedly failed to take effective measures to protect them. When one of the men complained about the abuse to a nurse on duty he was reportedly told: "Boys should not do stupid things. Go and read a book or something." The findings from this visit also indicated that residents may have been subject to ill-treatment by certain staff members and to methods of seclusion prohibited by international human rights law. An orderly who was observed in block number three carrying a short stick, stated that he had gout and used it as a walking stick although it was obviously too short to be used for support. He was subsequently seen swinging this stick in the air in an intimidating way in front of residents. A room in the basement of block number two, which had iron bars on the windows and no glass panes, contained an old mattress which lay on the ground. Some clothes and a piece of relatively fresh bread found in the room supported allegations made by residents that this room was frequently used for seclusion -- allegations that the staff denied.

Residents, some of whom were seen walking barefoot in the snow, also complained about the lack of heating in the institution. The central heating system, which apparently failed to provide adequate heating even at the best of times, had not been put into operation that autumn and winter. At the time of the visit it was -5 degrees Centigrade, with lowest temperatures in that period dropping down to -20. The institution reportedly had not received any deliveries of heating fuel. At the time of the visit a group of 20 to 30 men was found in a dormitory in block number 3, the only one in that block which had a wood-burning stove.



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## CROATIA

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### **General political background**

On 5 July the government resigned, following internal disagreement on a bilateral agreement with neighbouring Slovenia on ownership and use of a nuclear plant, which led to the departure of the second-largest party in the governing coalition. Ivica Račan was reappointed Prime Minister a week later and a new minority government was formed in late July.

There were protracted negotiations with the governments of Bosnia-Herzegovina, the Federal Republic of Yugoslavia and particularly Slovenia on border areas which were disputed between Croatia and these states. In September, Croatia reached an interim agreement with Slovenia on the Piran Bay area - after tensions on the conflicting definitions of territorial waters had intensified prior to elections in Slovenia - which would be reviewed after three months.

In December the Parliament adopted a resolution on Croatia's accession to the European Union (EU) as well as the government program of implementation of the Stabilization and Association Agreement (SAA) which Croatia signed with the EU in October 2001. However, the EU Council of Ministers severely criticized Croatia's lack of cooperation with the International Criminal Tribunal for the former Yugoslavia (see below) and the United Kingdom and the Netherlands both delayed ratification of the SAA.

### **Impunity for war-related human rights violations**

#### **Domestic prosecutions**

A large number of proceedings continued against persons suspected of war crimes throughout the country. According to the Organization on Security and Co-Operation in Europe (OSCE), which maintains a large field presence in Croatia, some 70 cases of war crimes prosecutions are currently ongoing in Croatia, the majority (59 cases) against Serb defendants. A comprehensive review

continued of all pending war crimes investigations and prosecutions by the State Public Prosecutor's office, reportedly initiated after both the Public Prosecutor and the former Justice Minister acknowledged that in many cases of war crimes prosecutions, indictments had not been based on sufficient evidence. However, this review did not include scores of cases of Croatian Serbs whose trials and appeals had already been completed, and where there had been concerns that proceedings had not been conducted in line with international standards of fair trial.

Investigations and prosecutions for violations and abuses of human rights committed during the armed conflict continued to be subject to delays and obstruction, in particular where the defendants were members of the Croatian armed forces. In November the Split County Court acquitted eight former military police officers, who had been accused of war crimes against prisoners detained in Lora prison in Split. Three of the defendants were convicted *in absentia*; one having never been arrested and two having gone into hiding when the group was briefly released from custody in July. The men had reportedly been charged with responsibility for the torture and ill-treatment of Serbian and Montenegrin prisoners of war and civilians, four of whom died as a result. According to non-governmental organizations in Croatia and the Federal Republic of Yugoslavia some 70 persons "disappeared" after having last been seen in the prison. The trial was marred by the lack of adequate protection for vulnerable prosecution witnesses - some of whom reportedly refused to come to Croatia to testify out of fear for their security - and the often openly displayed bias in favour of the accused by court officials. The Public Prosecutor has appealed the verdict.

Two former Croatian Army reserve officers were arrested in September, following the opening of a judicial investigation into the 1991 killing of 19 Serb civilians in Paulin Dvor in Eastern Slavonia. The men remained in detention by the end of the year. The bodies of all but one of the victims were found near Gospić, some 500 kms away, in 1997, and a separate investigation was reportedly

launched into the illegal transfer of these bodies.

#### **International prosecutions**

Croatia delayed the transfer of the war-time Chief of Staff of the Croatian Army, General Janko Bobetko, who was publicly indicted in September by the Tribunal for war crimes and crimes against humanity, committed in the Medak pocket in 1993. Instead, the Croatian Government requested that the Tribunal's Appeal Chamber review both the arrest warrant against General Bobetko and the decision to confirm the indictment. Both applications were rejected by the Tribunal in late November, as the Appeal Chamber decided states were not allowed to challenge indictments and arrests warrants on political, rather than legal, grounds. Meanwhile General Bobetko had been hospitalized and the government further postponed proceedings regulating his transfer pending a medical examination by the Tribunal which would determine whether he would be fit to stand trial. He remained in Croatia at the end of the year.

In addition, the State Public Prosecutor announced in October that a domestic criminal investigation into war crimes committed in the Medak pocket would be completed shortly.

#### **Human rights situation of minorities**

In December, the Parliament finally adopted a new constitutional law on the rights of national minorities, which Croatia had committed itself to when it joined the Council of Europe in 1996. The law guarantees minorities the right to representation in parliament, local and national administrative bodies and education in their own language. However, a new electoral law as well as a national implementation plan remain to be adopted in order to ensure access to these rights in practice.

#### **Discrimination in access to social and economic rights**

Members of minorities, in particularly the Roma community, continued to be

disproportionately affected by lack of access to social and economic rights, including the right to employment, education, health and social services. Segregation of Romani children continued in the school system in Medjimurje County (See AI Index: EUR 01/007/2002). In October, the Čakovec Municipal Court dismissed a complaint filed by the parents of Romany children who were forced to attend separate classes of a lower educational standard; following a subsequent negative decision by the Medjimurje County Court the case was pending before the Croatian Constitutional Court.

There were frequent reports that Roma were denied adequate health care by hospitals or emergency services, or were refused copies of medical documentation, including in cases where they had sought medical help after having been subjected to violent attacks or police violence. In one such case of medical negligence, a 20-year-old pregnant Romani woman from a village near Čakovec reportedly gave birth to a still-born baby after having been denied help by the local emergency services in early 2001. A private prosecution against the hospital staff remained pending before the local court.

There appeared to be virtual impunity for perpetrators of violent attacks against members of minority groups. No significant progress was made in the police investigation of skinhead attacks on participants in the June Gay Pride March in Zagreb (See AI Index: EUR 01/007/2002), which had reportedly only identified one suspect. An additional criminal complaint, which was filed with the Zagreb Municipal Public Prosecutor by two gay and lesbian groups in August, and which proposed several additional witnesses to the attacks who could identify other suspected perpetrators, had not been processed by the end of the year.

#### **Minority returns**

According to statistics of the United Nations High Commissioner for Refugees (UNHCR), by the end of the year some 11,000 Croatian Serbs had returned to the country, mostly from the FRY and from the Bosnian Serb Republic (*Republika Srpska - RS*). However

many of these returnees did not remain and reintegrate into their pre-war communities in practice, as many of them continued to face serious problems particularly in regaining access to housing. Although legal amendments to the property legislation and to the 1998 Return Programme were adopted in July, some of its most problematic provisions remained in force. For example, the authorities continued to be obliged to unconditionally provide alternative accommodation to all occupants of privately-owned housing, which had previously been one of the main causes of delay in the return of this property. According to the OSCE less than 10 per cent of occupied private property had been returned to pre-war owners by mid-November.

The absence of a comprehensive solution and redress for the loss of tenancy rights of thousands of families who had lived in socially-owned apartments before the war continued to pose another significant barrier for return. In the majority of cases, tenancy rights had been terminated by court proceedings during the armed conflict, which were held in the absence of the affected person. While theoretically the possibility exists to reopen or renew such proceedings, in practice such recourse is reportedly denied and several applications in this matter were pending before the European Court of Human Rights.

#### ***Outstanding cases of "disappearances"***

According to the government, some 1,300 persons were still unaccounted for after the end of armed conflict in Croatia. However, the International Committee of the Red Cross reported in August that it still had over 2,500 pending tracing requests for Croatia. Many of the missing persons are believed to have "disappeared" after having been last seen in the custody of regular or paramilitary armed forces, and, as in other countries in the former Yugoslavia, the perpetrators of this human rights violation continued to enjoy impunity. For example, two former Yugoslav Army officers, indicted for command responsibility for war crimes and crimes against humanity committed in Vukovar, Veselin Šljivančanin and Miroslav Radić,

remain at liberty in the FRY. They are believed to have been closely involved in the "disappearance" and extrajudicial execution of hundreds of mostly Croat men who were removed from Vukovar hospital in November 1991.

Progress was made on the recovery of Croatian human remains from graveyards in Serbia and by the end of the year, some 223 bodies had been exhumed, 40 of which had been returned to Croatia. The Croatian Government Commission for Missing Persons exhumed over 300 bodies inside Croatia, the majority of which belonged to Croatian Serbs.

In September the Croatian Government signed an agreement establishing an office of the International Commission for Missing Persons (ICMP), which had been instrumental in negotiating the conditions for the exhumations in Serbia.

#### ***Arbitrary and unlawful detention of asylum-seekers***

Amnesty International was concerned that hundreds of unauthorised migrants, including asylum seekers, appeared to have been arbitrarily detained at Ježevó reception centre for aliens near Zagreb. Following the arrest of persons who are found to be on Croatian territory without valid identification or travel documents, the local police administration issued deportation orders against these people which authorized their detention at the reception centre for periods of up to two years. Those in detention at the reception centre - including women and children - appeared to have no access to a judicial or similar authority to determine whether their detention was lawful and in accordance with international standards. It was also reported that police guarding the centre had used excessive force while restraining a group of around eight men who had tried to escape the centre in early September, seriously injuring one of them.

#### ***Access to fair and satisfactory procedures***

Access to a fair and satisfactory asylum procedure is an essential aspect of ensuring compliance with the 1951 Refugee Convention.

The *ad hoc* procedures used by the Ministry of the Interior for processing asylum claims, pending adoption of a Law on Asylum, appeared to be inadequate and do not ensure Croatia's compliance with its obligations under the 1951 Refugee Convention, in particular the fundamental principle of *non-refoulement* which prohibits the forcible return (directly or indirectly) of a person to territory where their life or freedom would be in danger. Individual cases were reportedly not examined on their merits, nor were information on the human rights situation in the country of origin taken into account, despite the fact that such information was provided through UNHCR. In addition, asylum seekers whose claim had been unsuccessful (so far no one has been given asylum in Croatia) were reportedly not informed about their right to appeal, an essential element of a fair and satisfactory procedure.

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## DENMARK

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### ***International scrutiny***

In September the European Committee for the Prevention of Torture (CPT) published its report on its January 2002 visit to Denmark.

With regard to police issues, the CPT found, among other things, that at Horsens Police Headquarters two holding rooms were "small (2.8 square meters), had no access to natural light or ventilation and were wired to equipment that played loud music when the lights were switched on (i.e. whenever detained persons were being held in them). They were claustrophobic and generated an unacceptably intimidating atmosphere." The CPT recommended that their use -- and the use of any other similar holding facility -- should be discontinued. Formal safeguards against ill-treatment in police establishments -- such as notification of a person's custody to a relative or another third party and immediate access to a lawyer -- were still not wholly effective and often left to police discretion. The CPT recommended that provisions relating to the rights of persons in police custody be given a "firmer legal basis".

With regard to prisons, the CPT was concerned about the duration of solitary confinement for convicted prisoners, which on occasions had lasted more than three years (see, for example, the case of Hans Nati in AI Index: EUR 01/007/2002). The CPT found that -- despite its 1996 recommendations -- remand detainees in court-ordered solitary confinement continued to be locked in their cells for 23 hours a day and that time out of their cells involved little human contact. The CPT was also concerned about the restrictive regime of other remand detainees, who could be locked in their cells for up to 21 hours a day, and about the imposition of restrictions on social visits, correspondence and telephone calls, which continued to be at the sole discretion of the police.

### ***Danish national held in US custody in Guantánamo Bay, Cuba***

In August, following public criticism that the government was failing to act to protect the fundamental rights of the Danish national held in Cuba and to make representations to the US government in this respect, the Minister of Foreign Affairs denied that the fundamental rights of the person detained had been breached even though Danish intelligence police had interviewed him without allowing him access to legal assistance. The Minister of Foreign Affairs maintained that interviews of people held in Cuba were of a different nature from interviews aimed at establishing whether charges should be brought against a person, for which the safeguards of the Danish Administration of Justice Act apply; and that they should be seen as contributing to the "fight against terrorism".

In November at a hearing of the Parliamentary Committee for Legal Affairs -- to which AI had sent an observer -- the Ministers of Justice and of Foreign Affairs were questioned about the government's handling of the case. It emerged that the Danish authorities were not aware of any accusation against the Danish national by the US authorities, and that his rights under the Danish Administration of Justice Act had not been fully respected in the course of his interview by Danish intelligence police (which

according to media sources may have lasted three days).

**The case of Akhmed Zakayev** (see AI Index: EUR 46/057/2002; and EUR 46/065/2002)

In October, Akhmed Zakayev, an envoy of the Chechen President, was detained while in Copenhagen to attend the World Chechen Congress following an extradition request from the Russian government for crimes allegedly committed between 1996 and 1999. AI called on the authorities not to extradite him to Russia as he would be at risk of torture or other ill-treatment.

In December the Danish authorities released Akhmed Zakayev, stating that there was insufficient evidence to justify his extradition. He was subsequently arrested by the UK authorities on his arrival to the UK from Copenhagen and was later released on bail (see UK entry).

**Police shooting** (update to AI Index: EUR 01/007/2002)

In September, in the light of a letter from Stig Jørgensen, the father of Lars Jørgensen, who had been shot dead by police together with Claus Nielsen in December 2001, the Parliamentary Committee for Legal Affairs asked the Minister of Justice to clarify a number of issues concerning the investigation into the shooting. In his letter Stig Jørgensen had alleged that the investigation had been flawed due to several inconsistencies, and had asked for the case to be re-opened.

In October AI wrote to the Police Complaints Board (PCB) in Viborg to seek clarifications about why it had not exercised its power of appeal against the decision of the Regional Public Prosecutor (RPP) not to bring charges against one of the officers involved in the shooting. AI noted that the PCB had declined to appeal despite its own findings that charges should be brought against one officer for the shots fired at Claus Nielsen. In November the PCB informed AI that it had forwarded AI's letter to the RPP and that no further action was planned in connection with the case.

## ESTONIA

### ***Alleged torture and ill-treatment***

In November the United Nations (UN) Committee against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment issued its Conclusions and Recommendations on Estonia's initial report, which, due in November 1992, was submitted more than eight years late. The Committee expressed concern that "[i]solated cases of ill-treatment of detainees by officials still occur in police establishments" and recommended Estonia to "[e]nsure that law enforcement, judicial, medical and other personnel who are involved in custody, detention, interrogation, and treatment of detainees or psychiatric patients are trained with regard to the prohibition of torture". The Committee made a number of recommendations to strengthen the safeguards against torture and ill-treatment by ensuring that, in law as well as in practice, detainees have the right of access to a medical doctor of their choice, the right to notify a third person of their detention and access to legal counsel. It called on Estonia to introduce a precise chronology which would specify when the rights of detainees, at the latest, must be enjoyed.

The Committee also expressed concern about the existence of inter-prisoner violence, stating: "Although violence, including sexual violence, between prisoners in detention facilities and between patients in psychiatric facilities has diminished, the high risk of such incidents still remains." In this connection, it recommended Estonia to ensure close monitoring of inter-prisoner and inter-patient violence, including sexual violence, in detention and psychiatric facilities, with a view to their prevention.

Finally, conditions of detention and imprisonment were further points of concern for the Committee (see also below), which urged Estonia to continue renovating all detention facilities in order to ensure that they conform to international standards. In this respect the Committee also noted that "[p]ersons of Russian nationality as well as stateless persons ... are over-represented in

the population of convicted prisoners" and recommended that Estonia examine and report on the reasons for this over-representation.

### **Conditions of detention and imprisonment**

Concerns about conditions of detention and imprisonment also dominated the findings of two reports published by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in late October. The reports detailed the findings of the CPT's 1997 and 1999 visits to places of police detention and imprisonment. The CPT was particularly critical of the former establishments, which were described as "extremely poor" in almost all of the eight police arrest houses visited by the CPT in 1997. It stated: "Most of the cells seen were dirty, had little or no natural light and poor artificial lighting and ventilation, and were equipped with primitive and unhygienic sanitary facilities." Conditions were compounded by frequent overcrowding, the frequent absence of mattresses, meagre dietary regimes, difficulties in obtaining personal hygiene items and the absence of activities programmes including outdoor exercise. Detainees could be held in such conditions for periods lasting several weeks.

During follow-up visits to four establishments in December 1999 the CPT found that, despite certain efforts at improvement, conditions of detention remained generally unacceptable. In particular, as had been the case in 1997, "... many of the cells seen were dirty, poorly equipped, inadequately lit (access to natural light was a rarity and artificial lighting usually very dim), and badly ventilated; further, some of the cells were overcrowded at the time of the visit". However, the CPT recognised that several newly built arrest houses visited in 1999 represented a "a major leap forward", despite displaying certain shortcomings.

Prison conditions were also a subject of concern, particularly at the Central Prison in the Estonian capital, Tallinn, where in 1997 conditions for remand prisoners were described as "intolerable". The CPT stated

that prisoners "... were being held under grossly overcrowded conditions in cells which were inadequately equipped, in a poor state of repair and dirty. Most of the cells had only limited access to natural light and ventilation was poor. Further, many remand prisoners were not in a position to maintain an acceptable level of personal hygiene. The deplorable material conditions were compounded by the absence of anything which remotely resembled a regime ... Remand prisoners held at the Central Prison led a monotonous and purposeless existence, a situation which could last for months and, on occasion, for years." There was also serious concern about the conditions under which prisoners sentenced to death or to life imprisonment were held at the prison, who were subjected to an extremely impoverished regime and were offered very little or no human contact. In some instances, such conditions amounted to solitary confinement. In its response to the CPT's 1999 report, the Estonian government informed the CPT that the prison was scheduled to close upon completion of a new prison in Tartu at the end of 2002. The CPT is due to undertake a third fact-finding visit to Estonia in 2003.

### **Violence against women**

In January the UN Committee on the Elimination of Discrimination against Women reviewed Estonia's initial, second and third combined periodic reports on the steps the authorities had taken to implement the UN Convention on the Elimination of All Forms of Discrimination against Women, to which Estonia had become a state party in 1991. Among the Committee's main concerns were acts of violence against women and girls, including domestic violence. The Committee urged Estonia "... to place high priority on comprehensive measures to address violence against women in the family and in society, and to recognize that such violence, including domestic violence, constitutes a violation of the rights of women under the Convention". To these ends the Committee made several recommendations, including: the introduction of a specific law prohibiting domestic violence against women; the prosecution and punishment of perpetrators of violence with the required speed and severity; the

availability of immediate means of redress and protection for the women victims of violence; and the introduction of measures to ensure that public officials are fully sensitized to all forms of violence against women.

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## FINLAND

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### ***Prisoners of conscience: imprisonment of conscientious objectors to military service (update to AI Index: EUR 01/007/2002)***

In the period under review AI adopted as prisoners of conscience three conscientious objectors to military service. Charged with a civilian service offence, Toni Petri Rautianinen, Viejo Oskar Lindman and Toni Samuli Mäki received prison sentences of between 176 and 197 days for refusing to perform alternative civilian service. All gave the discriminatory length of service as a reason for their refusal to perform alternative service. AI called for their immediate and unconditional release, because the organization considered the length of alternative service as punitive and discriminatory.

In 1998, new legislation came into force which considerably reduced the length of military service. The Military Service Act, passed by Parliament in 1997, altered the length of military service from 240, 285 and 330 days to 180, 270 and 362 days respectively, depending on rank, type of service and length of contract. The length of alternative civilian service for conscientious objectors to military service remained 395 days, more than double the 180 days served by over 50 per cent of army conscripts under the new legislation.

AI continued to urge the government authorities to bring the length of alternative civilian service in line with that of military service as required by international standards and recommendations on the right of conscientious objection to military service, including Recommendation 1518 (2001) of the Parliamentary Assembly of the Council of Europe. After the adoption of this Recommendation in February 2002, the

Committee of Ministers invited those member states which had not yet done so to introduce into their legislation "a genuine alternative service of a clearly civilian nature, which is neither deterrent nor punitive in character (point 5 iv)".

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## FRANCE

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### ***Laws increasing police powers***

The presidential and parliamentary elections in May and June were dominated by demands for tougher policies against crime. The newly-appointed, centre-right Government moved quickly to reorganize law enforcement and propose laws strengthening police powers. A controversial draft law on internal security, presented in October (and adopted by Parliament on 13 February 2003), outlawed public soliciting, "aggressive" collective begging, gatherings in public spaces within residential blocks (a move intended, in particular, to tackle alleged intimidation of residents by groups of young people) and unauthorized encampments of travellers. Swearing at or insulting public officials would also become a crime punishable, in some cases, with a custodial sentence, as could insulting the national flag and the national anthem. AI was concerned that the introduction of such a range of new offences could lead, among other things, to an increase in the abusive use of identity checks or of police custody, targeted at some of the more vulnerable sectors of society (see below).

A series of equally controversial justice reform measures, were also introduced, or proposed, with the aim of repressing crime. Justice reforms in place from September provided for the provisional detention, in certain circumstances, of minors from the age of 13 and the establishment of "closed educational centres" for some children. At the end of the year a new draft law proposed to double to 96 hours the maximum period of police custody (*garde à vue*) for a wide range of offences related to "organized" and other crime. If approved, the special custody regime that already exists with regard to alleged

"terrorists" and drug traffickers – under which there is no right of recourse to a lawyer for the first 36 hours of police custody – could be considerably extended.

### **Violence arising from identity checks**

Many reports of police brutality arise from incidents that appear, in their origin, to be trivial and to involve disputes arising from police identity checks. Earlier in the year several lawyers associations were reported to have expressed concern that such checks have led to a pattern by which police officers bring charges for "insulting behaviour" (*outrages*) or "rebellion" (*rébellion*) and that such incidents tend to occur in "sensitive" areas with high populations of young people of non-European ethnic origin. There is also concern that this trend could be exacerbated by the above-mentioned proposals to introduce new offences or to penalize more severely those found guilty of insulting or using threatening language against any public official.

On 23 December 18-year-old Sebastian de Freitas was reportedly shopping with relatives, including his four-year-old brother. As he came out of a Metro station on the boulevard de Strasbourg in Paris he saw police attempting to disperse a large crowd with tear gas. Angered by the effect of the gas on his little brother, who had begun to cry, Sebastian de Freitas apparently insulted the police officers, who demanded his identity papers, threw him to the ground and beat him.

The incident was witnessed by Omar Baha, a French actor of Algerian origin, who reportedly intervened, reminding the officers that the Minister of the Interior had stated that he would not tolerate any police abuses or excesses.<sup>3</sup> As he turned to leave he was

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3 In a speech to directors of the National Police on 26 June, at the Carrousel du Louvre in Paris, the Minister of the Interior, Internal Security and Local Freedoms, in the course of promising the police his full support in the fight against crime, also remarked that he would not tolerate an "infringement of republican rules" or any leniency towards [police] abuses or excesses. ("Parce que nous serons déterminés, nous aurons une

approached by the officer using the tear gas and reportedly hit hard on the nose with the end of the gas canister. Omar Baha was then reportedly beaten by three officers, while onlookers shouted to the officers to stop. He was thrown to the ground and handcuffed. He was then put in a police van, together with Sebastian de Freitas, and held at a police station, where he was told that he was being charged with proffering insults, rebellion and incitation to riot (*"incitation à l'émeute"*) – the latter being a charge that does not, in fact, exist in French criminal law. A duty doctor found that Omar Baha's nose was broken and advised hospital treatment. However, police custody was extended to 25 December, by agreement of the public prosecutor, and without immediate recourse to the necessary medical treatment. On 25 December Omar Baha appeared before a court and was released under judicial control. He lodged a complaint against police officers for illegitimate acts of violence and was subsequently interviewed by an officer of the *Inspection générale des services (IGS)*, who confirmed that the IGS had been asked by the prosecutor to examine his complaint against the police officers.

The Ministry of the Interior confirmed in January 2003 that two judicial inquiries had been opened – one into the charges against Omar Baha, the other into Omar Baha's complaint - and that two officers had been provisionally suspended. A hearing in relation to the charges against Omar Baha was scheduled for 7 February before a Paris correctional court.<sup>4</sup>

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exigence déontologique renforcée. Je ne tolérerai aucune entorse aux règles républicaines justement parce qu'elles remettent en cause votre autorité ...je vous demande ... aucune complaisance envers quelque derive que ce soit ...") In January 2003, in connection with two deaths during forcible deportation, the Minister again declared that he would not tolerate "behaviour that did not conform to republican values".

4 At this court hearing Omar Baha's defence lawyer successfully argued in favour of an annulment of the decision to extend the police custody of Omar Baha in custody on a trumped-up charge of "incitation to riot" and the charges against him were thrown out. The complaint against the officers has not yet been heard. (See next edition of this bulletin).



On 31 December a lawyer, Daniel François, was asked to attend a 17-year-old boy, "N.El-B.", being held in police custody at Aulnay-sous-Bois (Seine-Saint-Denis). After meeting the detainee, Daniel François told the duty officer that he wished to register the fact that his client had been subjected to acts of violence by police officers. In order to carry out the necessary paperwork, the lawyer asked for access to a photocopier but was told none was available. After an argument, Daniel François was reportedly thrown out of the police station, but returned. He was then stripped, held for 15 hours and charged with "insulting behaviour" and "rebellion". He subsequently took his client to hospital for treatment of head, nose and leg injuries. Both the lawyer and his client lodged complaints against the police officers. The charges brought against the lawyer were deemed inappropriate to the circumstances and were subsequently dropped (*classement sans suite*) by the public prosecutor.

#### **Continuing detention and ill health of Breton nationalist**

In November AI expressed concern to the Minister of Justice about the situation of Alain Solé, an alleged member of the Breton nationalist group Emgann, who was arrested in October 1999 in connection with allegedly illegal activities by Breton nationalists (notably the reported theft of explosives at Plévin in September 1999). Held in provisional detention for over three years, Alain Solé is a diabetic who reportedly did not receive adequate medical care in the first months after his arrest. He reportedly became insulin-dependent while in prison, and tried to commit suicide in March 1999 after additionally falling ill with a viral condition. In October 2002 Alain Solé was reportedly transferred urgently to Fresnes prison hospital with circulatory problems affecting one leg. AI was informed that his circulatory problems could be related to an infarction, requiring surgery.

Alain Solé's release from provisional detention was ordered in June 2001. However, he was then placed under examination in connection with a separate incident which occurred while he was in prison – that of the bomb attack on

the McDonalds food outlet in April 2000, in which an employee was killed. He has since remained in detention.

In its letter AI stressed that, according to international human rights standards, everyone has the right to trial within a reasonable time or release and that, in the case of those held in provisional detention, the obligation on the Government to expedite trials was even more pressing. If, moreover, Alain Solé indeed required continual and specialised medical care, as medical reports appeared to show, and this could not be, or had not been, provided where he was being held, his continuing detention was of particular concern.

