

CONCERNS IN EUROPE

January - June 2000

FOREWORD

This bulletin contains information about Amnesty International's main concerns in Europe between January and June 2000. 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 Kazakstan, 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).

This bulletin contains an index on pages **116 and 117** about cases and incidents investigated by Amnesty International affecting women and children. They are not an exhaustive summary of the organization's concerns, but a reflection of the range of violations suffered by women, children and juveniles in Europe.

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 01/01/00

AI Index: EUR 01/02/99

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AN ANNIVERSARY CHALLENGE: AMNESTY INTERNATIONAL'S PERSPECTIVE ON THE HELSINKI FINAL ACT AT 25 AND THE EUROPEAN CONVENTION ON HUMAN RIGHTS AT 50

The year 2000 brings with it two very important anniversaries with regard to the protection and promotion of human rights in Europe - the 25th anniversary of the signing of the Helsinki Final Act in August 1975 and the 50th anniversary of the adoption of the European Convention on Human Rights in November 1950. These two landmark events in modern European history - the one eventually giving rise to the establishment of the Organization for Security and Co-operation in Europe (OSCE); the other providing the cornerstone for the Council of Europe human rights system, including the European Court of Human Rights - will be duly celebrated this year with a round of grand speeches and lavish banquets. European governments will congratulate one another on the scope and the durability of these enterprises begun a quarter and half a century ago in Helsinki and in Rome, and on the clear articulation of "European values" which these institutions have come to represent.

While acknowledging the extraordinary achievements in human rights protection which have followed on from the adoption of the European Convention on Human Rights and the Helsinki Final Act, Amnesty International is also choosing to mark this anniversary with a sobering reminder of how much work remains to be done to ensure that the individual guarantees enshrined in these and subsequent European instruments and standards are genuinely available to **all** men, women and children who inhabit the European space. The succeeding pages of this document should be read as a challenge to those at the banquet table and the gilded lectern for whom Europe is a comfortable, secure place - a place where words of commemoration come more easily than evidence of sustained political will. The information which follows is a powerful reminder that full implementation of existing European human rights standards is very much an unfinished task.

Unfortunately, this and preceding numbers of **Concerns in Europe** (Amnesty International's bulletin containing information on the organization's human rights concerns in Europe - published twice a year) provide ample evidence of the continuing incidence of torture and ill-treatment, excessive use of lethal force, lack of fair trial, denial of the right to freedom of thought, conscience and religion, and impunity for a range of human rights violations throughout the region. Such evidence suggests that these failings remain as entrenched a feature of the European political landscape as the aspirations contained in the documents whose origins we are celebrating this year. Better then to view this year's anniversaries as the close of the first phase of a project than as the culmination of decades of persistent application of the highest principles over and above the demands of political expediency and sheer indifference.

Just weeks before the 50th anniversary of the adoption of the European Convention on Human Rights on 4 November 2000, Amnesty International will be launching its third international Campaign Against Torture. Whereas Amnesty International's two earlier campaigns had done much to raise global consciousness about the torture and ill-treatment of political prisoners and the need for effective international standards and mechanisms to prevent such crimes, many of the cases highlighted in the campaign to be launched on 18 October 2000 will be representative of the marginalized or especially vulnerable populations who are frequently the victims of torture and ill-treatment in the post-Cold War era. These include members of ethnic or racial minorities; immigrants; refugees and asylum-seekers; children; as well as criminal suspects - all of whom continue to be excluded from the full benefit of those protection systems which have been so carefully constructed over the past decades.

This edition of **Concerns in Europe** contains detailed information about a number of such cases illustrating the above disturbing trends - including allegations of police ill-treatment of a 13-year old boy of Turkish origin in Austria; allegations of the ill-treatment of a Nigerian asylum-seeker during forcible deportation from Belgium; the harassment and ill-treatment of members of opposition movements - many of them student activists - by police in the Federal Republic of Yugoslavia; allegations of the torture and ill-treatment of dozens of ethnic Albanians by police in the Former Yugoslav Republic of Macedonia; the alleged ill-treatment - including threats and racial abuse - of a French woman of Zairean origin by police in France; concerns about the conditions of detention for asylum-seekers in Germany following the suicide of an Algerian woman in the transit area holding facility at Frankfurt am Main airport; allegations of the ill-treatment of Afghan asylum-seekers by guards at a detention centre in Hungary; concerns about the toleration by military commanders of the cruel, inhuman or degrading treatment of younger conscripts in the Polish Army; the death in custody of a Roma man in Portugal after alleged police ill-treatment; reports of the rape and torture of several teenage boys and girls held by Russian Federation forces in "filtration camps" in Chechnya; allegations of the assault of a Cuban woman, four months pregnant, by police officers in Spain; allegations of police ill-treatment and racist abuse of an 17-year-old Angolan secondary school student living in Switzerland; and the reported beating by police of a criminal suspect in Ukraine in order to obtain a confession.

The need for exceptional vigilance with regard to children in places of detention was underlined in the Ninth General Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), published in August 1999. In publishing a set of detailed guidelines for the prevention of ill-treatment of juveniles deprived of their liberty, the CPT made plain that "...regardless of the reason for which they may have been deprived of their liberty - juveniles are inherently more vulnerable than adults. In consequence, particular vigilance is required to ensure that their physical and mental well-being is adequately protected." Safeguards urged by the CPT in its guidelines include guaranteed access to lawyers and doctors, and the right to notification of a relative or other third party immediately following detention; the prohibition of all forms of physical chastisement; and the accommodation of juvenile offenders in facilities separate from adult detainees. In the interests of lending real substance to the forthcoming 50th anniversary of the European Convention on Human Rights, Amnesty International encourages all member states of the Council of Europe to give their immediate attention to the implementation of these safeguards, and to ensure that the CPT's guidelines are widely disseminated to all relevant actors in society

In the context of Europe, Amnesty International's Campaign Against Torture will highlight the problem of impunity for torture and ill-treatment in the region - a constant blight on the continent's human rights record in spite of the exemplary work of bodies such as the CPT and the relevant jurisprudence of the European Court of Human Rights. With regard to torture and ill-treatment in Europe, the standards, the mechanisms, the judgments of the European Court of Human Rights, and the expertise on prevention are all there in abundance - only the political will, as ever, remains lacking at the beginning of the twenty-first century.

Again, this edition of **Concerns in Europe** includes detailed information about how such impunity creates barriers to justice for victims of torture and ill-treatment across the continent - from a report on the European Court of Human Rights' decision against Italy in April 2000 for its failure to effectively investigate alleged ill-treatment in Pianosa Island Prison, to the accounts of threats and repression against individuals in Turkey who file complaints against security officers whom they hold responsible for torture; from concerns about a pattern of deaths in custody in the United Kingdom where the authorities have failed to carry out independent investigations into the full circumstances of each death, to the alleged persecution of complainants and witnesses of ill-treatment by police in Romania.

In the final report of the very welcome Supplementary Human Dimension Meeting on Human Rights and Inhuman Treatment or Punishment, convened by the OSCE in Vienna in March 2000, it was stated that "...inhuman treatment, in pre-trial detention as well as in the penitentiary system, is one of the most persistent and pertinent human rights issues in the OSCE region. It is a serious human rights violation affecting almost all participating States - developed democracies as well as states in transition. It is often an indicator of systemic shortcomings in the legal structure and the rule of law in a participating State." With regard to the reaction of governments to allegations of torture or ill-treatment within their jurisdiction, the OSCE meeting concluded that "the problem of impunity of perpetrators of torture needs to be addressed. Their serious and fair investigation and prosecution needs to be guaranteed."

The information gathered by Amnesty International's Europe Regional Program, as reflected in this document, confirms this bleak assessment - with allegations of police ill-treatment or torture documented in at least 25 countries - 20 of them member-states of the Council of Europe. It is to be hoped that the stark indictment of the aforementioned OSCE Vienna meeting, and the supporting evidence set out here by Amnesty International, will be addressed with some urgency by all those attending the European Ministerial Conference on Human Rights in Rome from 3-4 November, as well as the OSCE Human Dimension Implementation Meeting in Warsaw from 17-27 October. Only then will Europe and all its inhabitants truly have something worth celebrating in this anniversary year.

ALBANIA

Death penalty close to abolition

AI Index: EUR 01/03/00

There were important developments which brought Albania close to the abolition of the death penalty. In December 1999 the Constitutional Court ruled that

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the death penalty is incompatible with the Albanian Constitution. AI welcomed the announcement, but expressed concern at reported statements by the Chief Prosecutor that the death penalty would still apply in time of war or if war were imminent. The organization urged the government to abolish totally the death penalty and pass legislation reflecting the Court's decision which would then allow Albania's ratification of Protocol Number 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) which obliges states to abolish the death penalty in law.

Albania introduced a moratorium on executions in 1995 upon its entry into the Council of Europe. Courts did however continue to pass death sentences. Twenty men who were under sentence of death had their sentences suspended after the Constitutional Court's ruling.

On 4 April 2000 Albania signed Protocol Number 6 to the ECHR and on 13 June it was reported that the government had approved draft legislation which would allow its ratification.

Reports of ill-treatment by police

There were reports of ill-treatment by police, in at least two cases the victims were supporters of the main opposition party, the *Partia Demokratike* (Democratic Party - DP), which may have been the motivation for the incidents. The most serious reported incident occurred near the town of Laç, north of Tirana on 22 March. Tonin Kolthi, the DP secretary for the village of Spiten near Lezhe, and three other DP supporters from Lezha who were returning from a DP rally in the capital, Tirana, were stopped by masked special police officers near Laç. The police officers ordered the men out of the vehicle they were travelling in at gunpoint.

Tonin Kolthi was immediately hit on the head with a rifle butt. After he gave his name and complained about the ill-treatment he was reportedly kicked and beaten further. He was put in handcuffs and was then put into a police van and driven to a location near Patok village on the coast. There he was thrown out of the van, beaten further and allegedly threatened with execution. After having his bloody

face rubbed in the ground he was taken back to the main road where the police reportedly pretended that he had been injured in a car accident and ordered a passing motorist to take him to hospital. He was later treated in hospital for bruises and abrasions about his head and body. The three other men who were stopped with Tonin Kolthi were also allegedly beaten by police at the place where they were stopped.

ARMENIA

Accession to the Council of Europe

In June the Parliamentary Assembly of the Council of Europe (PACE) voted to approve applications by Azerbaijan and Armenia for full membership of that body. The Assembly's opinion will be forwarded to the Committee of Ministers, the executive body of the Council, for formal approval. This is provisionally due in November, and with accession of the two countries, the Council's membership will pass from 41 to 43 countries.

Prior to the vote, which took place on 28 June, AI had approached the Council of Europe with a number of its concerns about human rights violations in the two countries. For example, in the light of continuing numerous reports of torture and ill-treatment from both Armenia and Azerbaijan, AI repeated a number of recommendations already made to both governments in this connection (see AI Index: EUR 55/02/99, EUR 01/01/00 and EUR 54/01/00). These included criminalizing torture, and any attempt to commit torture, as defined in the United Nations Convention against Torture, as distinct crimes with appropriate punishments under national law; ensuring that any officials convicted of offences involving torture or ill-treatment are automatically excluded from any amnesties; and establishing an effective system of independent inspection of all places in which people are deprived of their liberty. AI also expressed concern at the lack of a functioning civilian alternative to compulsory military service in both countries - with the result that conscientious objectors risked imprisonment for exercising their fundamental rights - and at the continued criminalization of consensual homosexual relations between adult

males. In view of the numerous allegations of torture and violations of due process around many of the political trials which had taken place in the two countries since independence, AI also underlined that it was continuing to urge the authorities to conduct a judicial review of all cases of political prisoners in which there have been well-founded allegations that fair trial standards were violated, such as reports that testimony obtained as a result of torture has been accepted as evidence in court.

PACE set out a number of commitments linked with the countries' accessions. Both countries are to pursue exclusively peaceful means in settling the Karabakh conflict, and to sign and ratify the European Convention on Human Rights and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment within one year of accession. Both are also to adopt a law on an Ombudsperson (within six months of accession for Armenia), and to adopt a law on an alternative to military service in compliance with European standards (within three years of accession for Armenia), with any conscientious objectors currently imprisoned being pardoned. Armenia is also required within one year of accession to adopt its draft criminal code, thereby abolishing *de jure* the death penalty and decriminalizing consensual homosexual relations between adults, and to ensure that all churches or religious communities, particularly those referred to as "non-traditional", may practice their religion without discrimination.

Prisoners of conscience (update to AI Index: EUR 01/02/99 and EUR 01/01/00)

Just prior to the PACE decision on Armenia's entry into the Council of Europe, and the commitment it noted for Armenia to introduce a law on alternative service and pardon conscientious objectors, AI received information on 11 young men imprisoned at that time for their conscientious objection to performing compulsory military service. They were named as Artur Stepanian, Vigen Hakopian, Vardan Virabian, Khachatur Zakarian, Garib Grigorian,

Armen Harttenian, Vitaly Usupov, Aram Kazarian, Armen Babaian, Vaginak Saroian and Henrik Hovnikian. All were Jehovah's Witnesses, serving terms of from one to four-and-a-half years' imprisonment.

As previously, there were allegations that some of those detained had been subjected to ill-treatment. Vitaly Usupov, for example, refused his call-up papers on religious grounds but was forcibly conscripted into a military unit (in several cases detailed to AI, young Jehovah's Witnesses have said that they would rather be imprisoned under the criminal procedure for refusing their call-up papers than face forcible conscription, and the ensuing intolerable - and insoluble - conflict with their deeply-held religious beliefs). At the unit Vitaly Usupov continued to refuse to perform military service, and was reportedly beaten by military personnel there in consequence. He is now in Kosh corrective labour colony, after being sentenced by a court in Vanadzor on 17 March to four-and-a-half years' imprisonment, for "evading military service" under Article 257a of the Armenian Criminal Code. It has been further alleged that Vitaly Usupov, an ethnic Kurd, was not provided with an interpreter during his trial as specified under Armenian law.

Those currently imprisoned also include Vardan Virabian, who is serving his second term for refusing to perform compulsory military service. He was first sentenced to two years' imprisonment for refusing his call-up papers on 28 September last year, but released two months later under an amnesty. However, after release, it appears that - like Vitaly Usupov - he was forcibly conscripted by military authorities, as on 27 January he was sentenced to four years' imprisonment under Article 257a. He also is serving this term in Kosh.

UN Committee against Torture

In May the UN Committee against Torture was set to examine Armenia's second periodic report about the measures the country had taken to implement the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Unfortunately, a month prior to this Armenia

indicated to the Committee that it would not be attending after all.

AI issued the report it had prepared in connection with the proposed review to highlight continued concerns that Armenia was failing in its obligations under the Convention (see AI Index: EUR 54/02/00). For example, the report described persistent and worrying allegations, confirmed in at least one case by the Office of the Procurator General, that law enforcement officials have subjected people to torture and ill-treatment as a tool for obtaining confessions and coercing testimony, or for intimidation and extortion. In some cases detainees have reportedly died as a result. Army conscripts are also said to have been subjected to brutal hazing while officers turned a blind eye, and death sentences continue, with over 30 men on death row in April when the report was issued. The report also sets out a number of recommendations to the authorities.

Arrests following parliamentary assassinations - allegations of torture and violations of due process (update to AI Index: EUR 01/01/00)

During the period under review AI expressed concern about numerous allegations of torture, ill-treatment and violations of fair trial standards in connection with a group of men arrested after an armed attack on the Armenian parliament on 27 October last year (eight people died in the attack including the Prime Minister Vazgen Sarkisian, the Speaker of Parliament Karen Demirchian, and the latter's two deputies). With regard to allegations of torture, AI was particularly concerned about the detainees' lack of access to the outside world - family members, independent medical practitioners, and even defence lawyers. For example, to AI's knowledge only one of the 13 men still held at the time of writing had been granted access to a family member since his detention (he was Vram Galstian, said to have been allowed to see his wife after suffering what was described as a nervous collapse after his arrest).

State agents are also said to have obstructed access by lawyers to their clients. Lawyer Anzhela

Karapetian, for example, complained on 2 February that she had twice been prevented from seeing her client, former journalist Nairi Badalian who was arrested in November last year. She said that access to her client was complicated by the need to obtain permission from various officials, leading to cancellation or postponement of her appointments. She also claimed that appointments were postponed because only one room had been allocated at the prison for that purpose, and so it was often not free (at that point there were 17 people accused, and the room was said to be used also for investigators for interrogations).

Her client Nairi Badalian, who was eventually released on 3 June and all charges against him dropped, subsequently reported that he had been subjected to sustained torture and ill-treatment at the hands of law enforcement officials in the Nurabashen investigation-isolation prison in Yerevan. He said he had been made to stand outside in freezing temperatures in the winter without warm clothing; doused with water; chained to a metal chair while some 10 people beat him, knocking out some of his teeth; and how he had been made to stand against a wall for extended periods of time without sleep. He also reported that officials had threatened to rape his wife and sister, as an additional pressure to force him to give "the necessary testimony". Others detained in connection with this case have also described how officials beat and threatened them in an attempt to obtain false testimony incriminating themselves or others (see AI Index: EUR 54/02/00). In May the alleged leader of the attack, Nairi Unanian, who remains in detention, wrote to President Robert Kocharian saying that he withdrew his testimony, including that which implicated some of the other accused, on the grounds that it had been extracted under duress. Charges against him include those which currently carry a maximum sentence of death.

Torture and death in custody of Artush Ghazarian (update to AI Index: EUR 01/01/00)

On 30 March the General Procurator's Office of Armenia sent AI a detailed letter about a number of allegations of torture and ill-treatment which the

organization had raised. Among these was the death in custody last year of a senior military officer, Lieutenant-Colonel Artush Ghazarian, the military commissar of Tashir district in the northern Lori region, who was beaten so severely by law enforcement officials that he died in custody in the northern city of Vanadzor on 29 September 1999. Artush Ghazarian was taken into custody at investigation-isolation prison No. 3 in Vanadzor on 17 September, having been charged three days earlier with failure to execute an order and abuse of authority (Articles 247 and 268 respectively of the military section of the Armenian Criminal Code). He is said to have frequently protested his innocence, and broken the internal regulations of prison, for which he was placed in its punishment cell. He also declared a protest hunger strike. The following account of events leading to Artush Ghazarian's death was given to AI by the General Procurator's Office of Armenia.

As a result of the hunger strike and stress Artush Ghazarian's health deteriorated, to the point that on 27 September 1999 a psychiatrist diagnosed reactive depression and stressed that the prisoner needed to be hospitalized. The prison administration ignored this recommendation, and decided to forcibly feed Artush Ghazarian rather than hospitalize him. To this end at around 5pm on 27 September two prison doctors and three other officials (their names were given to AI by the Procurator General) took Artush Ghazarian from the punishment cell to room No. 1 in the prison, where they laid him on an iron bed with no mattress and tried to force him to eat. To facilitate this forcible feeding one of the officials, "X", tied Artush Ghazarian to the bed by his hands and feet. When Artush Ghazarian resisted, official "X" assaulted him. The attack appears to have been savage, as it led to Artush Ghazarian suffering bleeding in the brain and "softness" of the brain (encephalomalacia) - the direct cause of death - as well as a broken nose, six broken ribs, a ruptured lung and other injuries. Artush Ghazarian passed out, and died without regaining consciousness at 7pm on 29 September 1999. On the same day the procurator of Lori region opened a criminal case into the death of Artush Ghazarian, under Article 100 of the criminal code (intentional homicide without

aggravating circumstances). On 30 September the Procurator General ordered that the case be transferred to the General Procuracy, and an investigatory group was established.

During the course of their work on this case investigators are said to have uncovered other instances in a period from 1996 to 1999 in which official "X" and others at the Vandazor investigation-isolation prison No. 3 had systematically beaten prisoners and extorted from them or their relatives sums of money, valuables, clothing and food.

At the time of writing, official "X" is reported to be in custody, charged with intentional infliction of grave bodily injury (Article 105 of the criminal code), exceeding his authority or official powers (Article 183) and extortion (Article 94). However, the General Procurator's Office did not report on any charge or charges faced by the other officials, including two prison doctors, who were said to have been present during the beating of Artush Ghazarian. Unofficial sources have reported that they were detained initially, but then subsequently released.