#### **Convicted prisoners with serious illnesses**

On 14 November 2002 the European Court of Human Rights stated that it held unanimously that there had been a violation of Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights in respect of Jean Mousel, a French national sentenced by a French court to 15 years' imprisonment in June 1996. In its judgment the court observed that: "a prisoner's state of health, age or serious physical disability were factors that had to be taken into account under Article 3 of the Convention with regard to custodial sentences. Although there was no general obligation to release prisoners suffering from ill health, Article 3 required States to protect the physical integrity of persons who had been deprived of their liberty, notably by providing them with any necessary medical assistance ..."

In its judgment the court referred to specific French legislation, including the Law of 15 June 2000 on the protection of the presumption of innocence and the rights of victims, under which prisoners could be released on licence when they needed to receive treatment, and the Law of 4 March 2002 on the Rights of Sick Persons, according to which prisoners' sentences could be indefinitely suspended if they were critically ill or suffering from a chronic condition incompatible with their continued detention.

Given widespread concerns about the number of persons suffering from AIDS, terminal cancer and other severe or chronic illnesses, AI asked the Justice Minister in November how many prisoners had so far benefited from the new law and whether further requests for suspension of their prison terms were currently being examined. AI specifically drew attention to its longstanding concerns about the deteriorating health of four former members of the armed group *Action directe*, notably Nathalie Ménigon and Georges Cipriani. AI asked for details about the present circumstances of the prisoners and whether the Minister believed there was a case for suspension of their sentences under the law of 4 March 2002.

#### **Death during forcible deportation**

On 30 December Ricardo Barrientos, an Argentinian national, who had been placed under a prefectoral order banning him from French territory, died after resisting attempts to place him on an evening flight to Buenos Aires from Roissy-Charles de Gaulle airport. He was reportedly placed, with his hands cuffed behind him, in the middle of a rear row of seats and "doubled over" by two uniformed police officers, who applied pressure to his shoulder blades – apparently as a means of stopping him from crying or shouting out, or otherwise alerting passengers to his predicament.

The death – which raised questions about the nature of expulsion procedures currently in operation in France, and whether Ricardo Barrientos had died as a result of postural or restraint asphyxia – was investigated by the public prosecutor of Bobigny (Seine-Saint-Denis), who ordered a post-mortem examination. This reportedly concluded that Ricardo Barrientos had died of a "natural" heart attack – a conclusion that does not, of itself, provide meaningful information. In January 2003 AI approached the French authorities about this and another case of death during forcible deportation that occurred shortly afterwards and a public

statement was issued. Full details will appear in the next *Concerns in Europe* bulletin.<sup>5</sup>

#### **Updates**

##### **Riad Hamlaoui**

On 4 July the Court of Assizes of Nord sentenced a police officer for a manslaughter offence (*homicide involontaire*) to a suspended three-year prison term. He was also banned from a career in the police force. Riad Hamlaoui, an Algerian national, resident in Lille, was shot dead in April 2000, while sitting, unarmed, in the passenger seat of a stationary vehicle. The fatal bullet, fired at close range, had entered through the nape of the neck in the course of a police check, after officers had been alerted to the theft of a car. (AI Index: EUR 01/03/00, *Amnesty International Report 2001*, and AI Index: EUR 21/003/00). The officer had faced a criminal charge of homicide (*homicide volontaire*), but this, and a lesser criminal charge, of inflicting mortal injuries (*coups mortels*), was thrown out by the court. The president of the court declared that criminal intent had not been established; the "unjust death" of Riad Hamlaoui had, rather, been the result of "a combination of clumsy or imprudent acts due to a state of panic, occasioned by a feeling of [being subjected to] threats which did not, in reality, exist". The court did not feel, however, that a prison term would serve any useful purpose.

The lack of severity of the sentence was widely seen as falling into a pattern of effective impunity, whereby courts appear reluctant to convict police officers for killings or other crimes of violence, or alternatively convict such officers to nominal sentences, which fail to reflect the seriousness of the crime committed.

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<sup>5</sup> The press statement issued in January 2003 about the case both of Ricardo Barrientos and of an Ethiopian national, Mariame Getu Hagos, who also died during forcible deportation from Roissy-Charles de Gaulle airport, is accessible at [www.amnesty.org](http://www.amnesty.org).

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## GERMANY

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### ***Death in custody***

Throughout the latter half of the year there was persisting uncertainty about the gravity of the criminal charges facing six police officers, who are accused of beating Stefan Neisius to death in Cologne in May 2002 (see AI Index: EUR 01/007/2002). The 31-year-old detainee died on the morning of 24 May after spending 13 days on a life support system as a result of allegedly being beaten by several police officers from Cologne's First Police Inspectorate on 11 May. Six police officers were suspended from service, shortly after the allegations came to light, two of whom were arrested, on suspicion of having physically assaulted Stefan Neisius resulting in his death.

In late June, to the dismay of Stefan Neisius' family and lawyers, the official body overseeing the investigation, Cologne Public Prosecutor's Office, reduced the charge of physical assault resulting in death to the lesser charge of 'physical assault in office'. Cologne Public Prosecutor's Office argued that the findings of the *post mortem* revealed that the police officers' use of force had not brought about any injuries deemed to be fatal. Conversely, the findings revealed brain damage as the cause of death, which was caused by sudden heart and cardiovascular failure resulting from Stefan Neisius' reaction to stress. Nonetheless, as stress may have been exacerbated by the behaviour of the police, the lesser charge of 'physical assault in office' was initially brought against the accused police officers. The lawyers representing the Neisius family contested Cologne Public Prosecutor's Office's interpretation of the *post mortem* findings.

Further investigation by the authorities concluded that the violent actions of the police on 11 May did play a part in Stefan Neisius' death, leading to the original charge of physical assault resulting in death being brought against the police officers in December. The charge of failure to render assistance which was lodged against two police officers, who, on 11 May, had

witnessed their colleagues at Cologne's First Police Inspectorate ill-treating Stefan Neisius, remained unchanged. The two police officers had subsequently informed a superior officer about the incident, resulting in criminal charges being brought against their six colleagues.

### ***Death during deportation – update***

In August AI once again wrote to Frankfurt-am-Main Public Prosecutor's Office concerning the ongoing investigation into the death of the 30-year-old Sudanese national, Aamir Ageeb. The man died in the presence of three officers from the German Border Police during his forced deportation from Frankfurt to Khartoum via Cairo on 28 May 1999 (see AI Index: EUR 01/002/2002). The organization requested to be informed of the full findings of the investigation into the death of Aamir Ageeb and whether any criminal or disciplinary measures have been initiated against the police officers as a result. Although AI had written to Frankfurt-am-Main Public Prosecutor's Office in January 2002 requesting similar information, to date the organisation has not received a reply.

### ***Alleged police ill-treatment***

In September AI wrote to Osnabrück Public Prosecutor's Office requesting to be informed of the findings of an ongoing investigation into the alleged ill-treatment of a 46-year-old man by prison officials in Lingen Prison in July 2002. AI was concerned that, in the light of both the allegations made and the injuries sustained by the man, the prison officials involved in the incident may have ill-treated or used excessive force against him.

According to information provided to AI by the prisoner's lawyer, he was allegedly ill-treated by two prison officials in Lingen Prison shortly after 6pm on 28 July. The prisoner, who is HIV positive and was then confined to the prison hospital ward, was allegedly punched in the face by an official for conducting a telephone conversation in his native Albanian and not German. Although prison rules reportedly forbid foreign prisoners to speak their own languages, his children were reportedly not able to speak

German. The prison officials were then reported to have carried the prisoner back to his room in the prison hospital, where they allegedly pushed him against a table and pressed his upper-body and head against it. He then reportedly fell to the floor, where the prison officials left him lying. The head doctor at the prison reportedly learned of the alleged incident early on 29 July and photographed the prisoner's injuries, which included a large black-eye, approximately 7-8 cm wide and 4-5 cm in height. AI received an initial response from Osnabrück Public Prosecutor's Office in early November, stating that AI would be informed of the findings of the still ongoing investigation.

AI also requested to be informed of the findings of an ongoing investigation being conducted by Duisburg Public Prosecutor's Office in North Rhine-Westphalia into the alleged police ill-treatment of a 24-year-old refugee from Sierra Leone in Oberhausen in June 2002. Two police officers reportedly detained Mohammed Kamara at Oberhausen railway station during the night of 25-26 June on suspicion of being heavily intoxicated, a charge which Mohammed Kamara denied. After placing him in handcuffs, the two police officers were said to have taken Mohammed Kamara to the police station at the railway station, where he reportedly protested against his detention. At this point a third police officer allegedly forcefully pushed Mohammed Kamara to the floor while his hands were still handcuffed behind his back. Mohammed Kamara stated that, after falling, he felt a severe pain in his left foot. The third police officer was then said to have taken Mohammed Kamara limping to a sobering-up cell, where he was held.

According to Mohammed Kamara, after some time the pain in his left foot became so severe that he began knocking on the door of the cell. The third police officer then allegedly opened the cell door and informed the detainee that he was making too much noise, at which point he unexpectedly hit Mohammed Kamara in the right-hand side of his face. The police officer allegedly assaulted Mohammed Kamara in the same manner again later the same night after he repeatedly knocked on the cell door in an attempt to

inform the police officer of the suspected injury to his foot. Mohammed Kamara only reportedly received medical treatment after he had been officially released from police detention in the early morning of 26 June, when an ambulance was called which took him to St. Joseph Hospital in Oberhausen. He remained in hospital until 16 July receiving treatment for two fractures to his left foot.

#### ***Alleged police ill-treatment – updates***

AI received a response from the Ministry of the Interior of North Rhine-Westphalia in mid-September concerning the alleged ill-treatment of then 49-year-old Josef Hoss by police officers of the Special Deployment Command in St. Augustin on 8 December 2000 (see AI Index: EUR 02/002/2001). Josef Hoss suffered multiple injuries as a result of his alleged ill-treatment by police officers and has been unable to work since the incident, reportedly suffering from injuries to his back as well as post-traumatic stress. AI was informed that Bonn Public Prosecutor's Office was still investigating the incident at the time of writing. However, the Ministry of the Interior of North Rhine-Westphalia confirmed that the criminal proceedings against Josef Hoss for violating the Firearms Law had been discontinued in January 2002.

In mid-December the trial of two police officers accused of ill-treating a then 41-year-old man of Turkish origin in Berlin in May 2000 began. On 23 December Tiergarten District Court found one of the police officers guilty of 'physical assault in office', sentencing him to a seven-month suspended prison sentence. AI originally wrote to the then Berlin Senator of the Interior, Eckart Werthebach, in September 2000, calling for a prompt, impartial and thorough investigation into the incident. The man, whose name is known to AI, alleged that three police officers investigating a complaint about excessive noise ill-treated him outside his home in the late evening of 13 May 2000. An altercation between the man and the police officers reportedly arose after the man had asked a police officer for his service number, resulting in his being handcuffed. After being handcuffed, one police officer was alleged to have grabbed hold of the man's neck and

violently threw him to the ground, causing him to hit his face on the hard surface. As he lay there two police officers allegedly kicked him. The police officers were then alleged to have pushed the man into a police vehicle and to have continued to hit and kick him. As a result of his alleged ill-treatment the man suffered a deep gash to his nose and lower forehead, which required an operation and multiple bruising to his arms and neck, necessitating his hospitalization. According to reports, the Tiergarten District Court could not establish whether the arresting police officers had deliberately pushed the handcuffed man to the ground, which had resulted in the man sustaining the most serious injuries.

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## GREECE

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### ***Conscientious objection to military service***

Law 2510/97 on conscription to military service still falls short of international standards. Alternative civilian service continues to be discriminatory and punitive in length. In September a conscientious objector, Lazaros Petromelidis, was arrested and detained in Korydallos prison for three days on a second charge of "insubordination in time of general mobilization" after he failed to respond to a call-up to military service. His appeal against a previous conviction and four-year prison sentence on this charge was again postponed. In 1998 he had been deprived of conscientious objector status after refusing to do alternative civilian service on the grounds of its punitive length.

At least 20 other conscientious objectors, among whom eight Jehovah's Witnesses, reportedly risked imprisonment after their status was revoked on various grounds including their refusal to serve the punitive length of the alternative service, administrative delays in dealing with applications for conscientious objector status, having publicly protested against punitive conditions in which they were asked to perform the alternative civilian service, or having participated in a press conference in

support of Lazaros Petromelidis. All of them face up to four years' imprisonment. At least seven of them have been subjected to further intimidating and discriminatory measures such as being forbidden to leave the country, refusal by the authorities to issue a passport or identity card, repeated phone calls and visits by the police to their homes. In September the Deputy Minister of Defence undertook to review individual cases in which conscientious objectors risked imprisonment.

In December Amnesty International conveyed the organization's concerns to the Deputy Minister of Defence and a request to introduce immediate and satisfactory amendments to the current legislation. These include: an alternative civilian service which is not punitive in length; the right to claim conscientious objector status at any time, both up to and after entering the armed forces; an alternative civilian service strictly under civilian authority, including the examination of a candidate's application for recognition of his status as conscientious objector; the right to perform alternative civilian service never to be derogated from, even in time of war or public emergency; the right of conscientious objectors to carry out trade unionist activities or participate in a strike without having their status revoked and being forced to serve the remaining part of their service in the army.

### ***Further allegations of unlawful use of firearms by border guards and soldiers***

Proceedings continued into the case of a soldier who seriously injured 67-year-old Albanian Ferhat Çeka by shooting at him when he was trying to cross the border between Albania and Greece in March 2002 [see AI Index: EUR 01/007/2002]. An administrative investigation was concluded in May and the soldier was charged with having accidentally caused injury to the victim. His trial has been scheduled for April 2003.

In July, a police officer was indicted for manslaughter. In November 2001 he had shot and killed Gentjan Çelniku, an Albanian immigrant. There were concerns about the thoroughness and impartiality of the investigation. Relatives of the victim, who

wanted the defendant to be charged with murder, had no right to lodge an appeal. AI called on the Chief Prosecutor of the Supreme Court to ensure that all aspects of the case were thoroughly and impartially investigated before it was referred for trial, but the indictment was not changed.

There were further reports of incidents in which police officers were alleged to have resorted to the use of firearms in contravention of international standards, resulting in death. In October, a police officer shot and fatally wounded 23-year-old Anastasios Limouras in Glyfada (Athens). According to the police, an off-duty officer saw three youths attempting to snatch a handbag from an elderly lady. He called his colleagues for help and as the woman went off, he noticed that he was being followed by the three youths. The police officer claims that as Anastasios Limouras tried to attack him, he fired his gun in self-defence. The bullet hit Anastasios Limouras in the head, wounding him fatally. An inquiry into the circumstances of the incident was ordered and the police officer was remanded in custody on charges of murder and exceeding the limits of self-defence.

In November the government issued new draft legislation which regulates the use of firearms by police and provides guidelines for the training of police officers in the use of firearms.

### **Torture and ill-treatment**

There were further allegations that the police had tortured or ill-treated people. These were highlighted in the report *Greece: In the Shadow of Impunity - ill-treatment and the misuse of firearms* (AI Index: EUR 25/022/2002), published jointly with the International Helsinki Federation for Human Rights (IHF) and in partnership with Greek Helsinki Monitor, an IHF affiliated non-governmental organization in the country.

On 10 October, M<sup>6</sup>, a refugee from Turkey was waiting with a friend at the train station

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<sup>6</sup> His name is known to Amnesty International

of Faliro, Athens, when they were approached by two armed police officers. After they showed the police officers their identification papers, they were taken to the Piraeus police station. There they were kept in a detention room and were not allowed to have contact with anyone outside, not even access to a lawyer. After about two hours, a police officer came into the room and asked them who had written some graffiti in Turkish on the walls of the station. M's friend replied that he had not written on the wall. Two other police officers came in, swearing at the two men and making threatening gestures. They reportedly beat and kicked M in his left leg and calf, using their feet and truncheons. His friend was also reportedly kicked on his legs and genitals.

In November the Greek Government authorized the publication of the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and its response. Based on visits to prisons, police establishments and military establishments in September and October 2001, the report raised cases of ill-treatment and torture, corroborating Amnesty International's concerns. The report also made specific recommendations for safeguards to protect detainees and for the improvement of conditions of detention.

### **Pre-trial detention concerns**

There were concerns arising out of the case of 18 people, arrested on suspicion of being members of "17 November", an illegal armed group. The group is allegedly responsible for 23 politically motivated killings and other crimes committed between 1975 and 2000. On 29 June Savvas Xiros was brought to hospital with severe injuries, apparently sustained while carrying explosives in Piraeus. For several weeks he was under police guard in hospital and the authorities severely restricted his family's access to him, citing health and safety grounds. However, a prosecutor was able to question him at length - as a witness, according to the authorities. Savvas Xiros was not placed under arrest and charged until 31 July. Some of the 17 other suspects, arrested in July, were subsequently detained in complete isolation. In October the

only female suspect, Angeliki Sotiropoulou, complained about her conditions of detention and alleged that she was not permitted to exchange documents with her lawyer and that information appearing in the press indicated that her telephone calls with her lawyer were being tapped.

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## HUNGARY

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### ***New reports of ill-treatment***

Amnesty International is concerned about two recent reports of police ill-treatment. In one of the incidents police ill-treatment was apparently racially motivated. Amnesty International has urged Dr Péter Polt the General Prosecutor of Hungary to ensure that the investigations into both incidents are carried out promptly and impartially; that the findings are made public; and that anyone found responsible for human rights violations is brought to justice.

### **The reported ill-treatment of Roma in Gyöngyös hospital**

On 2 November in Gyöngyös hospital, in Heves county, a group of about 40 people of Romani ethnic background who had come to visit an elderly family member were informed that the patient had just died. The hospital security staff apparently interpreted the cries of grief and the conduct of the family in mourning as a breach of hospital rules and called the police to intervene. Six police officers then reportedly indiscriminately beat the mourning Roma, hitting them with truncheons and pushing the women and children roughly down three flights of stairs. An officer reportedly threatened to shoot the Roma, holding a gun in his hand and shouting: "I will shoot you all, filthy Gypsies!" A son of the deceased woman was reportedly handcuffed to a door and beaten. His wife was pulled by her hair, making her fall to the ground. Two people were subsequently hospitalized to receive treatment for injuries resulting from the alleged ill-treatment, while an unspecified number of Roma sustained slight injuries.

József Fidrik, captain of the Gyöngyös Police, reportedly stated after the incident that the Roma had attacked the officers who then legitimately resorted to the use of truncheons. Three police officers reportedly sustained injuries although it had not been specified of what nature and severity. Five Roma were arrested and reportedly charged with violence against a public official.

A representative of the Szószóló Foundation, a non-governmental organization which deals with rights of hospital patients, stated to InfoRoma, another non-governmental organization, that Roma often visit their relatives, who are being treated in hospital as patients, in larger groups and that, because of cultural differences, they show their bereavement more conspicuously than others.

### **The reported ill-treatment of Eva Rhodes and Sophie Barta**

On 16 October at around 7.30am, in Böny-Szolohegy, in Győr county, a police officer came to the home of Eva Rhodes and informed her that she and Sophie Barta, her 27-year-old daughter, should accompany him to the local police station. He reportedly refused to present a written summons and forced the gate open using his body. The officer held Eva Rhodes by the right arm and began to drag her towards the street. After she fell to the ground, Eva Rhodes persuaded the officer to release her. Having gone back inside, she heard cries and saw the police officer hitting Sophie Barta on the head; Sophie Barta was crouching by the side door to the house.

Earlier Sophie Barta had observed how the police officer was manhandling her mother and came with a camera to a glazed door from where she photographed the officer who was kicking on the front door. The officer then reportedly threw himself against the glazed door, pinning Sophie Barta to the wall, with the door handle hitting her in the abdomen and the door frame hitting her right shoulder. As she fell to the ground the police officer approached her and reportedly hit her several times with a truncheon on her head, back, neck and shoulders. The beating stopped

when Eva Rhodes came to the scene and asked the officer to leave the premises.

Shortly afterwards three other officers arrived and took the two women to the hospital in Győr. A medical certificate issued to Sophie Barta following an examination described injuries which were consistent with ill-treatment allegations.

Eva Rhodes and Sophie Barta were then taken to the Győr police station where in the course of the day they were questioned about an incident reported to the police by a client of the dog and cat sanctuary which they operate. They also filed complaints about the police ill-treatment which they had suffered that morning. Sophie Barta, a British national who does not speak Hungarian, was questioned in the presence of a hotel receptionist who was not able adequately to interpret for her. She signed statements which she did not understand and which had not been translated for her, after she was reportedly told that she would otherwise be held in custody for three days.

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## ITALY

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### **Asylum**

Although the Italian constitution provides for a right of asylum in principle and Italy has ratified the UN Convention relating to the Status of Refugees, AI and other international and domestic non-governmental organizations (NGOs) campaigning for refugees' human rights voiced concern at the continued lack of a specific law on asylum and the adoption of Law 189/2002 which entered into force in September. The new law (widely referred to as the 'Bossi-Fini' law), related mainly to immigration but contained some provisions concerning asylum. There was concern that these would impede the effective exercise of the right to asylum under international refugee and human rights law and increase the risk of the *refoulement* (forcible repatriation) of people at risk of serious human rights violations.

AI expressed particular concern about provisions which allow:

- in many instances, people seeking asylum to be detained or to have restrictions placed on their liberty in circumstances over and above those allowed under international standards and to have their asylum applications handled via an accelerated procedure which fails to provide guarantees of access to a fair and thorough asylum procedure;
- examination and decisions on asylum claims to be made in the first instance by bodies - Territorial Commissions - which are not considered to be either fully independent or appropriately qualified, and thus fail to meet what AI considers to be minimum requirements for a fair and satisfactory asylum-procedure;
- asylum-seekers to be expelled during the appeal procedure relating to a rejected asylum claim. To deport an asylum-seeker to the country of origin before a final decision on appeal renders the right of appeal meaningless.

AI, together with other NGOs, called on the government to address these concerns in the preparation of the enabling regulations relating to the practical application of Law 189/2002: these were still in development at the end of December. (For further details see [www.amnesty.it](http://www.amnesty.it)).

### **Human rights violations surrounding the *refoulement* of a Syrian family**

Muhammad Sa'id al-Sakhri, his wife Maysun Lababidi and their four children, aged between two and 11, arrived at Milan airport on 23 November having travelled from Baghdad in Iraq via Amman in Jordan. The family had lived in exile in Baghdad for many years. Muhammad Sa'id al-Sakhri and his family remained at the airport until 28 November when the Italian authorities returned them to Syria. The Italian government has stated that the family made no asylum request and did not oppose their *refoulement*. However, according to reports received by AI, the family made efforts to assert their right to claim asylum and were opposed to their deportation: they were apparently escorted onto the flight to Syria by



four police officers and their relatives and lawyers acting on their behalf maintain that they were deported without their claim for protection being examined in a full, fair and satisfactory asylum procedure, underlining that they had no access to interpreters or legal advice.

Within days of their deportation, AI received reports that they were being held incommunicado, possibly at an interrogation centre where torture of detainees is routine, and feared that Muhammad Sa'ïd al-Sakhri might be tortured or ill-treated given his opposition to the Syrian government. In 1982 he was reportedly charged by the Syrian authorities with membership of the unauthorized Muslim Brotherhood Organization, a crime punishable by the death penalty. During 2002 several people were detained following their return to Syria after years in exile and AI learnt of at least one returnee who died in custody following incommunicado detention.

In mid-December the Italian government stated that, in view of such reports, it had sought assurances from the Syrian authorities that the family's human rights were being observed. The Syrian authorities confirmed the detention of Muhammad Sa'ïd al-Sakhri but said that his wife and children had been released. AI subsequently received confirmation that Muhammad Said al-Sakhri was being held incommunicado in Kafr Susa, near Damascus, where he remained at high risk of torture and ill-treatment. AI also received confirmation that his wife, Maysun Lababidi, and their four children had been released and were staying with relatives in the town of Hama: Maysun Lababidi was obliged to report to the security forces every week and was reportedly prohibited from leaving Hama.

AI appealed to the Syrian authorities to respect the human rights of the family, recalling its obligations under international law. From 4 December onwards AI urged the Italian authorities to establish the whereabouts of Muhammad Sa'ïd al-Sakhri and his family and expressed concern that the deportation to Syria placed them at risk of human rights violations. AI also urged the

authorities to take all possible steps to ensure that their rights were fully restored, including the right not to be subjected to torture, cruel, inhuman or degrading treatment or punishment, the right to presumption of innocence and the rights of prompt access to a lawyer and to be able to communicate with relatives and friends. AI sought an explanation as to why Muhammad Sa'ïd al-Sakhri and his family were apparently not given access to a fair and satisfactory asylum procedure, stressing that the forcible return of any person to a country where they are at risk of torture or ill-treatment violates the principle of *non-refoulement* contained in international instruments ratified by Italy.

#### **Ill-treatment and excessive force by law enforcement officers**

Numerous criminal proceedings were under way in connection with allegations of ill-treatment and use of excessive force by law enforcement officers.

#### **Updates**

- In December Rome Tribunal sentenced a police officer to six months' suspended imprisonment and payment of a fine for abusing his authority and causing bodily harm -- together with other, unidentified, police officers -- to Manolo Luppisini, Meri Calvelli and Giorgia Protrasi in 1997. The three victims of the assault were acquitted of the counter-charges which had been brought against them of insulting, resisting and injuring a public officer. In the course of the court proceedings, two other police officers who had allegedly assaulted them were identified and a criminal investigation was opened against them.

In April 1997 there were reports that police officers had carried out a violent assault, without warning, on a number of people demonstrating peacefully outside the Peruvian Embassy in Rome. Manolo Luppisini, Meri Calvelli and Giorgia Protrasi lodged a criminal complaint of ill-treatment against the police on 29 April 1997 in which they alleged that Manolo Luppisini was kicked and beaten both on the street and also repeatedly in Viminale police station, and that the two other

complainants, both female, were also kicked and beaten with truncheons in the police station and subjected to verbal abuse.

After about four hours at the police station, where they were refused access to their own lawyers, but allowed to speak to a duty lawyer called in by the police, they were transferred, first to a local hospital for treatment and subsequently to prison. Medical reports recorded injuries requiring approximately 20 days to heal in the case of one of the detainees, and five days in the other two cases.

Following a criminal investigation, one police officer was committed for trial along with the three complainants. The joint trial of the accused officer and the detainees opened before the Sixth Criminal Section of Rome Tribunal in January 1999. (For further details see *Italy - A briefing for the UN Committee against Torture*, AI Index: EUR 30/02/99)

○ Scores of Naples police officers remained under investigation in connection with human rights violations committed during the policing operation surrounding the Third Global Forum on e-government in Naples in March 2001 (See AI Index: EUR 01/007/2002) . In April the judge of preliminary investigation had endorsed the public prosecutor's request for eight police officers to be detained. Among other things, they were accused of illegally and indiscriminately transferring scores of individuals from local hospitals, where many had gone for urgent treatment to injuries incurred during the demonstrations, to a detention facility; preventing the detainees from communicating with relatives and lawyers; subjecting them to illegal and humiliating body searches, physical assault, intimidation, threats and other ill-treatment; damaging detainees' property and illegally confiscating photographic and electronic equipment with the aim of covering up alleged crimes committed by law enforcement officers. The review section of Naples Tribunal annulled the detention order in May.