Other deaths in custody (update to AI Index: EUR 01/01/00)

In its letter of 30 March the General Procurator's Office also provided details on three other deaths in custody during 1999 which had been raised by AI. One of the deaths, officially reported as suicide by defenestration, was of Eduard Vardanian, who is said to have thrown himself from a window of an upper floor of a Ministry of Internal Affairs police station in Abovian, the centre of the Kotaik region, at around 9.30pm on 2 March. According to the procuracy, the official investigation of the case showed that all injuries sustained were as a result of the fall, and that no officials had shown violence towards Eduard Vardanian or incited him to commit suicide. Unofficial sources had maintained that there were traces of cigarette burns on Eduard Vardanian's hands, fuelling allegations that he had been tortured in custody.

The other two cases of deaths in custody concerned prisoners Stepan Gevorgian and Oleg

Arishin, who are said to have died on 15 April and 27 April respectively. Oleg Arishin was said to have died as a result of suicide by a drug overdose, although Stepan Gevorgian reportedly died as a result of a severe beating. The Procurator General's Office reported that a comprehensive forensic medical examination into Stepan Gevorgian's injuries put them at 12 to 15 days old but that the case was closed on 28 August as investigators were not able to identify the perpetrators (during the 15 days prior to his death Stepan Gevorgian had been held in investigation prison, in transit, and in a corrective labour colony). Unofficial sources claimed, however, that there were no notations about any health problems suffered by Stepan Gevorgian during medical examinations conducted when he left the prison or on arrival at the colony. For full details see AI Index: EUR 54/02/00.

UN Committee on the Rights of the Child reviews Armenia's initial report

At its session on 20 January, the UN Committee on the Rights of the Child reviewed Armenia's initial report on the steps the authorities had taken to implement the Convention on the Rights of the Child, to which Armenia became a party in 1993. Among the Committee's principle subjects of concern were that relevant laws were not in full conformity with the Convention; that cooperation with non-governmental organizations in implementing the Convention, including policy making, was limited; and that Armenia had failed to acknowledge and address the matter of domestic violence. In this respect the Committee expressed its concern at the ill-treatment of children, including sexual abuse, within the family as well as in schools and institutions. The Committee was further concerned at the limited access to complaints mechanisms and the insufficient rehabilitation measures for children in such situations. In this respect it recommended that Armenia ensure that all forms of physical and mental violence, including corporal punishment and sexual abuse against children in the family, schools and care institutions are prohibited, and that mechanisms be established to receive complaints, as well as monitor,

investigate and prosecute instances of ill-treatment. The Committee also expressed serious concern at the absence of a system of juvenile justice in Armenia, recommending that relevant international standards be integrated to ensure in particular that deprivation of liberty is used only as a measure of last resort, that children have access to legal aid, and that children are not detained with adults.

AUSTRIA

Police shootings

AI learned of the shooting of a man, who has been referred to in the Austrian media as Imre B., by a police officer of the Special Criminal Deployment Group (*Sondereinsatzgruppe Kriminaldienst*) on 19 May. It is reported that prior to a planned search of a building two police officers approached a van near the building on *Heinrich Collin Straße* in Vienna. Two suspects, who were under observation, reportedly loaded a large object into the van and were about to drive away when the police officers approached the vehicle. The officers reportedly ordered the two suspects to remain where they were and not to move. The two police officers had reportedly brandished their service revolvers as they approached the vehicle. It has been reported that one of the police officers approached the driver's side of the vehicle and attempted to open the door of the vehicle in order to prevent the suspects from driving away. As he attempted to open the door the driver of the vehicle, Imre B., was killed by a bullet from the police officer's revolver. AI requested to be informed of the circumstances which led to the revolver being discharged and of the regulations controlling the use of firearms by police officers in Austria.

Allegations of police ill-treatment

AI learned of allegations that a police officer physically ill-treated a 13-year-old boy of Turkish origin in Neunkirchen on New Year's Eve 1999. The organization is informed that at around 9pm on 31 December 13 year-old Goekhan Canpolat and his cousin Erdem Canpolat were setting off fireworks

from some dustbins, around two hundred metres away from Neunkirchen's main police station. After setting off the fireworks two police officers appeared from out of the police station. One of them approached Goekhan Canpolat, allegedly calling him a "shit foreigner" ("*scheiß Ausländer*") and a "stupid boy" ("*blöder Junge*"). The police officer reportedly grabbed Goekhan Canpolat by the collar of his jacket, then by his hair, and punched him on the back of his head. He then reportedly pulled the boy by his hair and his jacket towards the entrance of the police station. In the police station the boys were instructed to empty their pockets. Goekhan Canpolat has maintained that, when he emptied his pockets, the same police officer swore at him, threw the contents of his pockets on to the floor and insisted that Goekhan Canpolat had a long criminal record in Germany, where he and his family lives. Shortly afterwards the two boys were told to leave.

The lawyer representing Goekhan Canpolat has provided AI with a report of a medical examination which was conducted on Goekhan Canpolat on 5 January. The report states that Goekhan Canpolat was suffering from bruises to his head and right thigh and scratches to his left temple. The report also states that Goekhan Canpolat was suffering from sleeplessness, anxiety and had started wetting the bed. AI wrote to the authorities requesting to be informed what steps had been taken to investigate these allegations of ill-treatment and what measures would be taken against the police officer concerned if the allegations are upheld.

In February AI learned of a report that a group of anti-racist protesters from Germany were allegedly detained and physically ill-treated by police officers in Vienna before a demonstration. Four demonstrators from Tübingen, Germany were temporarily detained by police officers at around 1.40 pm on 19 February near the railway station *Westbahnhof* in Vienna. The demonstrators have stated that around six police officers, who were riding in a police vehicle, got out of the vehicle, grabbed hold of the four demonstrators and pushed them against the wall of an adjacent building and kicked their legs apart. The demonstrators have alleged that the police officers then forced them into the concealed

passageway of a house where they were forced to lean against a wall for around 20 minutes, while the police officers searched them and their vehicle. They have stated that police officers kicked and punched them, bent their fingers back and pulled their hair while they were leaning against the wall being searched and questioned. It is also alleged that during their detention police officers deliberately threw several mobile telephones on to the ground, trampled on them and scratched the mobile telephone SIM cards against a wall. The police officers allegedly confiscated their shoes and informed them if they dared to take part in the demonstration planned for later in the day they would be automatically arrested and would suffer the consequences.

AI learned of a judicial investigation into allegations that a police detective physically ill-treated an 18-year-old detainee during his interrogation in Vienna in September 1999. The detainee was allegedly physically ill-treated by a 32-year-old detective on 28 September at Margareten police station (*Kommissariat Margareten*) in Vienna. The detainee had reportedly been arrested in the course of a police anti-drug operation and was taken to the police station where he was questioned by police officers. It is alleged that during the interrogation the 32-year-old-detective struck the handcuffed detainee in the genitals with a baseball bat. Several days after the alleged incident, on 4 October 1999, the detainee was reportedly taken to hospital from the youth detention centre, where he was being held, after complaining about feeling pain in the genital region of his body and was diagnosed to be suffering from bruising of the testicles.

AI is informed that the judicial investigation into the allegations began at Vienna's regional court (*Wiener Landesgericht*) on 24 March, the outcome of which is not yet known to the organization. AI wrote to the Austrian authorities in April, welcoming the decision of the Austrian authorities to initiate an investigation into the allegations of ill-treatment and stressing the requirement that the investigation should be both impartial and thorough.

Allegations of police ill-treatment - update

In April AI received a response from the Austrian authorities concerning the allegations that two police officers had ill-treated the detainee, Johannes G., in November 1999 (see Austria entry in AI Index: EUR 01/01/00). Johannes G. has alleged that the two officers took him to a police station on *Boltzmannngasse* in Vienna where they repeatedly punched him in the face while he was handcuffed. Johannes G. has stated that as a result he lost consciousness and had to be taken to hospital for medical treatment, where he was diagnosed as suffering from cerebral haemorrhaging, a detached right optic nerve and cuts to the eye region of his face. The Austrian authorities informed AI that the case had come to court and the two police officers were being charged with having inflicted bodily harm on the detainee and had failed to assist the injured detainee.

Arbitrary detention

AI learned about a police raid on a residence for asylum-seekers in Traiskirchen, Lower Austria on 17 January. Around 130 police officers reportedly entered block three of the residence for asylum-seekers in Traiskirchen at around 8pm on 17 January and commenced searching the building and the residents for possible drugs. It is reported that the 80 residents were confined to certain areas of the building, such as their bedrooms and kitchens, where they were systematically searched for drugs. While some detainees were reportedly frisked for drugs, others were ordered by police officers to remove their clothes and were allegedly subjected to internal body searches. AI is particularly concerned about reports that the internal body searches were conducted in front of residents as well as police officers. While the detainees were being searched some have reportedly complained that police officers acted towards them in a disparaging manner, laughing at them and using degrading language. It is alleged that some police officers laughed at detainees who reported feeling pain while being subjected to internal body searches. Police officers are also alleged to have searched large numbers of detainees with the same pairs of latex gloves, showing little apparent regard for the health

of the detainees. AI is also most concerned about a report of a female resident, who was anally and vaginally searched. Although she was reportedly internally searched by a female police officer in a toilet, the search was reportedly conducted while the toilet door was partially open and male police officers were located in an adjacent room.

It is reported that once the detainees had been searched by police officers their hands were tightly bound with plastic hand-restraints and they were moved to other parts of the building where they were detained in groups. The police raid on the asylum centre reportedly lasted for approximately four hours, during which 80 asylum-seekers were temporarily deprived of their liberty, many of them strip-searched and subjected to internal body searches but only 15 detainees were eventually arrested, reportedly for possessing small amounts of drugs. AI wrote to the Austrian authorities expressing concern that the police operation targeted the entire population of block three of the residence, which was largely non-Caucasian, in order to apprehend a small number of possible drug users and drug dealers. In May AI received a response from the Ministry of the Interior stating that, although the ministry could not take any position with regard to the case until the investigation had been completed, the Human Rights Advisory Council had discussed the incident and on its advice all future large-scale anti-drug police operations would include council members as observers.

Excessive use of force

Through a range of media reports and video footage AI has learned of the arrests of two male demonstrators in the early hours of 3 March by two police officers of Vienna's Special Criminal Deployment Group. The arrests reportedly took place on *Schwarzenberg-Platz* at around 00.40 am, after a demonstration had dispersed from outside the venue hosting the famous Opera Ball. It is reported that two police officers brandishing their service revolvers dragged two male demonstrators, who were suspected of trying to cause disturbances during the demonstration, out of a stationary taxi on to the

pavement. At the time of the arrest the two police officers were dressed like demonstrators and their faces were concealed. One police officer's face was disguised by a black stocking mask, the other by a scarf and baseball hat, which was covered by the hood of his jacket. The two arrested men have alleged that the masked police officers, who were armed with guns, did not identify themselves as police officers when they dragged them out of the taxi. AI wrote to the Austrian authorities expressing concern that the identities of the police officers may have been far from clear when they forced the two demonstrators out of the car and questioned the amount of force employed to effect the arrests of the two men, who were later charged with the relatively minor offences of breaching the peace and resisting state authority.

Restraints in prisons

AI learned of the use of two methods of restraining inmates in Austria's largest penal institution, Josefstadt prison (*Justizanstalt Josefstadt*) in Vienna, about which the organization requested further clarification. The organization has been informed about the use of cage-beds (*Gitterbetten*) in Josefstadt prison. The European Committee for the Prevention of Torture (ECT) reportedly discovered and expressed concern about their use after a visit to the prison in September 1999. Cage-beds are used to restrain prisoners at risk of endangering their own well-being or the well-being of other prisoners. The cage-beds are beds enclosed in a 1.2 metre high metal cage, which greatly restrict the movement of a prisoner. In some instances prisoners have reportedly been placed inside cage-beds for periods of up to 48 hours. AI wrote to the Austrian authorities expressing concern that the use of cage-beds may represent a cruel, inhuman and degrading method of restraint.

In addition to the use of cage-beds in Josefstadt prison, AI is informed of the use of net-beds (*Netzbetten*), which are reportedly similar in design to cage-beds, but which are beds enclosed in some form of material netting as opposed to a metal cage. AI requested to be informed of the regulations governing their use after learning about a potentially dangerous method of restraint employed by three

prison officials at Josefstadt prison on a prisoner in January. The prisoner was allegedly handcuffed to a net-bed, while intoxicated, in a position which severely limited his movement. AI expressed concern that, considering the detainee's state of intoxication, this method of restraint may have put him at considerable risk.

AZERBAIJAN

Accession to the Council of Europe

In June the Parliamentary Assembly of the Council of Europe (PACE) voted to approve applications by Azerbaijan and Armenia for full membership of that body. The Assembly's opinion will be forwarded to the Committee of Ministers, the executive body of the Council, for formal approval. This is provisionally due in November and, with accession of the two countries, the Council's membership will pass from 41 to 43 countries.

Prior to the vote, which took place on 28 June, AI had approached the Council of Europe with a number of its concerns about human rights violations in the two countries. For example, in the light of continuing numerous reports of torture and ill-treatment from both Armenia and Azerbaijan, AI repeated a number of recommendations already made to both governments in this connection (see AI Index: EUR 55/02/99, EUR 01/01/00 and EUR 54/01/00). These included criminalizing torture, and any attempt to commit torture, as defined in the United Nations Convention against Torture, as distinct crimes with appropriate punishments under national law; ensuring that any officials convicted of offences involving torture or ill-treatment are automatically excluded from any amnesties; and establishing an effective system of independent inspection of all places in which people are deprived of their liberty. AI also expressed concern at the lack of a functioning civilian alternative to compulsory military service in both countries - with the result that conscientious objectors risked imprisonment for exercising their fundamental rights - and at the continued criminalization of consensual homosexual relations between adult males. In view of the numerous

allegations of torture and violations of due process around many of the political trials which had taken place in the two countries since independence, AI also underlined that it was continuing to urge the authorities to conduct a judicial review of all cases of political prisoners in which there have been well-founded allegations that fair trial standards were violated, such as reports that testimony obtained as a result of torture has been accepted as evidence in court.

PACE set out a number of commitments linked with the countries' accessions. Both countries are to pursue exclusively peaceful means in settling the Karabakh conflict, and to sign and ratify within one year of accession the European Convention on Human Rights and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Both are also to adopt a law on an Ombudsperson (within one year of accession for Azerbaijan), and to adopt a law on an alternative to military service in compliance with European standards (within two years of accession for Azerbaijan), with any conscientious objectors currently imprisoned being pardoned. Among other things Azerbaijan is also required to allow unrestricted access to prisoners by the International Committee of the Red Cross, and to release or grant a new trial to "those regarded as 'political prisoners' by human rights protection organizations".

Detention of journalist Elbey Hasanli, and attack on Yeni Musavat premises

During the period under review AI expressed concern about the detention of journalist Elbey Hasanli, and the attack on the offices of the opposition *Yeni Musavat* newspaper for which he works. On 4 and 5 February *Yeni Musavat* published articles by Elbey Hasanli following a recent visit to the Autonomous Republic of Nakhchivan. In the articles the journalist was highly critical of high-ranking officials, and claimed that the residents of Nehram, the home town of President Heydar Aliyev, enjoyed a privileged life. The articles are alleged to have angered officials, and provoked a series of arrests as well as attacks on property in Nakhchivan and Baku.

Elbey Hasanli states that when he arrived at the *Yeni Musavat* premises in Baku on 7 February he was called to the office of the editor where police officers known to him from the Sabail District Police Department were waiting. They asked the journalist to accompany them to the department as they had some questions regarding articles he had written alleging bribery among high-ranking officials in the Autonomous Republic of Nakhchivan. When they arrived at the Sabail District Police Department, however, Elbey Hasanli was told that he had to travel to Nakhchivan, and was handed over to two police officers who did not introduce themselves, produce a warrant for his arrest, or explain what the purpose of the journey was. Elbey Hasanli also reports that he was not allowed to call the newspaper from the police station to let them know what was happening, and his mobile telephone was taken away. He later discovered that the police officers accompanying him were from the Department against Banditism and Terrorism of the Nakhchivan Interior Ministry.

Elbey Hasanli was flown to Nakhchivan and sentenced the following day to 15 days' administrative detention, reportedly for refusing to obey the police. While there he also reports being pressurized by officials to retract a report he filed alleging that police and high-ranking officials in Nakhchivan demand a \$200 bribe from people applying for a passport. On 9 February he was released early, and allowed to return to Baku. AI sought further information on the exact circumstances of Elbey Hasanli's arrest, including the allegation that no warrant was presented to him; the charge under which he was sentenced to 15 days' administrative detention; and whether he had access to a defence lawyer at any time during this process (on 13 July 1999 the Azerbaijani Constitutional Court ruled that the constitutional right to receive qualified legal aid from the moment of detention should be applied to those held under the administrative violations code, as well as to those held in connection with offences under the criminal code).

AI also sought further information on the grounds for arrest of several opposition politicians or activists in Nakhchivan, said to have been detained

and given periods of up to 15 days' administrative detention on 7 February after they were quoted in the articles written by Elbey Hasanli. They include the chairman of the Nakhchivan City Committee of the Musavat Party, Zeka Mirzeyev, two secretaries of the Musavat Party, Fahreddin Gasimov and Asker Mammadov, the Chairman of the Nakhchivan branch of the Democrat Party of Azerbaijan, Isa Mirzeyev, and Huseyn Javadov, the representative in Nakhchivan of Abulfaz Elchibey of the Popular Front of Azerbaijan (PFA). Huseyn Javadov was released late on 10 February after several days administrative detention, and reportedly confirmed earlier allegations by others, including Elbey Hasanli who met him when they were both in detention, that he had been severely beaten in custody at the Nakhchivan Interior Ministry. Elbey Hasanli also reported that several others of those detained had been beaten, and AI requested details from the authorities of any investigation initiated into these claims.

The organization also sought further information on an attack on the editorial offices of *Yeni Musavat* in Baku, which took place on 7 February. The offices are in the same building as the headquarters of the *Musavat* party. According to reports, the premises were attacked at approximately 4pm by a group estimated at some 100 people, said to include people from Nehram in Nakhchivan, angered by what they regarded as offensive articles published by the newspaper on their area. They blockaded the building for some two hours, broke windows in the office, broke down the front door and attempted to move further into the building, and assaulted other journalists covering the incident. Staff inside the building built barricades against the doors to protect themselves, and some were reportedly injured by stones and other missiles. Police reinforcements are said to have arrived only about an hour after the trouble began.

AI's concern about this incident relates to allegations that Azerbaijani officials knew in advance that such an attack was planned (the headquarters of the Musavat Party in Nakhchivan had been attacked and ransacked the day before), and that most police officers stood by and failed to intervene while the

newspaper offices and journalists covering the incident were attacked (according to one report some police twice attempted to detain some of the attackers, but were unsuccessful owing to lack of reinforcements). AI understands that criminal proceedings have been started under Article 207 (hooliganism) against several people in connection with the attack, including police officers, and that official assurances were given that there would be an investigation into the police's handling of the incident.

Deaths in custody at Gobustan prison (update to AI Index: EUR 01/02/99 and EUR 01/01/00)

During the period under review a group of defendants stood trial in connection with the January 1999 disorders at Gobustan prison, during which 11 prisoners and two guards died. In criminal proceedings which ended on 29 March the defendants, 23 prisoners and one prison guard, were all convicted and received sentences of up to 15 years' imprisonment. The charges against them related to an attempted escape, during which the deaths and other injuries took place. AI had urged a thorough and impartial inquiry into the use of force which would include among its aims a public clarification of the circumstances of the custodial deaths, in order to allay allegations from some official sources that those deaths had been extrajudicial killings.

Allegations of ill-treatment

Government moves to address torture and ill-treatment

During the period under review the Azerbaijani authorities took a number of positive steps to strengthen official moves to address the issue of torture and ill-treatment. On 11 March President Heydar Aliyev issued a decree on measures to be taken regarding reports on this subject issued by the UN Committee against Torture (see AI Index: EUR 01/01/00) and AI (see AI Index: EUR 55/02/99) towards the end of last year. Visiting the organization's office in London in June, the Minister

of Justice of Azerbaijan noted that in March this year the Supreme Court of Azerbaijan issued directions to lower courts (Decision No. 1 of the Plenary Session, 10 March 2000), which included specifying that the term "torture" should be understood according to the definition in the UN Convention against Torture; reminding courts of their obligations to initiate investigations whenever defendants allege torture or ill-treatment during court sessions; reiterating that evidence obtained in violation of the law is inadmissible; and repeating the decision of the Constitutional Court from July last year that those detained under the administrative procedure are entitled to the services of a lawyer, as in criminal cases. Similar positive moves were made by the then General Procurator of Azerbaijan, Eldar Hasanov, in his order of 14 March which specified, among other things, that a working group be set up to investigate the allegations of torture set out by AI and other human rights organizations in their recent publications (AI subsequently received a detailed response regarding the allegations contained in its report), and that family members be informed immediately when their relative is detained (rather than within the three-day period currently allowed by the Code of Criminal Procedure).