In December, following appeals entered by one of the detained police officers and the Naples public prosecutor, the Supreme Court

of Cassation endorsed the ruling of the review section of Naples Tribunal. However, reflecting the lower court's ruling in May, it also emphasized a "climate - of indifference with regard to respect of inviolable human rights" and strong evidence that crimes of coercion and bodily harm had been committed by officers and that, although it believed that, rather than being abducted, people had been taken from the hospitals to the detention facility in order to identify individuals considered responsible for acts of violence against the law enforcement agencies during the clashes following the demonstration, people had been held in the detention facility for far longer than the time necessary for identification.

○ Numerous criminal inquiries relating to human rights violations committed during the policing operation surrounding the G8 summit in Genoa in July 2001 continued. They included an inquiry into the fatal shooting of a demonstrator, Carlo Giuliani. The carabinieri who fired the fatal shot, from a vehicle under attack by demonstrators, was under investigation in connection with a possible crime of homicide. In December the Genoa public prosecutor's office, arguing that the carabinieri, who was performing his military service in the carabinieri force at the time of the events, had acted in self-defence, requested that the judge of preliminary investigation close the investigation without bringing charges. Lawyers representing Carlo Giuliani's family challenged the request and the judge's decision was still awaited at the end of December.

Another criminal investigation was under way into the conduct of law enforcement officers during a raid on a building legally occupied by the Genoa Social Forum. Dozens of police officers were under investigation in connection with possible charges of abusing their authority, assault and battery, verbal abuse and/or failing to prevent such crimes committed by officers under their command. Strong evidence also continued to emerge suggesting that officers had committed perjury and falsified evidence against the 93 people detained during the raid, apparently in order to justify the raid, the degree of force used by police (at least 62 of the detainees

required medical treatment) and the arrest of the 93. The latter were accused of violently resisting state officers, theft, carrying offensive weapons and belonging to a criminal association intent on looting and destroying property. In December the public prosecutor's office asked for the criminal proceedings relating to the first three accusations to be dropped. A criminal investigation relating to the fourth accusation was still open at the end of the year.

An investigation was also continuing into the conduct of law enforcement and prison personnel inside the temporary detention facility of Bolzaneto through which over 200 detainees passed. By the end of the year over 30 people, including prison officers, doctors, carabinieri and police officers, were reportedly under investigation for abusing their authority, assault and battery, verbal abuse and/or for failing to stop such crimes. (For further information see AI Index: EUR 01/007/2002 and *Italy: G8 Genoa policing operation of July 2001. A summary of concerns*, AI Index: EUR 30/012/20001)

○ In October Naples appeal court overturned a lower court verdict and acquitted a police officer of the murder of 17-year-old Mario Castellano who was fatally shot in July 2000 (see AI Index: EUR 01/001/2001). The boy, unarmed, was riding a motor-scooter but not wearing a helmet, as required by law. When he failed to obey a police order to stop, a chase ensued during which he was shot in the back by the police officer. Violent street protests ensued in Naples. The officer who spent almost a year in prison awaiting the first instance trial, maintained that he had shot the boy accidentally. In the first instance court proceedings the officer opted to be tried by a fast track procedure, in closed court session, which, among other things, allows defendants to have an eventual sentence reduced by a third. The full judgment indicating the court's reasons for acquittal were due to be published within three months. The family indicated its intention of appealing to the Supreme Court of Cassation. Before the case opened before the appeal court, Mario Castellano's family had asked for the president of the court hearing the case to be substituted. They

questioned his impartiality in view of opinions he had expressed previously in a daily newspaper describing the officer as a "convenient scapegoat ... tried and found guilty by the media without right of appeal". Their request was unsuccessful.

○ In October Rome Court of Assizes issued its verdict in the trial, opened in May, of three carabinieri officers originally charged with the murder of Eddine Imed Bouabid, a Tunisian national and illegal immigrant, in March 2001 (see AI Index: EUR 01/003/2001). Inhabitants of Ladispoli, a coastal town near Rome, had reported that the man had been causing a disturbance, at night, outside a local chemist shop which had called for the carabinieri intervention. He was apparently drunk and possibly under the influence of other drugs and was seen getting into a carabinieri vehicle less than 30 minutes before his corpse was discovered near a motorway. The officers said that they let him out of the car in public gardens a few minutes after picking him up. Autopsy and forensic examinations established that he had died after receiving three blows from a heavy object which fractured his skull. During the trial the public prosecutor reduced the charge against the officers to one of deliberately causing injuries leading unintentionally to death and called for sentences of between 11 and 12 years' imprisonment. The court found the officers not guilty of causing the death of Eddine Imed Bouabid but guilty of abandoning an incapacitated person and altering their official report of the incidents. They were sentenced to between four and four and a half years' imprisonment.

#### **Torture and ill-treatment in prison**

Criminal proceedings, involving large numbers of prison staff, were opened or continued into allegations of ill-treatment, sometimes amounting to torture, as well as into several prisoner deaths in disputed circumstances.

In September, the Palermo public prosecutor's office opened a criminal investigation into a written complaint lodged by some 25 inmates in Pagliarelli prison. The prisoners alleged that officers had subjected them to physical assault, intimidation and

psychological pressure and that in one case this had resulted in a suicide attempt.

The trial of eight prison officers charged with causing serious bodily harm to Luigi Acquaviva who died in the Sardinian prison of Bad e' Carros in January 2000 (see AI Index: EUR 01/002/2002) opened in December. Autopsy and forensic tests had concluded that his body, found hanging in an isolation cell under electronic surveillance, had suffered extensive traumatic injuries before death as well as neck injuries consistent with suicide. One officer was additionally charged with manslaughter for failing to monitor the prisoner and prevent his suicide.

Court hearings continued in connection with criminal proceedings opened against some 95 people following an investigation into allegations that in April 2000 over 40 inmates of Sassari prison, Sardinia, were subjected to cruel, inhuman and degrading treatment, in some cases amounting to torture, by dozens of prison officers employed in various Sardinian penal institutions (see AI Index: EUR 01/002/2002). The accused included the former director of Sassari prison, the former regional director of Sardinian prisons, the chief prison guard, various doctors employed in Sassari and two other Sardinian prisons -- Macomer and Oristano -- as well as the directors of these two prisons. In 2001, following the public prosecutor's request that they be committed for trial, the majority of the accused had asked to be tried via a fast track trial procedure *in camera*, allowing any eventual sentence to be reduced by a third. The sentences in those cases were expected to be announced in early 2003 while court hearings examining the committal for trial request continued in the case of those who had chosen to pursue public trial proceedings (some 29 people).

There were new reports that the so-called 41-bis high security regime in operation in some dozen prisons, allowing a severe degree of isolation from the outside world, and applicable to prisoners held in connection with organized crime, was in certain instances amounting to cruel, inhuman and degrading treatment. Legislation approved by parliament in December extended its application to

prisoners held in connection with trafficking in people and crimes committed "for the purposes of terrorism or subversion of the state."

**UN Special Rapporteur on the independence of judges and lawyers**  
(Update to AI Index: EUR 01/007/2002)

In a statement issued in November, after a mission earlier that month to follow up on an urgent mission of March 2002, the Special Rapporteur reiterated the key findings of his March mission, and outlined his preliminary observations on the November mission. He indicated, among other things, that he had found that "[m]utual suspicion and mistrust resulting in tension between the magistrates and Government" continued. He said that "[t]he root causes appear to be the cumbersome legal system and its procedures leading to abuses and the high profile trials of prominent politicians who are seen taking advantage of the weaknesses in the system and where necessary using the Parliamentary process." He also concluded, among other things, that there had "not been much progress in the reform of the justice system" and pointed out that the Committee of Ministers of the Council of Europe was also concerned over the excessive length of judicial proceedings in Italy and was monitoring the efficiency of the criminal justice system.

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## KAZAKSTAN

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### **Death penalty**

Death sentences and executions reportedly continued on a high scale. The authorities did not publish comprehensive information about those sentenced to death and executed in the period under review. There were allegations of torture and ill-treatment, and of impunity for the perpetrators in several death penalty cases. AI believed that the treatment of family members of death row prisoners in Kazakhstan amounted to a form of mental cruelty. In most cases families are not informed about the date of execution in advance; they learn about the execution by

telegram, usually one week after it has been carried out; even then they are not allowed access to the body, and the laws stipulate that they are not to be informed of the place of burial for two years.

The conference "The abolition of the death penalty in the Republic of Kazakhstan: pros and cons" organized by the Ministry of Justice, the Organization for Security and Co-operation in Europe and local and international non-governmental organizations which took place in the city of Almaty on 30 September and 1 October brought together representatives of the authorities as well as academics, human rights activists and representatives of international organizations to discuss the issue of the death penalty in Kazakhstan. Among those participants speaking out in favor of abolishing the death penalty was Bolat Baykadamov, who had been appointed the first Commissioner for Human Rights in Kazakhstan on 20 September. Among those advocating the retention of the death penalty was Supreme Court chairman Kairat Mami.

Kazakhstan is applying for Observer Status at the Parliamentary Assembly of the Council of Europe (PACE), which would allow Kazak delegates to attend Assembly sessions, but not to vote on resolutions. PACE resolved on 25 June 2001 that it would "only recommend the granting of Observer status with the Organisation as a whole to states which strictly respect a moratorium on executions or have already abolished the death penalty."

**Death sentences of Mikhail Vershinin, Sergey Kopay and Evgeniy Turochkin** (update to AI Indexes: EUR 01/002/2002 and EUR 01/007/2002)

On 18 December the Collegium of the Supreme Court of Kazakhstan turned down the appeals of Mikhail Vershinin, Sergey Kopay and Evgeniy Turochkin against their death sentences. The men had been sentenced to death by Almaty city court on 28 September 2001 for premeditated aggravated murder. There were allegations that the men were ill-treated in pre-trial detention to force them to confess to a series of murders.

In a letter dated 11 June Mr Mamytov, First Deputy of the City Procurator of Almaty, wrote to AI that "at the court hearings ... the defendants stated that during the investigation they were psychologically and physically pressurized by police officers to force them to confess. How exactly this pressure looked like was not stated by the defendants [and] no concrete complaints were received to this respect from the defendants." Tamirlan Shakirov, the Consul of Kazakhstan to the United Kingdom, stated in his letter of 9 August that "all detectives and policemen in charge of this criminal case have been examined, all details of this case as well as the video records of investigative actions have been checked and no evidence confirming torture and other violent acts has been found." Mr Mamytov wrote that "according to the forensic examination, no traces of bodily injuries or injections ... were found." Therefore, he concluded, "the confessions ... were admissible as evidence in the case." However, Sergey Vershinin, Mikhail Vershinin's father, stated that in fact several complaints were submitted to the authorities, which gave details about the torture his son allegedly underwent in pre-trial detention. He gave dates for the submission of these complaints, including one submitted on 17 November 1999 and one of 31 January 2001. However, the authorities reportedly did not include these documents in the official documentation of the case. In addition, Sergey Vershinin stated that forensic examinations were carried out to discover whether the defendants were of sound mind at the time of the alleged crime and not in order to establish whether the defendants had been tortured. The doctors that carried out the examination were not independent.

**Political prisoners Mukhtar Ablyazov and Galymzhan Zhakiyanov**

Mukhtar Ablyazov and Galymzhan Zhakiyanov, two former senior government officials and well-known leaders of the opposition Democratic Choice for Kazakhstan movement, were sentenced to six and seven years' imprisonment respectively, on charges of "abuse of office" and financial crimes, including misappropriation of state funds. Mukhtar Ablyazov was convicted on 18 July

by the Supreme Court of Kazakhstan and Galymzhan Zhakiyanov was convicted on 2 August by Pavlodar city court. Galymzhan Zhakiyanov's appeal against his sentence was turned down by Pavlodar regional court on 29 August. Reportedly, the trials of both men did not conform to international fair trial standards. There were allegations of limited access to both men by lawyers and family members before and after the trial. Although the trials were announced as open to the public, journalists from several media outlets close to the opposition were denied access. Despite a sharp deterioration in Galymzhan Zhakiyanov's health as a result of interrogations in May and June, the investigator had reportedly insisted on continuing to interrogate him. Official corruption is an endemic problem in Kazakhstan and goes largely unpunished. Mukhtar Ablyazov and Galymzhan Zhakiyanov were apparently targeted because of their peaceful opposition activities.

***Rape charges against independent journalist Sergey Duvanov***

Forty-nine-year old Sergey Duvanov – independent journalist and editor of a human rights bulletin – was arrested by police on 28 October, accused of having raped a minor. The trial against him opened on 24 December in Karasay district court in Almaty region. There were allegations that the rape charge was brought to discredit him and that the case was politically motivated. Reportedly, Sergey Duvanov had been targeted before to punish him for his independent journalism. He had been interrogated by the security service in Almaty on 9 July and subsequently charged with "insulting the honour and dignity of the President" (Article 318 of the Criminal Code of Kazakhstan), reportedly in connection with an article implicating government officials in financial crimes; on 28 August he was assaulted by three unidentified men in plainclothes and had to be hospitalized.

***Refugees***

Kazakhstan continued to return detainees forcibly to countries where they were at risk of torture, in contravention to Kazakhstan's obligations as a party to the United Nations

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In a positive move, however, Kazakhstan refrained from forcibly returning Turkmen former political prisoner Gulgeldi Annannyyazov to Turkmenistan, where he would have been at risk of torture. Gulgeldi Annannyyazov arrived at Moscow's Domodedovo airport on a flight from Kazakhstan at the beginning of September. He was immediately detained, reportedly because he was traveling on false documents. Because of his political opposition activities Gulgeldi Annannyyazov was banned by the Turkmen authorities from leaving Turkmenistan; he had reportedly crossed the border between Turkmenistan and Kazakhstan illegally and then used false documents to travel to Moscow. Following his arrival at the Moscow airport Gulgeldi Annannyyazov was denied the right to apply for asylum in the Russian Federation and was forcibly returned to Kazakhstan the next day. At the end of September he was granted refugee status by the United Nations High Commissioner for Refugees and on 4 October Gulgeldi Annannyyazov was flown to Norway for medical treatment.

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**KYRGYZSTAN**

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***Human rights defender***

Bakhadir Akhmedov, a 37-year-old ethnic Uzbek and deputy chairman of the Committee for the Protection of Muslims' Rights, was detained on 11 January in the Southern town of Jalal-abad following a search of his flat in the course of which police officers reportedly planted ammunition in his gas oven to incriminate him. He was transferred to a pre-trial detention facility in Bishkek on 13 January, accused of "illegal possession of ammunition". On 12 August he was additionally charged with membership in the Islamic Movement of Uzbekistan (IMU). There were strong indications that the charges were not supported by compelling evidence and that he was being punished for his peaceful work at the Committee for the Protection of Muslims' Rights. On 30 December Bakhadir Akhmedov was released by a court ruling. The

charge of membership in the IMU was dropped. However, the initial charge was upheld and he was sentenced to two years' imprisonment and a fine (20,000 som, approximately \$400). He was released from the courtroom as he was considered to have already served his sentence in the investigation-isolation prison where he spent almost one year.

**Imprisoned opposition politician Feliks Kulov** (update to EUR 01/03/00, EUR 01/001/2001, EUR 01/002/2002)

On 11 October, Bishkek city court upheld the conviction of Feliks Kulov, leader of the opposition *Ar-Namys* party and a former senior government official. He had been sentenced by Pervomaysky district court in Bishkek on 8 May to 10 years' imprisonment in a strict-regime colony for abuse of office and embezzlement while he was governor of the Northern Chui region between 1993 and 1997 and mayor of Bishkek in 1998 and 1999. These charges brought against Feliks Kulov in June 2001 were reportedly politically motivated, intended to punish him for and prevent him from further peaceful opposition activities. Feliks Kulov had been arrested in March 2000, accused of abuse of authority while serving as a Minister of National Security in 1997 and 1998. His supporters had alleged that his arrest and the criminal case that was opened against him were intended to disqualify him from running in the October 2000 presidential elections. In August 2000 Bishkek Military Court had cleared Felix Kulov of the accusations. In September 2000, after the prosecution had lodged a protest against his acquittal, the Board of the Kyrgyz Military Court ruled that the verdict should be reconsidered and ordered a re-trial in Bishkek Military Court under a new presiding judge. On 22 January 2001, Bishkek Military Court found him guilty of the above accusations and sentenced him to seven years' imprisonment with confiscation of property at a closed trial. The Supreme Court rejected Felix Kulov's appeal against the January verdict in July 2001.

**Excessive police force**

At the end of August a criminal case was opened against several officials who occupied senior positions in the regional or district administration, law enforcement agencies or procuracies, accusing them of abuse of office in connection with the deaths of five demonstrators in clashes between police and protesters in the Aksy District of Jalal-abad region on 17 and 18 March. The demonstrators at the March protests had been calling for the release of opposition politician and parliamentarian Azimbek Beknazarov, whose detention since January they protested as politically motivated. At least five people died in the clashes after police opened fire on the demonstrators. Scores of police officers and demonstrators were reportedly injured in the clashes. The then Prime Minister stated police were forced to fire in self-defence when the demonstration turned violent. However, in its report issued on 17 May, the State Commission investigating the Aksy events stated that the "use of force by the law enforcement agencies... was erroneous, while the use of firearms was illegal." The trial against the officials was postponed several times, at least twice because several of the accused failed to appear in court, and because the case was sent back for further investigation at the end of October. On 28 December Osh Military Court in the town of Mayli-Suu in Jalal-abad region sentenced four officials to prison terms from two to three years; three officials were acquitted.

**Death penalty**

At least 160 people were reported to be on death row at the end of 2002. The authorities did not publish comprehensive information on the number of death sentences handed down during the year. The moratorium on executions in place since December 1998 and which was due to expire on 31 December, remained in force. On 18 December, AI, along with a coalition of Kyrgyz and international human rights groups<sup>7</sup>, urged the President in

<sup>7</sup> Apart from AI, the coalition comprised the following organizations: Human Rights Watch, the International Helsinki

an open letter to fully abolish the death penalty. The coalition also urged Kyrgyzstan to publish comprehensive statistics on the practice of the death penalty in the country as a way of informing public debate on this issue, and in line with recommendations by the United Nations<sup>8</sup> and the Organization for Security and Co-operation in Europe<sup>9</sup> on the need for sharing information on the practice of the death penalty.

### **Refugees**

Kyrgyzstan continued to deport refugees and asylum-seekers to countries where they were at risk of serious human rights violations. For example, Erkin Yakub and Rakhmatulla Israil, two ethnic Uighurs and Chinese citizens, were reportedly deported to China at the beginning of August in violation of Kyrgyzstan's obligations under international human rights law. AI opposed their return as the men were believed to be at risk of being tortured and sentenced to death in China. The Kyrgyz Interior Minister had reportedly told journalists in July that the men would be tried in Kyrgyzstan and would not be extradited to China. The men had been accused of killing a senior official at the Chinese Embassy in Kyrgyzstan in late June.

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Federation for Human Rights, the International League for Human Rights, the Memorial Human Rights Centre, the International NGO Support Centre Interbilim, the Kyrgyz Bureau on Human Rights and Rule of Law, the Kyrgyz Committee for Human Rights, the non-governmental organization Justice and the Youth Human Rights Group.

8 ECOSOC resolution 1989/64, adopted on 24 May 1989.

9 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, 29 June 1990, Paragraphs 17.7 and 17.8.

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## **FORMER YUGOSLAV REPUBLIC OF MACEDONIA**

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### **Background**

Ramifications continued from the conflict in 2001 in the north and west of the country between the National Liberation Army (NLA), an ethnic Albanian armed opposition group, and the Macedonian security forces. The peace process continued to be supported by activities of the international community, including up to 200 Organization for Security and Co-operation in Europe (OSCE) and European Union (EU) monitors protected by a NATO force (Amber Fox) of about 700 soldiers from 11 countries. The EU was due to take over military functions from NATO in November but this was postponed and in December Amber Fox was replaced by a smaller force (Allied Harmony) of some 450 which was led by the Netherlands. Although the NLA had disbanded and handed over some of its weapons to NATO, armed Albanian splinter groups continued to operate, and although violent incidents decreased, tension remained high. Incidents included bomb attacks and shootings occasionally resulting in loss of life, and there were clashes between ethnic Macedonians and ethnic Albanians.

In July the EU Commission on Kidnapped and Other Missing Persons released its first report on the fate of 20 people – 13 ethnic Macedonians, six ethnic Albanians and one Bulgarian citizen – who were “disappeared” or abducted during the 2001 hostilities. The report blamed both the Ministry of the Interior and leading commanders of the former NLA for withholding information, which “substantially impeded” on the work of the Commission and prevented it from fulfilling its primary mission of establishing the whereabouts of the 20 missing persons. In August AI released a report, *Former Yugoslav Republic of Macedonia: Dark days in Tetovo* (AI Index: EUR 65/007/2002), detailing its concerns about human rights violations by the authorities, and abuses by the NLA in the Tetovo region in the 2001 conflict.



Inter-Albanian armed clashes occurred sporadically as former NLA commanders entered the political arena. Members of armed groups, most believed to be connected to remnants of the NLA, committed repeated abuses throughout the period, including killings. During the run-up to the elections in September there was an increase in tension with a spate of assassinations of former NLA members by rival Albanians, the killing of two policemen by gunmen in Gostivar, the short-term abduction of hostages, and a series of bomb and grenade attacks on ethnic Albanian political party buildings by unknown persons. In the event, the elections passed off without noticeable incident, and the coalition government, led by the predominantly ethnic Macedonian VMRO-DPMNE (the Internal Macedonian Revolutionary Organization - Democratic Party for National Unity) and the Democratic Party of Albanians (DPA), was replaced by a coalition led by the Social Democratic Alliance of Macedonia (SDSM) and the Democratic Union for Integration (BDI) formed by former NLA leader Ali Ahmeti.

In October the International Criminal Tribunal for the Former Yugoslavia (Tribunal) ruled that it had primacy over a number of cases of alleged war crimes in connection with the 2001 hostilities, and ordered the release of Shkodran Idrizi and Fadil Ferati, both held in custody since November 2001 in connection with the torture of five Macedonian road workers in August 2001. Both were finally released in December.

In October the Macedonian Red Cross reported that the number of registered internally displaced persons due to the 2001 fighting was 9,013, of whom 6,826 were in host family accommodation and 2,187 in the collective centres.

#### **Killings by the security forces**

There were concerns at the occasional excessive use of firearms by security officials leading in some cases to loss of life. On 18 October Metin Adili, an ethnic Albanian, was killed and two others wounded when police opened fire on a car which failed to stop at a road-block in Tetovo. A police spokesman claimed the occupants of the car had opened

fire at the police but OSCE observers reportedly found no evidence to back up this claim. Other incidents occurred in the border area with Albania where cross-border smuggling was rife. On 22 August Baftar Tasha, a citizen of Albania, was shot dead near Debar after he failed to stop for a border guard patrol, and on 27 September 15-year-old Florian Cerroi, also from Albania, was similarly shot and wounded near Debar.

#### **Police torture and ill-treatment**

Police continued to ill-treat people during arrest and in detention. In many cases, especially those involving ethnic Albanians or Roma, the alleged ill-treatment had an ethnic or racial component. Cases raised with the Interior Ministry by the office of the People's Defender (Ombudsperson) were dismissed as unfounded despite at times compelling evidence to the contrary. However, in November the new government wrote to AI, stating that, in accordance with AI's recommendations, a plan would be drawn up for training police officers and implementing European standards governing the conduct of law enforcement officials, as well as investigating a number of cases previously raised by AI. In December Goran Trajkovski, a member of the "Lions" - a special mono-ethnic paramilitary police unit set up by the Interior Ministry following the NLA uprising whose members were widely seen as being pro-VMRO-DPMNE - was sentenced in Kumanovo to one year's imprisonment for causing grievous bodily harm to radio journalist Zoran Bozhinovski on 24 September. In December AI released a report, *Former Yugoslav Republic of Macedonia: The "Lions" beat tonight: alleged ill-treatment of citizens by paramilitary police* (AI Index EUR 65/025/2002), detailing the alleged ill-treatment of two Macedonian Muslims by "Lions" in April 2002.

On 29 July Ramadan Mahmuti, a 31-year-old Albanian taxi driver from the village of Gorno Svilare near Skopje, was driving his car with a Rom passenger near Skopje when he was forced to stop by a white van and two jeeps. In a statement to the Civil Society Resource Center (CSRC) - a Macedonian human rights NGO - Ramadan Mahmuti stated that a

number of plainclothes police officers got out of the vehicles and ordered him to hold up his hands and not to move. Allegedly they then dragged him out of his car, hit him in the mouth with a walkie-talkie drawing blood, and proceeded to hit him in the ribs, face and head while racially insulting him. The officers also allegedly beat the passenger. Ramadan Mahmuti thinks that the police officers stopped and attacked him because his car displayed the sign, "Elite Union", of an ethnic Albanian taxi company. As a result of the incident he reportedly suffered from swelling to his head and face and chest pains and was x-rayed at Skopje city hospital.

On 13 September Ramiz Tahiri, a 23-year-old ethnic Albanian student resident in Arachinovo near Skopje, accompanied his pregnant wife to the main hospital in Skopje. As they were leaving they were stopped by a plain-clothes police officer who requested to see their identity papers. Ramiz Tahiri informed the CSRC that on seeing his identity card, the officer said that he was one of 20 persons suspected of preventing the DPA from entering Arachinovo for a pre-election rally. Although Ramiz Tahiri denied the accusation, the officer radioed for police back-up and began to allegedly verbally abuse and punch him. After about 20 minutes three men, apparently members of a special police unit, arrived in a white "Toyota" pick-up vehicle. One of these men accused Ramiz Tahiri of belonging to the NLA and allegedly hit him in the genitals and slapped him several times. Ramiz Tahiri stated that he asked them to let his pregnant wife go and thus not see him being ill-treated. All four officers then allegedly proceeded to kick and punch him, and one of them allegedly pulled out his firearm and threatened to shoot him in the chest. Finally the police officers let him go, reportedly telling him he was "lucky" and that they did not want to see him in Skopje again.

On 9 October police allegedly ill-treated Arben Ismaili, who suffers from cerebral palsy and is confined to a wheelchair, after he left his home in Nerezi near Skopje with a neighbour, also an ethnic Albanian. They were stopped by police officers who insulted them with racial slurs, and then punched Arben Ismaili

repeatedly in the face despite his pleas that he was disabled and had done no wrong.

#### **Attacks by 'unknown' assailants**

There were occasional physical attacks on citizens by "unknown" assailants who were believed by many to be connected to the authorities, and there were a number of physical attacks on journalists perceived as being in opposition to the authorities. On 16 July Mare Stoilova, a correspondent with A1 TV, was attacked by eight men after A1 TV reported alleged corruption by a VMRO-DPMNE politician.

#### **Human rights defenders threatened**

The non-governmental Helsinki Committee chairperson, Dr Mirjana Najchevska, was personally attacked in an Interior Ministry statement after the Committee released a press release on 3 September questioning the political impartiality of the police. The same statement threatened criminal proceedings against editors of opposition media.

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## **MALTA**

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#### **The detention and deportation of asylum-seekers**

##### **September letter to the government**

On 27 September AI wrote to the Maltese Minister for Home Affairs and the Environment, expressing concern about issues surrounding the reception and treatment of hundreds of recently arrived asylum-seekers in Malta, many of them Eritrean, and fears that, unless their claims for protection were adequately examined, many could be at risk of serious human rights violations and abuses upon return to their countries of origin.

In order to uphold the principle of *non-refoulement*, a principle of customary international law which is reflected in the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, to which Malta is a State Party, AI urged the Maltese government to refrain from returning any of

these asylum-seekers to their countries of origin until their claims for refugee status had been examined in a full, fair and satisfactory asylum procedure.