The UN Special Rapporteur on the question of torture visited Azerbaijan in May at the invitation of the government and, in another welcome move which had been urged by AI, an agreement was finally concluded on 1 June between the Azerbaijani authorities and the International Committee of the Red Cross (ICRC). This allowed the latter access to all places of detention and to all detainees within its mandate, both sentenced and unsentenced. The first visit by ICRC representatives took place on 23 June, to Gobustan prison.

Allegations of ill-treatment during demonstration of 29 April

In spite of these positive moves, however, during the period under review AI continued to receive reports of ill-treatment. It approached the authorities, for example, about allegations of human rights violations following attempts by opposition parties to hold an

unsanctioned demonstration in Baku on 29 April, in connection with forthcoming parliamentary elections. There were allegations that police used excessive force when dispersing those who had attempted to gather, including reports that a number of journalists were assaulted while covering events (in this context AI is also aware of official reports that 34 police officers were injured as a result of events), and that those detained were not granted access to a lawyer or their families.

A number of leading opposition figures alleged that they were ill-treated. For example Vajif Hadjibeyli, the chairman of the Ehrar (Peasants') Party, was reportedly severely beaten by police while being detained during the attempted demonstration. It has been further alleged that although suffering from concussion he did not receive prompt and appropriate medical attention after being taken into detention at the local police station; that he was not able to see his lawyer or telephone his family after being taken into detention; and that he was not given a pen and paper in order to make a written complaint. Vajif Hadjibeyli was sentenced to 10 days' administrative detention under Article 174 of the Administrative Code for resisting the lawful demands of a police officer. Before the end of this term he was transferred from the Main Police Directorate to Bailov investigation isolation prison No. 1, after being charged under Article 189-1 of the Criminal Code with resisting a police officer, but was subsequently released on bail. Other detainees have also alleged that they were not able to consult a defence lawyer or contact their families.

A number of women were among those alleging ill-treatment during the attempted demonstration on 29 April. Novella Jafarova, for example, the Chairperson of the D. Aliyeva Society for the Defence of Women's Rights, reports that she saw police assault a group of women who had gathered in the capital, Baku, to demand democratic elections and a quota in parliament for representatives of women's organizations. The women were among a group of people who were stopped on G. Gadjiyeva Street, as they were approaching Fizuli Square. Novella Jafarova alleges that she saw police assault with truncheons several of

the women, including sisters Jamale and Kemale Shahmammedova (nieces of former President Abulfaz Elchibey). The sisters were said to have been hit around the head and verbally abused while being taken by car to Yasamalsky District Police Department, and also to have been assaulted and verbally abused while at that department by a police officer (whose name is known to AI). They were released around midnight on 29 April.

Death in custody of Bahram Sadiqov (update to AI Index: EUR 01/02/99)

In her report dated 2 February 2000 to the UN Economic and Social Council, Asthma Jananhir, the UN Special Rapporteur on extrajudicial, summary, or arbitrary executions, stated that she had raised with the Azerbaijani authorities the case of Bahram Sadiqov, a displaced person originally from the Lachin region of Azerbaijan, who died in custody in January 1999. According to information received by AI, Bahram Sadiqov had been arrested in Sumgait together with five others on suspicion of stealing sheep. He was taken to the Sumgait Police Administration, and died in custody in a temporary detention cell there a week later, on 17 January. Unofficial sources alleged that his death was the result of a severe beating, and that the five others detained were also beaten. At the time the head of the Sumgait City Police is said to have told the TURAN news agency that the suspects had already confessed and so there was no need to pressurize them, a comment made presumably in the light of frequent allegations that law enforcement officials use duress in pre-trial detention to obtain testimony and confessions.

The UN Special Rapporteur regretted that at the time of finalizing her report she had not received a reply from the government to her communication. Responding to AI during the period under review, the General Prosecutor's office stated that a forensic medical examination had reportedly shown that Bahram Sadiqov had died of natural causes.

Decriminalization of homosexuality

AI Index: EUR 01/03/00

For many years AI has urged the Azerbaijani authorities to decriminalize consensual homosexual relations between adult males, punishable under Article 113 of the criminal code inherited from the Soviet era by up to three years' imprisonment. The organization had also urged that the age of homosexual and heterosexual consent be equalized. Speaking to representatives of the organization during a visit to London at the beginning of June, the Minister of Justice informed AI that a new criminal code had been adopted on 28 May, and would come into force on 1 September. Under this Article 113 is replaced with a new Article 150, which punishes only forcible sexual acts ("homosexual actions and other actions of a sexual character using violence or the threat of violence"). In addition, a new Article 152 - which criminalizes sexual intercourse or other actions of a sexual character committed with a person under 16 - makes no specific reference to whether these actions are homosexual or heterosexual.

Harassment and detention of religious believers

Detention of Ibrahim Ikrameddin oglu Yuzbeyov (update to AI Index: EUR 01/01/00)

Jehovah's Witness Ibrahim Yuzbeyov was given a 15-day term of administrative detention in August last year, allegedly in connection with his attempts to proselytize. AI expressed its concern about reports that the detention was for religious reasons; that Ibrahim Yuzbeyov was denied access to a defence lawyer; that he had been verbally and physically abused while in detention; and that police officers had misappropriated money and belongings. Responding to these concerns during the period under review the General Prosecutor's office stated that Ibrahim Yuzbeyov's arrest was for violations of the passport regime (he was said to have been found as an unregistered resident of the village of Alekseyvka) under Article 174 of the Code of Administrative Offences, and that he himself had refused a lawyer. Following AI's expressions of concern, however, the case was re-examined by the Supreme Court on 14 March and the court decision quashed in connection

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with violations of Ibrahim Yuzbeyov's rights during the preliminary investigation. Disciplinary action was also said to have been taken against the Deputy Head of the Khachmas District Police Department and four other police officers for illegal actions in connection with Ibrahim Yuzbeyov's case. Religious literature confiscated from Ibrahim Yuzbeyov at the time of his arrest was not returned, however, as it was regarded as having been smuggled across the border.

Concerns in the disputed Karabakh region

The arrest of Samvel Babaian and others - allegations of torture and violations of due process

In the early hours of 22 March gunmen attempted to assassinate Arkady Ghukasian, "President" of the Nagorno-Karabakh Republic (elections in the disputed region are not regarded as legitimate by the Azerbaijani authorities, and the territory itself remains unrecognized internationally). There immediately followed a wave of arrests, centring on the former defence minister of the region, Samvel Babaian, and his associates (including his brother, Karen Babaian, the head of Samvel Babaian's bodyguard, Sasun Aghajanian, two other bodyguards named David Gulian and Varuzhan Melkumian, Samvel Babaian's brother-in-law, Erik Paramazian, and Levon Mirzoian, described as a friend of Samvel Babaian). A number of those detained, including Samvel Babaian, are said to have been severely ill-treated in detention. Specific details were difficult to obtain, however, especially as most of those detained were said to have had no access to their families and, as reported in some cases, inadequate access to a defence lawyer. In the middle of May, for example, Yerevan-based lawyers for Sasun Aghajanian, David Gulian and Varuzhan Melkumian claimed that they were being denied access to their clients and the materials on the case. At that time Sasun Aghajanian's lawyer reported that since his client's arrest some two months previously he had met him only twice - once in private for a meeting that lasted around 10 minutes, and once during an interrogation on 27 April which was reportedly stopped by the lawyer when his client lost consciousness. The following month two lawyers initially appointed to

represent Samvel Babaian alleged that the region's procurator general had denied them access to their client and materials of the case until the prosecution had completed its investigation, and claimed that they were not able to see what their client had said during his testimony (presumably given in their absence). It was further alleged that those detained in connection with the assassination attempt were denied food parcels and cigarettes from their relatives, and that some also had no opportunity to take daily exercise.

AI approached the procurator general in Karabakh, urging him to ensure that all necessary procedures for a fair trial were observed for all defendants at each stage of the criminal proceedings. In the light of some press reporting around the case, AI stressed that such procedures include the presumption of innocence. The right to the presumption of innocence requires that judges and all other public officials refrain from prejudging any case. This means that public authorities, particularly prosecutors and police, should not make public statements about the guilt or innocence of an accused person before the outcome of the trial.

AI also noted the procurator's denial that Samvel Babaian and others had been beaten while in custody, and trusted that the procurator would ensure that all law enforcement personnel involved with those detained were aware of, and adhered to, the absolute prohibition under international law of torture or other forms of cruel, inhuman or degrading treatment. Any allegations of torture or ill-treatment by law enforcement officials should be investigated promptly, comprehensively and impartially, with the results made public and anyone identified as responsible brought to justice.

Prisoner of conscience Vagram Aghajanian

Another person arrested following the 22 March events outlined above was journalist Vagram Aghajanian, a correspondent of the *Tasnerord naang* and *Iravunk* newspapers, who had been critical of the Karabakhi authorities and was regarded as close to opposition figures such as Samvel Babaian. Officers from the Ministry of Internal Affairs detained Vagram Aghajanian on 28 March after searching his

home, reportedly without presenting a warrant, for items such as arms and drugs. No such items were found, but Vagram Aghajanian was subsequently sentenced to 10 days' administrative detention after being found guilty of "hampering the implementation of martial law", under a 29 December 1999 presidential decree "On extending martial law". Vagram Aghajanian's recent articles were said to have been regarded by officials as violating the martial law decree by "contributing to internal tension".

Following that initial detention, Vagram Aghajanian was sentenced to one year's imprisonment for libel, under Article 131, part 2, of the Criminal Code of the Nagorno-Karabakh Republic. A criminal case had originally been opened under this article on 22 December 1999, in connection with the alleged libel of Karabakhi authorities, in particular the prime minister, Anushavan Danielian. The case was forwarded to Stepanakert (known to the Azeris as Khankendi) Municipal Court on 3 April, and heard on 12 April.

AI understands that of particular relevance to this case was an article Vagram Aghajanian had published in issue No. 5 of *Tasnerord naang* on 11 December 1999, entitled "There is no money in the budget for migrants" (a copy of the article was reprinted by several newspapers in Armenia on 14 April, as an act of solidarity against the prosecution). In the article Vagram Aghajanian was critical of what he regarded as insufficient aid being made available to people who wish to resettle, or have already done so, in some areas of Karabakh. Among other things he quoted several residents from the town of Vanadzor who said that they wished to resettle in abandoned villages in the Martuni and Agdam districts, but claimed that they had been told by the prime minister that there was no money available in the budget for such help.

In materials he submitted to the court, the prime minister is said to have denied that he had met representatives of families wishing to move from Vanadzor. It was alleged, however, that the court refused to call a witness who had spoken to the Vanadzor families and who may have been able to shed further light on the reported meeting. It was also

reported that both Vagram Aghajanian and the editor of *Tasnerord naang* had offered to publish a retraction of the report that such a meeting had taken place, but that this route for resolving the issue - said to be available under the law "On the Press and Other Mass Media" - was rejected in favour of criminal prosecution. It was further alleged that Vagram Aghajanian's friends and colleagues were given very little notice of the impending trial, which hampered their attempts to find him a defence lawyer. As a consequence the lawyer was said to have had only a few hours to acquaint himself with the materials of the case before the trial began.

AI recognizes that all persons who believe themselves to have been the victims of defamation - including elected officials up to the most senior level - have a right to seek redress through the courts. However, public officials should expect to be subjected to a greater degree of public criticism than other individuals, and the degree of restriction permitted to protect an individual's reputation should be more limited in the case of a public official than a private person.

AI argues that using criminal proceedings in libel cases implies that the defendant is responsible for an injury to society at large. AI questioned the fact that the alleged libel in this case constitutes any such injury to society. It believed that libel complaints such as this should be addressed in civil proceedings in which a complainant can seek redress for personal injury to their reputation. Criminal legislation should not be used in such a way as to stifle criticism of public officials, or to intimidate those who voice legitimate concerns about the actions or practices of public officials. AI was concerned that the use of criminal proceedings against Vagram Aghajanian in this case suggested that the case had been politically motivated, and brought to punish the journalist for his criticism of, and political opposition to, the current authorities in Karabakh. AI therefore regarded him as a prisoner of conscience, who should be released immediately and unconditionally.

Vagram Aghajanian was released after the Karabakh Supreme Court heard an appeal on 27 April, and replaced his custodial sentence with a suspended one. However, the authorities are said to

be monitoring closely his movements, visitors and telephone conversations.

The death penalty (update to AI Index: EUR 01/02/99)

It was reported that on 15 January Arkady Ghukasian had commuted two death sentences to periods of 15 years' imprisonment. Karabakh retains the death penalty, although as far as AI is aware there have been no judicial executions in recent years.

BELARUS

Prisoners of conscience

Andrey Klimov, who was arrested on 11 February 1998 on charges relating to his business interests, was sentenced to six years' imprisonment at a hard labour colony with confiscation of property on 17 March, after spending over two years in pre-trial detention (see *Belarus: Dissent and Impunity*, AI Index: EUR 49/14/00). A representative from AI was present at the Leninsky court in Minsk on 17 March when, amid chaotic scenes, it passed final sentence on the 34-year-old member of the dissolved parliament and political opponent of President Lukashenka. Various international representatives, who were present at the court hearing and had observed the trial, cast considerable doubt on the fairness of the trial and the final court ruling. AI believes that Andrey Klimov has been deliberately targeted by the Belarusian authorities to punish him for his opposition activities and considers him to be a prisoner of conscience.

The trial of the prominent opposition leader and the former Prime Minister, Mikhail Chigir, who was imprisoned for 8 months in 1999 for his opposition activities, commenced at the end of January at Minsk City Court, attracting considerable international and domestic attention. The trial was attended by various representatives from foreign embassies based in Minsk and from the OSCE (see

Belarus: Dissent and Impunity, AI Index: EUR 49/14/00). In the course of an unfair trial the court reached its final verdict on 19 May when it found Mikhail Chigir guilty of abuse of power relating to a position he had held as head of a bank before becoming Prime Minister in 1994. The court sentenced him to three years in prison, two of which were suspended, and fined him 200 000 dollars as compensation to the state. Due to the period he had spent in pre-trial detention he did not have to serve the outstanding one-year sentence. The court also barred the 52-year-old former prisoner of conscience from holding political office for a period of five years. As a result, his participation in the planned elections in the years 2000 and 2001 could result in him serving the entire prison sentence. If Mikhail Chigir is convicted and imprisoned in the future for his non-violent political activities AI will consider him to be a prisoner of conscience.

On 19 June Minsk City Court found the leader of the Belarusian Social Democratic Party, Nikolai Statkevich, and a member of the dissolved parliament and opposition activist, Valery Shchukin, guilty of violating public order under Article 186-3 of the Belarusian Criminal Code for their leading roles in organizing two demonstrations in 1999. Both men served periods in administrative detention after the demonstrations and AI considered them to be prisoners of conscience. The court gave them two and one year suspended prison sentences respectively. During the demonstrations on 27 July and 17 October AI received numerous reports of arrests and allegations of police ill-treatment (see AI Index: EUR 01/01/00).

Possible "disappearances" - related protest actions

On 3 March Leninsky Court in Minsk gave three protestors administrative periods of detention of five days each for staging an unofficial picket outside the presidential administration building in support of former Minister of the Interior, Yury Zakharenko, and first deputy chairman of the dissolved parliament, Viktor Gonchar, and his companion Anatoly Krasovsky - all of whom appeared to disappear in

1999. The whereabouts of the three men remains unknown. During the period in prison one of the men, Timothy Dranchuk, was taken to hospital reportedly suffering from concussion after being ill-treated by an official.

Impunity

In May AI expressed concern about the continued intimidation of former prisoner of conscience and victim of police ill-treatment, Alyaksandr Shchurko, who has been seeking to obtain compensation through the Belarusian courts. Forty-year-old Alyaksandr Shchurko, who was detained during last October's pro-democracy Freedom March in Minsk, was reportedly arrested and physically ill-treated along with 10 other people on a police bus during a two-hour journey to a detention centre by police officers from the special police unit, the OMON (see *Belarus: Dissent and Impunity*, AI Index: EUR 49/14/00). He subsequently spent five days in prison. He is suing the Belarusian authorities for 100,000 dollars in compensation. On 30 May, Moskovsky Court in Minsk heard his complaint of ill-treatment. AI is informed that no other victim of police ill-treatment has successfully taken a complaint to this stage.

Alyaksandr Shchurko has alleged that as a result of his efforts to secure redress he has been subjected to threats, including anonymous telephone calls instructing him to terminate his complaints. One of the police officers alleged to have ill-treated him reportedly threatened him earlier in May saying that the street in Minsk where he lives is very narrow and he should be careful when he returns home at night. Alyaksandr Shchurko's 20-year-old son, who is studying economics at a state institute, has reportedly begun to score very low marks after previously being a very good student. The two human rights organizations involved in Alyaksandr Shchurko's efforts to seek redress have also come under renewed pressure. The offices of the Human Rights Center, which is headed by Alyaksandr Shchurko's lawyer Vera Stremkovskaya, and the legal advice centre Legal Assistance to the Population were both burgled

in May, resulting in the loss of valuable equipment and material.

Arbitrary detention and the alleged ill-treatment of demonstrators

AI received numerous reports of arrests during an unsanctioned demonstration in Minsk on 25 March, which coincided with the anniversary of the creation of the first Republic of Belarus in 1918 and to protest against President Lukashenka. During the demonstration between 400 - 500 demonstrators were reportedly detained for several hours by the police, who were patrolling the centre of Minsk in large numbers. While around 200 detainees were reportedly held in a city sports hall, others were held at various police stations and detention centres. Most of the detainees were reportedly released between two and three hours later.

AI has received reports that police officers used significant degrees of force to detain some protestors. A number of people have complained of being knocked to the ground, beaten with truncheons, kicked by police officers and verbally abused. The deputy chairman of the Conservative Christian Party of the Belarusian Popular Front, Yury Belenki, has alleged that he and his companions were attacked by a group of police officers on Yakub Kolas Square in Minsk during which he was reportedly hit in the face with a truncheon, knocked to his feet and repeatedly punched and kicked. He was then arrested and held in detention for three days. The relevant persecutor's office in Minsk has reportedly refused to investigate his allegations of police ill-treatment.

At least 30 journalists covering the demonstration were also deliberately targeted by the Belarusian authorities. This attempt to stem criticism of the intolerance of dissent by the authorities prompted considerable criticism both domestically and abroad. AI also learned of several representatives of domestic human rights organizations who were temporarily detained during the demonstration, such as Tatyana Protsko from the Belarusian Helsinki Committee, Oleg Volchek from the legal advice centre Legal Assistance to the Population, Valentin

Stepanovich and several of his colleagues from *Spring-96*.

In the aftermath of the demonstration several of the organizers were detained for several days and some were later given periods of administrative detention. On 30 March the deputy chairman of the Belarusian Popular Front, Vyacheslav Sivchik, received a 10-day prison sentence for his part in organizing the demonstration. The vice chairman of the dissolved parliament, Anatoly Lebedko, was reportedly arrested prior to the demonstration on 25 March and spent two days in detention before being brought before a court on 27 March. His trial was postponed until 4 April when he was acquitted. On 6 April the leader of the Belarusian Popular Front in Grodno, Sergey Malchik, was sentenced to 10 days' administrative detention for his part in organizing a demonstration in the town on 25 March. Numerous other participants received warnings, fines and periods of administrative detention from the courts in early April.

Prison conditions

AI has repeatedly expressed concern about conditions in prisons and pre-trial detention centres which fall well below international minimum standards and amount to cruel, inhuman and degrading treatment. On 14 February the chairman of both the Belarusian Social Democratic Party and Belarusian Helsinki Committee in Borisov (60km north-east of Minsk), Alyaksandr Abramovich, was sentenced to 35 days in prison for staging three unsanctioned demonstrations, one of them in protest against the trial of former Prime Minister Mikhail Chigir. After his release on 20 March he reportedly stated that the conditions of his detention were humiliating. The cell was overcrowded and poorly ventilated and prisoners were forced to sleep on wooden benches without blankets and were denied exercise and access to showering facilities and health care. On 22 May Alyaksandr Abramovich was sentenced to a further 15 days' imprisonment for his opposition activities.

Conscientious objection

In March AI expressed concern about the conviction of 21-year-old Valentin Gulai, who as a practising Jehovah's Witness refused to serve in the Belarusian army (see *Belarus: Dissent and Impunity* AI Index: EUR 49/14/00). Military service is compulsory for all males between the ages of 18 and 27 and lasts 18 months, except for university graduates, who serve 12 months. There is currently no alternative service at present for conscientious objectors to military service. On 23 March Rechitsa regional court gave Valentin Gulai, who had spent the previous month in prison, a suspended 18-month prison sentence for refusing to perform military service, made conditional on the basis that he spends the 18 months working on state construction projects. However, on 26 May the Constitutional Court of Belarus ruled that the constitution guarantees conscientious objectors the right to a civilian alternative to military service and recommended that steps be taken to ensure this right. Subsequently, Gomel Regional Court overturned Valentin Gulai's original sentence reducing it to a one year suspended sentence.

BELGIUM

Death during forcible deportation: no one yet brought to justice (update to AI Index: EUR 01/01/00)

In February the judicial investigation into the circumstances surrounding the death by asphyxiation of Nigerian national Semira Adamu, within hours of an attempt to deport her forcibly from Brussels-National airport in September 1998, was closed by the relevant investigating magistrate. The dossier was then returned to the Public Prosecutor's office for an eventual decision on the opening of criminal prosecutions.

A dangerous method of restraint known as the "cushion technique" had been used by escorting gendarmes during the attempt to deport Semira Adamu. This restraint method -- suspended following her death -- allowed gendarmes to press a cushion against the mouth, but not the nose, of a recalcitrant deportee to prevent biting and shouting.

After Semira Adamu's death three gendarmes were placed under judicial investigation in connection with possible manslaughter charges. In September 1999 the Belgian Human Rights League, which had lodged a criminal complaint against persons unknown and constituted itself a civil party to the judicial proceedings opened after her death, requested the relevant investigating magistrate also to investigate two former Interior Ministers in connection with possible manslaughter charges. It held them responsible for the introduction and implementation of the "cushion technique" as an authorized method of restraint during forcible deportations and argued that they thereby also bore responsibility for Semira Adamu's death.

AI was concerned that by the end of June no news had emerged of the outcome of the investigation or of any criminal prosecutions in connection with the death. An inquiry which AI addressed to the Minister of Justice in December 1999, in view of the 15 months which had by then elapsed since Semira Adamu's death seeking news of the progress and outcome of the judicial investigation, remained without response at the time of writing.

New decree bans use of certain dangerous methods of restraint during deportation

AI noted and welcomed provisions contained in a decree issued by the Minister for Transport in April which, amongst other things, explicitly banned the use of methods of restraint involving the full or partial obstruction of the airways of an individual being deported under escort as well as the use of sedative or other drugs to subdue such a person against their wishes. The decree also directs that a doctor or an independent observer should accompany any group of more than four individuals (excluding any children under 12 accompanying them) being forcibly deported under gendarmerie escort. AI understands that this decree followed discussions between the Ministry of Transport and the Belgian Cockpit Association whose members had, for a three-month period in 1999, refused to carry passengers being forcibly deported under gendarme escort because of incidents, including incidents of alleged

ill-treatment, and security problems arising on board such flights.

Alleged ill-treatment during forcible deportations (update to AI Index: EUR 01/01/00)

AI noted with regret that by the end of June the Minister of Interior had made no response to a letter sent by the organization in December 1999. Amongst other things, the organization had requested a copy of new guidelines on the execution of repatriations, issued to gendarmes in July 1999.

In view of its opposition to the use of any materials or methods which could block the airways of a deportee, AI had also sought information on any steps taken to ascertain the veracity of, and the Minister's comments on persistent claims made in the course of 1999 of gendarmes making use of heavily padded gloves to cover the mouths of deportees, thus blocking the airway. It made similar inquiries with regard to claims that, in preparation for deportation, individuals were placed face down on the floor in restraints, with their hands and ankles bound together from behind, sometimes left in this position for prolonged periods, and then carried by the restraints. Such allegations described a restraint method reminiscent of "hog-tying", a highly dangerous procedure which can restrict breathing and lead to death from positional asphyxia, especially when applied to an individual who is agitated.

AI's concern at the lack of response to its December 1999 inquiries was exacerbated by continuing reports of alleged ill-treatment during deportation operations. For example, Prince Obi, a Nigerian asylum-seeker alleged that he was subjected to ill-treatment during an attempt to deport him from Brussels-National airport on 29 December 1999. He said that when gendarmes told him that he must get on a flight out of the country, he refused and was then put in a cell for several hours, with his hands handcuffed behind his back and his feet tied together. When four officers came to escort him to a waiting flight he said that he resisted and was then dragged on board, hit with a belt, kicked and pushed into a seat. He said he struggled and undid his seat-belt and that the deportation operation was abandoned when

the pilot refused to carry him on the flight. He was then taken back to a cell where gendarmes asked him if he had heard about the case of a Nigerian woman who had been killed during deportation (see above *Death during forcible deportation*) and told that the following week a five man escort would force him onto an outward flight.

A medical examination carried out following his return to Steenokkerzeel detention centre 127-bis for aliens revealed bruising and grazing to his face and bruising and swelling to both arms. Prince Obi also complained of pain to the thorax and of having coughed up blood. In January the Ministry of Interior indicated that an administrative investigation had been opened into the allegations. However, this was subsequently suspended, pending the outcome of a judicial investigation into allegations that Prince Obi had resisted public officers with violence (*r bellion*), following claims by gendarmes that Prince Obi had hit them during the deportation attempt of December 1999.

Kifle Alemayhu, an Ethiopian national, alleged that he was ill-treated by gendarmes at Brussels-National airport on 20 May, during a fourth attempt to deport him from the country against his will. A fifth unsuccessful attempt was made to deport him on 3 June. He lodged a formal complaint of ill-treatment in June, supported by medical evidence. A medical report issued by a doctor attached to Vottem detention centre for aliens where he was transferred immediately after the 20 May deportation attempt recorded a perforated ear-drum and injuries to his wrists, apparently as a result of hand restraints. He was subsequently released. AI understands that the Belgian office of the UN High Commissioner for Refugees is currently studying his case for asylum.

During the period under review a judicial investigation was under way into a criminal complaint of ill-treatment lodged by Matthew Selu, a Sierra Leone national who was deported from Brussels-National airport to Dakar, Senegal, in November 1999 (see AI Index: EUR 01/01/00). In January, in response to AI's request for the cooperation of the Minister of Justice in keeping the organization informed of the eventual outcome of the criminal complaint, the Ministry stated that it would

be asking the judicial authorities about the status of the dossier. No reply was received to inquiries which AI addressed to the Minister of Interior in December 1999 seeking clarification on the steps taken by the Ministry to investigate the allegations in the case.

Alleged ill-treatment in detention centres for aliens (update to AI Index: EUR 01/01/00)

The Minister of Interior made no response to AI's December 1999 request for clarification of the existing system for monitoring the conditions of detention in the closed centres for aliens. The organization had expressed concern that the system did not appear to offer the fully independent supervision of detention conditions required by relevant international standards.

AI was concerned to note that a judicial investigation into a criminal complaint of ill-treatment lodged in November 1998 by Blandine Kaniki, an asylum-seeker from the Democratic Republic of the Congo, had still not concluded by June (see AI Index: EUR 01/02/99 and EUR 01/01/00). She alleged that in October 1998, while accompanied by her five-year-old son, she and other inmates of Steenokkerzeel detention centre 127-bis were subjected to an indiscriminate physical assault by helmeted gendarmes armed with batons and shields. Other inmates made written statements claiming to have been victims of, or witnesses to, the ill-treatment alleged. Blandine Kaniki was three months pregnant at the time and claimed that a miscarriage she suffered a few weeks later was the result of a blow to the stomach and subsequent inadequate medical assistance. The gendarmes had been called in to end an inmates' protest against an attempt to forcibly deport a Nigerian national earlier in the day: inmates claimed the man had been subjected to excessive force by members of the centre's personnel.

AI also noted that requests it had addressed to the Minister of Interior in February and December 1999, seeking a copy of any report drawn up following an internal investigation which was apparently carried out into the October 1998

incidents in the detention centre, and to be informed of any administrative or disciplinary proceedings arising from it, remained without response at the end of June.

During the period under review a judicial investigation was also under way into a criminal complaint of ill-treatment lodged by an Armenian national, Hovhannes Karapetyan, who alleged that he was physically assaulted by warders following his return to detention centre 127-bis after an attempt to deport him in June 1999 (see AI Index: EUR 01/01/00).

In January, in response to AI's request for the cooperation of the Minister of Justice in keeping the organization informed of the eventual outcome of the complaint, the Ministry stated that it would be asking the judicial authorities about the status of the dossier. The Minister of the Interior made no response to AI's invitation for comments on the reports of alleged ill-treatment in the case.

Universal jurisdiction: four Rwandese nationals to be tried for war crimes

In June four Rwandese nationals residing in Belgium were committed for trial before the Brussels Court of Assizes, accused of committing war crimes in the Butare region of Rwanda in the context of the 1994 genocide in which as many as one million people died between April and July 1994. The trial of Alphonse Higaniro, Vincent Ntezimana, Sister Gertrude Mukangango and Sister Julienne Kizito, is expected to take place in 2001. All four are currently at liberty.

AI welcomes any action taken to combat impunity, wherever it occurs. The organization calls on states to ensure prompt, thorough and independent investigations, wherever allegations of crimes under international law are made. If such an investigation shows that there is sufficient evidence for a prosecution, then, in accordance with international law which allows the national courts of any state to try people accused of such crimes, regardless of the nationality of the alleged perpetrators or victims and regardless of where the crimes were committed, AI calls on states to bring the accused to trial or extradite them to another country for trial, provided

certain safeguards are met. No one should be extradited to a country which cannot assure that any trial on such charges meets international standards for fairness and does not result in the imposition of the death penalty or other cruel, inhuman or degrading punishment.

Although several individuals believed to have played a leading role in the 1994 genocide in Rwanda were known to be living in various countries in Europe, North America and Africa, by the end of June 2000 only one of these countries had tried and sentenced a Rwandese national for war crimes under its national jurisdiction (see *Switzerland* entry). Other trials of those accused of participating in the genocide have taken place either in the national courts in Rwanda or at the International Criminal Tribunal for Rwanda (ICTR), set up by the UN in Arusha, Tanzania.

Belgian legislation enacted in 1993 and 1999 makes specific provision for Belgian courts to exercise universal jurisdiction over war crimes in international and non-international armed conflict, genocide and crimes against humanity, including torture. AI understands that since 1998, in the context of this legislation, a number of criminal complaints have been lodged with the Belgian courts and criminal investigations initiated against several leaders and prominent members of past and present administrations of various foreign states including:

- former Chilean Head of State General Augusto Pinochet;
- former Head of State Khieu Samphan, former Prime Minister Nuon Chea and former Foreign Minister Ieng Sary of the 1975-1979 Democratic Kampuchea (Khmer Rouge) government in Cambodia;
- former Speaker of Parliament and President of the Islamic Republic of Iran Hojjatoleslam Ali Akbar Rafsanjani;
- former Moroccan Minister of Interior Driss Basri;
- President Laurent-Désiré Kabila and Foreign Minister Abdoulaye Yerodia Ndombasi of the Democratic Republic of the Congo;
- President Paul Kagame of Rwanda.

BOSNIA-HERZEGOVINA

In February Alija Izetbegović (Bosniac) took over as chairman of the state presidency from Ante Jelavić (Bosnian Croat). Municipal elections, organized and monitored by the Organization for Security and Co-operation in Europe (OSCE), took place in April, and resulted in a significant gain for the opposition Social Democrat Party (SDP) in the Federation, while in the Republika Srpska the Serbian Democratic Party (SDS) got the majority of the votes.

A constitutional crisis loomed when the members of the state Constitutional Court failed to agree on changes to the Law on the Council of Ministers - which had already been ruled to be unconstitutional last year - leading to the departure of the court's two Bosnian Serb judges in January and February. Eventually a new Council of Ministers was adopted by the state parliament on 22 June, led by the new state Prime Minister, the Bosnian Serb Spasoje Tuševljak.

At the end of June the Constitutional Court ruled that the Bosniac (Bosnian Muslim), Croat and Serb nations were constituent peoples throughout the country and should enjoy equal rights regardless of the entity in which they live. The decision implied that the entity constitutions would have to be amended to achieve its intended results as both the Republika Srpska and the Federation constitutions only award constituent rights respectively to the Serb nation and the Bosniac and Croat nations. However, the (newly appointed) Serb as well as the Croat judges voted against the decision and politicians in the Republika Srpska opposed the constitutional amendments, and expressed their unwillingness to amend their constitution.

The Republika Srpska Parliament adopted two new pieces of legislation marking important improvements in the protection of human rights. In

February, a law on the establishment of a multi-ethnic Ombudsperson's office was passed and the first three Ombudspersons were appointed at the end of April. On 21 June the Republika Srpska Parliament adopted a new Criminal Code which no longer included the death penalty.

AI's concerns on the implementation of the right to return

According to the United Nations High Commissioner for Refugees (UNHCR), in the first six months of 2000, some 12,000 people returned to their homes now situated in an area administered by another ethnic group (minority returns) - more than triple the number which had returned in the same period last year. International observers noted that the improved return situation was largely thanks to the comprehensively amended property legislation which the High Representative, Wolfgang Petritsch, had imposed in October last year in both entities. For the first time since the end of the war there was a noticeable increase in the number of evictions carried out by local police in order to vacate reclaimed property in order for the pre-war owner to return.

However concern remained that the pace at which the entity and municipal authorities tasked to implement the new property legislation processed claims and executed their decisions was far too slow. In a number of municipalities considered to be of crucial regional importance for minority returns, housing authorities only started to process claims and issue decisions after sustained and increased pressure by the international community.

AI delegates carried out a field mission in March and April which focussed on researching the situation of minority returns to the eastern part of the Republika Srpska, in particular the Drina River valley (Podrinje) region. The findings of this mission were published in the report *Bosnia-Herzegovina: Waiting on the doorstep - minority returns to eastern Republika Srpska* (AI Index : EUR 63/07/00) Minority returns to this region, which lagged behind in comparison to other parts of the country, but are now reportedly on the rise, are of key importance for the facilitation of minority returns to

Sarajevo Canton, which is often seen as the barometer for the assessment of the process of minority returns in the country. Although this year has for the first time seen increased efforts by the municipal offices of the Ministry for Refugees and Displaced Persons (the authorities implementing property legislation in the Republika Srpska, also known as OMI), AI remains concerned that in many cases minority returnees continue to face obstruction in physically moving back into their property - even when their claims for repossession have been accepted.

For instance in Srpsko Gorañde, which lies just a few kilometres from the Inter Ethnic Boundary Line (IEBL, which separates the two entities) in Republika Srpska, the municipal office of the Ministry for Refugees and Displaced Persons only started to function after UNHCR staff all but co-located in their offices and provided administrative support in the issuing of decisions. The first minority returns to Srpsko Gorañde took place in March, when a group of 50 Bosniacs moved into two vacated houses in the town, after having camped on the IEBL for five months in protest at their inability to return home. At the beginning of June the UN Mission to Bosnia and Herzegovina (UNMIBH) announced a 60-day Housing Action Plan to be carried out in June and July in Srpsko Gorañde in order to kick-start the return process to and from the municipality.

The Podrinje region in particular has seen a large number of group returns to destroyed villages, where returnees have set up camp while awaiting donor funding for reconstruction of their houses and the local infrastructure. This often reflected the returnees' long-frustrated wish to go back to their pre-war homes, although it may also have been preempted by the fact that returnees had received eviction orders for the accommodation they were occupying in the Federation. Such group returns took place to villages in the municipalities of Foča, Višegrad, Milif, and, significantly, also to a hamlet near Srebrenica. AI, however, noted with concern indications that this type of return does not appear to be very sustainable, and creates a new kind of dependency on foreign aid - the timely delivery of which has been cast into doubt by the prospects of

ever-diminishing donor funding for returns and reconstruction in Bosnia-Herzegovina. In this respect, AI questioned the donor pledges undertaken by countries represented in the Stability Pact for Southeastern Europe (Stability Pact) in March, which will likely not be fulfilled before the end of the return season.

Returns to the region also continue to be met with violence, and AI remains concerned about the impunity following such attacks. In February there were at least ten reports of petrol bombs thrown at houses of returnees in Bijeljina and Janja, in the north of the country, including the house of a returnee in Bijeljina which was opposite the main police station. A hand-made bomb was thrown at a returnee house in Srpsko Gorañde, where some 25 returnees were staying, on the very day of their return. In Srebrenica, where less than a handful pre-war inhabitants actually returned to the town itself, at least four instances of arson committed on Bosniac houses were reported since the middle of May. The attack on one of the Bosniac councillors, Munib Hasanović (see AI Index: EUR 01/01/00) remained unsolved, and he reportedly received further death threats in the beginning of the year.

Serious problems remained in connection with the right to return in other parts of the country. For example in Drvar in the Federation the first ever attempts to evict Croatian temporary occupants from houses owned by Serbs resulted in violent clashes between the two groups in May. However, in a positive development an agreement was finally reached at the end of June to move the 1,300 strong brigade of the Bosnian Croat army (*Hrvatsko Vijeće Obrane* - HVO) out of Drvar. The presence of the HVO brigade in Drvar was considered to be one of the most serious obstacles to Serb returns to the town centre, particularly as HVO soldiers occupy reportedly 60% of its housing. Also in June trial proceedings reportedly started against a number of persons accused of having participated in rioting in Drvar in April 1998, which followed the murder of an elderly Serb returnee couple there (see AI Index: EUR 01/02/98). During April and May, the High Representative dismissed the Bosnian Croat Prime Minister, Interior Minister and Governor of

Herzegovina-Bosanski Canton for their obstruction of the Peace Agreement and their lack of implementation of property legislation and other activities aimed at blocking minority return to the Canton.

Further incidents of return-related violence were reported throughout the country. In Prnjavor in the Republika Srpska a series of violent incidents against Bosniac returnees took place in March, the most serious of which led to the death of one Bosniac man and serious injury to another one. In Brčko, which is now a separate district outside the jurisdiction of either entity, six Bosniacs reconstructing their houses in Klanac suburb were stoned by a group of some 100 Bosnian Serbs in April.

In March Bosnian Serb Prime Minister Milorad Dodik and Croatian Foreign Minister Tonino Picula signed a two-way return agreement instigated by United States Secretary of State Madeleine Albright. Under the agreement, 2,000 Bosnian Croats currently living in Croatia and 2,000 Croatian Serbs remaining in the Republika Srpska would be enabled to return to their homes within three months. However, no independent or concrete information on implementation of the agreement was available, and at the end of May an UNMIBH spokesperson stated that the deadline for the implementation of the agreement would be extended as the intended results had not yet been achieved.

Right to freedom of expression endangered

Reports of intimidation of independent journalists increased, particularly in the Federation. In January Hasan Hadžić, a journalist for the independent Sarajevo-based weekly *Dani* received death threats over the telephone. The threats appeared to be in connection with his reports on the criminal activities of the director of a Tuzla printing company, who was allegedly shielded from prosecution by the Cantonal authorities. Although the Tuzla police immediately opened an investigation, no one was arrested in connection with the threats.

In April, Frano Mio... and Đeljka Mihaljević, respectively the editor-in-chief and a journalist of the independent radio station *N* in Livno were the subject

of an abusive and threatening widely-distributed leaflet which reprehended them for their criticism of the Cantonal authorities.

In June, Edin Avdić, a journalist for the independent Sarajevo-based weekly *Slobodna Bosna* was attacked by two unknown men who punched him in the face in front of his house in Sarajevo. A week earlier he had been threatened by the secretary for culture of the SDA (*Stranka Demokratske Akcije* - the ruling Bosniac party) in connection with his reporting on the cultural policies of that party.