AI noted that a legal procedure had commenced in the Maltese Constitutional Court wherein over 50 claimants (the vast majority Eritreans) were calling for a deportation order issued by a Magistrates' Court in March 2002 to be revoked, on the grounds that their enjoyment of human rights would be threatened upon return to their countries of origin. The claimants were apparently also arguing that they were deprived of a fair hearing in the processing of their application for refugee status and when submitting appeals against initial rejections before the Refugee Appeals Board. The deportation orders were suspended pending the Constitutional Court's ruling.

AI warned of the disturbing human rights situation in Eritrea, and drew attention to a report it had published on some of its concerns in Eritrea on 18 September (See AI Index: AFR 64/008/2002). The organization said that in the current human rights crisis in Eritrea, anyone deported there who was suspected of opposition to the government or having evaded military service or deserted from the army would be arrested and possibly subjected to torture or ill-treatment. They could be detained for an indefinite period without charge or trial, without any protection against unlawful detention. If tried, they would face lengthy imprisonment or possibly the death penalty. Their relatives could also be detained on suspicion of assisting them to escape. At the same time AI appealed to the Eritrean President for assurances that the returnees from Malta would not be ill-treated or arbitrarily detained as a result of conscientious objection to military service.

AI also stressed the limited nature of the declaration of cessation of refugee status for Eritrean refugees which was made by the United Nations High Commissioner for Refugees (UNHCR) in May 2002, taking effect from 31 December 2002. It is applicable to only two specific categories of Eritrean refugees and people in both categories still have the right to have any individual claim for

further protection examined in a full and fair procedure.

AI also raised concerns about the conditions of detention for asylum-seekers of all nationalities in Malta, including many children, and expressed particular concern that the Ta' Kandja Police Complex at Siġġiewi was again being used as a detention centre for aliens held under the provisions of the Immigration Act.

AI pointed out that in August 2002, the Council of Europe's Committee for the Prevention of Torture (CPT) issued a report on the findings of a visit to various places of detention in Malta in May 2001, including the Ta' Kandja Police Complex. The report indicated that, at the time of the CPT's visit there were plans for an imminent transfer of the detainees to the new Hal Far Detention Centre but said that "a miserable situation scarcely different from the one observed in 1995 ... was found to prevail: premises - particularly the sanitary facilities - characterized by filth and disrepair, as well as an utter absence of purposeful activities for detainees whose stays at the complex could range from a few days to periods longer than two years." The CPT sought confirmation that detainees were no longer being held in the Ta' Kandja complex and that the new detention facility at Hal Far had become operational. In its interim reply, also published in August 2002, the Maltese government confirmed that the Hal Far Complex was now fully functional and all detainees previously held at Ta' Kandja had been transferred there. It added that:

"... the Ta' Kandja Detention Centre was closed down at the end of February 2002. However, in view of an emergency situation created by the landing in Malta of 208 illegal immigrants on 4 March 2002, it was temporarily used to house about 50 of these immigrants. By now the number has been reduced to a mere handful."

AI drew attention to reports it had received that, following the landing of a further group of some 251 asylum-seekers in July 2002, over 50 people were being detained in Ta'

Kandja by September and that the number might have increased following the reported landing of over 140 asylum-seekers in the days immediately preceding the organization's letter.

AI also recalled correspondence it had exchanged with the Maltese government in 1999, when it had expressed concern about a recurrent overcrowding situation in Ta' Kandja, appalling conditions of detention, the inappropriate use of police officers from a special intervention group to supervise inmates and use of excessive force by some such officers.

In its September letter AI said that its concern about the conditions in Ta' Kandja was exacerbated by the apparent conclusion of the Maltese Ombudsman, in a report presented to parliament in May 2002, that the conditions in Ta' Kandja did not meet the relevant international standards. AI also noted that the Council of Europe's Commission against Racism and Intolerance (ECRI), in its Second report on Malta, made public in July 2002, also expressed concern about the conditions of detention in Ta' Kandja and the "lack of specialized staff with appropriate training."

AI asked to be informed of the steps being taken to ensure that asylum-seekers were not detained in conditions violating international standards and sought the Minister's assurances that the conditions of detention of all asylum-seekers held in detention facilities were subject to regular review to ensure their compliance with relevant international standards. Furthermore, AI called on Malta not to impose penalties on asylum-seekers solely for their illegal entry or presence and to ensure that any decision to detain an asylum-seeker be taken on an individual basis, be necessary and proportional and subject to regular and automatic review before a court of law. It also pointed out that relevant international standards emphasize that the detention of children should only take place as a measure of last resort and for the shortest possible time. AI also sought assurances that any asylum-seeker or refugee held in circumstances not fulfilling the criteria

drawn from international standards would be released immediately.

Following its letter, AI received reports that some 220 Eritreans were forcibly deported between 30 September and 3 October 2002. They were said to have been immediately arrested on arrival in Asmara and taken to a military camp and placed in incommunicado detention.

#### **October letter to the government**

On 10 October, in view of the above reports and fears of further deportations, AI wrote to the Minister and issued a public appeal (see AI Index: EUR 33/001/2002) reiterating the concerns raised in its September letter and pointing out that, at that time, the Eritrean authorities had neither acknowledged the detention of the deportees nor revealed their whereabouts to their families or the public. It called on the government to suspend deportations of Eritreans back to Eritrea until a thorough, independent investigation had been made as to their fate and an assessment made as to whether Eritreans could be forcibly returned in safety and in dignity, with full respect for their human rights.

Following AI's letter, a statement attributed to the Eritrean Director of Refugees claimed that the deportees were not detained and were well treated, but requests for access by journalists and diplomats were refused and families remained without information or access. AI received reports that the deportees were held initially at Adi Abeito military detention centre near Asmara, although this was not officially acknowledged. According to unofficial sources, most of them were army deserters and many were said to have been later moved to other unknown military centres for punishment and return to military duties. There were unconfirmed reports that some tried to escape and were fired at by guards.

The deportees were among over 400 Eritreans who had arrived in Malta from March 2002 onwards and were detained on arrival. About half had applied for asylum in Malta but had their claims rejected. Although some 50 Eritreans had submitted an appeal to the Maltese Constitutional Court (see above),

others did not apply for asylum, reportedly hoping to be able to proceed to another country. AI received claims that, when faced with deportation, many reportedly wanted to apply for asylum but were ignored by the authorities.

In view of unconfirmed reports of alleged use of excessive force during at least one of the forcible deportation operations, AI's October letter also urged the government to ensure that police officers have clear instructions that no more force should be used in deporting a person than is reasonably necessary, in line with international standards on the use of force by law enforcement officials. It also urged a review of police restraint techniques and of relevant guidelines and training for police and other personnel involved in deportation operations in order to ensure that such operations are carried out in accordance with relevant Council of Europe recommendations.

#### **Government response**

The Minister replied to AI's correspondence by two separate letters dated 4 and 14 October, both received on 21 October.

In the first letter the Minister gave information regarding Maltese refugee law and stated that the Refugee Act 2000 provided a fair and satisfactory asylum procedure and that, since its enactment, no asylum seeker could be deported as long as his/her refugee application was pending, including during appeal proceedings. As the European Convention on Human Rights is incorporated into the country's domestic legislation, a deportation order could also be suspended by court order, pending the outcome of human rights proceedings, in spite of the exhaustion of ordinary remedies under the Refugee Act. The Minister gave assurances that no deportation had taken place in violation of these provisions.

The Minister said that the observations which AI had made about the human rights situation in Eritrea in its September letter had been noted and that each case presented by an asylum-seeker, including Eritrean asylum-seekers, was carefully examined on its own merit.

He stated that the arrival of "more than 800 irregular immigrants in the short space of 6 months" during 2002 had put an "unbearable strain" on Malta's limited resources and had created "an emergency as regards accommodation." He said that because of the unprecedented number of arrivals "all persons arriving in Malta in breach of the Immigration Act 1970 were accommodated at the new Hal Far Centre (which can accommodate 100 persons) at the Armed Forces of Malta Barracks at Hal-Safi and Hal-Far, and unfortunately, as an emergency measure again at Ta' Kandja." He said that "Following the recent repatriation of 220 Eritrean nationals, and a slight easing of the situation by the repatriation of other immigrants," Ta' Kandja Detention centre" had been closed and would be refurbished to meet CPT requirements.

He stated that the authorities were obliged by law to keep in detention any person who was the subject of a removal order issued by a court but that the situation of children was being examined. He had been informed that they were "being temporarily released to attend school" and that "Further developments may occur in this regard as regards families with children."

He also pointed out that under an amendment to the Immigration Act 1970, then under consideration by parliament but in force since December, the mere act of entering Malta illegally would cease to be a criminal offence.

The second letter from the Ministry for Home Affairs, in reply to AI's October letter, stated that the government was "not in possession of any evidence that any ill-treatment was afforded to the Eritreans repatriated from Malta" and that the Eritrean Director of Refugees "was reported to have rejected any allegations of ill-treatment." The letter confirmed that the majority of Eritreans still in Malta had not applied for refugee status but stated that, in view of AI's recommendations, "the Maltese Refugee Commissioner and authorities intend to examine any asylum application which may be filed even at this late stage."

The letter said that the findings of an investigation "emphatically refuted" the alleged use of excessive force during forcible deportation operations: "Only a very few, around 8-10, offered resistance, and the minimum of force was used to control the use of violence by a very few of the detainees. No tear gas or other riot gear or equipment was used." No details were provided as to whether the investigation was carried out by an independent body and as to the precise steps taken to establish the facts.

The Maltese government subsequently reported that "1,686 irregular immigrants" arrived in Malta during 2002, compared to 57 in 2001 and 24 in 2000.

Local non-governmental organizations continued to express concern about the asylum process, calling for improved mechanisms to ensure asylum-seekers can exercise their rights, especially the right to legal aid; greater transparency in the appeals process and better quality information to be provided to asylum seekers about their rights, in a language understood by them. Further concerns were expressed about the detention of unaccompanied minors, conditions within the detention facilities with reports of severe overcrowding with 18 people sleeping in a room designed for six, lack of access to the open air for even one hour a day in some instances and, in others, people sleeping in tents in cold temperatures and rain. There were calls for professional social workers to start visiting the detention facilities and for improved training for immigration officers, police and members of the armed forces in contact with asylum-seekers.

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## PORTUGAL

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### **Background**

The constitution was subjected to various amendments in September. It now allows, among other things, for a person to be extradited to a European Union member state in respect of offences punishable under the law of the requesting state with life imprisonment. It also allows for police night

searches, authorized by a judge, of the homes of persons suspected of particularly violent crimes or of certain forms of organized crimes, including "terrorism".

In November a major investigation into allegations of corruption and abuse of power by officers of the Republican National Guard - in the course of which over 17 people had been remanded in custody by the end of the year -- was opened.

### **Police ill-treatment and racial abuse**

In the period under review AI continued to receive reports of police ill-treatment of people -- including children, women and people belonging to ethnic minorities -- at the time of arrest or in police stations. There were also numerous allegations of racial abuse by police. A number of local non-governmental organizations expressed concern about racist behaviour by police officers.

In August Mónica Godinho and Cláudia Domingues alleged that they had been beaten with truncheons, slapped and kicked by several police officers at the Public Security Police (PSP) station of Cascais, near Lisbon, where they had been taken following a car accident in which they had been involved. Cláudia Domingues was also reportedly pushed causing her to hit her head against the floor. They also alleged that officers verbally abused them because of their sexual orientation. The two women, who were themselves charged with assault, lodged a complaint against the police. A criminal investigation of the incident was ongoing at the end of the year.

In August a Chinese shopkeeper, Lin Aizhong, was reportedly ill-treated by PSP officers in the Mouraria area of Lisbon. Lin Aizhong was detained in connection with the alleged obstruction caused by some boxes of goods in a public shopping area. According to reports, police asked Lin Aizhong to sign a notification requiring the removal of the above-mentioned boxes. He insisted on reading the document first. It appears that due to his lack of fluency in Portuguese, this proved difficult and, in circumstances which remain unclear,

police decided to detain him and took him to the local police station. There, according to some witnesses, including his wife, he was handcuffed to a table leg and beaten up by police officers who had removed their identity tags. The police claim that Lin Aizhong assaulted three police officers and that they had to receive medical treatment. Lin Aizhong was taken to hospital. Representatives of the Chinese community in Lisbon stated that there had already been verbal incidents of racial abuse and harassment by some police officers of people of Chinese origin. Following the victim's complaint, both a criminal and an internal disciplinary investigation by the General Inspectorate of Internal Administration (IGAI) were opened. A complaint was lodged also with the High Commissioner for Immigration and Ethnic Minorities.

On 1 October, Carlos Moreira, a 15-year-old Portuguese national of Cape Verdean origin, was reportedly ill-treated while being taken into custody, and at the PSP station of Casal de São Brás, Amadora, near Lisbon, where he had been taken after trying to quell an argument at the gates of his school. Carlos Moreira alleged that police officers pushed him to the ground before detaining him. At the police station, he was reportedly slapped in the face, kicked and subjected to verbal, including racist, abuse. On the same day, after his release, he went back to the police station where he had been held, together with his mother, Augusta Monteiro. Augusta Monteiro asked police officers at the station what had happened but she was allegedly insulted and told to leave. Outside the police station Carlos Moreira identified some of the police officers who had ill-treated him. Augusta Monteiro approached them. On the account of Augusta Monteiro and Carlos Moreira, they were again subjected to racial verbal abuse. One officer grabbed hold of Carlos's head and threatened him. Augusta Monteiro intervened placing herself between the officer and Carlos. The officer reportedly pulled out his firearm and pointed it at Augusta Monteiro's chest and pushed her until she fell over. While on the ground she heard a shot and – before realizing that the officer had shot in the air – she thought that her son had been hit. On hearing the shot, other

police officers ran out of the police station. Carlos Moreira ran inside the block where they live, situated nearby the police station, and was restrained by police on the fourth floor, reportedly beaten, handcuffed and taken back to the police station. He alleges that at the police station he was also kicked in the face, which resulted in a cut to his lower lip. Two days later Carlos Moreira and Augusta Monteiro went to a different police station and made a complaint. However, Augusta Monteiro cannot be sure of its accuracy as recorded by police, because the police officer who wrote it refused to read it aloud to her (which she had asked, as she cannot read Portuguese). A complaint to the police on their behalf was also made by the non-governmental organization *SOS Racismo*.

#### **Fatal police shootings**

Nuno Lucas, a 24-year-old man, was shot in August, in Passeio Alegre, Oporto, reportedly in the course of a fight with a PSP officer who was trying to detain him in connection with the theft of a vehicle. He suffered a head injury and died the following day in hospital.

As with other cases detailed below, AI was concerned about reports that also in this latest case the victim was unarmed at the time of the shooting and that there was no clear and imminent danger to the lives of the officers or others.

António Pereira - a construction worker in his mid-twenties - was shot dead in June by a PSP officer in the Bela Vista area of Setúbal (see AI Index: EUR 01/007/2002). Ângelo Semedo - a 17-year-old boy of Cape Verdean origin - was shot in December 2001 by a PSP officer in the Alto de Cova da Moura area, Amadora, and died later in the Hospital of Amadora-Sintra (see AI Index: EUR 01/002/2002).

In October AI wrote to the government to ask for clarification about the disputed circumstances in which the three separate incidents occurred and about the ongoing investigations. The organization enquired also about allegations that live rounds were discharged to purportedly disperse the crowd that had gathered and had reportedly thrown

stones against the local police station, in the immediate aftermath of the shooting of António Pereira. AI was also concerned about reports that the shooting of António Pereira and the following police operation in the Bela Vista area of Setúbal had heightened social tension within the local community. Several members of the community -- in large part constituted by members of ethnic minorities -- reportedly said that they felt discriminated against and failed by the authorities, including by the police. It appeared that the police were widely perceived as having over-reacted on the occasion of the shooting, thus deepening an allegedly already widespread sense of marginalization.

In December the government informed AI that the disciplinary inquiry into the shooting of Ângelo Semedo had concluded in October and the police officer involved had been suspended for 75 days for infringing rules about the use of firearms, but that the punishment had been suspended for one year pending the ongoing criminal investigation; and that both disciplinary and criminal investigations were ongoing against the police officers involved in the shootings of António Pereira and Nuno Lucas.

**The death of Álvaro Cardoso** (Update to AI Index: EUR 01/03/00; EUR 01/001/2001 and EUR 38/002/2001)

In September the Oporto Court of Appeal ruled that no prosecutions should be brought against the two police officers who had been suspected of being involved in the death in custody of Álvaro Cardoso, of Roma origin, in January 2000, and that the case should be closed.

### **Prisons**

AI continued to be concerned that the authorities were failing to ensure the safety of inmates in many prisons, particularly from the risk of inter-prisoner violence; and to provide adequate medical care for all inmates. Overcrowding continued to be a major problem and contributed significantly to rendering material conditions in some establishments inhuman and degrading; and to put at risk the safety of inmates in some

establishments. According to reports, some prisons were hosting well over double the maximum number of people for which they had capacity. In connection with overcrowding and its consequences on people deprived of their liberty, the Human Rights Commission of the Bar Association drew the attention of AI to the number of people in pre-trial detention, averaging about one third of the prison population.

In November a report that the Director General of the Prison Service had submitted to the Minister of Justice in April was leaked to the press in connection with the resignation of the former. In his report the Director General mentioned risks to the safety of prisoners due to a combination of factors including the inadequacy of resources, measures and procedures to ensure the protection of prisoners from inter-prisoner violence; difficulties in ensuring the separation of convicted prisoners from detainees in pre-trial custody at all times due to lack of staff; serious concerns about the health of prisoners because of the spreading of infectious diseases, such as tuberculosis and HIV, coupled with severe overcrowding; unhygienic conditions in several prisons, including lack of adequate toilet facilities resulting in the practice of "slopping-out"; and widespread drugs trafficking.

In light of the Director General's report, and of the reports received from several lawyers, AI's concerns about the situation in prisons deepened.

AI continued to receive reports of ill-treatment of prisoners by prison officers.

The criminal investigation into the deaths of two prisoners in Vale de Judeus in October 2001 was ongoing at the end of the year (AI Index: EUR 01/002/2002).

**Racism** (see also under Police ill-treatment and racial abuse)

In November the European Commission against Racism and Intolerance (ECRI) published its second report on Portugal. ECRI acknowledged a number of positive steps taken by the authorities to combat racism.



However, it also noted various persisting problems, including: the very few prosecutions brought under the provision of the criminal code which punishes activities carried out with the intent of inciting to or encouraging racial or religious discrimination, hatred or violence; the lack of a general rule providing that racist motives constitute an aggravating circumstance for all offences; and the lack of reliable information about the situation of the various minority groups which live in the country.

ECRI noted that there had been "several reports of law enforcement officials using excessive force against detainees or other persons with whom they have come into conflict, a large proportion of them immigrants or Roma/Gypsies" and that Roma/Gypsies were reportedly subjected to "frequent spot checks, humiliating treatment and even ill-treatment at the hands of the police". ECRI expressed particular concern about allegations that police officers responsible for such acts have gone unpunished and urged the authorities to combat impunity by ensuring that investigations into acts of ill-treatment committed against immigrants and members of the Roma/Gipsy community are duly carried out and that those responsible are identified and punished.

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## ROMANIA

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### ***Revision of the Penal Code fails once again***

On 31 October President Ion Iliescu refused to sign into force the amendments to the Penal Code which the Parliament had adopted. The disputed provisions were subject of a Governmental Emergency Ordinance which came into force in late May and concern the offences of insult, libel, "offence against public authority" and "outrage" (insult, libel or threatening of a public official). Romania had been under obligation to the Council of Europe to amend some of these provisions because they impose unwarranted restrictions on the rights to freedom of expression. Amnesty International has repeatedly been

urging the Romanian government to revise these and some other offences since March 1994.

### ***New reports of deaths in custody in suspicious circumstances***

In the period under review, Amnesty International received new reports of deaths resulting from alleged police ill-treatment or inadequate provision of medical care in detention (see AI Index: EUR 01/007/2002). Late in the evening of 18 July, or in the early hours of 19 July, in the Copou Park in Vaslui, two public guards stopped Ovidiu Ginga, his wife Doinița and a male relative whose identity was not disclosed. The guards reportedly beat them and then took them to the station for questioning. They were released the following morning without being charged with any offence. On the same day Ovidiu Ginga was admitted into hospital where he died from injuries which he reportedly suffered as a result of the beating. A complaint against the two guards was subsequently filed with the Vaslui prosecutor. According to the statement of the representative of the Vaslui Public Guards Force, the two guards intervened in an altercation between the three members of the Ginga family without resorting to force.

On 24 July Vlad Rotarescu, who was 34 years old, died in the Botoșani Country Police Inspectorate. Two days earlier he was arrested on suspicion of attempting to steal from a cellar in a block of flats. According to a police statement Vlad Rotarescu participated in the morning roll-call at 6am at which time he did not complain of any pain or illness. However, an hour later he reportedly could not be woken up and a doctor who was called in pronounced him dead "as a result of failure of cardio-respiratory functions". The County Police Inspectorate claimed that there were no signs of violence on the body of the deceased. There was no information whether an autopsy had been ordered or if an investigation into his death had been initiated.

### ***New reports of police ill-treatment***

Police ill-treatment continued to be reported throughout the period under review. On 1

August in Ploiești, the police came to the home of the Ghilea family to apprehend 28-year-old Stefan Ghilea whom they suspected of harboring stolen goods. They reportedly beat Stefan Ghilea in the apartment as well as in the Ploiești Sector 3 station where he was subsequently taken. "When I asked to see the search warrant, one of the officers punched and kicked me, shut me up in the entrance hall and choked me," Stefan Ghilea told journalists of *Ziua* (The Day), a daily newspaper. "They took me into the car and they pushed me onto the floor between the seats, and kicked me. After they took me out they held me by the head and hit it against a door and the banister on the staircase. Once inside the office they pushed me to the floor and kicked me," stated Stefan Ghilea. A woman living in the neighbourhood confirmed that she had seen Ghilea being beaten by police officers as they were leaving the apartment. After he was released from the police station Stefan Ghilea was admitted into the local hospital for treatment of injuries reportedly suffered as a result of the ill-treatment.

On 15 August in a bar in Berzunți municipality, in Bacău county, Ion Balan with several friends had been celebrating the birth of a child when the local police chief C.S. asked them to leave the bar. After they refused the owner of the bar reportedly hit Ion Balan on the head and the police officer took him to the station. Ion Balan was reportedly handcuffed there and then punched, hit with a truncheon and kicked all over his body. A woman who saw Ion Balan leaving the station reportedly confirmed that he had visible injuries which appeared consistent with a beating. He subsequently received treatment at the Onești Hospital. The officer reportedly claimed that he only used force to restrain Ion Balan who then "hit himself against the table and walls".

On 11 December Cristinel Nicu Tigmeanu, who is 28 years old, was reportedly beaten by the police who suspected him of stealing petrol from a pipe line in Basarabi, in Constanța county. Cristinel Nicu Tigmeanu stated that after being interrogated by the Basarabi police officers he was taken to the Constanța Country Police headquarters for

further questioning. Because he refused to confess to stealing the petrol several officers reportedly punched him and beat him with truncheons. He was later admitted to the neurological department of the Emergency Hospital where he remained for treatment under police guard.

Some of the victims of police beating were minors. In July, a Mehedinți Border Police major reportedly beat two 17-years-old girls because they refused to have sex with him in return for 50,000 lei (less than US\$ 2). A preliminary investigation into the report had been initiated. In the evening of 16 August two officers of the Bucharest Police Section number 12 reportedly beat and verbally abused several boys – their number and precise age had not been disclosed – who had been playing a game of cards in front of an apartment block. The officers whose identity was made public were reportedly under investigation for "abusive conduct".

In December Amnesty International published a report *Romania: Ill-treatment of Children* (AI Index: EUR 39/005/2002) describing recently reported cases, urging Romanian authorities to conduct impartial and thorough investigations into all the reported cases and to enforce measures which would ensure that the rights of children are adhered to from the onset of custody.

#### ***New reports of police shootings***

Two Romani men were shot dead, and two other injured, in a police operation on 5 December in Buhuși, Bacău County. According to the report of Romani Criss, a non-governmental human rights organization, a group of around 45 officers of the Protection and Rapid Intervention Unit of Bacău Police conducted a search in the local Romani neighbourhood, reportedly to apprehend several criminal suspects. Many of the houses in the neighbourhood were searched and those who were perceived as resisting the police, including women and children, were reportedly beaten.

According to the police version of events which was published in the national press, four men who were wanted by the police took

refuge in the basement of a house and refused to obey an order to surrender. In the ensuing altercation one officer was allegedly assaulted and hit on the head with an axe. The police then resorted to the use of firearms killing 23-year-old Florin Calin and 42-year-old Gelu Ciubotaru. Ovidiu Ciubotaru, who is 24 years old, and Vasile Vatu, who is 14, were seriously injured in the shooting and taken to the Bacau hospital for treatment.

The official report also stated that this incident provoked protests of around 200 Roma who had gathered in front of the house where the shooting took place. When some of the protesters became violent around 40 gendarmes were brought in to assist the police officers already on the scene. The gendarmes reportedly used rubber bullets and tear-gas against the violent protesters. Four police officers and gendarmes reportedly suffered injuries as a result of assaults by the protesters. There was no information whether any of the protesters had suffered any injuries.

According to witnesses interviewed by Romani Criss the use of lethal force by the police was excessive and unwarranted. The Romani men who were killed and injured had not been armed and had not posed a threat to the lives of the officers involved or anyone else. The mother of 14-year-old Vasile Vatu was reportedly not allowed to visit her son until 9 December 2002, four days after the shooting. She showed Romani Criss representatives the clothes which her son wore on the day of the shooting which appeared to indicate that he had been shot twice in the back.

There were several other reports of police shootings in the period under review. In August it was reported that an officer in the Constanța region shot a woman, injuring her in the right leg. The report of an investigation initiated against the suspected officer did not give details of the circumstances of the shooting except that a compressed air gun had been used and that the victim is a 28-year-old woman who has a slight intellectual disability.

## RUSSIAN FEDERATION

### **Background**

In October AI launched a major worldwide campaign on human rights in the Russian Federation. The year-long campaign seeks to highlight the discrepancy between the human rights protection which those living in Russia have in international and national law, and the reality of widespread human rights abuses committed by agents of the state and private individuals or groups in a climate of impunity. The campaign was launched in Moscow by the Secretary General, Irene Khan, and was accompanied by a detailed report: *The Russian Federation: Denial of Justice* (AI Index: EUR 47/027/2002). The report focuses on specific and serious violations of international human rights and humanitarian law by Russian law enforcement and security forces, seeking to highlight throughout the lack of accountability for the perpetrators. The report also emphasizes the obstacles faced by victims, particularly women, children and members of ethnic minorities, in obtaining redress and the measures required to enable them to see justice done.

### ***The Chechen Conflict: crimes against civilians continue unchecked***

Serious human rights abuses continue to characterize the armed conflict in the Chechen Republic. Reports continued of both Russian armed forces and Chechen fighters violating international human rights and humanitarian law. For further in depth reporting see *The Russian Federation: Denial of Justice*.

### **Human right violations committed by Russian armed forces**

#### Alleged violations against Chechen civilians

Throughout the conflict, Russian forces have committed grave human rights violations during military raids - known as 'zachistki' - against Chechen settlements. Since the middle of 2002 until the end of the reporting period, the number of such large-scale operations appeared to have declined, and

instead, so-called 'targeted' or 'addressed' operations have become much more frequent.