In February, the editor-in-chief and a journalist for the Republika Srpska independent weekly *Reporter* were questioned by the Banja Luka investigating magistrate on the basis of a request by the investigating magistrate in Sremska Mitrovica in the Federal Republic of Yugoslavia (FRY). The request was based on suspicions that the journalists had damaged the reputation of the FRY, by publishing an issue of *Reporter* which featured on its cover a photograph of FRY President Milošević, wearing a hat worn by Serb nationalists during World War II (also referred to as *„etniks*). The issue also contained an article on police violence against anti-government demonstrators. Criminal investigations against the two journalists are reportedly ongoing.

In June, Bosnian Serb police arrested five persons whom they suspected had been involved in the car bomb attack on *Nezavisne novine* editor Đeljko Kopanja in October 1999 (See AI Index: EUR 01/01/00). Two of them were reportedly former members of the Bosnian Serb special police forces.

International and domestic prosecutions for war crimes

In the period under review Stabilization Forces (SFOR) carried out five arrests of Bosnian Serbs, indicted by the International Criminal Tribunal for former Yugoslavia (Tribunal). In January, Mitar Vasiljević was arrested in Višegrad in the eastern RS. He had been indicted in a sealed indictment which included further suspects. In March, Dragoljub Pr...ac was arrested - he had been indicted for war crimes and crimes against humanity committed in Omarska detention camp. In April, Mom...ilo

Krajišnik, a former Bosnian Serb member of the state Presidency, was arrested after he had been secretly indicted for genocide, war crimes and crimes against humanity in a large number of municipalities throughout the country. Also in April, SFOR arrested Dragan Nikolić who had been charged for crimes committed in Sušica detention camp near Vlasenica. In June, Duško Sikirica, was arrested, indicted for war crimes, crimes against humanity and genocide committed in Keraterm detention camp.

Another suspect, Mladen Naletilić (also known as Tuta) was transferred to the Tribunal's custody by Croatia in March, after lengthy extradition proceedings and repeated medical examinations as his health had reportedly made him unfit to travel to the Netherlands.

Tribunal Trial Chambers handed down two verdicts and considered appeals in another two cases. In the trial against six Bosnian Croat men, accused of war crimes and crimes against humanity against Bosniac civilians, five of the defendants were convicted and received sentences of up to 25 years in January. One of the accused was acquitted.

The trial against Bosnian Croat General Tihomir Blaškić ended in March when he was convicted and sentenced to 45 years' imprisonment, the severest sentence handed down so far. However, immediately after the verdict was announced, the newly appointed Croatian Prime Minister, Ivica Račan, revealed that recently documents had been found in the archives of the state intelligence services (*Hrvatska izvještajna služba* - HIS) which corroborated General Blaškić's defence. Both cases are awaiting appeals.

In the final appeal in the trial of Bosnian Serb Dušan Tadić, his sentence was reduced to 20 years (after having been increased during an earlier appeal to 25 years).

In March the Appeals Chamber resented Bosnian Croat Zlatko Aleksovski to seven years' imprisonment. He had been convicted and sentenced to two and a half year's imprisonment in May 1999, when he was immediately released because of time already spent in custody. The Appeals Chamber denied the appeal grounds submitted by the defence, but allowed the appeal grounds of the prosecution. Furthermore the Appeals Chamber established that it

would be generally bound by its own decisions, after it had re-evaluated the legal test applied by the Trial Chamber in determining that in this case the nature of the conflict was not international (and hence the victims were not protected persons under the Fourth Geneva Convention) and ruled that for consistency's sake the test to be used should be the one developed during the Tadić appeal.

A number of trial proceedings were also conducted in national courts. In February the Sarajevo Cantonal Court acquitted Bosniac Ibrahim Džedović from charges of war crimes. He had been convicted and sentenced to ten years' imprisonment in October 1998, after a trial which had failed to meet internationally recognized standards of fairness (see AI Index: EUR 01/01/99).

Before the Mostar Cantonal Court the trial continued of three Bosniac former police officers accused of killing a Bosnian Serb couple and their two small children in Konjic in 1992. The trial had started in October 1999 and originally included six defendants. However in January three of the defendants were granted amnesty for their involvement in the crimes, a move which attracted criticism from international human rights monitors about the application of the Federation Amnesty Law to this case.

In June, Bosnian Serb Miroslav Pandurević was arrested by Federation police on the basis of a warrant issued by the Sarajevo Cantonal Court. He was suspected of having committed war crimes against civilians in Serb-occupied Sarajevo during the war.

In March the Bosnian Serb Interior Ministry announced that it had prepared and filed 440 indictments against over 3,000 individuals suspected of having committed war crimes against Bosnian Serbs. The complete documentation of these crimes had reportedly also been transmitted to the Tribunal's Prosecutor's Office.

Violence against Roma

AI is concerned about the increased frequency with which human rights abuses against the Roma minority in Bosnia-Herzegovina are reported.

One such incident brought to AI's attention concerns a group of 29 Roma who were beaten up by a group of Bosnian Serbs in Vlasenica municipality in the RS. The Roma had been recently deported from Italy where they had lived as refugees and, upon returning to Bosnia-Herzegovina had travelled to Vlasenica where they had lived before the war to see their houses. While in Vlasenica, they were attacked by a group of five local Serbs who warned them to go back to the Federation - which they subsequently did. To AI's information, no steps were taken by the authorities in Vlasenica to investigate the attack, which caused serious injury to one young Rom.

In another case reported by local human rights organizations, a group of Roma was attacked by some members of the SDA in Banovići in the Federation on 11 April. Five Roma sustained serious injuries, while local police present reportedly did not protect them from the violence. The attack appeared to have been motivated by the Roma's decision to vote for the (opposition) Social Democratic Party in municipal elections on 8 April. According to a report by the Bosnian Helsinki Committee for Human Rights and the Centre for the Protection of Minorities' Rights, the attack was one in a range of violent incidents aimed at intimidating the Roma population in Banovići. They alleged that no steps had been taken by the police and judicial authorities in the municipality to investigate and prosecute any of these attacks.

BULGARIA

Police brutality

A questionnaire survey conducted among nearly 1,000 convicts in Bulgaria's penitentiary system on behalf of the Bulgarian Helsinki Committee in early 1999 revealed that over half claimed that they were tortured or ill-treated during arrest or when detained

and interrogated at a police station¹. When broken down by ethnic group, the results showed that the highest incidence of alleged ill-treatment by police officers was reported by Roma respondents. Sixty per cent of Roma convicts claimed that they were ill-treated in police detention. AI called upon the authorities to devise and implement a national strategy to address what appears to be a systemic, institutional problem of ill-treatment by police officers.

Roma: Reports of police brutality against Roma came against a background of rising social tension involving Roma communities. In the village of Mechka near Pleven the murder in early April of an ethnic Bulgarian man prompted a protest and campaign by ethnic Bulgarian villagers to expel all the Roma inhabitants. The village mayor instituted a ban on Roma being served in village shops or grazing their animals on village land. Police officers prevented threatened acts of violence, yet were reported to be randomly detaining several Roma men per day for 24-hour periods. In February 3,000 ethnic Bulgarian residents of the Meden Rudnik suburb of Burgas similarly called for the expulsion of Roma from the suburb, in a petition to the Mayor of Burgas. On 2 May the nationalist weekly newspaper *Nova Zora* published an open letter from 374 intellectuals and artists, calling upon President Stoyanov to "stop the oriental invasion" - what they saw as unbridled aggressive and arrogant Roma demographic and cultural expansion, which has resulted in the "complete gypsification" of hundreds of Bulgarian villages. During Bulgaria's economic and social transition over the last decade Roma have become increasingly marginalized and impoverished, and the majority are unemployed. Often they live on the peripheries of towns or settlements or in ghetto-like neighbourhoods lacking basic services.

¹ Detailed in "Legal defence of defendants in the criminal process and its effect" by Dr Krassimir Kanev. The internet website of the Bulgarian Helsinki Committee is at www.bghelsinki.org

BOI officers who raided her apartment allegedly stated to Veronika Vuchkova that her son would be killed: "You will kiss him cold." ("?? ???? ? ? ? ? ? ? ? ? ? ? ? ? ? ? ? ?"). She made a written protest to prosecutors on 18 May 1998 that her son dare not give himself up to such police officers for fear of summary execution. On 6 June 1999 Ministry of Internal Affairs personnel observed Gancho Vuchkov-Ganetsa playing football in the yard of Sofia's French gymnasium yet they did not take the opportunity to arrest him. Reportedly, they instead allowed him and his friend Angel Mitov to drive off in a car, after which several BOI and police cars gave chase at high speed and gunfire was exchanged. On 27 August 1999 the newspaper *24 chasa* reported that the then Minister of the Interior Bogomil Bonev was preparing an ordinance which would give BOI officers the power of arrest: "to avoid unnecessary gunfights on the streets". The Minister noted that if this change had been made earlier Gancho Vuchkov-Ganetsa could have been arrested rather than killed.

BOI officers are reported to have been involved in at least one earlier fatal shooting incident. Nineteen-year-old Airedin Mustafov from Slavyanovo near Pleven died five days after he was shot late on 2 December 1998. Reportedly, BOI officers chased and shot at him from a minibus on the outskirts of Sofia after he drove dangerously past their colleagues who had signalled him to stop. Airedin Mustafov was driving an unregistered Volkswagen Golf he had taken without authorization from his uncle earlier that day. Uniformed officers also attempted to interdict him and fired shots. Airedin Mustafov was caught at about 10.40pm and taken to Sofia fifth district police station, where officers called an ambulance for him, reportedly after noticing a bullet hole in the driver's seat of his car. The medical team found him to be uninjured and departed. But near midnight he was taken to the Pirogov emergency hospital and discovered to have at least two bullet wounds. His relatives received his corpse on 8 December 1998. They reported seeing three small bullet entry holes in his stomach and a large exit wound in the small of his back. His body was covered with marks suggesting he had been severely beaten and his nose and jaw were broken.

Prosecutors' investigations of alleged police brutality

The changing course of the official investigation of the the ill-treatment of businessman Svetlyu Shishkov, his son Slaveiko and friends at a beach on the west shore of the Iskar Reservoir at 6pm on 8 August 1999 (see AI Index: EUR 01/01/00), allegedly by a group of about 15 BOI officers, appeared to demonstrate that it was subject to inappropriate political influence. Although the assailants were reported to have driven to the beach from the nearby BOI base and assaulted the Shishkovs in front of dozens of witnesses, apparently on the instructions of a man staying at a private resort used by government ministers, for many months afterward the investigating authorities were unable to confirm whether the assailants were indeed police officers and Minister Bonev speculated that the incident was a fight between two rival criminal groups. The Shishkovs were allegedly harassed and intimidated. In December 1999 Minister Bonev was dismissed and by May he was in sharp political conflict with his former government colleagues, trading accusations of corruption. In May sources in the Supreme Prosecutor's Office of Appeal (????????? ? ?????????? ?????????? ???) informed the media that military prosecutors were investigating the role of former minister Bonev in the Iskar Reservoir case. They reported that BOI officers had been identified as the alleged perpetrators of the assault. In July and August the Shishkovs attended an identity parade of some of the alleged assailants. By August some BOI officers were said to have been indicted. The briefing to newspapers by Supreme Cassation Prosecutor's Office sources refocused attention on unconfirmed reports that the man who appeared to have ordered the attack at the reservoir was the then Minister of Internal Affairs Bogomil Bonev himself. The man in question was seen to dock his motor boat at the BOI base, a villa situated on the western bank of the reservoir, after reprimanding the Shishkovs for allegedly spying from their jet-ski on a private resort on the opposite shore. After a new encounter with Slaveiko Shishkov in the late afternoon, he told him: "I have sent some boys to you,

but you can tell them that we have sorted everything out, so that they don't rough you up." However, when Slaveiko Shishkov and his friend arrived back at the beach on their jet-ski the BOI officers had arrived and the beating had already commenced. Bogomil Bonev, who was staying at the resort at that time, denied his involvement, stating that he was riding a horse in the Rila mountains at the time.

Changes made to the Penal Procedure Code at the beginning of the year included the introduction of judicial review of refusals by prosecutors to initiate investigations. Moreover, criminal investigations by prosecutors may now only be terminated in an open court process in the presence of the prosecutor, the defence counsel of the accused and the alleged victim. This positive change, long advocated by AI, will prevent military prosecutors from unilaterally terminating criminal investigations of alleged violations by police officers. Until this change victims of alleged police brutality could only appeal such decisions to higher ranking military prosecutors.

The judgment of the European Court of Human Rights in the case of Velikova vs. Bulgaria, delivered on 18 May, demonstrated the problem of impunity for police brutality which the previous rules fostered. Anya Velikova's husband Slavcho Tsonchev died of internal bleeding after being beaten in police detention in Pleven on 25 September 1994, 12 hours after he was arrested on suspicion of stealing a cow. In December 1994 the Pleven military prosecutor decided not to indict any police officers. Her response to appeals against this decision by the family's lawyer was: "No matter how many times attorney Dimitrov appeals to higher instances this decision will not be changed". The European Court found that the Bulgarian authorities had violated Article 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms by failing to conduct an effective investigation, and that they had failed to provide Anya Velikova with an effective judicial remedy, a right guaranteed by Article 13 of the European Convention. She was awarded 100,000 French Francs in non-pecuniary damages, and 18,000 Bulgarian leva (18,000 Deutschmarks) in pecuniary damages and costs. Coverage of the European Court decision by Bulgarian media was reported to be

sparse. Among the newspapers which did cover it *Dneven trud* commented: "It is a pity that once again Bulgarian taxpayers will pay the compensation payments, costs and lawyers' fees. But it is even more of a pity that prior to that we paid the salaries of the police officers, investigators and prosecutors, who yet again are unlikely to be brought to account. And it is not surprising that the sense of impunity turns some law enforcement personnel into a pack of wild animals."

Children's homes

The Plovdiv edition of the newspaper *24 chasa* reported the deaths of two more children at the Dzhurkovo home for mentally handicapped children, Luki municipality, which may have resulted from extreme neglect. In March 1997 AI wrote to President Stoyanov expressing concern about the deaths of seven children at the home in February 1997 resulting from malnutrition and hypothermia. Reportedly, official investigations into these deaths are continuing. This year four-year-old Galya is reported to have been seriously ill with acute double bronchial pneumonia for two weeks prior to her death, yet the administrators of the state-run home did not refer her to a hospital. Thirteen-year-old Rosen Nanev is also reported to have died of bronchial pneumonia.

The Bulgarian Helsinki Committee reported a dangerously severe lack of food and other supplies at the Fakiya home for severely mentally handicapped children in Burgas oblast, where each child has a budget allocation of only five stotinki (0.05 Deutschmarks) for food per day. According to the Committee's research the average level of food provision budgeted for each child in state run children's homes is 45 stotinki (0.45 Deutschmarks) per day, and in most cases the level of provision is only kept at an acceptable minimum level by aid and charitable donations. Dangerously low levels of food and other provisions are reported to occur where children's homes are geographically isolated, such as at Dzhurkovo and Fakiya, or where the administrators of a home are insufficiently active in soliciting outside donations.

The Law on Drugs and Pharmacies, adopted in January, includes a provision which allows drug experiments to be conducted on orphans if a court order for that purpose is obtained. While there is no evidence that any such court orders have yet been applied for, a case in which a psychologist conducted an experiment with a psychotropic drug on 15 children in the "Maria Teresa" orphanage in Stara Zagora in May highlighted the vulnerability of children in state orphanages to potentially dangerous exploitation. Three children were briefly hospitalized after taking "Rispolept", a drug intended to control aggression in schizophrenics. The 15 children, who were not known to be schizophrenic, were asked to fill out a questionnaire by the psychologist, who appeared to be conducting research on behalf of a professor of the medical faculty of Thrace University. Prosecutors commenced an investigation.

CROATIA

On 3 January general elections (having been postponed from December 1999 because of President Tudjman's illness and subsequent death) resulted in a landslide victory for the main opposition Croatian Social Liberal Party (*Hrvatska socijalna liberalna stranka* - HSLS) and the Social Democrat Party (*Socijaldemokratska partija* SDP) who jointly gained more than 70% of votes cast. A new government was formed and inaugurated on 28 January. Presidential elections held on 7 February resulted in a victory for Stipe Mesif.

The new government, led by Prime Minister Ivica Ra..an, announced its commitment to improving Croatia's human rights record, in particular by supporting the return of Croatian Serbs, increasing its cooperation with the International Criminal Tribunal for former Yugoslavia and stimulating the development of free independent media. A group of constitutional experts was instructed by Parliament in March to draft changes to the Croatian Constitution with the reported aim of limiting the powers of the President and the executive.

Return and reintegration of Croatian Serbs

The new government repeatedly announced its commitment to improve Croatia's record with regards to the return of Croatian Serbs who had left the country during or in the wake of the 1991-1995 war. One of the most promising measures taken in this respect was the adoption of the amended law on reconstruction in early June, which awarded equal rights to funding for reconstruction and for humanitarian aid to all returnees, regardless of their nationality. Previously, only Croatian returnees had been eligible. In a related issue, in May, the lower house of the Croatian Parliament (House of Representatives) adopted three laws on the legal position, rights and duties of national minorities and ethnic communities in Croatia. According to one of these laws, national minorities constituting more than 8% of the total population, will have the right to equal representation in the government. However the implementation of these and other provision will be decided after a future population census. Moreover, Parliament simultaneously instructed the government to draft a new constitutional law on minorities within six months, indicating that the already enacted provisions would be of a provisional nature only.

According to the United Nations High Commissioner for Refugees (UNHCR), in the first six months of 2000 some 6,000 Croatian Serbs returned to the country, most of them from the Federal Republic of Yugoslavia (FRY) and the Bosnian Serb entity of Bosnia-Herzegovina (Republika Srpska). Croatian Government sources put the number even higher, at around 7,500. This was almost three times the number that returned to the country in the same period last year, although air strikes by the North Atlantic Treaty Organization (NATO) against the FRY from 24 March to 10 June 1999, meant the borders between the countries were temporarily closed.

However, persistent problems remained with obstacles to sustainable returns, the most important barrier being the continuing obstruction faced by Croatian Serb returnees when attempting to regain possession of their property - currently mostly occupied by Croat refugees from neighbouring Bosnia-Herzegovina. According to the Organization for Security and Co-operation in Europe (OSCE),

quoting statistics provided by the governmental Office for Displaced Persons and Refugees (ODPR), less than 30% of more than 10,000 applications for the repossession of property had been resolved and executed by the end of June. This was largely due to the inaction of the Housing Commissions, which are tasked to implement the 1998 Programme for Return on the municipal level. An AI delegate who interviewed members of a multiethnic Housing Commission and local organizations providing legal advice to returnees in the Krajina area in May was informed that some Housing Commissions had not processed any applications in 2000. In the majority of cases where Housing Commissions did issue a decision in favour of the returnee, their access to the property then became dependent on the temporary owner being allocated alternative accommodation, the size and location of which is not specified under the Programme for Return. Thus the majority of those returning to Croatia from abroad did not in fact return to their own houses but went to stay temporarily with family or friends awaiting the vacation of their property.

On 9 March, the new Croatian Foreign Minister, Tonino Picula, signed a two-way return agreement with Bosnian Serb Prime Minister Milorad Dodik. Both sides committed themselves to facilitating the return of respectively 2,000 Croatian Serbs (now refugees in Republika Srpska) to Croatia, and 2,000 Bosnian Croats (now living in Croatia) back to their pre-war homes now located in the Republika Srpska, by the end of May. The text of the agreement stipulated clearly that urgent steps would be taken to speed up the recovery of property, including by means of eviction and the providing of alternative accommodation.

It remains unclear, however, whether and to what extent the agreement has been implemented. According to the Croatian authorities, some 700 returns from the Republika Srpska to Croatia have been registered, although they did not specify whether any of these returnees had succeeded in regaining access to their property. The Bosnian Serb deputy Minister for Refugees and Displaced Persons stated in mid-June that 328 Bosnian Croat families had returned to the Republika Srpska over the previous

three months and that 78 of their houses had already been vacated and sealed. However, these numbers were disputed by local Bosnian Croat sources. Also, in May a spokesperson for the United Nations Mission to Bosnia-Herzegovina stated that the deadline of the agreement would be extended as its implementation had not yet been achieved (see entry for Bosnia-Herzegovina).