During such operations, the Russian forces or Chechen police target individual houses rather than whole villages and detain one or two persons. According to the Russian NGO, Memorial, human rights violations are as serious during such operations as during large scale raids, with reports of people being killed or made to 'disappear'. Measures aimed at curbing various problems, such as Orders No. 80 and Decree No. 46, remained inadequate and were regularly breached.<sup>10</sup>

For example, military raids continued in the village of Tsotsin-Yurt during the first part of the period under review. On 1 September Russian forces surrounded and entered the village, which has been subjected to more than 40 raids since the beginning of the conflict in 1999. On the first day of the operation, they were accompanied by Chechen police and, according to witnesses, behaved according to the orders mentioned above. On 2 and 3 September, the Chechen police were not present, and the Russian forces reportedly looted a number of houses, and detained a large number of male villagers. Most of those detained were freed on 4 September when the head of the Moscow-backed Chechen administration, Akhmad Kadyrov, came to Tsotsin-Yurt and negotiated their release. However, nine men were not released at that time. One of them returned over a week after his initial detention, but at the end of the period under review the other eight were reportedly still missing.

Several examples of individually targeted operations have been reported from other regions in Chechnya. On 24 November, for example, a group of federal soldiers, wearing masks and camouflage uniforms, entered the

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<sup>10</sup> Order 80 prohibits security forces from wearing masks and concealing the identity of their units. It also requires Interior Ministry forces and police to announce their name, rank and purpose when entering civilian homes – but does not make this a requirement of federal soldiers or other units who participate in these raids. Decree 46 states that procurators and representatives of local authorities should be present during military raids.

house of Mumadi Benuev in the village of Martan-Chu in the Urus-Martan region. Reportedly they beat his 18-year-old daughter Kheda and his 20-year-old son, Said-Selim; and took the young man with them. Later in the evening, the same group of soldiers detained Abu Zhanalov (30) who was visiting his uncle in the same street. Neither of the two men had been seen again by the end of the period under review.

Malika Umazheva, the former head of administration of Alkhan-Kala, a village near Grozny, was murdered on 29 November by masked men in uniforms. They entered her house around midnight, claiming to be looking for 'Islamic extremists', and told her to accompany them to a shed where she was shot. Malika Umazheva was an outspoken and courageous critic of raids that Russian forces conducted in her village and had had several confrontations with Russian federal officers during the months prior to her death. She had also reportedly been threatened by Russian forces. While the Russian authorities claimed that Chechen fighters had committed the crime, unofficial sources allege that she was killed by Russian soldiers in an act of retaliation on their part: relatives report that those responsible spoke unaccented Russian and left the scene in military vehicles.

#### **Internally displaced persons**

According to international aid agencies, at the end of the period under review an estimated 110,000 internally displaced people continued to live in neighbouring Ingushetia. Many languished in overcrowded camps with inadequate shelter and sanitation, but for most of them these conditions were still preferable to the continuing lack of security situation inside Chechnya. In May 2002 the newly elected president of Ingushetia and the pro-Moscow head of the Chechen administration signed an agreement affirming that "all Chechen refugees should be brought back home from Ingushetia before the end of September". This did not happen, but a new deadline was subsequently set for January 2003, and there were continuing reports that internally displaced people were being coerced into returning to Chechnya.

**Russian investigations into allegations of human rights violations**

Prosecutions for grave human rights violations in Chechnya remained few and far between, and many investigations appeared to be conducted in a superficial manner and then suspended. AI again urged the Russian authorities to show a clear political commitment to promote and protect fundamental human rights for everybody, and to give an unequivocal message that violations of human rights would not be tolerated. Failure to investigate adequately allegations of violations by Russian forces, and bring those responsible to justice, has created a climate in which Russian security forces believed that they could continue to violate the fundamental rights of the civilian population in Chechnya with impunity.

The case of Colonel Yury Budanov (update to EUR 01/007/2002)

Colonel Yury Budanov, a commander of a Russian tank regiment, was arrested on charges of murdering 18-year-old Kheda Kungaeva in the village of Tangi-Chu, Chechnya in March 2000. Colonel Budanov's trial was postponed several times for psychiatric assessments, and on 31 December 2002 the court relieved him of criminal responsibility and ordered that he undergo psychiatric treatment. The verdict was appealed.

Although Colonel Budanov has admitted the killing, he has still enjoyed public and military support. For example, during the first week of his trial, which began in February 2001, an army general came into the court to shake hands with him. This attitude was indicative of the huge obstacles faced by victims of grave human rights violations and their relatives in gaining justice and any forms of redress.

The case of Akhmed Zakayev

On 30 October Akhmed Zakayev, envoy of the Chechen president Aslan Maskhadov, was detained in Denmark following an extradition request from the Russian Federation authorities.

Akhmed Zakayev, an envoy of the Chechen president Aslan Maskhadov, was detained in Denmark on 30 October 2002 following an extradition request from the Russian authorities for alleged crimes Zakayev committed in the period between the two armed conflicts in the Chechen Republic (1996-1999). He was released on 3 December when the Danish Justice Ministry said it had not received sufficient evidence from the Russian authorities which would justify his extradition. Akhmed Zakayev left Denmark on 5 December for the UK, but was detained again on arrival in the UK in connection with a further extradition request by the Russian authorities. He released on bail later that day, and his case was still pending at the end of the period under review. AI called on the Danish and UK authorities not to extradite Akhmed Zakayev.

**Chechnya and the international community**

AI and others remained concerned about the lack of access to Chechnya for international observers, and lack of transparency about available information on abuses. By the end of the year, for example, the Russian authorities and the Organization for Security and Cooperation in Europe (OSCE) had failed to reach agreement on extending the mandate of the OSCE Assistance Group to the Chechen Republic, which expired on 31 December, and the group's office there was subsequently closed. The Russian authorities had refused to agree to a new mandate that included a human rights monitoring component.

The Russian Federation also remained the only member of the Council of Europe to refuse to authorize publication of reports by the European Committee for the Prevention of Torture (CPT). The CPT has made a number of visits to Chechnya (and other parts of the Russian Federation) but the reports of its visits, including among other things recommendations aimed at preventing torture and ill-treatment. Russia also failed to facilitate long overdue visits to Chechnya by UN representatives, including the UN Special Rapporteurs on Torture and Extrajudicial Executions.

### **Human rights abuses by Chechen fighters**

#### Hostage taking in Moscow

On 23 October a group of about 59 fighters described as Chechens took hostage over 800 people attending a theatre performance in Moscow. The fighters, including several women, reportedly threatened to blow up the theatre unless Russian federal forces withdrew from Chechnya. Three hostages were killed by their captors before Russian security forces stormed the theatre in the early morning of 26 October, reportedly killing all hostage takers and releasing the hostages. An estimated 204 hostages died during or following the raid, the vast majority as a result of the incapacitating gas used during the rescue operation.

From the start AI unequivocally condemned the hostage-taking, and called on those responsible to release the hostages immediately, unconditionally and unharmed. While recognizing the right, and indeed the duty of states to protect their citizens, AI also called on the Russian authorities to ensure that any use of force and firearms was fully consistent with international standards. AI subsequently urged an independent, impartial and thorough investigation into the incident. The organization also expressed concern at a backlash against Chechens living in Moscow after the incident, as the authorities increasingly targeted Chechens and other people from the Caucasus for document checks. Numerous complaints of ill-treatment were reported during these checks, and a number of Chechens were detained, some allegedly on false drug charges, in an echo of the backlash reported after a number of apartment bombings in Moscow in September 1999.

#### Suicide bomb in Grozny

On 27 December two vehicles loaded with explosives were reportedly driven through security cordons and into the main building of the Moscow-backed civilian administration in Grozny. The vehicles, which reportedly bore Russian military number plates, hit the canteen during the lunch break. As many as 80 people were said to have been killed in the

explosion, with similar high numbers of wounded – most were believed to be civilians. According to one source, a group of Chechen fighters claimed responsibility for the attack.

### ***Ethnically motivated discrimination and violence*** (update to EUR 01/007/2002)

#### **Ethnically motivated violence**

Reports of ethnically motivated violence by non-state actors in Russia's cities continued. Victims included citizens of the Russian Federation, such as Chechens and Jews, people from the former Soviet Union, especially from the South Caucasus and Central Asia, and Africans, South and South East Asians, Latin Americans and people from the Middle East. Racist attacks were often not reported to the police, because the victims feared further abuses by the police themselves. When such crimes were reported, the authorities often dismissed them as 'hooliganism' and failed to register them as racially motivated.

On 13 July, for example, a group of African students, refugees and asylum-seekers who had gone for a picnic in Troparevskii Park, Moscow, were attacked by about ten Russian men with shaven heads who shouted racist abuse at them. Police nearby reportedly refused to intervene; half an hour after the attack other police officers arrived at the scene who seemed more preoccupied with checking the identity of the victims than helping them. Germain Soumele Kembou, a student from Cameroon, was seriously injured. Despite needing hospital treatment, he was taken to a nearby police station with two of the alleged attackers for questioning, and only reached the hospital several hours after the attack. Unusually, the incident received much media attention and a criminal investigation was opened into the attack. Even more unusual was the fact that the charge acknowledges the racist nature of the attack. The investigation had not been concluded by the end of 2002.

**The 30 October events in Tsaritsyno, Moscow** (update to EUR 01/007/2002)

On 20 November five young men were sentenced to between three and nine years' imprisonment in connection with two allegedly ethnically motivated incidents in southern Moscow. The trial concerned two attacks on 30 October 2001 in the Tsaritsyno market which reportedly involved 150 to 300 young men armed with iron bars and shouting racist slogans, and resulted in the death of an ethnic Armenian, an Indian and an ethnic Tajik.

**Politically motivated killings** (update to EUR 01/01/00)

In November six men were arrested and charged with the murder of Member of Parliament Galina Starovoitova, who was shot in 1999 outside her apartment in St. Petersburg in what appeared to be a politically motivated killing. Amnesty International believed that the reason for Galina Starovoitova's murder was her outspoken criticism of corruption among the political elite, and to prevent her from continuing her work as an advocate and defender of human rights. During the four years since the killing, several people had been arrested but later released.

**Prisoner of conscience Grigory Pasko** (update to EUR 01/007/2002)

On 10 September Grigory Pasko was transferred from a pre-trial detention centre in Vladivostok in the Russian Far East to a labour camp in the Ussuriysk area, about 100 km northwest of that city. He had been sentenced to four years' imprisonment in 2001 for intending to distribute information that would "harm the battle readiness of the Pacific Fleet".

In 1993 Grigory Pasko filmed a Russian navy tanker dumping radioactive waste and ammunition in the Sea of Japan. Also in this film and a series of articles, he showed the threat to the environment caused by ships from Russia's decaying Pacific fleet, including nuclear submarines. The prosecution alleged that he gathered information with the

intention of handing it over to Japanese media. AI believed the prosecution against Grigory Pasko appeared motivated by political reprisal for exposing the practice of dumping nuclear waste into the Sea of Japan, as well as alleged corruption within the higher military command of the Russian Pacific fleet. AI adopted him as a prisoner of conscience, and continued to urge his immediate and unconditional release.

**The case of Olga Kitova** (update to AI Index: EUR 01/002/2002)

On 3 July the Russian Federation Supreme Court cleared journalist Olga Kitova of three of the five charges brought against her in December 2001, and reduced her sentence to a conditional one of two years. However, the court upheld charges of slandering and attacking law enforcement officials.

Olga Kitova, an investigative journalist at the newspaper *Belgorodskaya Pravda* and former member of the Belgorod parliament, had been convicted on related to the publication of articles she had written in which she alleged official corruption in connection with a rape case. In the articles, she alleged that law enforcement officials had falsified a rape charge against six students. The family of the rape victim complained to the authorities who brought the prosecution.

Olga Kitova was first detained in March 2001, reportedly for failing to respond to a summons for questioning on charges of interfering in a criminal investigation, slander and defamation. She alleged that police officers who took her to the local procurator's office beat her. Released later that day for medical treatment, hospital doctors treated her for high blood pressure, bruises and other injuries to her head and arms.

Olga Kitova was again detained in May 2001 and additionally charged with insulting and using force against, or threatening, an official. She was immediately hospitalized following her arrest after reportedly suffering a heart attack and remained in hospital until 8 June. Her trial, on charges of slander and insulting and using force against, or threatening, an official began in October after the Belgorod

parliament voted to strip her of her parliamentary immunity. On 20 December she was convicted and given a suspended sentence of two-and-a-half years, banned from seeking public office for three years, fined 20,000 rubles (approximately US\$680) and ordered to pay 25,000 rubles (approximately US\$850) moral damages to the family of the rape victim.

#### ***Allegations of torture and ill-treatment***

Two 16-year-old boys, Andrei Osenchugov and Aleksei Shishkin, were arrested in March on suspicion of robbery and held in the Nizhnii Novgorod regional pre-trial detention centre. Andrei Osenchugov was reportedly beaten, kicked, whipped and subjected to electric shocks over a three-day period in late July by two adult cell mates, allegedly on the orders of prison staff. Aleksei Shishkin was reportedly tortured by the same two adult prisoners. When the boys' trial started in August, the judge postponed it so that Andrei Osenchugov could be treated for his injuries. Relatives of the two boys filed complaints with the Nizhnii Novgorod regional procurator and the director of the pre-trial detention centre, but were later informed that the claims had been investigated and insufficient grounds found for an investigation to be opened. Prison officers reportedly tried to make Andrei Osenchugov's parents withdraw their complaint, and are also said to have threatened Andrei and forced him sign a confession that he had asked to be beaten up.

#### ***Legislative update***

##### ***New criminal procedure code***

The new criminal procedure code (CPC) came into force on 1 July. While it does not address all the shortcomings of the previous code from Soviet times, it does contain a number of important changes. For example it is now up to the courts rather than the procuracy to decide whether a suspect is to be held in detention during an investigation. A detainee must also be brought before the court in person within 48 hours, and from 1 January 2003 jury trials will be introduced for serious crimes. AI is monitoring its implementation.

#### **Law on citizenship**

A new "Law on Citizenship of the Russian Federation" also came into force in July, amid widespread concern within the human rights community in Russia that this law will hinder, rather than facilitate access to the legal right to citizenship for all those that are entitled to it. Under this law foreign nationals and stateless persons can apply for Russian citizenship provided that a number of criteria are met. One of these criteria stipulates that applicants must have resided permanently in the Russian Federation for a period of five years since being granted a residence permit. In practice, many former Soviet citizens who have actually been permanently residing in the Russian Federation for the past 10 to 12 years have been denied permanent residence registration by local internal affairs departments for discriminatory reasons.

The 1991 Law on Citizenship granted Russian citizenship to all those permanently residing on the territory of the Russian Federation. However, state bodies processing citizenship applications interpreted the permanent residency condition as requiring possession of permanent residence registration or 'propiska'. Many applicants were denied citizenship because of this interpretation of the law; despite the fact that the propiska system had been ruled unlawful on two occasions by the Constitutional Supervision Committee of the USSR. Frequently, attempts to obtain permanent residence registration were blocked by the local and regional authorities through unconstitutional regional laws or practices for the discriminatory reasons on the basis of the ethnic background of applicants.

It is clear that the residence registration system continues to be a major factor in the denial of citizenship to former Soviet citizens who should have been entitled to citizenship under the 1991 law. The 2002 Law on Citizenship does not make any concessions to those entitled to Russian citizenship under the 1991 Law who were denied it due to its discriminatory application. Hundreds of thousands of former Soviet citizens being denied citizenship and right to reside in



Russia now face severe consequences under the new Law on Foreigners of 2002.

#### **Law on foreigners**

The new "Law on the Legal Status of Foreign Citizens in the Russian Federation" was adopted by the Russian Duma (parliament) in June 2002 and came into force in November 2002. Russian human rights groups have expressed serious concern that this law will expose many former Soviet citizens who have been lawfully and habitually residing in the Russia for up to 12 years as having no legal status. Former Soviet citizens and especially ethnic minorities would therefore be vulnerable to discrimination, arbitrary detention and ill-treatment as a direct result of the application of this law, and decisions made in agreement with it.

In agreement with Article 37 of the Law on Foreigners, a person without documentation proving that they are legally and permanently residing in Russia is considered a person temporarily staying in the country. The overwhelming majority of former Soviet citizens who have been living in Russia since after the break-up of the Soviet Union, only have temporary registration or have been arbitrarily denied any form of registration by local internal affairs departments for discriminatory reasons. These people are to be issued with migration cards which limit the term of stay in the Russian Federation to three months. During this three month period, applications for temporary residence permits can be made by those who wish to continue residing in the Russian Federation. However, because the procedure for applying for temporary residence permits can take up to six months, applicants may be inadvertently rendered 'illegal' pending the outcome of the registration procedure. As a consequence, they are vulnerable to discrimination on the basis of status and ethnicity and may face deportation when the three months expire.

#### **Media law**

On 25 November 2002 President Putin vetoed a controversial bill proposing amendments to the media law of the Russian Federation. The

amendments would have placed much tighter control on the media's ability to report on crisis situations and were hastily rushed through the Russian parliament following the Nord-Ost hostage crisis in Moscow in late October (see above).

In effect, the new media law would have placed strict controls on coverage of anti-terrorism operations so as not to compromise the counter-terrorism activities of the Russian government.

Journalists, human rights organisations and advocates of free speech campaigned vigorously against the proposed amendments claiming that they would seriously hinder freedom of speech.

#### **Military service**

A law on alternative military service was passed by the Duma in late June and subsequently signed into by President Vladimir Putin. It will come into force on 1 January 2004. AI and Russian human rights groups have voiced concern about the law on the grounds that it is punitive in length and not completely civilian in nature. Although those conscripted into compulsory military service are required to serve for two years, alternative military service may last as long as 42 months. Furthermore, the law on alternative service envisages that conscientious objectors may be posted to military units, rather than guaranteeing a truly civilian alternative.

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## **SPAIN**

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#### **Basque Country: Freedom of expression**

On 26 August an investigating judge attached to the National Court ordered the suspension for three years, extendable to five, of the political and economic activities of Batasuna, a parliamentary coalition of political parties widely regarded as the political expression of the armed Basque group *Euskadi Ta Askatasuna* (ETA). The judge argued that Batasuna formed an intrinsic part of ETA. Batasuna denied the charge. The order to

suspend Batasuna followed the entering into force earlier in the year of the revised law on political parties (*Ley Orgánica de Partidos Políticos*), according to which a political party would be declared illegal if it failed to respect democratic principles and constitutional values.

On 2 September the judge issued a court order appearing to prohibit any gathering or demonstration held with reference to Batasuna or its suspension. A further court decision, a few days later, stated that demonstrations by other parties or individuals were not, in fact, covered by the prohibition on demonstrations by the Basque nationalist grouping. However, the precise scope of the various measures remained unclear and the Basque government had come under attack for allowing an earlier demonstration to take place.

On 12 September AI issued a press release urging both Spanish and Basque authorities to ensure that fundamental rights to freedom of expression and peaceful protest were not undermined by recent legal moves that appeared to prohibit such protests.<sup>11</sup>

#### **Race-related ill-treatment**

AI has continued to receive reports about incidents of race-related ill-treatment.<sup>12</sup> The two cases described below appear also to have arisen out of incidents directly involving racial discrimination.

Members of a family of French nationals of Moroccan origin reported that they were subjected to ill-treatment by Spanish police on 30 August. According to a statement by

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11 In May 2002 AI had also expressed public concern about aspects of the Law on Parties. In particular, AI stated that the ambiguity of some wording in the legislation could lead to the outlawing of parties with similar political goals to those of armed groups, but which did not advocate or use violence.

12 As indicated in the report "Spain: Crisis of identity: Race-related Torture and Ill-treatment by State Agents" (AI Index: EUR 41/001/2002), a case may be "race-related" if the identity, origin or situation of an individual is a central factor in their interception or arrest by public officials, even if no direct racist abuse or conduct is involved.

Saïd Akzinnay he and other family members, including children, were returning to France from a holiday in Morocco. While on board the ferry that plies between Algeciras and Ceuta, the Spanish autonomous city in Morocco, the barman refused to serve coffee to Saïd Akzinnay's cousin, Mohamed Agzenay, calling him an "illegal" ("*clandestino*"), and proceeded to serve other customers. Mohamed Agzenay tried to insist, but then sat down. A Civil Guard spoke to the barman, after which he approached Mohamed Agzenay, seized hold of him and asked for his documents. The latter, who spoke little or no Spanish, tried to explain that his passport was in the car in the hold of the ferry. The Civil Guard repeatedly called him an "illegal Arab" ("*moro clandestino*"), pushed him, took out his baton and began to beat him. Saïd Akzinnay and two of his brothers then approached, in an attempt to calm the situation. One of the brothers, 16-year-old Abderahmane Akzinnay, was holding a nine-month-old baby. They were "suddenly" confronted by several police officers in plain clothes, who beat some of the family and roughly handled others. Several passengers tried to intervene. Abderahmane Akzinnay was violently pushed to the ground, dropping the baby, and began to cry. Thirteen-year-old Assia Akzinnay, the daughter of Akzinnay Omar, was also allegedly pushed with violence.

After reaching the Spanish mainland and regaining their vehicles, Saïd Akzinnay, Abderahmane Akzinnay, Jamal Akzinnay, Mohamed Agzenay were arrested. Saïd Al Moussati, who was trying to film the incident, had his video camera confiscated and was also arrested. His wife was beaten when she tried to take back the camera. The five French nationals were taken to the police station of Algeciras and charged with assaulting law enforcement officers. Both Saïd Al Moussati and Saïd Akzinnay claimed that they were also beaten after being taken into custody – the former after refusing to obey an order to clean the police station floor.

On 31 August all, except for Abderahmane Akzinnay, appeared before a judge at Algeciras, charged with assault and making insults ("*agresión e insultos*"), and were

provisionally released. On the same day Saïd Al Moussati lodged a complaint with the court against four or five Civil Guards and police officers. Abderahmane Akzinnay was separately placed under investigation by a juvenile court for assault on a public official. The whole family then returned to their homes in France.

Medical reports issued in France refer to physical injuries sustained by Saïd Al Moussati, Saïd Akzinnay and Abderahmane Akzinnay. They also refer to shock, anxiety, insomnia and nightmares suffered by several younger members of the family, including two of the children.

Abdelaziz Esserbout Samih is a Spanish national of Moroccan origin. He has been living in Spain for over nine years, and has a wife and three-year-old daughter. Early in the morning of 28 December he was allegedly assaulted, while under restraint in police custody, by Local Police officers at La Línea de la Concepción (Andalucía). He claimed that one of these officers had previously fined him several times for possessing an invalid (Moroccan) driving licence. At the time in question, the officer, who was in plain clothes, approached him in the Gabanna discotheque, which faced the Local Police station. The officer said: "What are you doing here, Arab scum?" ("*Que haces tu aqui, moro de mierda?*"), and told him he wanted a word outside. As soon as they were outside, the officer began to hit him. In "no more than 30 seconds" other officers appeared. Abdelaziz Esserbout was handcuffed, then pushed into the back door of the police station opposite. When inside, the same plain clothes officer and "at least three" uniformed officers, began to kick and punch him repeatedly in the back, chest and face. He, while still handcuffed, begged them to stop.

After the beating he was placed in a police vehicle and taken to a medical centre in the Junquillo area, although he had asked to be taken directly to hospital. The doctor at the clinic reportedly told him that he was fine and would just "clean" him – he did not need treatment. He was then locked in a cell in a National Police station. His wife was notified, and after a lawyer had been called, Abdelaziz

Abdelaziz Esserbout Samih in hospital

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Esserbout was taken to court and informed that he was under investigation on a public order offence. He tried to make a complaint immediately but had to return later because he could barely speak. He was examined by a forensic doctor and released. He went immediately for tests to La Línea hospital, where he was admitted for two and a half days. A medical report described multiple contusions, some of which are visible in photographs taken at the hospital, which show him lying in bed, attached to a drip. Abdelaziz Esserbout told AI that, days after the incident, he was still on sick leave owing to pains in his ribs, and was awaiting further x-ray examinations because he was still spitting up blood.

La Línea is noted for having a relatively high number of incidents of Local Police ill-treatment. In January 2002 the Parliamentary Group of *Izquierda Unida* (United Left) in the Parliament of Andalucía asked the Junta what measures it was proposing to take in relation to this concern.

#### **Children: alleged ill-treatment in reception centres**

Following widespread adverse publicity about the concerns of human rights organizations such as AI, of inter-governmental organizations such as the UN Committee on the Rights of the Child, or of institutions such as the Spanish Ombudsman, (*Defensor del Pueblo*), as well as legal moves to investigate the legitimacy of the expulsions of

unaccompanied foreign minors from Spain, such expulsions diminished considerably during the year. There were also reports that ill-treatment of children in reception centres had diminished. However, in June and July there were allegations about the abusive use of a tiny, dirty, windowless "punishment cell" at the Fuerte de la Purísima reception centre in Melilla. Some children claimed that they had been beaten for disciplinary offences and shut in the cell, which was subsequently closed by order of a prosecutor in Málaga. Judicial proceedings were continuing into allegations made by children that they had been physically ill-treated and sexually harassed.

In December a reception centre (La Montañeta) in Las Palmas de Gran Canaria was closed after complaints by several children that they had been ill-treated, raped and sexually abused by older inmates. Attacks on carers and teachers were also reported. The public prosecutor reportedly described conditions at the centre as "hellish".

#### **Meeting with ECRI**

An AI representative briefed a delegation from the Council of Europe's European Commission against Racism and Intolerance (ECRI), during the delegation's visit to Spain in November. The meeting focused on issues relating to the "*Crisis of identity*" report on race-related ill-treatment (AI Index: EUR 41/001/2002) published in April, and on the situation since that time.

#### **Committee against Torture's concerns and recommendations**

Prior to the examination, in November, of Spain's fourth periodic report by the UN Committee against Torture, AI submitted to the Committee a 17-page briefing which covered seven main issues: the definition of torture in the Spanish Penal Code and its omission of "discrimination of any kind" as a defining element of torture; torture during incommunicado detention; racism in law and practice; race-related torture and ill-treatment by law enforcement officers; rape as torture; impunity and compensation levels in cases of torture. In November AI published

an update to the briefing (AI Index: EUR 41/014/2002).

In its Concluding observations the Committee noted the disparity between the Spanish government's assertion that there were only very isolated cases of torture and ill-treatment in Spain and the information received by a number of non-governmental organizations such as AI, the Committee expressed particular concern about race-related ill-treatment of immigrants, including reports of rape and sexual abuse. The Committee noted that Spain had become an important gateway for immigrants into Europe and, in view of this, referred to the omission of any reference to "discrimination" from Article 174 (covering torture) of the Spanish Penal Code as assuming a special significance. The Committee expressed its "deep concern" about the continued application of incommunicado detention for up to five days for certain categories of offences such as those related to "terrorism". It additionally expressed concern about the length of judicial investigations into torture complaints; the failure of the authorities, in some cases, to open disciplinary proceedings while judicial investigations were under way; cases of ill-treatment during expulsion procedures, especially those involving unaccompanied foreign minors, and the harsh detention conditions experienced by some categories of prisoners.

The Committee made five substantive recommendations to the Spanish government: improvement of the definition of torture in the Penal Code, to provide safeguards against racist or xenophobic acts; improvement of conditions of detainees held incommunicado, e.g. video recordings of interrogations, which must be made available to the competent judge; joint examination of detainees by an (officially appointed) forensic doctor and a doctor with the trust of the detainee; prompt and impartial investigations into acts of torture and ill-treatment; opening of disciplinary proceedings in cases of torture or ill-treatment pending the outcome of the judicial proceedings, and adoption of measures necessary to ensure that expulsion procedures were in conformity with the

Convention, in particular with regard to procedures against minors.

On 20 November AI issued a press statement calling on the Spanish government to take immediate action to implement the Committee's recommendations.