In a positive development, the number of violent incidents reported against returning or remaining Croatian Serbs continued to decrease. In the period under review, however, one Croatian Serb returnee, Nedjelko Stulif, was beaten to death by three Croats on the island of Vir near Zadar on 1 March. Ethnic tension also remained in certain municipalities in eastern Slavonia. For instance, in the beginning of March a group of Croat returnees reportedly intimidated Croatian Serbs in the village of Erdut by gathering outside their houses, smashing windows and shouting threats while local police allegedly failed to intervene.

AI members who had written to the Croatian authorities in 1999 and the first months of 2000, raising AI's concerns about the lack of safety for Croatian Serbs in eastern Slavonia (see AI Index: EUR 01/01/00) received replies back from the new authorities. The Ministry of Justice informed AI that on 8 March 2000, a person was charged with the murder of Teodor Bogdanovič in Marinci and that trial proceedings against him will commence shortly. Furthermore, a suspect, arrested immediately after the murder of another Serb, Djuro Mutif, was formally charged on 17 January. The Interior Ministry informed AI that extensive measures had been taken in the Vukovar-Srijem County to increase protection of persons at risk there. The Ministry also assured AI that human rights training of police officers took place on a regular basis, and stated as an example of this the participation of police officers in a seminar organized in March by the Office of the High Commissioner for Human Rights (OHCHR) on the use of force during arrests.

Prosecutions for war crimes

Croatia's cooperation with the International Criminal Tribunal for former Yugoslavia (Tribunal) improved markedly during the period under review. In February, publicly indicted suspect Mladen Naletilić (also known as Tuta) was transferred to the Tribunal's custody, after lengthy extradition proceedings in 1999 and repeated medical investigations into his fitness to travel.

In April the Croatian Parliament passed a declaration which provided for full cooperation with the Tribunal and reportedly acknowledged the Tribunal's jurisdiction over violations of international humanitarian law committed in the wake of Operations Flash and Storm in 1995. Also in April, Tribunal investigators started exhumations in the village of Obradović Varoš near Gospić, where scores of Serb civilians had allegedly been killed by Croatian army and special police forces in 1991. In early May the exhumations were completed, after around a dozen human remains had been found at the site. The Gospić exhumations were the Tribunal Prosecutor's first forensic field investigations into crimes committed against Serb victims during the armed conflict in Croatia. In early June a spokesman for the Tribunal's Prosecutor's Office stated that Croatia had achieved almost full cooperation and that the only remaining outstanding requests to Croatia concerned documentation connected to ongoing trials before the Tribunal.

A number of trials for war crimes also continued before the domestic courts. One of these, the retrial of Croatian Serb Mirko Graovac before the Split County Court, continues to be of concern to AI. Mirko Graovac had been convicted of war crimes against the civilian population and prisoners of war in 1996 by the same court and was sentenced to 20 years' imprisonment, after a trial which had failed to meet internationally recognized standards of fairness (see also AI Index: EUR 01/01/99 and EUR 01/01/00). His retrial opened in January and he was re-convicted of the same crimes and sentenced to 15 years' imprisonment on 26 June. The main objective of the retrial was to clarify the role of the prosecution witnesses, who had testified in previous proceedings that at the time of their capture they had been serving in the Croatian Army. During the retrial all of them

changed their statements and said that they had in fact been serving in the Bosnian Croat armed forces or HVO (*Hrvatsko vijeće obrane*). This time, the court allowed defence witnesses to testify, which it had refused to do in the original trial in 1996. However, their testimony was ruled to be insufficient to establish a complete alibi for the defendant.

AI is particularly concerned that the renewed conviction appears to be based solely on the statements of prosecution witnesses, several of which had identified the accused in irregular proceedings during the original trial. One crucial prosecution witness had also reportedly been involved to a considerable degree in the investigatory proceedings against Mirko Graovac and would therefore have had an interest in his conviction. Furthermore, according to trial monitors of the OHCHR mission to Croatia, during some of hearings prosecution witnesses subjected Mirko Graovac to verbal abuse and one of them physically attacked him. These misdemeanours were reportedly not appropriately addressed by the presiding judge. Furthermore AI remains concerned that no investigation appears to have been conducted into allegations that Mirko Graovac had been tortured after his arrest in 1995.

In May, trial proceedings started against Croatian Serb Dragiša „an..arević, the former chief of police in Borovo Selo near Vukovar, who had been arrested in April 1999 on the basis of an indictment for war crimes dating back several years. In 1997, prior to his appointment as police chief, Dragiša „an..arević had been screened by international police monitors of the UN Transitional Authority for Eastern Slavonia (UNTAES) as well as by the Croatian authorities, who at that time had not mentioned the existence of charges against him. AI has received reports indicating that identification procedures which took place after „an..arević's arrest were conducted in an irregular way. The organization continues to monitor these and other war crimes trials in Croatia.

New reports of ill-treatment by police

AI is concerned that Croatian police reportedly ill-treated several persons participating in annual

demonstrations on 9 May in Zagreb, organized by pressure groups which seek to change the name of the capital's "Square of Croatian Great Men" (*Trg hrvatskih velikana*) back to its original name - Square of the victims of fascism (*Trg žrtava fašizma*). As in previous years, skirmishes broke out between demonstrators and members and supporters of right-wing groups opposing the demonstration. Three demonstrators were taken to a nearby police station by plainclothes special police officers who reportedly kicked and beat them in the process, tore out tufts of hair from one individual and broke the spectacles of another. As far as AI is aware no investigations were launched into these reports of ill-treatment.

Some 30 other demonstrators were apparently followed by a large group of right-wing supporters as they left the square. Out of fear for their safety the demonstrators chose to walk home via a street on which a police station is located. However, when some of their pursuers started throwing stones at them, police standing by in the porch of the police station reportedly refused to intervene and told one of the demonstrators, a female member of the Croatian Parliament, to go and finish their fight somewhere else.

FINLAND

Update on prisoners of conscience

During the first half of 2000 AI adopted as prisoners of conscience six further conscientious objectors to military service: Otso Valpas **Lapila**, Mikko Oskari **Valtonen**, Timo **Tervakangas**, Mikko **Koikkala**, Jani Petteri **Kohonen** and Lasse Antero **Palosaari**. They were convicted for a "non-military service crime". All of them gave the punitive length of alternative service as one of their reasons for refusing to perform alternative service. Since 1997 AI has been concerned about the length of alternative

service, compared to military service, which the organization considers to be discriminatory and a form of punishment. Under the current system over 50 per cent of recruits serve 180 days of military service while all conscientious objectors have to perform 395 days of alternative service.

In October 1999 the Minister of Labour informed AI that it had assigned Professor Jukka Kekkonen of the University of Helsinki to conduct a study into the Finnish non-military service system. The report was published in December. It proposed among other things that the length of alternative civilian service should be reduced from approximately 13 months to 10 or 11 months. The Ministry of Labour is currently drafting an amendment of the Act on Non-Military Service which will be presented to Parliament in early September 2000.

FRANCE

Prison doctor's book sparks new controversy

In January Dr Véronique Vasseur, who is chief doctor at Paris-La Santé prison, published a book which vividly described her experience of inhuman and degrading conditions at the prison.² Its publication reinvigorated debate about the state of prisons in France in general (see also AI Index: EUR 01/01/00) and led to the creation of two commissions of inquiry into prisons, one by the National Assembly, the other by the Senate. The two commissions were due to publish their findings in July. In March the Canivet Commission, a working group on the external control of the prison system which had been announced in July 1999, submitted its report to the Justice Minister. Apart from proposing a number of new methods of external control, the commission recommended that a new law set out the role of the prison administration and the rights of prison inmates.

Use of restraints in detention

²"*Médecin-chef à la prison de la santé*", le *cherche midi éditeur*, 2000

Arrested for a drunk driving offence in 1996, **Lionel Galopin** committed suicide in 1998, after a period of detention under physical restraint, and under reportedly inappropriate and insufficient medical supervision, had left him with irreparable neurological injuries. According to legal and medical documents, after arrest Lionel Galopin, who was being treated at the time for nervous depression and alcoholism, was detained at Draguignan prison. After showing symptoms of delirium tremens and epilepsy, he was transferred by prison staff to Draguignan Hospital, in an agitated state, due to acute withdrawal symptoms caused by incarceration. He was shackled to a bed in a cell by hands and feet for several hours. Leather thongs were added to his feet and arms, which were fastened crosswise to the head of the bed. He was later found half out of the bed but suspended from it by the left arm and feet. Owing to alleged lack of appropriate medical care and supervision, his wrists, left arm and ankle eventually developed symptoms of gangrene and he had to undergo repeated surgery. In November 1996 Lionel Galopin received a suspended six-month sentence and was freed. However, he had already spent six months in provisional detention. He had lost the use of his left arm and hand and aggravated psychiatric problems were attributed to the consequences of detention. An investigating judge ruled in February 2000 that his judicial complaint, claiming medical neglect and degrading and inhuman treatment, was unfounded. His lawyer appealed to the Court of Appeal of Provence and the court's *chambre d'accusation* ordered the judge to carry out further investigations. These were reported to include the tracing of photographs that had been taken of Lionel Galopin's injuries after he had been transferred from Draguignan to another hospital, but which had not until then been taken into account.

Holding areas at Roissy-Charles de Gaulle

In February AI expressed concern to the Interior Minister about allegations that some asylum-seekers had been ill-treated at a holding area at Roissy-Charles de Gaulle airport, Paris on New Year's Eve. A local AI representative visiting the centre had been

told that several Sierra Leone nationals, of Muslim faith, had emerged into the corridor of the building to pray and sing and that two police officers, who were reportedly drunk, had begun to harass and ill-treat them, making threats and racial insults, spraying them and causing injuries to one or two people. AI expressed concern at other reports about harassment of immigrants at the centre and referred to a number of previous criticisms that had been made about the facilities at the Ibis Hotel and other holding areas at Roissy by a number of NGOs, including AI. While the organization welcomed a series of efforts by the French authorities to improve conditions for asylum-seekers, AI remained concerned at the tense situation created by poor and inadequate facilities, which it believed could help to fuel confrontations between asylum-seekers and police officers. AI also asked that the allegations of ill-treatment be investigated by the Ministry.

At the same time AI again raised with the Minister the case of **Salah Ben Hédi Hassen Karker**, a Tunisian political refugee issued with an expulsion order in 1993 and held since under a form of administrative detention known as "*assignation à résidence*" (AI Index: EUR 01/02/98 and 01/01/98). AI reiterated that Salah Karker had never been given an effective opportunity to contest the expulsion or *assignation à résidence* orders against him in a court of law and considered it "intolerable to hold Salah Karker indefinitely under such a form of confinement". To date AI has not received a response from the Interior Minister on either subject.

Fatal shooting of Riad Hamlaoui by police officer

AI is investigating the case of an Algerian man resident in Lille who, in April, was shot dead in a car in which he was a passenger, after a night out celebrating a new job contract. A police officer, one of two called to the scene of a reported car theft in the Rue Balzac - in the southern part of the city, where many immigrants live - fired at **Riad Hamlaoui** at close range and a bullet pierced his neck, killing him instantly. Both Riad Hamlaoui and his friend were unarmed. The driver had got out of the car but Riad

Hamlaoui, still inside, was reported by the officer to have made a “sudden movement” which caused him to fear for his life. The dark night and condensation on the car windows were also put forward by police as mitigating factors. The officer was placed under investigation on a charge of “voluntary homicide”. He was detained and suspended from the police force pending the outcome of inquiries.

In June the Interior Minister reportedly ordered the General Inspectorate of the National Police (IGPN) to launch a study into the regulation weapons issued to French police officers. One of the apparent aims of the study was to try to establish whether the Manurhin revolver often used by police, and which lacks a safety catch, can help account for the number of police shootings in France.

AI has a longstanding concern that excessive force leading to ill-treatment, shootings and killings, is used against people who are largely young and often of non-European origin (see section below and *Updates*). In June the European Commission against Racism and Intolerance (ECRI) of the Council of Europe found that: “In France, racism and discrimination are particularly acute vis-à-vis young people of immigrant background ... The situation regarding undocumented immigrants, including in some of France’s overseas territories, and the behaviour of some law enforcement officials, is also of concern”.

Allegations of police ill-treatment of women of non-European origin

Several reports alleging police ill-treatment were received. The persons involved were of North African or African origin. AI is following the case of **Cornélie Chappuis**, a French woman of Zairean origin, who filed a judicial complaint against Roubaix police officers, in which she claimed that in January they had subjected her to cruel, inhuman and degrading treatment, including threats and racial abuse, and to arbitrary arrest and illegal detention at Roubaix police station. The officers had been called to her home in Roubaix (Nord) during a domestic dispute with her husband. At the time of the incident she and her husband were involved in divorce

proceedings and a court order had provided for them to live apart, but the husband had not yet vacated the premises. Four police officers reportedly went to the house following a telephone call, and found her to be “manifestly intoxicated”. Dressed only in her pyjamas, and without shoes, she was taken forcibly from her house, placed in a police vehicle and driven to Victor-Provo Hospital in Roubaix, where she was examined by a doctor. The medical certificate drawn up by the doctor noted that, contrary to police claims, she was not drunk and gave clear, measured and calm responses. There was no visible evidence of blows and bruising. The doctor observed that she only began to shout when the police officers took her back to their vehicle.

Cornélie Chappuis claimed that, after being placed in the vehicle, she was handcuffed and thrown face down on the floor, and at one point her head was pulled back and hair pulled while a police officer made threatening remarks. There was a reported reference to the well-known case of the death by asphyxiation of Semira Adamu, a Nigerian woman who died during an attempt to forcibly deport her from Belgium in 1998, and who had allegedly been subjected to the so-called “cushion technique”. The officer allegedly said that he would like to apply the same technique to Cornélie Chappuis. She alleged that she was also subjected to cruel and degrading treatment and to racial remarks while at the police station and that she was forced to strip while police officers looked on and made lewd comments. She was refused permission to speak with the officer in charge and was referred to by one officer as a “nigger” (“*négresse*”). When she asked for some water she was told she could drink from the shower head. She remained all night at the station and appears not to have been charged with any offence. A second medical report, issued by her family doctor following her release, recorded injuries to her body which had not been noted in the first medical report. These included painful swellings to her wrists, bruising to her left hand, left elbow and right arms, linear bruising to her right thigh and left and right legs. The report also noted her distress. Following a request by the departmental préfet, an internal administrative inquiry was opened by the General Inspectorate of

the National Police and in March Cornélie Chappuis lodged a formal judicial complaint with the Lille court.

Hayat Khammal, of Moroccan origin, was returning home with her mother and three other women from a wedding in March when their car was stopped by a police patrol at Ris-Orangis (Essone) after she made a gesture which was variably described as insulting and as a thank-you sign for letting her pass. An argument developed between the officer and Hayat Khammal. The latter, who was pregnant, alleged she had been struck on the neck and racially insulted, with remarks such as “*sale Arabe*” (“dirty Arab”). Hayat Khammal was then detained in police custody for several hours. The incident received press prominence because it was recorded on a private video. This did not, however, record the whole incident, including the alleged assault or racial abuse. At the time the Interior Minister reportedly stated that the police officer’s use of vocabulary was “unacceptable” but also criticized the woman for insulting the officer. An inquiry was opened by the IGPN.

Law on presumption of innocence

In May an important new law was approved by the Senate. Known as the law on the “protection of the presumption of innocence and rights of victims”, it will introduce a long-needed appeal structure to assize court verdicts. Among a number of other measures, lawyers will, from January 2001, be able to visit their clients during the first hour of police custody and again, at the 20th and 36th hour, although, significantly, these measures do not affect those suspected of terrorist-related crimes or of drug trafficking, whose lawyers may still not visit them until the 72nd hour. Decisions about provisional detention will be made by a *juge des libertés* and limitations are to be placed on the length of the judicial investigation period. From June 2001 video recordings of police interrogation of minors will be introduced. Although the introduction of similar precautions for adults has met with vociferous opposition from police and judicial bodies, these may be introduced at a later time.

Fatal shootings by law enforcement officers: updates (see previous bulletin issues and Amnesty International Report for all these cases)

Franck Moret: In January the Court of Cassation annulled an appeal court verdict against a gendarme who, in 1993, had shot dead Franck Moret when he tried to escape a road checkpoint. The court also refused the family leave to appeal against its decision. The Court of Appeal of Grenoble (Isère) had sentenced the gendarme to a suspended 18-month prison sentence in July 1998. The court held that, although the gendarme was entitled under French law to stop the car, the fatal shot had been fired in a “particularly imprudent and clumsy way from the viewpoint of height and direction”. The Court of Cassation did not dispute this finding. However, it took into particular account Article 174 of the Decree of 20 May 1903, modified in 1943, which allows the gendarmerie much greater latitude in use of arms than the police, who are governed by the concept of “legitimate defence”. The court found that the gendarme’s action accorded with the decree’s provisions, and that these had not been properly considered by the Court of Appeal in its judgment.

AI has expressed its extreme concern over the continuing use by the gendarmerie of their special powers over use of firearms. AI’s concern is shared by the UN Human Rights Committee, which recommended in 1997 that France consider appealing or modifying the Decree with a view to harmonising the gendarmerie’s powers with those of the police.

Youssef Khaïf: In March, nine years after the fatal shooting by a police officer of Youssef Khaïf, a man of Algerian origin, at Mantes-la-Jolie (Yvelines) in 1991 - and following a decision, in 1999, to quash an order not to proceed with the case - the *chambre d’accusation* of the Court of Appeal of Versailles resolved to send the officer for trial before an assize court in connection with the killing. The officer appealed against the decision to the Court of Cassation.

Abdelkader Bouziane: In March the investigating judge of Fontainebleau (Seine-et-Marne) reportedly concluded that the two officers involved in the death of 16-year-old Abdelkader Bouziane in 1997 should

be sent before an assize court for committing, as public officials, acts of voluntary violence with weapons, leading to death, without having intended to cause it. The prosecution had requested that the case be dropped because there were no grounds to proceed. The Versailles Court of Appeal's *chambre d'accusation* will decide whether to accede to the judge's request.

In a separate, but related, development a police officer was sentenced in June to 18 months' imprisonment - 12 of which were suspended - for shooting and injuring **Mohamed Dries** during the days of public disturbances at Dammarie-les-Lys that followed the death of Abdelkader Bouziane. The officer, who was off duty, said she had left her apartment and gone down to the street because she feared her car was being attacked. She stated that she had then been attacked by a large number of young people in hoods and that her service weapon had been stolen. She did not know if any shots had been fired with it thereafter. However, this version was disputed by Mohamed Dries and by witnesses. The officer later said that she had herself fired the gun while on the ground and while youths were attempting to snatch it from her. She was reported to have finally admitted that she had fired the gun while in a standing position and was not sure that, at the moment of firing, anyone had tried to take the gun from her. The sentence passed by the correctional court of Melun for committing a voluntary act of violence with a weapon was more severe than the two-month prison sentence requested by the prosecutor.

In September 1999 four young people accused of taking part in the riots at Dammarie-les-Lys were sentenced to prison terms ranging between 12 and 15 months.

Eric Benfatima: In June the police officer who killed Eric Benfatima at Tarbes in 1998 was sentenced to ten years' imprisonment by the Assize Court of Hautes-Pyrénées. The officer had given chase to Eric Benfatima after engaging in an argument with him when the latter asked him for a cigarette, and had fired four shots into his back. The officer faced a charge of voluntary homicide, or murder, but this was modified by the assize court to one of assault leading

to death without intending to cause it. The prosecutor attached to the assize court had requested a lower sentence. The defence argued that the officer had not intended to kill Eric Benfatima when he shot him, and that his death could not be described as murder. The officer himself was reported as saying that he had panicked ("I was going somewhere I didn't want to go, to something I was not going to be able to handle"). He said he did not know why he had not fired in the air. ("I fired indiscriminately ... I was caught up in what was happening ... For me the shooting was about getting him to stop").³

GEORGIA

Allegations of torture and ill-treatment

In February AI issued a report detailing its great concern about continuing allegations of torture and ill-treatment in Georgia (see AI Index: EUR 56/01/00). At that time Georgia had signed, but not ratified, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment. One of Georgia's commitments on becoming a member of the Council of Europe in April last year was to both sign and ratify this Convention within one year of accession. The Convention provides for an independent committee with the power to make unannounced visits to places of detention in member states, and make recommendations and suggest improvements in order to strengthen the protection of detainees and prisoners visited against torture and ill-treatment.