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## SWEDEN

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### ***Osmo Vallo***

At the end of October AI published a report entitled "*Sweden - Osmo Vallo Commission: further action needed*", (AI Index: AI-index: EUR 42/001/2002) in which the organization reiterated its concerns about the disputed circumstances of the 1995 death in police custody of Osmo Vallo, and about the subsequent severely flawed investigation (for more information, see, *inter alia*, "*Sweden - Osmo Vallo: action needed to prevent more deaths in custody*", AI Index: EUR 42/01/1997). AI continued to express concern that the failure of the police, the National Board of Forensic Medicine (Rättsmedicinalverket), the Judicial Council (Rättsliga Rådet) of the National Board of Health and Welfare (Socialstyrelsen) and prosecution authorities to carry out prompt, thorough, independent and impartial investigations had given rise to the perception that the authorities had participated, wittingly or not, in a cover-up in order to prevent the full truth from emerging. In addition, the organization expressed concern that Osmo Vallo's death had not been an isolated incident. There had been a pattern of similar deaths in custody in which the manner of restraint and/or excessive use of force by law enforcement officials may have caused asphyxia.

While the Osmo Vallo Commission's report had confirmed the many serious concerns that AI and others had identified, the Commission had failed to consider other cases of disputed custodial deaths; neither had its recommendations referred to either restraint methods, techniques or training therein; nor had it clarified a number of questions arising from the discrepancies in the findings of the

various forensic pathologists involved in the case. The fact that no one with forensic medical expertise had been appointed to the Commission had reinforced the perception that another opportunity to address the most pressing issues raised by the case had been missed. Therefore, AI considered that the Commission had missed an important opportunity to establish whether the failures in the Osmo Vallo's case were, in fact, systemic, and whether his death and other disputed custodial deaths raised broader questions about the way in which the Swedish authorities address controversial deaths in custody. In the light of this, AI recommended that the Swedish authorities establish a mechanism capable of ensuring full public scrutiny of the authorities' actions as required by Article 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, enshrining the right to life.

The document published by AI in October was submitted to the Swedish authorities as part of a consultation on the findings and recommendations made by the Osmo Vallo Commission in its April 2002 report.

### ***Police shootings and allegations of ill-treatment during the June 2001 EU summit in Gothenburg***

Most of the convictions arising from investigations into the actions of the demonstrators at the June 2001 EU summit in Gothenburg stemmed from charges of rioting. On appeal, of 35 cases heard, in 18 the sentences were reduced, in 13 they were upheld and in four they were increased. In four cases which went to the Supreme Court, the sentences were reduced.

The first and only prosecutions of police officers in connection with human rights violations during the Gothenburg summit resulted in the acquittals in December of four police officers charged with misconduct. The prosecuting authorities did not appeal against the acquittals. The officers tried were in charge of the police operation at Schillerska school, where people were allegedly arbitrarily detained and ill-treated by police officers. However, there was public concern

about the fact that criminal charges were not brought against the commanding officer. The Parliamentary Ombudsman reopened an investigation into police actions at Hvitfeldska school. One police officer was under investigation on suspicion of misconduct. The Gothenburg Committee investigating the disturbances surrounding the summit was due to report in early 2003.

The investigation into the police shooting of Hannes Westberg, one of the demonstrators seriously injured by police, was reopened in November. Hannes Westberg was himself prosecuted for throwing stones at the police. At his trial, it was alleged that police had tampered with video evidence, adding sound effects to make his actions appear more threatening.

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## SWITZERLAND

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### **National referendum on asylum legislation**

A national referendum in November voted by an extremely narrow margin against an initiative to alter the country's asylum legislation. The Swiss People's party (*Union Démocratique du Centre/Schweizerische Volkspartei*), a member of the four-party government coalition, sponsored the initiative, which was, however, opposed by the government. The initiative was also severely criticized by organizations working for refugees' human rights, including the office of the UN High Commissioner for Refugees (UNHCR) and AI which campaigned for the initiative to be rejected. In the lead-up to the referendum, UNHCR stated that the initiative, if voted into law, "would transform the country's asylum system into one of the most restrictive in the industrialized world" and would mean that Switzerland would have "more or less shut its doors to people fleeing persecution - even people who have escaped atrocities, massacres or torture". There was also strong criticism of the frequently xenophobic tone and misleading content of the campaign in support of the initiative.

### **Allegations of police ill-treatment**

#### **In custody**

There were further reports of police officers ill-treating detainees and using excessive force, often accompanied by racist abuse and often in the context of identity checks.

In August a Cameroonian woman residing legally in Switzerland was detained on a Geneva street with her five-week-old baby, after a dispute over a bus fare. She subsequently alleged publicly that police officers handcuffed her, subjected her to physical and racial abuse and to a strip-search carried out by a female officer but in the presence of male officers. She said she was separated from her baby -- still unweaned -- and reunited with the infant only after the intervention of a doctor in the police station. Another doctor who examined her within hours of her release reportedly found her to be in a state of shock and with swollen areas on her skin, particularly around her wrists, apparently caused by over-tight handcuffs. In a public statement the police said they had escorted the woman to a local police station after she had twice refused to comply with a request to identify herself, and that they had been obliged to use force because she had become agitated and aggressive. They strongly denied her allegations of ill-treatment and racial abuse and said that they had removed her baby for its own protection. A doctor called in to examine the woman recommended that the baby be returned to her so that she could feed it and this was immediately done. A preliminary criminal investigation was opened by the Geneva Attorney General following a complaint lodged against the police by the woman in September and a police report accusing her of obstructing them in the performance of their duty.

In November, the Bern judicial authorities announced that, following information passed on by the Bern police authorities, a criminal investigation had been opened against four cantonal police officers suspected of using disproportionate force during identity checks and interrogations.

**Case updates**

- In October, four Bern police officers were committed for trial in connection with the ill-treatment and death in July 2001 of Cemal Gömeç (see AI Index: EUR 01/002/2001). All four were charged with attempted grievous bodily harm and two of them were also charged with causing his death through negligence. A video recording made by neighbours of Cemal Gömeç, a Turkish-Kurd refugee with a history of psychiatric illness, showed Bern Municipal Police officers striking him some 15 times with batons at the end of a four-hour standoff at his apartment during which he had threatened officers with a knife. Uniformed officers repeatedly fired rubber bullets and irritant sprays at him, and used a stun grenade and batons to overcome him and pin him to the ground. After a doctor injected him with a sedative he lost consciousness and suffered a cardiac arrest. He died in hospital four days later. The findings of initial forensic examinations included injuries caused by a blunt instrument to his face, head, torso and limbs, and fractures to his face.
- In October the Geneva Police Tribunal endorsed the Attorney General's February 2002 verdict finding a police officer guilty of causing bodily harm to "Visar", a 14-year-old Kosovan refugee detained in 1999 following a street disturbance (see AI Index: EUR 01/007/2002). The boy said that he was an innocent bystander but that police ordered a police dog to attack him, that the dog bit his thigh, and that police officers ill-treated and verbally abused him. In February the Geneva Attorney General had stated that the investigation had not produced evidence supporting the allegations against the police officers but concluded that the police dog intervention was disproportionate and the officer who had ordered the dog's intervention was guilty of bodily harm. The officer had challenged the decision.

**At Zurich airport**

On 16 November AI wrote urgently to the asylum unit of the Zurich airport police, drawing attention, among other things, to allegations of ill-treatment made by a foreign national identifying himself as Godwin Barmago Ahmed, a 23-year-old Somali asylum-seeker. A copy of the communication was sent to the Federal Office for Refugees. AI reported the man's claims that, in the course of 16 November, two police officers dragged him into a room at Zürich-Kloten airport by his belt and that he was slapped, kicked in the back and suffered a cut to his hand. The incidents apparently occurred after Godwin Barmago Ahmed, who had arrived in Switzerland on 5 November, had been informed that his asylum claim had been rejected and that he would be deported, and after he had indicated that he would refuse his deportation. AI also indicated that, according to the information it had received, Masen Eba, a Cameroonian national, had witnessed the incidents. Godwin Barmago Ahmed also alleged that he had been subjected to racial abuse, including being called a "black monkey" by an official, during his detention at the airport over the preceding week.

In view of the apparently imminent deportation of Godwin Barmago Ahmed, AI urged that this should not take place before the completion of a full and independent investigation into his allegations of ill-treatment, in line with international human rights standards and including medical examination by an independent doctor. AI also urged that Masen Eba, also apparently facing deportation following the rejection of his asylum-claim, and any other witnesses to the incidents of 16 November, should not be deported unless and until the allegations had been fully and independently investigated.

In December AI wrote to the Zurich government authorities responsible for the police, reiterating its requests and seeking information as to the official steps taken by the Canton of Zurich to investigate the allegations.

AI pointed out that the case in question was by no means the first report which it had received of police officers operating in the transit zone of Zürich-Kloten airport ill-treating and racially abusing asylum-seekers who had either just indicated their intention of applying for asylum in Switzerland or who had just indicated their intention of opposing deportation, after being informed of the rejection of an asylum application. It recalled that, following its February 2001 visit to Zürich-Kloten airport, the Council of Europe's Committee for the Prevention of Torture (CPT) reported that, in addition to its serious concern that the manner in which forcible deportation operations were being carried out at the airport at that time could in some cases amount to inhuman and degrading treatment (see AI Index: EUR 01/007/2002), its delegation had gathered allegations of police officers subjecting foreign individuals to ill-treatment, racist abuse and threats, with the aim of persuading the foreigner to agree not to lodge an asylum application or to accept voluntary repatriation.

AI also indicated that most reports of this nature which it received were made by people wishing to remain anonymous. In a number of instances alleged victims and/or relatives and local non-governmental organizations with whom they were in contact, had expressly asked AI not to raise their cases or names with the authorities because, rightly or wrongly, they feared adverse repercussions with regard to their chances of gaining admission to or being granted asylum in Switzerland. or counter-accusations by police officers.

AI fully recognized that, if allegations were made anonymously and no formal administrative or criminal complaints were lodged, this posed obvious difficulties for any investigation by the responsible authorities. However, AI stated that, in its overall assessment of the situation, it had to take such allegations into account and that this situation appeared to underline the need for an independent monitoring body with a mandate to carry out unannounced visits of inspection to the transit zone and for more effective -- fully independent and accessible -

- avenues of complaint for those alleging ill-treatment and other abuse.

In the context of the allegations in the specific case in question, AI drew particular attention to the guiding principles relating to deportation recently adopted by national and inter-governmental bodies, including the recommendations which the CPT made to the Swiss authorities in August 2001; the September 2001 Recommendation of the Council of Europe's Commissioner for Human Rights "concerning the rights of aliens wishing to enter a Council of Europe member State and the enforcement of expulsion orders," the recommendation adopted by the Parliamentary Assembly of the Council of Europe in January 2002, on "Expulsion procedures in conformity with human rights and enforced with respect for safety and dignity" and the guidelines on forcible repatriations by air drawn up by the Swiss working group on deportations (Project Passenger 2) and endorsed by the Conference of the Directors of the Cantonal Justice and Police Departments (KKJPD/CCDJP) in April 2002.

AI pointed out that the scope of the CCDJP guidelines, like the Council of Europe recommendations, also covered *preparation* for forcible deportation. The recommendations all emphasize not only the need for the physical safety and inherent dignity of the individual to be respected and for discriminatory treatment to be banned but also the need for careful advance preparation of deportations, including psychological preparation of the deportee; for appropriate training to be given to personnel involved in the various stages of deportation operations and for transparency at every stage in the process in order to ensure that fundamental human rights have been respected.

AI expressed the hope that progress was being made in these areas in the Canton of Zurich in the light of the above recommendations. It recalled that, although AI had expressed reservations about certain aspects of the recommendations adopted by the CCDJP, it had recognized and publicly welcomed the guidelines as being a positive step forward in the safeguarding of human



rights during forcible deportation operations (see AI Index: EUR 01/007/2002). As AI understood that the Canton of Zurich was among the very first cantons to convert the guidelines into specific service regulations for its police force, AI welcomed that commitment to reform and sought details of any relevant service regulations and legislative initiatives at the cantonal level.

A copy of the letter was sent, for information, to the Federal Department of Justice and Police (EJPD) and to the Federal Office for Refugees (BFF) and AI sought information from these federal bodies on the progress being made across the Swiss cantons with regard to the conversion of the new guidelines on forcible repatriations by air endorsed by the CCDJP into specific service regulations for the individual cantonal police forces. In addition, in view of the CCDJP request that legislation making the provisions of the guidelines legally-binding be developed at federal level, AI sought information on relevant developments, as well as details of the new training courses agreed by the CCDJP, designed specifically for officers engaged in deportation operations.

In December the Federal Office for Refugees, in response to AI's November communication, stated that Godwin Barmago Ahmed had agreed to leave Switzerland voluntarily and travel to Lagos, Nigeria, on 18 November and that Masen Eba "also left Switzerland on 19 November." The Federal Office also said that "after the necessary investigations" the airport police firmly denied any accusations of ill-treatment and that the Federal Office had no reason to doubt this statement. It also indicated that the Red Cross office located in the transit zone of Zurich airport, which is mandated to provide advice and coordinate access to independent legal counsel for asylum-seekers, had not intervened with regard to the alleged ill-treatment and "was obviously not contacted by Mr Ahmed."

Replies to AI's December communications were awaited from the Zurich and federal authorities at the end of the year.

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## TAJIKISTAN

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### **Death penalty**

At least 50 death sentences were handed down and at least 28 people were executed in 2002. However, AI believes that the real figures are much higher. Despite Tajikistan's commitment under Article 17.8 of the 1990 Copenhagen Document which obliges participating states of the Organization for Security and Co-operation in Europe to "make available to the public information regarding the use of the death penalty" (<sup>13</sup>), the authorities continued to treat information about the practice of the death penalty as a state secret and again failed to publish comprehensive statistics on this issue. AI learnt of six cases in which death row prisoners were granted clemency or the death verdict was commuted to long-term imprisonment during the year. Since the beginning of 2001 the United Nations Human Rights Committee (HRC) has requested the Tajik authorities to put the executions of 12 prisoners on hold. To AI's knowledge, five of them were executed despite the interventions by the end of 2002. The government failed to reply to AI's repeated proposal in the second half of the year, to conduct a joint seminar on the death penalty in Tajikistan.

### **Commutation**

On 3 December Saidamir Karimov's death sentence was commuted to 25 years' imprisonment by the Supreme Court. Saidamir Karimov had been sentenced to death by the Supreme Court of Tajikistan on 27 March 2002 and had his appeal rejected two days later. Saidamir Karimov was one of seven people charged with murdering the former deputy Interior Minister, Habib Sanginov, on 11 April 2001. Three of his relatives - his cousin Said Rizvonzoda and the brothers Abdulmajid and Nazar Davlatov - were also sentenced to death in the same case. Saidamir Karimov and his relatives

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13 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, 29 June 1990, Paragraphs 17.7 and 17.8.

claimed in court that they had been tortured in detention, with beatings and electric shocks to the anus, genitals, fingers, nose and ears. The court did not suspend proceedings to allow for these allegations to be investigated. The HRC urged the authorities on 16 August (with regard to the case of Saidamir Karimov) and on 24 September (with regard to his three relatives) to put the executions on hold while the cases were being considered by the Committee. Saidamir Karimov's three relatives were still believed to be on death row at the end of the period under review.

### **Refugees**

The Tajik authorities continued to forcibly return persons to countries where they were at risk of serious human rights violations. On 15 September, for example, the Tajik authorities detained and deported nine Afghan refugees to Afghanistan, among them reportedly a 17-year-old boy. On 16 November another five Afghans were forcibly returned despite assurances by the Tajik authorities in September to refrain from further deportations. In another case, an Uzbek citizen, 28-year old Iskandar Khudoberganov, who was wanted on religious extremism charges, was handed over to the Uzbek authorities on 5 February 2002. Following his forcible return to Uzbekistan, Iskandar Khudoberganov reportedly suffered various forms of torture in the building of the National Security Service in the Uzbek capital Tashkent, including beatings, kicking, sleep and food deprivation, and threats of rape of his female relatives to force him to sign a 'confession'. The young man was sentenced to death at the end of November following a grossly unfair trial (see the entry on Uzbekistan).

The repatriation of Afghan refugees from within Tajikistan began in April. By the end of the year some 800 Afghans had been repatriated despite continued insecurity in Afghanistan. Afghan refugees in Tajikistan continued to face harassment and detention by the authorities.

The last group of some 10,000 Afghans that had been stranded on promontories in the Panj river, which marks the Tajik-Afghan

border, reportedly left the islands for Afghanistan in April. Tajikistan had effectively closed its borders to Afghans fleeing fighting between forces of the opposition Northern Alliance and the Taliban back in September 2000.

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## **TURKEY**

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### **Background**

The second half of 2002 saw the passing through parliament of the third of the legislation packages that year – termed the 'harmonization' laws – aimed at meeting the criteria for starting accession negotiations with the European Union. The 3 August package built upon the constitutional amendments (Law 4709) implemented on 17 October 2001 and the legislation packages passed in February 2002 (Law 4744) and March 2002 (Law 4748) and included various elements of key concern towards establishing legal guarantees for human rights. Notable in the August package (which came into effect as Law 4771) were the abolition of the death penalty for offences committed in peacetime and the lifting of restrictions on minority language courses and broadcasting, though the latter reform encompassed a number of restrictions which in practice limit its scope. The implementation of further draft legislation addressing certain human rights concerns was anticipated for 2003.

The 3 November general election brought to an end years of coalition governments with the victory at the polls of the Justice and Development Party (AKP) headed by Recep Tayyip Erdoğan. Because of a prison sentence in 1999 resulting from the public reading of a poem during a non-violent speech back in 1997 – subsequently he was adopted as an AI prisoner of conscience – Tayyip Erdoğan was not entitled to stand for parliament or to assume the office of prime minister. After the election Abdullah Gül was appointed as prime minister. The new government has emphasized that there will be 'zero tolerance' of the practice of torture in custody. The coming months will be an important test of the impact of the new legislation and the

professed political will not to tolerate human rights abuses.

The State of Emergency was formally lifted on 31 July in the provinces of Tunceli and Hakkari and on 30 November in the provinces of Diyarbakır and Şırnak.

### **Legislation during the EU Accession process**

Law 4771 consisted of various elements. New provisions incorporated into the Law on Learning and Teaching of Foreign Languages and the Law on the Establishment and Broadcasting of Radio and Television Channels allowed respectively for "private courses" and "broadcasts" in "different languages and dialects traditionally used by Turkish citizens in their daily lives". This notably ended the ban on Kurdish-language broadcasts and teaching. Yet in each case the new provision also stipulated that language courses and broadcasts in different languages and dialects "shall not contradict the fundamental principles of the Turkish Republic enshrined in the Constitution and the indivisible integrity of the state with its territory and nation". Such wording can be – and has been in the past – used to penalize non-violent statements on the Kurdish issue or the role of Islam in politics and society. While the amendments to both laws are important steps, the implementation of each is restrictive. A regulation implemented on 18 December provided for just two hours per week of television broadcasting in "different languages and dialects" and four hours per week on radio, broadcasts to be exclusively on the state television and radio channels, and to be followed in the case of radio programs by a complete translation of the entire program into Turkish and subtitles in Turkish throughout television broadcasts. Regulations on language courses meant their restriction to weekends and holiday periods and availability only to students who had completed primary school education. Broadcasts and language courses are not likely to commence for several months.

Another important amendment to the harmonization legislation, to be implemented in early 2003, allowed for the possibility of

retrial in civil and criminal cases in the light of judgments by the European Court of Human Rights. This opened the way for the retrial in some prominent cases, including those of the imprisoned Democracy Party (DEP) members of parliament – Leyla Zana, Hatip Dicle, Orhan Doğan and Selim Sadak – adopted as AI prisoners of conscience.

### **Torture**

Some of the new legislation was aimed at bringing detention procedures into line with international standards, although the conditions under which torture and ill-treatment have often occurred are still in place and have not been significantly altered with the new reforms. On 18 September new regulations were implemented that made it obligatory for police to read detainees their rights and inform them, on being taken into custody, of the charges against them. Those arrested were granted the right to call a relative to inform them of their detention, and periods of police or gendarmerie detention were to be limited to four days, to be extended only by court order. Additionally, detainees were formally granted the right to see a doctor without a security officer being present. There was little indication to date that such regulations had been implemented in practice.

While incommunicado detention was in theory reduced to 48 hours for those detained on suspicion of committing offences that fall under the jurisdiction of the State Security Courts, Amnesty International noted once again that in practice it may be longer and that even if limited to 48 hours the likelihood of torture persisted. Amnesty International is concerned that in most cases torture takes place from the first hours of detention onwards – as the cases of N.C. and S.Y., held incommunicado for longer than 48 hours and discussed below, demonstrate. In line with the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Amnesty International calls for time restrictions to be abolished rather than limited and the right to immediate access to legal counsel ensured as one step

that may encourage the eradication of torture and ill-treatment in detention.

As the report *Systematic Torture continues in 2002* (AI Index: EUR/44/040/2002) documented, allegations of torture continued with an increasing use of torture methods that did not leave visible marks on the body. However, people who were believed to have little access to legal and medical aid continued to be exposed to torture methods such as electric shocks, hanging by the arms and *falaka* (beating on the soles of the feet). Detainees were routinely blindfolded during interrogation. Other methods of torture and ill-treatment regularly reported included: severe beating; sexual abuse; being sprayed with cold pressurized water; being stripped naked while being questioned; threats of death and rape; other psychological torture; and restriction of sleep, food, drink and use of the toilet. According to reports, documented in the report *Turkey: End Sexual Violence against Women in Custody* (AI Index: EUR 44/006/2003), women taken into custody were frequently sexually abused, threatened with rape and in some cases raped.

Remzi Karaduman, Uğur Uşar and Reşat Uşar were taken into detention in Ankara on 26 July by police officers from the Anti-Terror Branch of Ankara Police Headquarters (AI Index: EUR 44/035/2002). Suspected of being linked with the illegal armed organization Hizbullah, they were transferred to the Anti-Terror Branch of Diyarbakır Police Headquarters on 28 July and brought before a court on 31 July. The three men subsequently reported that during this period they had been subjected to torture and ill-treatment including beating and electric shocks while in police detention in Ankara and that this worsened once they were transferred to Diyarbakır. Their allegations included being sprayed repeatedly with pressurized water, having their testicles squeezed, being continuously blindfolded, subjected to electric shocks to the feet, penis and nipples, being forced to remain standing with their wrists handcuffed to an elevated point, not being given food or drink and being subjected to having their heads forced between their legs by police officers sitting on their shoulders. An unnamed judge noted in the transcript of the

court proceedings on 31 July that the detainees were 'tired, exhausted and unable to walk' and rejected the request of the Emergency Region Governor to extend their period in police detention. The three men were at that point remanded to Diyarbakır E-type prison. However, on 1 August the decision of the judge was overruled by Diyarbakır State Security Court No. 4 and, under the terms of Article 3/c of Decree 430 – which allows individuals in regions under State of Emergency governance to be returned from prison to police detention for an additional ten days of questioning – the men were returned to police detention.

Amnesty International has received numerous accounts of people being detained in police custody for prolonged periods through the repeated application of Decree 430. The CPT has expressed serious concerns over the use of Decree 430 as a regulation which may contribute to the likelihood of torture. Another striking aspect of this case was the fact that the Institute of Forensic Medicine in Diyarbakır, which on 1 August examined the three men following their complaints of torture, made the decision to refer them immediately for further and more specialized examination to the medical faculty at Dicle University. This apparently did not happen, however, and the men were instead immediately taken back to the police station. The lawyer Vedat Karaduman who saw his clients at the Anti-Terror Branch of Diyarbakır Police Headquarters on 4 August formed the strong impression that his clients had been tortured. After the lawyer had made a formal complaint about their torture, the detainees were eventually over two weeks later – on 16 August – referred to Dicle University Faculty of Medicine for the examination that the Forensic Institute had recommended on 1 August. Both the trial against the three men and their lawyer's attempt to have their complaints of torture formally investigated and legal proceedings initiated continued.

#### **Sexual torture of female detainees**

Two recent cases that were reported to have entailed sexual torture of a similar kind were those of N.C. and S.Y., taken into custody separately, N.C. on 23 September 2002 and

S.Y. one day later, under suspicion of being members of illegal organizations (EUR 44/003/2003). Both were taken to the Anti-Terror Branch of the Istanbul Police Headquarters and on 27 September remanded to prison. S.Y. reported her period in police detention as follows. She was blindfolded at various times, subjected to verbal abuse continuously, repeatedly made to open her mouth and then spat at in the mouth by one police officer. The police officer's saliva in her mouth made S.Y. retch, but while other officials held her hands behind her back, she was hit repeatedly on the head to prevent her from spitting out the saliva, as a result of which she became dazed and confused. She was grabbed by the hair and thrown to the ground, insulted with statements such as "Whore, look at the condition you're in, what's the difference between you and a whore", allegedly asked whether she was a virgin or not, and insulted for being Alevi. She reported having been deprived of sleep, food and drink. Made to strip while blindfolded, she was sworn at and teased by the police officers and one police officer also stripped and rubbed his hands and penis against her. After this procedure S.Y. was allegedly taken naked to the toilet and sprayed with cold pressurized water. On the last day S.Y. was in custody, she was reportedly stripped naked and sexually assaulted again. She alleged that she was threatened with anal rape using a hose with pressurized water, and that police attempted to insert it into her anus. N.C. also reported being subjected to sexual torture, the details of which were similar to those reported by S.Y., including threats of rape, simulated rape and insertion of a penis into her mouth while her hands were tied behind her back. Both women subsequently reported suffering irregular bleeding and abdominal pain. News as to whether the public prosecutor would initiate proceedings against the alleged perpetrators of torture in these two cases was awaited.

#### ***F-type prisons and prolonged isolation***

Isolation in prisons continued to be a subject of intense debate. The authorities continued to build and convert existing prisons into the so-called F-type prisons made up of small

cells and spelling the end of the dormitory system. Thousands of inmates of F-type prisons were kept in prolonged solitary confinement or "small-group" isolation which could amount to cruel, inhuman or degrading treatment. Although in October the Minister of Justice lifted the condition that prisoners would only be allowed to meet for private conversation if they took part in education programs, such meetings were limited to five hours per week, which failed to meet recommendations by the CPT. Numerous reports were received of ill-treatment of detainees in F-type prisons, but they were difficult to verify because of restricted access.

Amnesty International was also concerned that convicted PKK leader Abdullah Öcalan, who since 1999 has been in solitary confinement in a prison on the island of İmralı in the Marmara Sea, was being prevented from receiving visits from his lawyers or family. For several weeks from 9 October and then again since 27 November 2002, weekly visits by lawyers and family were prevented by the authorities reportedly on the grounds that the weather conditions made travel to the island in the small boat provided impossible. The authorities were reportedly unwilling to offer the lawyers and family transport to the island in a more substantial boat or by helicopter. Amnesty International urged the Turkish authorities to end the practice of solitary confinement of any prisoner and, in the case of Abdullah Öcalan, to take immediate steps to allow the regular access of lawyers and family.

#### ***Impunity***

Legislation that passed through parliament in December meant that punishments for torture or ill-treatment could no longer be turned into fines and postponed. This is a welcome move, although Amnesty International remained concerned that very few proceedings against those accused of perpetrating acts of torture and ill-treatment resulted in convictions.

A positive development was the sentencing on 16 October of ten police officers to between five and 11 years' imprisonment for the torture of the 'Manisa children'. In this high-profile case, the 'Manisa children' - 16 young

people, aged 14 to 26 - were tortured while in detention at police headquarters in Manisa, western Turkey, between December 1995 and January 1996. Details of the torture of the 'Manisa children' - detained on suspicion of membership of an illegal, leftist organization - were horrific. The victims reported being stripped naked, sexually assaulted, hung by the arms and subjected to electric shocks while in police detention.