In the report AI set out a number of disturbing allegations of torture and ill-treatment, and urged the Georgian authorities to ratify the European Convention for the Prevention of Torture as soon as possible, as a signal of its intent to deal decisively with this continuing blight on the country's human

³ "Je ne sais pas, j'ai paniqué, j'allais vers quelque chose où je ne voulais pas aller, quelque chose que je n'allais pas maîtriser"... "Je ne sais pas, j'ai tiré sans discernement, j'étais pris dans ce qui se passait" ... "Le tir pour moi, c'était qu'il allait s'arrêter". (Quoted in *Le Monde*, 9 June 2000)

rights record. AI also stressed, however, that it was equally important for Georgia to put into practice its existing obligations, domestic and international, to end both torture and impunity for its perpetrators. Georgia finally ratified the Convention on 20 June, although it will not enter into force until 1 October.

“City Lawyer” project

At the end of 1999 an innovative project was begun in the capital, Tbilisi, aimed at preventing human rights violations in pre-trial detention facilities of the Ministry of Internal Affairs. The project, known as “City Lawyer”, brought together Tbilisi city council, Tbilisi Police Department and the non-governmental Georgian Young Lawyers Association (GLYA). It was set up to provide a 24-hour legal aid service by selected lawyers in 10 of the city’s district police stations.

The project only lasted some six weeks, however, until the end of December, reportedly as funding which should have been provided by the city council was not forthcoming. Some lawyers participating also claimed that the police had tried to bribe them, and some were forcibly removed by officers from police stations (the GLYA report on the project said that officers in the Mtatsminda, Saburtalo and Didube district police stations had been particularly obstructive towards the participating lawyers).

Alleged ill-treatment of children

One incident that came to light under the “City Lawyer” project involved allegations that police had beaten three young boys detained in the evening of 30 December in Tbilisi by officers from Mtatsminda District Police Department. The boys were named as Irakli Tshigladze (aged 14), Nick Kutelia and Emil Aivazashvili (both aged 15).

On that evening lawyers from the project who had started a shift at 11pm based at the Mtatsminda station asked how many detained persons were held there, in order to see if anyone needed legal assistance. They were told that no one was being held, but at around 2.30am they met three adults and three minors leaving the station. It emerged that the

three boys named above had been arrested at around 9pm the previous evening on suspicion of stealing items from a car. The boys alleged that they had been physically abused when detained, and that police officers had planted an object in each of their pockets (in one a cassette tape, in the second a knife, and in the third a car spare part). The boys also reported that they had been beaten in the police car taking them to the police department. There they were held in separate rooms and forced under physical and psychological duress (and in the absence of their parents or another adult) to write confessions that they had robbed several cars. On the morning following the arrests lawyers at the station raised these allegations with the police department and the prosecutor’s office, and also noted other violations, including that the boys had not been informed of their rights when arrested, that the police had not drawn up a written protocol on the arrest or the search, and that the boys had been questioned and examined at night. Later that day the police informed parents that the boys would not be charged, owing to a lack of evidence.

Attacks on evangelical Christians (update to AI Index: EUR 01/01/00 and EUR 56/01/00)

In October last year Tbilisi police were criticized for allegedly failing to respond when followers of a defrocked Georgian Orthodox priest, Father Basil Mkalavishvili, assaulted members of a Jehovah’s Witness congregation. The Jehovah’s Witnesses, who have been the focus of hostility from radical supporters of the Georgian Orthodox Church, reported that around 200 people attacked some 120 adherents, including women and children, who had gathered in a rented theatre for a Sunday service on 17 October. The attackers are said to have beaten the worshippers with iron crosses and wooden clubs. A few adherents escaped and reported the attack to local police, who allegedly refused to come to their aid or provide protection. Sixteen worshippers reportedly needed hospital treatment, and the attack prompted widespread condemnation after extracts from a video of the actions were shown on national television.

Police opened a criminal case after the Jehovah's Witnesses lodged a complaint on 18 October, and laid charges against Father Basil Mkalavishvili, but at the end of the period under review no proceedings had yet come to court. Furthermore, on 9 June the police charged with assault one of the worshippers - Mirian Arabidze - who was himself said to have been a victim of the attack, needing hospital treatment for head injuries. Mirian Arabidze's lawyer expressed concern at the move, saying that police were deliberately ignoring video footage which showed the attackers beating worshippers (some 70 of them have reportedly lodged complaints with the police about their treatment), and burning their Bibles and personal possessions. AI is also not aware of any developments in the case of two other Jehovah's Witnesses, Vladimir Begeluri and George Todua, who formally complained to police that they had been assaulted by followers of Father Mkalavishvili in the Gldani district of Tbilisi on 16 January this year.

Threats against television journalist Akaki Gogichaishvili

Investigative journalist Akaki Gogichaishvili hosts a popular weekly program "60 minutes" on the independent television channel Rustavi-2, examining controversial issues. The channel has faced various pressures from the authorities, and in May it was alleged that Akaki Gogichaishvili received death threats in connection with his investigations into alleged fraud and corruption in high places, including among relatives of President Eduard Shevardnadze. At a press conference on 19 May Akaki Gogichaishvili reported that a Deputy Procurator General had warned him to stop broadcasting or face a criminal charge, and that afterwards threats had been made - allegedly by official sources - via one of his relatives to the effect that the journalist risked being killed unless he left the country.

The alleged death threats provoked protests by journalists and non-governmental organizations, and led to President Shevardnadze publicly reaffirming free speech as a fundamental value in Georgia, and instructing senior officials to take all measures necessary to protect Akaki Gogichaishvili's life.

AI Index: EUR 01/03/00

Assault on journalist Georgi Kapanadze (update to AI Index: EUR 56/01/00)

On 15 May Tbilisi Regional Court began hearing a criminal case against a police officer named Devnoz Gabatashvili, accused in connection with an alleged assault on journalist Georgi Kapanadze in October last year. On 14 October officers from division three of the Mtskheta district traffic police in Tbilisi were said to have assaulted Georgi Kapanadze, a journalist with the newspaper *Rezonansi*, and Sergey Belousov, a photographer with the newspaper who had attempted to take pictures of the incident. Georgi Kapanadze was concussed as a result, and underwent treatment in Tbilisi's Hospital No. 1. He lodged a formal complaint about the incident, and is said to have picked out three police officers at a formal identification at the Gldani district procurator's office. It is also alleged that police officers attempted to give the reporter a bribe when they learned of his intention to pursue the case.

The trial, at which Devnoz Gabatashvili was charged with exceeding his authority (Article 183 part 3 of the Criminal Code) and intentional infliction of minor injuries (Article 111), was adjourned several times and then set for the end of June.

Appointment of a new Public Defender (update to AI Index: EUR 01/01/00)

On 16 July the Georgian parliament voted to approve Nana Devdariani, a member of parliament from the Socialist Party, as the second Public Defender (Ombudsperson) of Georgia. The post had been vacant since the previous September when David Salaridze, the then Public Defender, resigned to become a candidate in the parliamentary elections the following month.

GERMANY

Conditions of detention of asylum-seekers

AI learned about the suicide of an Algerian asylum-seeker, who has been referred to in the German press

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as Naimah H., in the transit area holding facility (*Transitbereich*) of Frankfurt am Main airport on 6 May. It is reported that on 24 February she was taken from the transit area holding facility to hospital suffering from a nervous breakdown and later transferred to a pre-deportation detention facility at Justizvollzugsamt Frankfurt-Preungesheim. Her lawyer has reportedly stated that his client also found it difficult to endure conditions there and was 'voluntarily' transferred back to the transit area holding facility of Frankfurt am Main airport on 4 May, where she committed suicide two days later.

The conditions of detention at Frankfurt am Main airport had previously been criticized in a report published in May 1999 by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ECT), which had visited the airport in May 1998, stating: "For its part, the ECT wishes to stress that particular attention should be paid to the physical and psychological state of health of foreign nationals held in Transit Building C182. They may well have experienced difficult situations and even have been subjected to torture and other forms of ill-treatment. Further, medical screening on arrival would also be advisable in terms of preventive medicine".⁴In May AI wrote to the German authorities stating that, following the recommendations of the ECT report of 1999, the German authorities should undertake measures to ensure the better provision of medical care for asylum-seekers in the transit area holding facility of the airport and urged the German authorities to reconsider the practice of detaining asylum-seekers in the transit area holding facility for prolonged periods of time.

Danger of refoulement

In February AI initiated urgent membership action on behalf of two Egyptian nationals, 'Abd al-Akher Hammad and Muhi al-Din Ahmad 'Abd al-Mun'im, who are suspected of being leaders in exile of the armed Islamist group *al-Gama'a al-Islamiya*

(Islamic Group). The organization believed they were in danger of being forcibly deported to Egypt with their families and if returned to Egypt, they, and possibly members of their families, would be at grave risk of torture, unfair trial and other serious human rights violations.

The men and their families applied for asylum when they arrived at Frankfurt am Main airport on 26 January 2000, reportedly after several years living outside Egypt. Their asylum applications were examined and rejected, and their appeals were turned down by an administrative court (*Verwaltungsgericht*) in Frankfurt am Main on 15 and 16 February respectively, all under an accelerated special "airport procedure" (*Flughafenverfahren*). On 27 March the two men and their families left Frankfurt am Main airport after a judge decided to allow them to formally enter German territory, while their claims for political asylum are being reconsidered.

Danger of refoulement - update on the case of Fathelrahman Abdallah

AI wrote to the German authorities on several occasions in 1999 expressing concern about the forcible deportation of the then 27-year-old Sudanese national Fathelrahman Abdallah, who had been an active member of the Democratic Union Party of Sudan, stating that there was a serious danger of *refoulement* if he were deported (see entries on Germany in AI Index: EUR 01/02/99 and EUR 01/01/00). The urgency of the case and the lack of response from the German authorities to any of AI's letters led the organization to initiate urgent membership action on Fathelrahman Abdallah's behalf on several occasions throughout the year. AI was informed that he was recognized as a political refugee by the USA immigration authorities and left Germany on 15 May 2000.

AI originally wrote to the German authorities about Fathelrahman Abdallah calling for a prompt and impartial investigation into the allegations that he was ill-treated by officers of the Federal Border Police (*Bundesgrenzschutz*) during his forcible deportation at Frankfurt airport on 27 October 1998

⁴CUT/Inf (99) 10 [EN] (Part 1) - paragraph 29.

and 12 November 1998. To date the organization has not received a response.

Allegations of police ill-treatment

AI learned about an investigation, which had been initiated into an allegation that four officers of the Stuttgart Federal Border Police had ill-treated a Turkish citizen of Kurdish ethnic origin, Mehmet Korkmaz, during an attempted forced deportation from Stuttgart airport to Turkey on 11 May 1999. Mehmet Korkmaz has alleged that the four police officers effecting the deportation forced him to the ground and repeatedly kicked and stepped on him. It is reported that after being physically ill-treated he was taken to a medical centre in Karlsruhe where he was treated for his injuries and diagnosed as having received at least 20 bruises. The police officers, three of whom were reportedly temporarily suspended from service during the investigation into the incident, have reportedly maintained that the detainee's injuries were self-inflicted. AI wrote to the German authorities in March requesting to be informed of the findings of the investigation and whether any disciplinary measures will be taken against the police officers if they are found guilty of ill-treating the deportee.

AI has learned about an incident of alleged ill-treatment of a man of African origin, the then 22-year-old Serge Menga-Nsibu, by two police officers in Essen on 1 September 1999. Serge Menga-Nsibu, who has alleged that he was arrested after he objected to the police searching his vehicle in relation to a minor traffic incident outside Essen's main railway station, has stated that he was ill-treated by the police officers during his arrest, en route to the police station and at the police station.

He has stated that, upon arriving at the police station at around 5pm, as he was led down some stairs into an area below the police station, the two accompanying police officers banged the left and right sides of his head off the adjacent walls. He was taken into an interrogation room, where one police officer removed his handcuffs and allegedly repeatedly kicked and punched him. Serge Menga-Nsibu has also stated that he was forced to undress

and subjected to racist abuse. The arresting police officers then escorted Serge Menga-Nsibu into a cell, where he maintains he was subjected to further ill-treatment, being repeatedly hit him with one of his shoes and kicked in the head while he was lying on the floor of the cell, causing him to temporarily lose consciousness. After being released at around 9.30pm he was taken by a friend to the Elisabeth Hospital in Essen (*Elisabeth-Krankenhaus Essen*). AI has been provided with his medical report, which indicates that Serge Menga-Nsibu suffered first degree concussion, bruising to his head and a cut to his face. AI wrote to the German authorities in June, expressing concern that the police officers may have subjected Serge Menga-Nsibu to cruel, inhuman and degrading treatment and requested to be informed whether an investigation had been initiated into these serious allegations of police ill-treatment and to be informed of its findings.

AI was informed about an ongoing criminal investigation, which has been initiated by the Frankfurt and Gießen state prosecutors' offices, into the activities of a former head of the special police detachment, the Unit for Gathering Evidence and Arrests (*Beweissicherungs- und Festnahme-Einheit*), based in Lich, Hesse, who is alleged to have ill-treated a number of detainees. He is alleged to have physically ill-treated a football supporter in Offenbach in 1995 and another man in Frankfurt in 1996. AI requested to be informed of the findings of the investigation and whether the detainees will be compensated by the German authorities for any injuries they sustained as a result of the alleged ill-treatment.

Impunity

During the period under review AI twice wrote to the German authorities expressing concern about the unacceptable length of time it had taken complainants of police ill-treatment to bring police officers to court and obtain justice. Both of the following cases were taken up by AI in 1995 and 1996 respectively and only recently have the complainants obtained justice.

In December 1999 the Hesse Ministry of Justice informed AI that the criminal department of Frankfurt

am Main district court (*Strafkammer des Landgerichts Frankfurt am Main*) found two police officers guilty on 2 February 1999 of physically injuring the detainee Binyamin Safak in April 1995 (see AI Index: EUR 23/04/97). The ill-treatment took place on the evening of 10 April 1995 at approximately 8.45pm after Binyamin Safak, a German national of Turkish origin, was arrested in relation to a minor traffic violation. Binyamin Safak was then driven to a police station where the officers immediately took him to a cell without explanation. The detainee maintained that at no stage had it been made clear to him why he had been arrested. Binyamin Safak informed AI that, over the course of about an hour, the police officers kicked and punched him in the face, chest, head and arms. At one stage one of the police officers took him by his hair, which at the time was very long, and flung him against the wall. During the course of the assault Binyamin Safak was unable to offer any resistance because his hands were still handcuffed behind his back. A medical certificate from Johann Wolfgang Goethe University Clinic, where he was later treated, showed that Binyamin Safak's injuries included a cut to his lip two centimetres long which required stitching, a bruised and swollen chin, bruises and abrasions to the temple and the forehead, a bruised chest, swelling of the right wrist and right knee, a cracked rib and a depressed fracture of the cheek bone. He was subsequently hospitalized for a week. The court gave one police officer a conditional prison sentence of seven months and a fine and fined the other police officer.

AI learned that on 16 February a court in Frankfurt found the two police officers guilty of ill-treating a detainee, C., over three years previously (see AI Index: EUR 23/04/97). AI expressed concern about the length of time it took the German authorities to examine this case of police ill-treatment and requests to be informed why a case of alleged police ill-treatment which occurred in November 1996 was only heard in court in February 2000.

The detainee, now 34 years old, was physically ill-treated by police officers at Frankfurt's main railway station during the night of 3 November 1996. C. was sitting on a one-metre-high box-like piece of

signalling equipment on platform 12 of Frankfurt railway station when he and his girlfriend, who was standing next to him, were suddenly surrounded by several officers of the Federal Border Protection Police. After one of the police officers allegedly demanded in an aggressive manner that the detainee produce his identity papers, the detainee asked the police officers why he could not sit where he was. The detainee alleged that the police officers pulled him down from the box and took him into the railway station police station, where he was forced to the floor by the police officers and repeatedly kicked and punched. The police officers reportedly forced the detainee to strip naked, after which they kicked him again and placed him in a cell. According to medical certificates, C.'s injuries included bruising of the left thigh, left buttock, right side of the throat, and in the area of the kidneys, and abrasions of the left ear and right thigh. The two police officers reportedly claimed that the detainee received the injuries after tripping over a chair in the police station. The court gave two police officers conditional prison sentences of six months and fined them both 1500 German marks.

Solitary confinement

In January AI wrote to the German authorities expressing concern about the Turkish national, Ilhan Yelkuvan, who had been held in solitary confinement in a prison in Hamburg for approximately 10 months and had initiated a hunger strike in protest. Ilhan Yelkuvan is reported to be an active member of the political organization *Devrimci Halk Kurtulus Partisi-Cephesi* (DHKP-C), which is a proscribed political organization in Germany. The German authorities reportedly made their decision to isolate Ilhan Yelkuvan from the wider prison population on the basis that he might attempt to propagate the policies of the DHKP-C among other prisoners.

While appreciating the difficulties which judicial, prosecuting and prison authorities face in ensuring prison security, AI believes that prolonged isolation may have serious effects on the physical and mental health of prisoners and may constitute cruel, inhuman or degrading treatment. The organization urged the

German authorities to explore further possibilities in order to increase the social contact which İlhan Yelkuvan enjoys with other prisoners, and other measures to alleviate the possible adverse physical and psychological effects of prolonged solitary confinement. In February AI received a response from the Ministry of Justice stating that İlhan Yelkuvan had terminated his hunger strike and that the Ministry of Justice was looking into his case.

Police shootings - update on the case of Friedhelm B.

In December 1999 AI wrote to the German authorities about the fatal shooting of a 62-year-old man from Cologne, referred to in the German press as Friedhelm B., in a hotel in Heldrungen in Thuringia by two plainclothes police officers. The police had reportedly received a call from a hotel employee that the wanted murderer, Dieter Zurwehme, who had reportedly escaped from Bielefeld prison in December 1998, was staying in the hotel. AI received a response from the Ministry of Interior of Thuringia in March stating that the criminal proceedings against the two police officers for manslaughter through culpable negligence had been terminated by the investigating state prosecutor on the basis that the officers had not acted in a culpable manner. AI is informed that the widow of the deceased is appealing against the decision.

GREECE

Freedom of expression and religion

The case of Mehmet Emin Aga (Update to AI Index: EUR 01/01/00)

An appeal court in Lamia, on 31 May 2000, decided to uphold two sentences given to Mehmet Emin Aga for “usurping [the function] of a religious minister”. He had initially been sentenced to 20 months imprisonment, though this was reduced by the appeal court to seven months. Mehmet Emin Aga, a member of the Turkish minority, chose to pay a sum of money in lieu of imprisonment. His lawyer told AI that he

would appeal against his conviction to the Supreme Court.

Since 1993, criminal charges have repeatedly been brought against Mehmet Emin Aga, the Mufti of Xanthi, for “sending out to the Muslims of Xanthi written messages of a religious content” to mark religious festivals. He continued in his role as religious leader – having already been elected by members of the Turkish community – after the State ruled that it had overall power to appoint the Xanthi mufti.

He has been sentenced to an overall total of 132 months’ imprisonment in first instance, which, after appeal, came to 94 months’. After one of his sentences was confirmed on appeal in 1995, Mehmet Emin Aga served six months of a 10 month prison sentence. For all other sentences, as allowed under Greek law, he took the option to pay a sum of money in lieu of prison. Until now, the Supreme Court – with just one exception – has rejected Mehmet Emin Aga’s appeals and upheld a total of 38 months’ imprisonment.

Further, similar charges were again brought against Mehmet Emin Aga on 11 May 2000. The trial will be heard in Serres on 2 November 2000. Three counts of the same charge, which were set for trial in the first instance on 2 June in Xanthi, have been postponed until later in the year. AI would consider Mehmet Emin Aga a prisoner of conscience if he was imprisoned.

Turkish teachers acquitted

12 teachers were acquitted on appeal in Patras on 6 June 2000. They had been found guilty and sentenced to eight months’ imprisonment, suspended for three years, in 7 June 1997 for participating in the “Union of Turkish teachers” in Western Thrace. The organization was proclaimed illegal and deemed to violate the penal provisions of Greece. It was thought the organization was inciting mutual hatred between Christians and Muslims in the area by speaking about “Turkish” rather than Muslim teachers, and for urging Muslim teachers and pupils to boycott their classes.