It had appeared during the course of the trial that those responsible might benefit from the impunity that perpetrators of torture in Turkey have overwhelmingly enjoyed in the past - despite medical reports and eyewitness accounts confirming the victims' allegations of torture. For example, the police officers had been acquitted in 1998 and 1999, and the prosecutor had attempted to change the charges from torture to ill-treatment despite the severity of the pain and suffering inflicted. Furthermore, had the trial and any related proceedings not been concluded at the hearing on 16 October, the case would have been closed since there would not have been time for it to go to the appeal court by June 2003, the date beyond which the trial would have exceeded the applicable statute of limitations. The possibility still remained that - unless the sentence were confirmed by the appeal court by June 2003 - the case would still exceed the statute of limitations and be dismissed.

However, factors that contributed towards impunity were largely unaltered and in other lower profile cases, victims of torture and ill-treatment were denied justice. Hacı İnan, Kamuran Kabul, Mehmet Kartal, Mehmet Baysal, Mehmet Ebuzeitoğlu and Derviş Algül were among a group of some 20 people arrested in Şırnak on 21 March 2000 and reportedly tortured in Şırnak Police Headquarters. Methods included electric shocks, beating of the hands with a truncheon and hosing with pressurized water. On the way to a medical examination police officers threatened the detainees saying that they would kill them if they mentioned torture. Most of the doctors were afraid to record what they saw. One reportedly told a detainee, "If I note torture wounds I will be tortured myself." Other doctors did not allow the police

inside the examination room and one noted that Hacı İnan had a wound on his hand caused by beatings. When, after 10 days, the group was brought to Mardin Prison the prison director did not accept them because of the wounds on their bodies.

The six men lodged a complaint regarding the alleged torture - however, on 18 July 2000, the Şırnak state prosecutor issued a decision not to take any further action on this case. After the men's lawyers appealed against the decision, a trial was opened at Şırnak Heavy Penal Court on 25 September 2001 in which five police officers were charged with torture and six doctors were charged with falsifying documents for not documenting the injuries on the six men. However, on 12 September 2002, the court issued a decision to acquit the defendants on the basis of 'insufficient evidence' - despite the presence of medical reports which corroborated the allegations of torture.

#### ***Pressure on Human Rights Defenders and restrictions on freedom of expression***

Local human rights defenders continued to face judicial harassment, intimidation and prosecutions.

In October a trial was opened against Sezgin Tanrıkulu, Eren Keskin and Pınar Selek for speeches made at a human rights symposium organized by the Diyarbakır branch of the Human Rights Association on 8 December 2001 on charges of having insulted the Turkish armed forces and security services, under article 159/1 of the Turkish Penal Code. Their speeches had emphasized the systematic use of torture against detainees in Turkey.

Kiraz Biçici, chair of the Istanbul branch of the Human Rights Association, was sentenced on 5 November by the Istanbul State Security Court to a prison term of three years and nine months for "aiding and abetting an illegal organization" under article 169 of the Turkish Penal Code. The case against Kiraz Biçici was based on comments she had made during participation by telephone link-up in a television broadcast on 20 December 2000 by

Medya TV, a Kurdish channel based in Brussels, discussing the security services' prison operation which one day earlier had resulted in some 30 deaths. Kiraz Biçici had criticized the Turkish state for an operation that resulted in the reported shooting at point-blank range of prisoners. The public prosecutor deemed that her comments amounted to support for the activities of illegal armed oppositional groups against the operation conducted by the security forces. In her defence, Kiraz Biçici stated that as a human rights defender she stood by her comments about the operation and that her aim had not been to support any organization. She was not detained and subsequently appealed against the verdict.

Eren Keskin has been the subject of some 86 lawsuits in relation to her human rights activities. In November in a worrying move that could spell a new means of censoring the work of human rights defenders, Keskin was targeted directly by the Istanbul Bar Association, the local branch of a nationwide body representing members of her own profession with a reputation until recently for being a strong advocate of human rights causes in Turkey. Referring to a sentence against Eren Keskin that had been postponed back in 1997, in a departure from its previous efforts to support the work of lawyers engaged in human rights advocacy, the Istanbul Bar Association decided to implement a controversial decision of the Turkish Union of Bar Associations to suspend her licence as lawyer for one year. Banned from practicing as a human rights lawyer, Eren Keskin appealed against the verdict.

## TURKMENISTAN

### ***Clampdown on dissent following the 25 November armed attack on the President***

An armed attack on Saparmurad Niyazov's motorcade in the capital city of Ashgabat on 25 November, which was regarded by the authorities as a failed assassination and coup attempt, triggered a new wave of repression in Turkmenistan. Scores of men, women and children faced detention, harassment, house eviction, and confiscation of property. Many of them were reportedly targeted solely because of their family relations with the regime's opponents. Many of the detainees were reportedly tortured and ill-treated. The Turkmen authorities did not disclose comprehensive information about those detained, including their whereabouts and charges brought against them. State-organized demonstrations throughout the country called for severe punishments of those implicated by the government in the attack, including demands to reintroduce the death penalty. However, the President stated on 30 December at a session of the People's Council (*Khalk Maslakhaty*) – the country's supreme legislature – that the death penalty would not be reinstated.

Concerns were expressed by the international community about reported human rights violations following the 25 November attack. These included statements made by the European Union (EU), the Organization for Security and Co-operation in Europe (OSCE), and the United States. On 12 December, for example, the EU and the United States called upon the Turkmen authorities to provide within ten days a written response on the whereabouts of Batyr Berdyev, former Ambassador of Turkmenistan to the OSCE and Foreign Minister, and Leonid Komarovskiy, who holds Russian-US citizenship, as well as the other detainees, in accordance with the commitments undertaken by OSCE participating states under the Vienna 1989<sup>14</sup>

<sup>14</sup> Concluding document of Vienna – The Third Follow-up Meeting, 15 January 1989.

and Moscow 1991<sup>15</sup> documents. Having concluded that the response from the Turkmen authorities confirmed the existence of conflicting reports with regard to the investigation of the 25 November attack, on 20 December ten participating states of the OSCE – Austria, Canada, Germany, Greece, Ireland, Italy, Norway, Sweden, the United Kingdom and the United States – invoked paragraph 12 of the Moscow document, providing for the establishment of a fact-finding mission of rapporteurs to investigate matters of concern with regard to the conduct of the investigations following the November attack, and to report about the findings.

#### **Prisoner of conscience**

Farid Tukhbatullin, civil society activist and co-chair of the Ecological Club in his home town Dashoguz, in Northern Turkmenistan, was arrested on 23 December. He was flown to Ashgabat the same day and taken to the Ministry of National Security. On 26 December Farid Tukhbatullin was reportedly charged with illegally crossing the Turkmen-Uzbek border (Article 214 of the Criminal Code of Turkmenistan) and concealing a serious criminal act (Article 210). No evidence was known that would substantiate either of the charges. The latter charge referred to his participation in a conference, held at the beginning of November in Moscow that had been organized by human rights groups. He was accused of refusing to disclose information about plans of exiled opposition groups to carry out an armed coup which, according to the authorities, were discussed at the conference. Amnesty International – whose delegate attended the conference – believed that the charges against Farid Tukhbatullin were brought to punish him for exercising his internationally recognized right to freedom of expression and for his peaceful work as a civil society activist. The organization regards him as a prisoner of conscience and calls for his immediate and unconditional release.

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<sup>15</sup> Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, 3 October 1991.

#### **Jailed opposition leader**

Four opposition leaders accused by the authorities of masterminding the November attack – Boris Shikhmuradov, Nurmukhammet Khanamov, Khudayberdy Orazov, and Saparmurad Yklymov – were reportedly sentenced to 25 years' imprisonment at a closed trial of the country's Supreme Court on 29 December. The latter three were sentenced *in absentia*. The sentences were increased to life imprisonment the following day by the People's Council. Amnesty International was concerned that the trial failed to meet international standards. Reportedly, none of the defendants was represented by an independent lawyer. Boris Shikhmuradov's wife, Tatyana Shikhmuradova, told Amnesty International: "It is impossible to find out whether the lawyers were allowed to speak, whether any witnesses were questioned [and] who chaired the hearing." Khudayberdy Orazov and Saparmurad Yklymov told Amnesty International that they had not been notified of the trial in advance and only learnt about it through the media. In Boris Shikhmuradov's televised 'confession' that was believed to have been dictated to him, he stated: "I and my allies ... are not opposition members but ordinary criminals and drug addicts ... there is not a single decent person among us; we are all thugs ... I am not a man able to rule a state ... I am a criminal able only to destroy the state." According to official sources, Boris Shikhmuradov – who had been in exile since he defected in November 2001 – entered the country shortly before the attack on the President and Turkmen secret police detained him on 25 December. According to a declaration entitled "Boris Shikhmuradov's statement", dated 24 December and posted on the website of Boris Shikhmuradov's opposition group on 26 December, he had returned to Turkmenistan in September to organize demonstrations and denied involvement in the November attack.

#### **Torture and ill-treatment**

Twenty-one-year-old student Aili Yklymov and his elder brother Esenaman, who are relatives of Saparmurad Yklymov, were arrested on the day of the attack on the President. According



to credible sources, Aili Yklymov was beaten so severely in the basement of the Ministry of National Security in Ashgabat on 5 December that he was unable to walk and had to be taken to questioning on a stretcher. Esenaman Yklymov was allegedly ill-treated in custody the day he was arrested; reportedly, his ears were bleeding as a result, and when he was released the following day he was said to have been unable to hold a pen in order to write. Both brothers received no treatment for their injuries while in custody.

Davlatgeldi Annannyazov, the brother of former political prisoner Gulgeldi Annannyazov (see AI Indexes: EUR 01/02/98 and EUR 01/02/99), was detained on 30 November in Ashgabat. He was reportedly ill-treated by agents of the Security Service. Gulgeldi Annannyazov told Amnesty International from exile in Norway on 6 December: "When they detained Davlatgeldi the officers beat him and ridiculed him in front of his wife and children. Then they took him to the Interior Ministry and beat him there. I received information that they ill-treated him to force him to denounce me and that they recorded his words on a tape recorder."

There were reports that Batyr Berdyev, former Ambassador of Turkmenistan to the OSCE and Foreign Minister, was ill-treated in detention following his arrest on 8 December. Three officers of the Ministry of National Security reportedly beat him after they had attached him to a door with handcuffs.

**Long-standing political prisoner Mukhametkuli Aymuradov** (update to AI Indexes: EUR 01/02/98, EUR 01/01/99, EUR 01/01/00, EUR 01/001/2001 and EUR 01/007/2002)

Political prisoner Mukhametkuli Aymuradov remained in the maximum security prison of the Caspian port Turkmenbashi (formerly Krasnovodsk). He was convicted in 1995 of charges including "attempted terrorism", and sentenced to 12 years' imprisonment after a reportedly unfair trial. In December 1998 he was sentenced to an additional 18 years' imprisonment in connection with an alleged prison escape attempt. Mukhametkuli

Aymuradov was reported to have been denied appropriate medical treatment for a heart attack, a gastric ulcer and recurring inflammation of the kidneys, bladder and gall bladder. Unofficial sources also said that Mukhametkuli Aymuradov's eyesight had deteriorated. A regulation, reportedly in force since January 2002, permitted his wife to visit him once every three months for 20 minutes.

### **Freedom of religion**

Conscientious objectors and members of religious minorities were serving prison terms in the period under review. For example, twenty-one-year-old Nikolay Shelekhov, a Jehovah's Witness, was imprisoned in the prison colony of Turkmenabad (formerly Chardzhev) near the border with Uzbekistan, to punish him for his repeated objection to serve in the army on religious grounds. He was sentenced to 18 months' imprisonment by President Niyazov District Court in the capital of Ashgabat on 2 July. Appeals lodged against his sentence with Ashgabat City Court and the Supreme Court were turned down in August and October respectively. He had previously been imprisoned for the same offence - "evasion of military call-up" - and was still suffering from illnesses, including kidney problems, contracted while serving the previous prison term, between August 2000 and December 2001. Amnesty International regards Nikolay Shelekhov as a prisoner of conscience and calls for his prompt and unconditional release.

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## **UKRAINE**

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### **Torture and ill-treatment**

In October the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published three reports of fact-finding visits to Ukraine in 1998, 1999 and 2000. During the CPT's 2000 visit of places of police detention - as was the case during its 1998 visit - the CPT encountered numerous allegations of physical ill-treatment of detainees by police officers, mainly relating to the time of arrest and subsequent interrogation. In the latter case

human rights violations were almost invariably for the purposes of extracting a "confession". The allegations included: kicks, punches and blows with a truncheon as well as more severe forms of ill-treatment which could be considered as amounting to torture. These included: electric shocks, pistol whips, burns using cigarette lighters, asphyxiation by placing a gas mask or plastic bag over a detainee's head, and beating detained persons while handcuffed and suspended by the legs and/or arms and beatings on the soles of the feet. As in 1998, the CPT's 2000 report concluded that "... persons deprived of their liberty by the Militia in Ukraine run a significant risk of being physically ill-treated at the time of their apprehension and/or while in the custody of the Militia ... and that on occasion resort may be had to severe ill-treatment/torture". In view of the high incidence of ill-treatment and torture the CPT made a number of recommendations to deter their occurrence, including "... that Militia personnel be reminded, through a formal statement from the highest political level, that they should be respectful of the rights of person in their custody and that the ill-treatment of such persons will be the subject of severe sanctions".

In this connection the CPT called on the Ukrainian authorities to ensure that: all criminal suspects taken into police custody by the police are brought before the prosecutor's office responsible for taking a decision on their continued detention or release; prosecutors immediately request a forensic medical examination of complainants of ill-treatment, irrespective of whether there are visible injuries, or whenever there are grounds to believe that an apprehended person brought before a prosecutor has been a victim of ill-treatment; and that a record be drawn up after the medical examination of the complainant, which includes allegations of ill-treatment and objective medical findings based on a thorough examination. The CPT also made several recommendations to strengthen safeguards against ill-treatment, including: full compliance of the rights to notify a third party of detention; guaranteed access to a lawyer from the outset of detention; and the introduction of a legal

provision on detainees' right of access to a doctor.

Allegations of ill-treatment were not solely confined to places of police detention. During its 2000 visit to several prisons the CPT encountered a number of allegations of ill-treatment which included blows with fists, various wooden objects and rubber batons or tubes. The CPT made several recommendations to counteract the practice.

### **Prison conditions**

The material conditions of imprisonment were also a source of considerable concern for the CPT and only limited progress had been made at improvement. Conditions in pre-trial detention centres as well as in establishments for the execution of sentences suffered from systemic over-population, a fact exacerbated by a general policy of remanding criminal suspects in custody, the infrequent use of non-custodial sanctions and delays in the administration of justice. Conditions for certain categories of prisoners, such as individuals sentenced to life imprisonment or subjected to special high security regimes, were particularly egregious and a major source of concern for the CPT in the course of its three visits. In 2000 the CPT found that the material conditions of the former displayed major deficiencies in terms of access to natural light, quality of artificial lighting and ventilation. Many of the prisoners were also found to be in a state of serious deprivation owing to restrictions on the receipt of parcels - an important source of personal hygiene items and foodstuffs. Moreover, prisoners sentenced to life were confined to their cells for 23-and-a-half hours a day and had no form of organized activities and virtually no human contact, including prison visits.

The material conditions of detention for the general prison population were also often found to be wanting. During its visit in 2000 the CPT found conditions at the SIZO No.15 detention centre in Simferopol to be particularly revealing of conditions often experienced by prisoners: "[The majority] of the prison population were subjected to appalling material conditions. Inmates were

crammed into severely overcrowded dormitories with virtually no natural light, often poor artificial lighting and inefficient ventilation ... Furthermore, the establishment was unable to provide each prisoner with a bed; consequently, in many dormitories, inmates had to take turns to sleep. While some dormitories had been freshly painted, many others were dirty and infested with cockroaches and other vermin." The CPT summed up, stating: "... the majority of prisoners were locked up for almost the whole of the day in severely overcrowded and insalubrious cells, without being offered any activities worthy of the name. Under such conditions, to be incarcerated in Simferopol SIZO No.15 could only be a stultifying experience." During the period 24 November - 6 December 2002 the CPT undertook a fourth fact-finding mission to Ukraine, visiting a number of prisons and places of police detention.

#### **Violence against women and children**

In June the United Nations (UN) Committee on the Elimination of Discrimination against Women considered Ukraine's second periodic report on the steps the authorities had taken to implement the UN Convention on the Elimination of All Forms of Discrimination against Women. Among the concerns of the Committee was the prevalence of violence against women and girls, including domestic violence. It urged Ukraine to place a high priority on comprehensive measures to address the issue of violence against women in the family and in society, including: the prosecution and punishment of perpetrators of violence with the required seriousness and speed; the availability of immediate means of redress and protection for the women victims of violence; the sensitization of public officials to all forms of violence against woman; and awareness-raising measures to make violence socially and morally unacceptable.

The issue of violence in the home was also one of the concerns of the UN Committee on the Rights of the Child during its consideration of Ukraine's second periodic report in September. The Committee recommended that Ukraine conduct a study to assess the nature and extent of ill-treatment, abuse and

neglect of children in the home and design policies and programs to address it as well as establish effective procedures and mechanisms to receive, monitor and investigate such complaints and prosecute offenders.

Violence against children outside the home also featured among the Committee's concerns, including "... continuing allegations of children, in particular Roma children, being ill-treated and tortured by law enforcement officials and that these allegations are not effectively investigated by an independent body". The Committee made various recommendations to put an end to their occurrence.

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## **UNITED KINGDOM**

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#### ***The UK's response to 11 September 2001***

Serious human rights violations continued to take place as a consequence of the UK authorities' response to the 11 September 2001 attacks in the United States of America (USA). In the reporting period, additional arrests were carried out under the Anti-terrorism, Crime and Security Act 2001 (ATCSA) which allows for indefinite detention -- on the basis of secret evidence and without charge or trial -- of foreign nationals who cannot be deported or removed from the UK. By the end of the year, 11 foreign nationals were interned under the ATCSA. Many of those detained under "anti-terrorism" legislation or on the basis of extradition warrants purportedly based on allegations of "terrorist" activities were held in inhuman or degrading conditions in high security prisons in the UK. By the end of the year, despite hundreds of arrests carried out under "anti-terrorist" legislation since 11 September 2001, there had been only three convictions arising from proscription offences, none of which related to the so-called *al-Qa'ida* network. In December, on the eve of the first anniversary in detention of those initially arrested ATCSA, AI renewed its call on the UK authorities to immediately release all persons detained under the ATCSA unless they were charged with a recognizably criminal offence and tried

by an independent and impartial court in proceedings which meet international standards of fairness.

In July, the Special Immigration Appeals Commission (SIAC) -- the tribunal empowered under the ATCSA to grant bail to ATCSA detainees, review the lawfulness of detention under the ATCSA, hear appeals against such detention and challenges to the ATCSA's lawfulness -- issued its judgment in the case brought by eleven men, all non-UK nationals who had challenged its lawfulness on the grounds that it violated their human rights. The SIAC ruled, *inter alia*, that exclusive targeting under the ATCSA of non-UK nationals was "discriminatory and so unlawful under Article 14 [of the European Convention for the Protection of Human Rights and Fundamental Freedoms]". Consequently, the SIAC held that the ATCSA, "which is the measure derogating from obligations under the Convention, to the extent that it permits only the detention of foreign suspected international terrorists is not compatible with the Convention". However, in October, following an appeal by the Secretary of State for the Home Department, the Court of Appeal overturned the SIAC judgment.

In July, Mahmoud Abu Rideh, a Palestinian refugee and torture victim interned at Belmarsh high security prison, London, since December 2001, was transferred to Broadmoor Psychiatric Hospital, a high security mental hospital. The Secretary of State for the Home Department ordered Mahmoud Abu Rideh's transfer to Broadmoor despite the expert medical evidence presented to the SIAC at a bail hearing in June, and against the advice of the medical authorities at Broadmoor Psychiatric Hospital -- and contrary to the wishes of Mahmoud Abu Rideh's family and legal representatives. AI called for Mahmoud Abu Rideh to be transferred to a low-level secure mental hospital near his family in London, because only such treatment could alleviate his deeply disturbed psychological state.

In November, the Court of Appeal, the second highest court in England and Wales, referred to Feroz Abbasi's detention in Guantánamo

Bay as "in apparent contravention of fundamental principles recognized by both jurisdictions [US and UK] and by international law", remarking that he had been left in a "legal black hole" and that his detention was "objectionable". The Court of Appeal ruling came as a result of a judicial review -- initiated by the mother of Feroz Abbasi -- of a March 2002 decision of the High Court that had stated that UK courts had no jurisdiction to rule on her claim that the UK authorities had not been doing enough to ensure respect for the rights of UK nationals detained at Guantánamo Bay. Feroz Abbasi from Croydon, London, is one of eight confirmed UK nationals, including Asif Iqbal from West Bromwich, England, and Shafiq Rasul from Tipton, England, who remained in United States (US) military custody at the US naval base at Guantánamo Bay, Cuba, without charge or trial or access to the courts, lawyers or relatives. Following the Court of Appeal ruling, AI called on the UK to urge the US authorities to repatriate the eight UK nationals immediately unless they were promptly charged by the US authorities and brought to trial before an independent court in proceedings respectful of their rights to a fair trial and that excluded the possibility that the death penalty may be imposed. The UK authorities persisted in their failure to make adequate representations to their US counterparts urging them to uphold the human rights of the UK nationals in US custody at Guantánamo Bay. In addition to such failure, UK officials, including from MI5 (i.e. the UK Security Services), had taken advantage of the circumstances of their nationals' detention in US custody by "visiting" them at least on two occasions and questioning them in relation to issues relevant to the UK's national security despite the limbo of their legal status. In this connection, AI noted with concern that anyone arrested in the UK and questioned in connection with *al-Qa'ida* activities would have the right to legal assistance, including having a lawyer present during questioning.

#### **International scrutiny**

In October the Committee on the Rights of the Child issued its Concluding Observations following its consideration of the UK's second

periodic report under the UN Convention on the Rights of the Child. Prior to the Committee's consideration of the UK's report, AI had submitted its concerns about the UK's implementation of the Convention, including in particular with respect to the right to life and not to be subjected to torture or other ill-treatment of children and young people in some young offenders institutions in England and Wales, as well as the organization's concerns about the UK's continued policy of recruiting under-18s into its armed forces and deploying them in hostilities.

The Committee regretted the fact that many of its concerns and recommendations following its consideration in 1995 of the UK's initial report had not been sufficiently addressed.

With respect to under-18s in the armed forces, the Committee expressed concern "that about one third of the annual intake of recruits into the armed forces are below the age of 18 years, that the armed services target young people and that those recruited are required to serve for a minimum period of 4 years raising to six years in the case of very young recruits", and at "the widespread allegations that young recruits have been the victims of bullying", and that "children below the age of 18 years take direct part in hostilities overseas".

The Committee recommended, *inter alia*, that the UK: "incorporate into domestic law the rights, principles and provisions of the Convention to ensure compliance of all legislation with the Convention"; "take all necessary measures to end the detention of children in the same facilities as adults"; "abolish the use of plastic baton rounds [i.e. plastic bullets] as a means of riot control"; "review the emergency and other legislation, including in relation to the system of administration of juvenile justice, at present in operation in Northern Ireland"; "review the use of restraint and solitary confinement in custody, education, health and welfare institutions"; "ensure that refugee and asylum-seeker children have access to basic services, such as education and health and that there is no discrimination in benefit entitlements for asylum seeking families

which could affect children"; "ratify the Optional Protocol on the Involvement of Children in Armed Conflict and take all necessary measures to prevent the deployment of persons below the age of 18 years in the circumstances referred to in the declaration made upon signature by the State party keeping in mind the object and purpose of the Optional Protocol"; and "establish a system of juvenile justice that fully integrates into its legislation, policies and practice the provisions and principles of the Convention", including by raising the minimum age for criminal responsibility, ensuring "that no child can be tried as an adult irrespective of the circumstances or the gravity of his/her offence", ensuring "that detention of children is used as a measure of last resort and for the shortest appropriate period of time and that children are separated from adults in detention".

**Prisons** (Update to AI Index: EUR 01/007/2002)

In July, the report of the first ever public inquiry into a death in custody, that of Paul Wright, criticized prison authorities and the Home Office for inadequate and substandard medical care provided to him and for withholding information from the family during previous investigations. Paul Wright died in prison in 1996 following an asthma attack.

In September a jury returned a verdict of "suicide to which neglect contributed" at the inquest into the death of Kevin Jacobs, an exceptionally vulnerable 16-year-old, who died in Feltham Young Offenders Institution, London, in September 2001. The jury found that his death had been caused by "gross deficiencies within the system".

The Chief Inspector of Prisons for Scotland highlighted, in September, an increase in prisoner-on-prisoner violence, overcrowding and wholly inadequate toilet facilities. Overcrowding was also highlighted in December in the report of the Chief Inspector of Prisons for England and Wales, as well as a 29 per cent increase in suicides, and a deterioration in prison conditions with

prisoners spending lengthy periods locked in their cells.

### **Northern Ireland**

In October the peace process broke down when the UK government dissolved the Northern Ireland Assembly and reinstated direct rule from London.

Sectarian violence reached very high levels in east Belfast in the context of street disturbances over many months. There were concerns about allegations that the policing of those and other disturbances was inadequate and not even-handed and that police officers and soldiers used excessive force. Several people, including Theresa Quinn, were injured in the context of the above-mentioned disturbances by being struck by plastic bullets fired by the PSNI and the British Army.

In October the Ministry of Defence agreed to publish the army's rules of engagement on the use of plastic bullets. These sanctioned firing at perceived ringleaders, even if they were not involved in any illegal activity.

**Impunity: legacy of the past** (Updates to AI Index: EUR 01/007/2002)

#### **Billy Wright**

At the end of the year the outcome of a judicial review of the police's failure to disclose their investigation files into the death of Billy Wright was awaited. Billy Wright, a leading loyalist paramilitary, was shot dead in the Maze Prison in December 1997 by three Irish National Liberation Army Prisoners.

#### **Peter McBride**

The mother of Peter McBride launched proceedings in the Court of Appeal in Belfast to overturn an April ruling by the High Court that the British Army Board's decision allowing Mark Wright and James Fisher, the two Scots Guards convicted of the 1992 murder of Peter McBride, to continue to serve, should stand.

### ***Human rights abuses by non-state actors***

By the end of the year, there had been at least 12 killings by members of armed groups, of which eight had been attributed to Loyalists and four to Republican dissidents. Throughout the year, according to police figures, there were 117 shootings and 89 assaults by Loyalist paramilitaries, and 56 shootings and 50 assaults by Republican paramilitaries.

During the reporting period, violence continued unabated both in sectarian attacks, including shootings and petrol bomb attacks on many people's homes, and in "punishment" shootings and assaults by members of armed groups of people from their own communities. In September, Stephen Warnock, a Loyalist, was shot dead in his car in front of his three-year-old daughter who was in the back seat, allegedly in connection with feuding among rival Loyalist groups. The killing was followed by other shootings within the Loyalist community.

### **England**

**Akhmed Zakayev** (see also entries for Denmark and Russian Federation)

AI continued to urge the UK authorities not to extradite Akhmed Zakayev to the Russian Federation given the risk that he may be tortured or otherwise ill-treated upon return. Moreover, in light of the inadequacies of the Russian criminal justice system, AI expressed concern that Akhmed Zakayev may not be given a fair trial in the Russian Federation.

Akhmed Zakayev, an envoy of the Chechen President, was arrested on his arrival to the UK from Copenhagen on 5 December and was later released on bail. AI continued to monitor the extradition proceedings brought against Akhmed Zakayev which were ongoing at year's end.

#### ***David Shayler***

In November, David Shayler, a former intelligence agent who had alleged that the security and intelligence agencies were guilty

UK army deaths in disputed circumstances: Geoff Gray (left), Cheryl James and James Collinson

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of misconduct, was imprisoned for breaching the Official Secrets Act 1989 (OSA). The OSA does not afford a public interest defence. He was released in December after being electronically tagged.

#### **Samar Alami and Jawad Botmeh**

In November the House of Lords, the highest court in the UK, refused to grant Samar Alami and Jawad Botmeh leave to appeal against their conviction and sentencing. They had been sentenced in 1996 to 20 years' imprisonment after being convicted of conspiracy to cause explosions in 1994 at the Israeli Embassy and Balfour House in London. AI believes that their convictions were unsafe and that they were denied the right to a fair trial.

#### **Child Soldiers**

The UK persisted in its failure to ratify the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict. AI was informed that from September the army would no longer deploy anyone below the age of 18 years on "hostile" operations outside the UK. The Naval Service and the Royal Air Force had not made a similar policy change by the end of the year. However, procedures were said to have been developed for all three services which would, as a rule, remove or replace anyone under 18 during preparation for operations where there was deemed to be a

"greater than low probability of them having to take part in, or be put at risk by, hostilities".

#### **Army deaths in disputed circumstances** (Update to AI Index: EUR 01/007/2002)

By the end of the year, a police investigation into the deaths in disputed circumstances of 17-year-old James Collinson, 17-year-old Geoff Gray, 18-year-old Cheryl James and that of 20-year-old Sean Benton at the Royal Logistics Corps headquarters in Deepcut, Surrey, England, was still ongoing. The army had classified all four deaths as "intentional and self inflicted". AI supported the families of the four soldiers in their call on the UK authorities to hold a wide-ranging public inquiry into all non-combatant deaths that had occurred in the Army since 1990.

#### **Asylum-seekers and refugees**

Under the Nationality, Immigration and Asylum Act which became law in November, the provision from previous legislation of two automatic bail hearings for detained asylum-seekers, which had never been implemented, was repealed. AI was concerned that the Act fails to address deficiencies in the asylum determination process and introduces a list of "safe countries" from which claims would be presumed to be unfounded denying applicants an effective right of appeal against refusal. The Act also provides for the withdrawal of state support from any applicant who fails to

claim asylum "as soon as reasonably practicable" after arriving in the UK, apart from families with children, those with special needs or those whose home country situation had changed significantly since they came to the UK. The UK authorities acknowledged that around two-thirds of all asylum applications were made "in-country" and not at the port of entry.

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## UZBEKISTAN

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### *Human rights defenders*

Human rights defenders continued to face harassment, intimidation, forcible psychiatric confinement and imprisonment.

Two women, Larisa Vdovina and human rights defender Elena Urlaeva, were forcibly confined in a psychiatric hospital at the end of August. The two were detained on 27 August during a demonstration protesting alleged government human rights abuses outside the Ministry of Justice building. The next day they were transferred to Tashkent City Psychiatric Hospital. Elena Urlaeva was released on 30 December. However, a court case to consider her mental state remained pending. AI believes that the two were targeted because of their human rights activities.

Zhaxhangir Shosalimov, a member of the registered Independent Human Rights Organization of Uzbekistan (NOPCHU) and a market-trader, was kept in administrative detention for 15 days after he had been detained at "Charsu" market in Tashkent on 4 September. He was accused of having incited market-traders to stage a protest against tax increases that affected their business; that day some 50 to 60 traders gathered in the market for a protest which reportedly turned violent. According to NOPCHU, Zhaxhangir Shosalimov did not take part in the protest. There were strong indications that Zhaxhangir Shosalimov was punished for peacefully exercising his right to freedom of expression and that he was targeted for his activities as a human rights defender. Following his arrest, he was kept incommunicado for two days. NOPCHU reported that police at

Shaykhantaursky district police in Tashkent threatened him with ill-treatment. One police officer reportedly threatened him to "slip a plastic bag over his head", a torture method frequently used by police in Uzbekistan, to restrict breathing.

On 17 September Yunusabad district court in Tashkent sentenced Yuldash Rasulov, who worked with the unregistered Human Rights Society of Uzbekistan (OPCHU), to seven years' imprisonment in a strict regime colony, after convicting him of "religious extremism" and membership of the banned Islamist party *Hizb-ut-Tahrir*. He had been arrested on 24 May in his home town of Karshi in Kashkadarya region and transferred to a solitary confinement cell in the basement of the Ministry of Internal Affairs in Tashkent the next day. The investigator had allegedly typed a 'confession' and forced him to sign it. There were strong indications that Yuldash Rasulov was imprisoned to punish him for his work with OPCHU, which included gathering information on arrests and the imprisonment of members and alleged members of *Hizb-ut-Tahrir* and of independent Islamist congregations in Karshi. (For background information on this case, see EUR 01/007/2002).

Dzhura Muradov (aged 37), chairman of Nishansky district branch of OPCHU in Kashkadarya region in southern Uzbekistan, as well as two members of the branch, Musulmonkul Khamraev and Norpulat Radzhapov (both aged 26), were sentenced to prison terms ranging from five to six years' by Nishansky district court on 16 September. The three were convicted on criminal charges, including "hooliganism" and "robbery". The defendants were reportedly detained one day before they were going to attend a meeting of the banned secular opposition movement *Birlik*, and convicted the following day. The trial reportedly failed to meet international fair trial standards. The lawyers of the men were not present at the court hearing. According to OPCHU, the three men were punished for their human rights activities and their criticism of local officials, whom they accused of embezzlement and corruption.



Tursinbay Utamuratov, chair of OPCHU's branch in Karakalpakstan Autonomous Republic, was arrested on 4 September, accused of tax fraud. On 30 November he was sentenced to nine years' imprisonment by Khodzhayly district court in Karakalpakstan Autonomous Republic. According to OPCHU, Tursinbay Utamuratov was targeted to punish him for his human rights activities and his public criticism of local authorities.

### **Religious minorities**

Religious minority groups continued to be targets of harassment and persecution by the authorities. Marat Mudarisov, for example, a 26-year-old Jehovah's Witness, was summoned to the National Security Service of Akmal Ikramovsky district of Tashkent in July. The officers confiscated religious literature he had on him, which they deemed illegal and inflaming religious and ethnic hatred. According to Marat Mudarisov's lawyer, the literature found on his client was sent to the Jehovah's Witnesses organization from abroad using only official channels. When Marat Mudarisov refused to write a 'confession' and an undertaking that he would not hold religious meetings in the future, a police officer reportedly beat him and put a gas mask over his head, squeezing tight the air supply. When he continued to refuse to 'confess', the policeman forced his mother to write a report about her son's religious activities, which she said was dictated to her. The indictment issued in September stated that "the dissemination of all types of printed material... that propagates the faith of the organization 'Jehovah's Witnesses' as the only true religion among other religious faiths is illegal". Marat Mudarisov was convicted under Article 156 part 1 of the Criminal Code of Uzbekistan - "inciting national, racial or religious hatred" - to a suspended sentence of three years' imprisonment by Akmal Ikramovsky district court on 29 November. An appeal lodged by Marat Mudarisov's lawyer following the trial was still pending at the end of the period under review. AI believed that the charges were brought solely to punish Marat Mudarisov for peacefully exercising his rights to freedom of conscience and expression.

### **Political prisoners**

Trials of political prisoners continued and supporters and alleged supporters of *Hizb-ut-Tahrir* and members of independent Islamist congregations and their families continued to face imprisonment, detention and intimidation.

On 28 November Tashkent city court handed down a death sentence on Iskandar Khudoberganov and sentenced Bekzod Kasymbekov, Nosirkhon Khakimov and three further co-defendants to prison terms of between six and 16 years. The men had been put on trial on 26 August on anti-state charges, including "attempting to overthrow the constitutional order" and "setting up an illegal group". Iskandar Khudoberganov was additionally charged with "terrorism" and "premeditated, aggravated murder", and accused of having trained in military camps in Chechnya and Tajikistan with the aim of overthrowing the Uzbek government by violent means. The trial was believed to be grossly unfair. Iskandar Khudoberganov's lawyers, for example, were denied access to him for at least two months. There were strong indications that the convictions were largely based on evidence extracted under torture. Although Iskandar Khudoberganov, Bekzod Kasymbekov and Nosirkhon Khakimov stated in court that they were tortured, no investigation into the allegations was opened.

In a letter passed on to his family at the end of September Iskandar Khudoberganov wrote: *"In the basement of the Interior Ministry ... they tied my hands from behind, hit me with truncheons and chairs and kicked me on the kidneys. They hit my head against the wall until it was bleeding. They didn't let me sleep. For weeks they didn't give me food to force me to confess. They said: 'think of your relatives, your mother, your wife, your sister; think of their honour. We'll bring them here and rape them in front of your eyes.' Only then I gave in and signed what they wanted me to sign."*

The families of some of the defendants reported they had suffered torture, threats of torture and rape, and harassment to force them to incriminate their relatives. The court hearing had been suspended at the end of

September following a request by the procurator that a psychiatric examination of Iskandar Khudoberganov and Bekzod Kasymbekov be conducted. The examination was not aimed at investigating the torture allegations, but to establish whether the defendants were of sound mind at the time of the alleged crime. Iskandar Khudoberganov spent three weeks in Tashkent Psychiatric Hospital, and Bekzod Kasymbekov was kept for around two weeks in the same hospital. One of the doctors at the hospital allegedly told Iskandar Khudoberganov's family that he was very weak and needed medical treatment; he was psychologically unstable and showed signs of developing schizophrenia. Another member of staff reportedly told the family that the National Security Service (SNB) would draw up the examination report and the doctors would have no say in the matter. At the court hearing on 19 November it was announced that Iskandar Khudoberganov and Bekzod Kasymbekov were of sound mind, that they were not psychologically unstable and were in good health.

#### **United Nations (UN) Special Rapporteur on torture**

The UN Special Rapporteur on torture who visited Uzbekistan from 24 November to 6 December inspected a number of facilities of forcible confinement in different parts of the country, including Tashkent Psychiatric Hospital, detention facilities at the Ministry of the Interior in Tashkent, the prison in the town of Andijan, and detention facilities of the SNB in the Ferghana valley. However, the Rapporteur was denied access to the detention facility of the SNB in Tashkent and expressed concern that he was prevented from visiting Jaslyk prison colony in Karakalpakstan Autonomous Republic "in a satisfactory and comprehensive manner". At the end of his visit he declared that torture was "systematic" in Uzbekistan and that "many confessions obtained through torture and other illegal means were then used as evidence in trials, [including] in trials that are leading to the death penalty or to very severe punishment".

#### **Torture and deaths in custody**

There were continuing reports of torture and ill-treatment in pre-trial detention and places of imprisonment as well as allegations that many such reports were not promptly and impartially investigated. At least three men died in custody in suspicious circumstances in the period under review. For example, the bodies of Muzafar Avazov, a 35-year-old father of four, and Khusniddin Alimov, aged 34, were brought from Jaslyk prison in the Northern Karakalpakstan region to their families in Tashkent on 8 August. Eyewitnesses interviewed by Human Rights Watch said that Muzafar Avazov's corpse showed signs of burns on the legs, buttocks, lower back and arms. Reportedly, there was a large wound on the back of the head, bruises on the forehead, and the hands had no fingernails. The authorities reportedly restricted viewing of Khusniddin Alimov's body and warned his relatives not to talk to journalists.

#### **Death penalty**

AI learnt of at least 22 death sentences and 11 executions in 2002. However, the organization believes that the real figures are much higher. Despite Uzbekistan's commitment under Article 17.8 of the 1990 Copenhagen Document which obliges participating states of the Organization for Security and Co-operation in Europe to "make available to the public information regarding the use of the death penalty"<sup>16</sup>, the authorities continued to treat information about the practice of the death penalty as a state secret and again failed to publish comprehensive statistics on this issue. AI learnt of eight cases where death row prisoners were granted clemency or the death sentence was commuted to long-term imprisonment in 2002<sup>17</sup>. Refat Tulyaganov

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16 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, 29 June 1990, Paragraphs 17.7 and 17.8.

17 The death sentences of the following men were known to have been commuted in 2002: Vazgen Arutyunyan, Armen Garushyants, Nikolay Ganiyev, Aleksander Kornetov, Valery Agabekov, Andrey Annenkov, Sherzod Khashimov and one other

and Maksim Strakhov were executed in January and May respectively despite interventions by the UN Human Rights Committee urging the Uzbek authorities to stay the executions.

#### Death sentences

Among the death sentences that came to light was that passed on Azamat Uteev, a 21-year-old man who was sentenced to death by the Supreme Court of the Autonomous Republic of Karakalpakstan on murder charges on 28 June; he was accused of killing a 15-year old girl. On 6 August the Appeals Board of the Supreme Court of the Autonomous Republic of Karakalpakstan turned down an appeal against his death sentence. Tamara Chikunova, chair of the human rights organization Mothers Against the Death Penalty and Torture in Uzbekistan, told AI: "[Azamat Uteev] was tortured by officers of the police and the procuracy in the town of Nukus. They put a gas mask on his face, but squeezed the air supply in order to stem the flow of oxygen. They also took him to the salt lakes in the desert area near Nukus where they forced his head under water several times so that he swallowed a lot of the salty water. He said it felt as if the salt was burning him from inside. In order to escape further torture he told them what they wanted to hear." Azamat Uteev reportedly retracted his 'confession' at the beginning of the court hearing, stating that he was tortured to force him to 'confess'. However, the court reportedly ignored his statement and did not open an investigation into the allegations.

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man (name not known) whose sentence was reportedly commuted on 23 April by Ferghana Regional Court.

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## FEDERAL REPUBLIC OF YUGOSLAVIA (FRY)<sup>18</sup> (including Kosovo)

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#### Background

In March, under pressure from the European Union, the Belgrade agreement was signed. This envisaged the two constituent republics of FRY - Serbia and Montenegro - remaining in a loose union with an option for either party to secede after three years. In September the Parliamentary Assembly of the Council of Europe voted to allow the FRY to join the Council of Europe, once a new constitution was finalized. It was agreed in December but not formally accepted by the end of 2002. Pending the new constitutional arrangements, Montenegro did not recognize new federal laws. Presidential elections in Serbia in October and December, and in Montenegro in December, failed to produce results because the turnouts were below the minimum required. General elections in Montenegro in October gave an outright majority to President Milo Djukanović's pro-independence party, and in November he resigned as President of Montenegro to become its Prime Minister.

Municipal elections in July in the Preševo valley in southern Serbia, scene of clashes in 2001 between Serb security forces and an armed ethnic Albanian group, resulted in the election of ethnic Albanian majorities to the municipal councils in both Preševo and Bujanovac.

The UN Mission in Kosovo (UNMIK) continued to administer Kosovo, with the Special Representative of the UN Secretary-General holding governmental powers. Municipal elections in October were won by the Democratic League of Kosovo (LDK) led by Ibrahim Rugova, President of the Provisional Institution of Self-Government. In the

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<sup>18</sup> In November 2002, an agreement was reached on a new Constitutional Charter which changed the name of the country to 'Serbia and Montenegro'. The name came into force on 4 February 2003 after acceptance by the respective parliaments.

ethnically divided town of Mitrovica, where there had been riots in April with Serbs attacking UNMIK officials, a Serb boycott resulted in an Albanian administration. Measures were taken to remove the Serbian parallel administrative structures, previously supported by Serbia, in the Serb-dominated north of the town.

### **Serbia and Montenegro**

There continued to be no domestic law defining torture as a crime. The police force remained almost totally unreconstructed and in many areas used ill-treatment as a routine part of police work. Some progress was made to reform the administration of justice but the judiciary remained largely unchanged.

The courts continued to award compensation in 66 cases alleging violations by the Serbian police against members of the opposition group *Otpor* (Resistance) in 2000, and in cases involving the forcible conscription in 1995 of 708 Serb refugees from Croatia and Bosnia-Herzegovina, 65 of whom were killed after being dispatched to war-zones.

In September AI released a report, *Federal Republic of Yugoslavia: Amnesty International's concerns in the Federal Republic of Yugoslavia* (AI Index: EUR 70/010/2002) which detailed the organization's concerns in Serbia and Montenegro.

#### ***War crimes***

The trial of former President Slobodan Milošević, accused of responsibility for war crimes committed in Croatia, Bosnia-Herzegovina and Kosovo, continued before the International Criminal Tribunal for the Former Yugoslavia (Tribunal). The FRY authorities continued to impose severe restrictions on the Tribunal's access to documents and witnesses, and displayed a virtual complete lack of will to arrest indicted suspects. In December, following complaints about FRY's intransigence by Tribunal President Claude Jorda, the UN Security Council called on FRY to comply with the requests by the Tribunal for the arrest,

detention and transfer of those indicted, as well as by making witnesses available and assisting investigations.

There was some limited progress in domestic war crimes trials. In September in Montenegro, Nebojša Ranisavljević was sentenced to 15 years' imprisonment for taking part in the abduction and subsequent murder of 19 Muslims and one ethnic Croat from the Belgrade-Bar train at Štrpci in Bosnia-Herzegovina in 1993. He was the only person to be arrested and charged despite evidence presented in the four-year-long trial of the involvement of a paramilitary group in the abduction and murders. Documents were produced which clearly demonstrated the knowledge of former political and military authorities about the planning of such abductions.

In October, Djordje Sefić was arrested for the abduction and murder in October 1992 of 17 Muslims, 16 of whom were taken from a bus in Bosnia-Herzegovina. Eight other people were indicted in the case including Dragutin Dragičević, who had been arrested in June 2002.

In July in Prokuplje, former soldier Ivan Nikolić was sentenced to eight years' imprisonment for killing two ethnic Albanian civilians. This was the first domestic war crime trial outside Kosovo of a Serb accused in connection with violations committed in the Kosovo conflict. In October in Niš, two army officers and two reservists were convicted of war crimes and sentenced to between three and seven years' imprisonment for killing two ethnic Albanians.

Widespread public opposition to such trials was shown by large demonstrations outside the court in Prokuplje. The presiding judge was repeatedly threatened. In November another trial in Prokuplje of two police reservists charged with murdering 19 Albanians was transferred, reportedly because of threats against the prosecutor.

#### ***Exhumations***

There were further exhumations from mass graves of the bodies of ethnic Albanians

transported from Kosovo to Serbia during the 1999 NATO campaign. The exhumations were monitored and aided by the International Commission on Missing Persons. However, exact details were unavailable following an order by the investigating judge banning the release of information under threat of criminal charges, although no suspects were indicted. Other exhumations of bodies of Croats and Bosnians from the wars of 1991-5, which had begun in March, continued and by the end of the year 223 bodies had been exhumed and positive identification awaited DNA analyses. Again no suspects were indicted.

### **Roma**

Widespread discrimination against Roma continued. Some 30,000 to 40,000 Roma lived in unhygienic settlements with few or no services in Belgrade alone. Roma continued to suffer disproportionately from unemployment. There were frequent attacks on Roma by racist groups with little apparent protection afforded by the authorities. Roma were also regularly reported as victims of ill-treatment by the police.

The majority of Roma who fled Kosovo after July 1999 continued to face severe problems, exacerbated by difficulties in obtaining registration. Some officials reportedly refused to issue identity cards to people who had the necessary documentation. Roma without adequate documentation or evidence of citizenship were routinely denied access to health and social welfare, and children were discriminated against in the provision of education. In September it was reported that almost half of the estimated 20,000 Roma in Montenegro had no personal documentation at all. In September, October and November there were a number of forced evictions of Roma, predominantly Kosovo Roma, from unofficial sites in Belgrade with minimal notice and no provision for alternative housing. In October human rights groups protested against plans to introduce separate classes in schools in Subotica for Kosovo Roma children. In November the UN Committee Against Torture (CAT) ruled in a case brought by 65 Roma who had been the victims of an organized mob attack against Roma in Danilovgrad, Montenegro, in 1995. The CAT

ruled that the police, although they were aware of the danger and were present at the scene of the events, did not take any steps to protect the complainants, thus implying their acquiescence with the attacks that ensued. The Committee reiterated its concerns about "inaction by police and law-enforcement officials who fail to provide adequate protection against racially motivated attacks when such groups have been threatened". The Committee also ruled that the authorities had failed to adequately take significant measures to find or prosecute the perpetrators or compensate the victims for destruction of their houses and property, and ordered the FRY authorities to do so and report back to the CAT on the steps taken within 90 days.

A rare exception to this pattern of institutionalized racism occurred in July when the Municipal Court in Šabac ruled in a private case brought after the Šabac Municipal Prosecutor's Office had dismissed the case as unfounded. The court ordered the local Krsmanovac sports and recreation centre to publicly apologize to three Roma, Merihana Rustenov, Jordan Vasić and Zoran Vasić, for not allowing them access to the swimming pool in July 2000. The judge also ordered the centre to stop its discriminatory practices.

### **Police ill-treatment and impunity**

Ill-treatment by law-enforcement officers continued to be widespread allegedly resulting in at least one case in a death in custody. Few police officers were convicted of ill-treatment, and the sentences imposed were generally below six months and often suspended (a custodial sentence of six months or more leads to dismissal from the police force). On 9 October two police officers were sentenced to eight months' imprisonment, suspended for one year, for beating Dragan Šijački in July 2000 so badly that his jaw was broken. In November the Novi Sad Municipal Court, in the context of a civil proceeding, awarded damages of 240,000 dinars from the Serbian authorities to Stevan Dimić, a Rom, for his unlawful arrest and torture by police in 1998. However, no disciplinary or criminal proceedings were taken against the officers allegedly involved.

On 18 August, 23-year-old Nenad Tasić was arrested and taken to the police station in Vranje. There he was allegedly beaten by two officers with truncheons to try and make him disclose information. He was taken unconscious to Vranje hospital, then rushed to Niš for an emergency brain operation. He suffered severe brain damage and remained in a coma until 2 September. On 20 August 2002 the district prosecutor in Vranje opened a criminal investigation against the two police officers.

On 8 November, two Roma brothers, M.Š. aged 13 and A.Š. aged 11, were taken into custody in Nikšić in Montenegro on suspicion of theft despite being below the legal age (14) of criminal responsibility. Both were allegedly beaten on the soles of their feet and on their bodies with truncheons by two policemen. M.Š. was also allegedly kicked in the head, and A.Š. threatened with a knife.

Milan Jezdović

© Private

On 5 December 24-year-old Milan Jezdović was allegedly tortured to death in Belgrade police station after being arrested with eight others on suspicion of drug dealing. All his co-arrestees reportedly stated that the police put sealed plastic bags sealed over their heads and that some of them were beaten and tortured with electric shocks. Some reported hearing Milan Jezdović screaming that he could not breathe due to the bag over his

head. An initial official autopsy found he had died of a heart attack, but a second doctor engaged by the family found burn marks on his head consistent with those made by electric shocks.

#### **Abuses by non-state actors**

There were a number of attacks in Serbia by non-state actors, predominately 'skinheads' and members of extreme right wing groups, on members of minorities and people seen as 'betraying' Serbian national interests. The authorities appeared unwilling to investigate and bring charges against the perpetrators in such incidents.

#### **Conscientious objectors**

The law did not provide for a genuine alternative civilian service and at least five people were tried and sentenced for conscientious objection. Most received suspended sentences and were freed after being held in custody for up to a few weeks prior to trial. However, they faced the probability of new call up resulting in imprisonment for repeated violation of the law. At least one, Jehovah's Witness Dušan Djorković, was imprisoned on 13 November after being sentenced to six months' imprisonment for conscientious objection.

#### **Newspaper editors prosecuted for libel**

There continued to be a number of cases of newspaper editors being sued for criminal libel by politicians and businessmen often associated with the era of former President Milošević. These trials almost invariably ended in fines or suspended sentences. However, on 18 November the High Court in Podgorica changed a suspended sentence previously imposed on the former editor of the Podgorica daily *Dan*, Vladislav Ašanin, to a one-month prison term. He had been sued for libel by a Belgrade businessman in connection with articles reprinted from the Zagreb weekly *Nacional* about organized crime and tobacco smuggling in the Balkans. The High Court had previously in April confirmed a sentence of three months' imprisonment imposed on Vladislav Ašanin in 2001 after the then President Milo Djukanović had filed libel

charges against the editor due to the same reprinted articles which alleged his complicity in the illegal trade. Vladislav Ašanin remained at liberty pending final decisions on these cases by the Supreme Court.

### **Trafficking in women and girls**

Women and girls continued to be trafficked in and through FRY for the purposes of prostitution. In December the Montenegrin Deputy Prosecutor, Zoran Piperović, and two others were arrested on charges of trafficking a 28-year-old Moldovan woman.

## **Kosovo (Kosova)**

### **War crimes and impunity**

Serbs previously convicted of war crimes or genocide by panels with a majority of ethnic Albanian judges continued to receive retrials. In some cases, lesser charges were preferred, sentences were reduced, or the defendant acquitted. UNMIK arrested and charged a number of former KLA members for crimes committed in 1998 and 1999, prompting widespread protests by ethnic Albanians. In December four leading former KLA members were sentenced to between three and 15 years' imprisonment for the unlawful detention and murder of four Albanians in June 1999. The first trial of a member of the international community - who enjoy immunity unless expressly waived - accused of a serious crime, took place. In November an Egyptian member of CIVPOL, the UN police, was sentenced to 13 years' imprisonment for the murder of his interpreter in January.

### **Minorities**

Attacks against minorities by racist groups continued. Although the frequency and gravity of abuses of human rights including murder, abduction and other attacks on the lives and property of members of minority communities declined, such attacks continued to occur on a routine basis. In November and December alone, there were attacks on returning Serb refugees, on Serb properties in several villages and on a number of Serb Orthodox churches.

In many areas, freedom of movement for members of minorities was dependent on protection by the NATO led international Kosovo Force (KFOR). In October some 600 Albanians threw stones and Molotov cocktails at a UNMIK convoy bringing 50 elderly Serbs from Osojane to Peć to collect their pensions. Minorities faced discrimination in access to employment, medical care and education. Few IDPs and refugees returned, although there was some increase on previous years.

### **'Disappearances' and abductions**

The international civilian police force (CIVPOL) Missing Person's Unit made limited progress in identifying the "disappeared" and abducted and there were some further exhumations of burial sites. However, few steps were taken to investigate the estimated 4,000 outstanding cases of "disappearance" and abduction, especially those of the estimated 1,200 Serbs, Roma and members of other minority groups abducted by the KLA or others after the entry of KFOR into Kosovo.

### **Trafficking in women and girls**

Women and girls continued to be trafficked into Kosovo for the purposes of prostitution, despite more rigorous measures to implement the applicable law. About 60 per cent of the victims reportedly came from Moldova.

### **KFOR detentions**

KFOR continued to arrest and illegally detain people. In July, three foreign Islamic humanitarian aid workers, Muhamed Zentagui, Redouane Guesmia and Ameer Sofiane, were arrested and detained for between 43 and 51 days without any judicial authorization. In September AI released a report, *Federal Republic of Yugoslavia: International officials flout international law* (AI Index EUR 70/008/2002) detailing its concerns at these and other similar KFOR arrests, and expressed these concerns to senior NATO officials during a visit in September to NATO headquarters in Brussels. In December the Ombudsman, Marek Novicki, reported on the illegality of such arrests.