Although they were acquitted of inciting violence during the June 1997 trial, the teachers were sentenced for being members of an association that violated Greek legislation – in a nutshell, they were not allowed to use “Turkish” in their title.

The case of Hara Kalomiri (Update to AI Index: EUR 01/02/96)

Hara Kalomiri was sentenced, on 13 June, to two months’ imprisonment (suspended for three years) for having operated a house of worship without state license between September 1994 and March 1995. The verdict, by the Three-Member Misdemeanour Court of Salonika, related to Hara Kalomiri’s role as administrator of the Karma RI Drol-Ling Center of Practical Philosophy and Psychology in Trapezi, Halkidiki, until 1995. The court inferred the building was a “temple of Buddhist cult” because residents “engaged in Buddhist acts of cult, concretely...in meditation”.

A Single-Member Misdemeanour Court of Salonika first convicted Hara Kalomiri to three months in prison – convertible to a fine – on 24 March 1996. She was then issued with a guilty verdict, with a reduced and suspended sentence of two months, on 14 March 1997 by a Three-Member Misdemeanour Court of Salonika. On 20 March 1998, the Supreme Court overturned the latter verdict and sent the case back.

Conscientious Objectors (Update to AI Index: EUR 01/01/00 and EUR 25/03/99)

Despite legislation (Law 2510/97), brought into force in 1998, allowing conscripts to carry out alternative civilian service instead of military service, the law continues to be applied with discrimination. Around 250 Jehovah’s Witnesses, conscientious objectors, are currently carrying out alternative civilian service in various institutions all over Greece. They say that some directors of these institutions are local bishops (in Rethymno, Hania, Siderokastro, Aigio and

Mytilini) who create difficult conditions for conscientious objectors of another religion, although the situation has improved since AI’s report in July 1999. Conscientious objectors are also being sent to perform alternative service far from their homes, making it difficult to see family and friends when they have just two days leave a month. Some are sent to isolated islands, where bad weather between November and March makes it impossible to travel (such as in Ios, Astypalaia and Leros). Salaries are not paid in time and there are problems with insurance.

Georgios Kliabas, a Jehovah’s Witness whose status as a conscientious objector is recognized, is being prevented from carrying out his work by the local bishop/director. The bishop has brought a complaint against Georgios Kliabas claiming that the Law 2510/97 is unconstitutional. The trial was due to be heard on 6 June but has been postponed until the Autumn.

There are about 40 conscientious objectors in Greece who have refused to perform military service on philosophical and political grounds. Although they have agreed to alternative civilian service, they have rejected their posting on the grounds of its punitive measures (such as length of service). The Greek authorities initiated proceedings against some of them. On 27 June Nikos Karanikas was tried in Thessaloniki and found not guilty.

Impunity (Update to AI Index: EUR 01/01/00)

In a letter to the Greek Helsinki Monitor, dated 30 March 2000, the Ministry of Public Order said that the administrative inquiry into the death of Angeles Cecal two years earlier had now been completed. It confirmed that no disciplinary measures were being taken against the police officers involved, on the grounds that they had acted in self-defence.

According to Angeles Cecal’s father-in-law, the 29-year-old and his two friends had driven to a field near Parthian, Thessalonika, on 1 April 1998. They stopped beside a barn to smoke hashish. By chance, a stolen car had been found in the barn by local police, and they were hiding inside waiting for the criminals to return. The father-in-law said one of the

officers began firing at the three men, who ran back to their car. As Angeles Cecal started to drive away, the police fired at the vehicle and he was killed on the spot. The two survivors claimed that they did not know the police were surveying the area.

According to the administrative inquiry – carried out under the supervision of the Ministry of Public Order – a man entered the barn, while the police were in there, carrying a can of petrol and a firelighter. One of the police officers announced his identity and attempted to arrest him. The suspect then hit out, pushing the officer before running out of the barn to escape. Outside, two others were waiting for him in a private car, with the engine switched on. The officers said they only fired their weapons, when the suspects began shooting at them.

An investigation started in June 1998, at the request of the Public Prosecutor of Thessalonika, but the outcome was yet to be completed at the time of writing. AI is concerned that no progress seems to have been made. The first administrative inquiry was based only on the statements of the police officers and was carried out by the Sub-division of Administrative Affairs of Thessalonika (Division of the Police Personnel) under the supervision of the Ministry of Public Order (which is responsible for the police force).

AI has also been informed that other members of Angeles Cecal's family, his nephew and sister, have been repeatedly ill-treated and harassed by the police prior to his death.

HUNGARY

Refugees

By August the Hungarian authorities had not responded to AI's letter of December 1999 in which the organization detailed its concerns about Hungary's treatment of asylum-seekers and migrants.

Background

Hungary forms part of a major route for asylum-seekers and migrants from eastern Europe, the Middle East and Asia attempting to enter the

countries of western Europe. Increasingly, this illicit migration route is controlled by an international network of criminal groups. Asylum-seekers and migrants pay several thousand dollars each to be smuggled by these groups, and effectively become their hostages during the journey. Hungarian police have discovered several large groups of asylum-seekers and migrants, kept in makeshift prisons by their criminal captors, who extort more money from them there. An Afghan former police officer described to AI being one of a group of 300 asylum-seekers kept for 45 days in disused farm buildings near Budapest in summer 1999. His captors beat him, knocking out a tooth, and branded him on the foot with a hot iron to induce him to produce another 3000 dollars for them.

Reportedly in response to pressure from Austria, which at that time held the rotating presidency of the European Union, in August 1998 Hungary instituted a detention regime for a significant proportion of migrants and asylum-seekers, which prevented them from attempting to cross the border illegally into the countries of the European Union. Hungary is a candidate for European Union membership. The commander of one of the detention centres stated to AI that he considered Hungary's policy of detaining up to a third of asylum-seekers: "the price of our acceptance into the European Union".

Ill-treatment of detained asylum-seekers

In March AI visited two detention centres where ill-treatment was reported in 1999, in Nyirbátor and Szombathely. While the situation at Szombathely detention centre appeared to have improved, due in part to a much reduced number of detainees while renovations were underway, relations between detainees and guards at Nyirbátor detention centre were fraught and tense. Despite numerous reports to AI of ill-treatment and arbitrary use of CS gas by the guards, the commander of Nyirbátor detention centre initially stated to AI that he had no knowledge of such incidents. He later stated that there had been two reports of ill-treatment the previous day. AI is concerned that detainees who are ill-treated have little opportunity to file a complaint. Pursuing a

complaint or gathering testimony are further complicated, because the detainee population is transient and feels dependent upon the Hungarian authorities for their decision on whether to grant asylum, or more immediately, whether to keep them in detention or transfer them to an open refugee reception centre.

Afghan former detainees of Nyirbátor detention centre described an occasion in November 1999 when an Afghan brother and sister, respectively 16 and 17 years old, attempted to escape in the night by climbing on the roof. Guards caught, beat and then handcuffed them. Other detained Afghans shouted from windows of the third block at the guards, outraged about their treatment of the girl. More guards arrived with dogs, entered the block, which housed 14 Afghans, and ordered everyone back into their rooms. The guards sprayed CS gas into the Afghans' rooms, incapacitating them, and then entered with the dogs and beat them. F.S. and W.S., an Afghan married couple in a neighbouring block, had also shouted at the guards. Allegedly, a guard hit her on the forehead with a baton, knocking her unconscious, after which guards beat her husband. The former detainees reported that the detention centre commander visited them the next morning and assured them that he would not permit such a general beating to happen again. When questioned by AI about the alleged incident the commander denied any knowledge of it. A.O., a Kosovan asylum-seeker, was allegedly beaten by guards with batons on 26 March after he climbed a fence within the territory of the detention centre to recover a football. Reports of ill-treatment often result from disputes when guards order detainees to perform cleaning tasks. On 1 January J.U., an asylum-seeker from Afghanistan, refused a guard's order to clean the floor. The guard allegedly beat him, dragged him along a corridor and threw him down a staircase. In March V.I., a Sri-Lankan asylum-seeker who has longstanding injuries to his leg and arm, was allegedly beaten on the head by a guard after he tried to explain to him, without a language in common, that he could not comply with his order to take out and clean a dustbin, due to his injuries. Former detainees alleged that guards frequently hit them with batons if they did not stand

in a straight queue for dinner. They also alleged incidents of guards responding to detainees' requests for cigarette lights by spraying CS gas into their faces, and of them spraying CS gas into toilets when detainees needed to use them. At night on 14 December 1999 the two-year-old son of Afghan asylum-seeker S.A. had a fever and coughed blood. S.A. asked a guard to call a doctor. S.A. raised his voice at the guard when the latter refused his request. Allegedly, a guard then sprayed S.A. with CS gas, and three other guards beat him with batons. One of them stamped on S.A.'s inner leg with his steel boot heel. Injuries consistent with this account were still visible three months later when S.A. was interviewed by AI.

AI also received reports of ill-treatment of Sudanese and Liberian asylum-seekers by guards in Balassagyarmat detention centre in April.

Tibor Karancsi - possible prisoner of conscience

Former police captain Tibor Karancsi from Szeghalom, Békés county, who since September 1999 has been making public allegations about corruption among the former leadership of Szeghalom police, was brought before a military court, and charged with defamation of a superior officer - for which he faces a possible three year prison sentence. The authorities have persisted with the charges although Imre Berke, the former chief of Szeghalom police, whom Tibor Karancsi is alleged to have defamed by claiming that he was corrupt, has since been indicted on charges of abusing his powers by impeding investigations into oil smuggling. The military indictment of Tibor Karancsi has also been questioned on the ground that he made the alleged defamatory statements in a television interview four or five days after his formal dismissal from the police force on 16 September 1999, and that therefore his statements should not be subject to military justice. Reportedly, within 10 days of Tibor Karancsi's initial television appearance six different legal cases were initiated against him, variously in military, civil and criminal courts. He has described his life since as that of a "full-time defendant", travelling to courts in

Szeged, Békéscsaba and Gyula. He is unemployed and as a defendant has to pay his own expenses.

From 1996 onward Tibor Karancsi attempted to report what he alleged to be corruption and irregularities in Szeghalom police to the Békés County Prosecutor's Office, to the then head of Békés County Police László Gal, and to national police headquarters. On 25 May 1995 he discovered an oil smuggling operation at a plant in the town of Fuzesgyarmat, yet a superior officer allegedly ordered Tibor Karancsi to withdraw, which allowed the perpetrators to remove evidence and most of the oil trucks before customs officers arrived. Subsequently, Tibor Karancsi uncovered evidence which he claimed demonstrated his superiors' involvement in criminal groups' oil and alcohol smuggling operations. As if in response, Tibor Karancsi was subjected to a stream of internal police disciplinary charges from 1996 onward - for missed deadlines, for offending the dignity of a fellow officer whom he had rebuked, and for irregularities in the documentation of a private car purchase. On 23 August 1997 Tibor Karancsi was attacked by three men with iron bars at a roadside restaurant and severely injured. His recovery required several hospital operations and is still incomplete.

Background

Other Békés County police officers who attempted to report alleged corruption in the hierarchy of the county police force also faced alleged campaigns of harassment by fellow officers. Ferenc Kovacs, a Sarkad police officer, was subjected to disciplinary and criminal proceedings and obliged to resign in 1998 after reporting an allegation that the Sarkad police chief was involved in oil smuggling. Since publicising his case in October 1999 new civil and criminal indictments have been brought against him. A Békés county journalist, Éva Zsiák, of the newspaper *Heti Délkelet*, is one of several journalists who have reported on allegations of police corruption in Békés county and who are said to have been sued for violating the personal rights of police officers. Three claims of 800,000 forints each were brought against her. Such claims reportedly follow an

identical pattern and contain identical wording. Two police officers committed suicide, apparently as a result of campaigns of harassment. One of them, Colonel Mihály Kuzma, chief of the Békés County Police Department for Combatting Organized Crime, shot himself in Békéscsaba police headquarters on 27 February 1998. He had reported allegedly corrupt activity by Békés county police chief László Gal to the internal investigation service of the Ministry of the Interior. Two weeks prior to his suicide local police commandos detained two of Colonel Kuzma's children outside his house, after which information was sent to newspapers claiming that Colonel Kuzma's house was a hub of criminal oil and hashish transactions. On the morning of his suicide Colonel Kuzma was due to face charges in court after details of a car accident were allegedly manipulated to make him appear the guilty party. A national police internal investigation report stated that two days before his suicide he told a female friend: "They want to do me in from the inside and now I am very afraid".

The allegations of police corruption made by Tibor Karancsi and Ferenc Kovacs were referred to the Prosecutor's Office by Békés county parliamentarian László Pallag in October 1999. The allegations implicated László Gal, who had since been promoted to chief of the Ministry of the Interior's internal investigations department. Subsequently, a parliamentary committee, headed by László Pallag, was established to investigate what has become known as "the oil affair" ("*Olaj ügy*"). Allegedly, the Hungarian exchequer was defrauded of vast sums in the 1990s by the illicit importing and disguising of petroleum as domestic heating oil, upon which a much lower duty was levied. It has also been alleged that the criminal groups engaged in this activity infiltrated and forged links with the hierarchies of law enforcement agencies and with politicians. In June several current and former senior Békés county police officers were arrested. On 8 June witness Zsolt Nógrádi testified to the parliamentary committee that the present Minister of the Interior Sándor Pintér actively collaborated in the criminal oil business from 1992-6, when he was national police chief. The minister has responded with a libel suit. Earlier, on 8 May, the former

Hajdú-Bihar County Chief Prosecutor Gyula Szeszák accused the outgoing national Chief Prosecutor Kálmán Györgyi and the former national police chief of having blocked his investigations into the alleged involvement of the then Hajdú-Bihar county police chief and his wife in the illegal oil business in 1992-3.

IRELAND

Human Rights Commission

On 31 May the President signed the Human Rights Commission Bill into law. The establishment of such a commission flows out of the government's undertakings in the Multi-Party Agreement 1998. When established, the Commission will be able to conduct inquiries into human rights abuses and take cases to court on behalf of individuals and groups. The Commission will also have the powers to scrutinize upcoming legislation. Once the Irish Human Rights Commission is set up, the joint North-South committee of both commissions will be set up. This will draw up a human rights charter on agreed measures for the protection of the rights of everyone living in Ireland.

Shootings by the security forces

John Carthy was shot dead in April 2000 after being barricaded for 24 hours in his home, which was surrounded by dozens of police officers. John Carthy was reportedly suffering from depression and many questions have been raised concerning the police handling of the incident, including why his request to speak to his solicitor was not met and whether the force used by the police was excessive in the circumstances. He was shot dead by police officers from the Emergency Response Unit (ERU), a specially trained and heavily armed response unit. John Carthy was the third person to be killed recently by officers from the ERU.

John Morris was shot in June 1997 -- from the rear -- in the head and in the lower back during an alleged attempted robbery by him and two others, and he died the following day. He was shot by gardaí

from the ERU who, it was initially stated, "due to vigilance" noticed that the occupants of the van were "acting suspiciously" and confronted them. John Morris was a member of the republican paramilitary Irish National Liberation Army. After the incident, the Garda stated that they had shouted a warning and that they opened fire after he pointed his weapon at them. Other people claimed that he offered no armed resistance. The coroner's inquest into his death opened in October 1998 during which the coroner decided that the officers from the special unit would testify anonymously and from behind a screen; and that the family's lawyer would be denied access to the full forensic evidence, including information concerning the identity of the firearm(s) used in the fatal shooting. The coroner's rulings were overturned in October 1999, but the coroner appealed to the Supreme Court. The Supreme Court hearing took place on 21 June 2000; the decision was pending at the end of June.

Officers from the ERU were also involved in the shooting of Rónán MacLochlainn, a dissident republican supporter who opposed the Multi-Party Agreement in Northern Ireland. He was shot dead in May 1998 in disputed circumstances by officers from the ERU while fleeing from the scene of an attempted armed robbery. Initial police statements reporting that he was killed during a shoot-out were subsequently retracted by police. It would appear that Rónán MacLochlainn and five others had been under police surveillance for some time and that the police unit ambushed them after the attempted robbery.

AI has been concerned about the investigations into disputed killings because they consist of police officers investigating actions taken by other police officers. Moreover, given the involvement of the ERU in all of the above shootings, the concern is even greater as to whether the full circumstances of the killings will become known. The attempt, during the inquest into the death of John Morris, to block disclosure of crucial ballistic evidence is an example.

AI is also concerned that the inquest procedure, as presently constituted, does not satisfy international standards which require a mechanism for public scrutiny of the legality of actions by government agents. The victims' families are severely

disadvantaged in their attempts to shed light on the full circumstances of a disputed killing. Lawyers for the victims' families are not provided with full autopsy statements, full forensic evidence and complete witness statements in advance of the start of an inquest. The failure to obtain full disclosure hampers the victim's family from effectively challenging the official version. Yet all of these documents are available to the other interested party to the inquest, the Garda. For example, although John Morris was killed three years ago, the family and its lawyer have to date only received a brief technical cause of death certificate. Furthermore, legal aid is not available to the victim's family in order to pay for legal assistance and independent expert advice, in preparation for an inquest into a disputed death.

International treaties, to which Ireland is a party, require the government to guarantee the right to life, which includes appropriate legislation and regulations on the use of lethal force, as well as mechanisms for impartial, thorough, independent investigation and accountability. AI believes that the government should establish mechanisms to ensure independent and impartial investigations of disputed killings by law enforcement officers, and that inquests into deaths in custody can provide an effective public scrutiny of the legality of actions taken by officers.

ITALY

AI report on Italy's recent human rights record at home and abroad

In June AI issued a report in Italian entitled: *L'Italia e i diritti umani* (Italy and human rights) summarizing the organization's work and concerns regarding Italy's recent record on human rights in the context of its foreign policy as well as in the domestic context. The issues examined in the report include the following:

- ill-treatment by law enforcement and prison officers and conditions of detention amounting to cruel, inhuman and degrading treatment;

- human rights violations by members of the Italian armed forces who participated in a multinational peace-keeping force in Somalia;
- criminal proceedings relating to human rights violations against Italian citizens in South America;
- criminal prosecutions following the peaceful exercise of the right to freedom of expression;
- legislation relating to conscientious objection to military service;
- the recruitment of minors into the armed forces;
- fair trial concerns in the judicial proceedings relating to the cases of Adriano Sofri, Giorgio Pietrostefani and Ovidio Bompreschi;
- the right to asylum;
- the handling of the case of Abdullah Öcalan, leader of the Kurdish Workers' Party (PKK), by Italian government and judicial authorities;
- the transfer of arms.

Letter to the Minister of Justice concerning ill-treatment by prison officers

In a letter sent to the Minister of Justice in May, AI expressed concern about allegations of ill-treatment emanating from prisons and pointed out that over the last decade the organization has frequently expressed concern that a number of criminal proceedings relating to such treatment have been subject to excessive delays and that some have appeared to lack thoroughness. AI also pointed out that fears have been expressed that the failure of the criminal justice system to function swiftly and efficiently in such cases might be creating a climate of impunity.

AI's letter, which was copied to the Director General of Prison Administration, expressed particular concern about the allegations that on 3 April 2000 over 40 inmates of the Sassari district prison of San Sebastiano (Sardinia), were subjected to cruel, inhuman and degrading treatment, in some cases amounting to torture, by prison officers employed in various Sardinian penal institutions and in the presence of the director of San Sebastiano prison and the regional director of prisons for Sardinia.

The organization welcomed the opening of both administrative and judicial investigations and, while asking to be kept informed of their eventual outcome, urged the Minister to do all in his power to ensure that the investigations be carried out thoroughly, promptly and impartially, in the manner required by international standards, including the United Nations (UN) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. AI also urged that the findings be made public, that those responsible be brought to justice and that, in the event of evidence that any prisoners were subjected to torture or cruel, inhuman or degrading treatment or punishment, the prison authorities compensate the victims.

The organization also expressed concern about a number of other allegations of ill-treatment and deaths in disputed circumstances which have emanated from Italian prisons in recent years and sought further information about relevant judicial and administrative proceedings. These included: the alleged ill-treatment of Abdelaziz Ziad in Sassari Prison in November 1997; the death of Luigi Acquaviva in Badu'e Carros Prison, Nuoro, in January 2000; the death of Francesco Romeo, in Reggio Calabria prison in September 1997; the alleged ill-treatment of minors in Ferrante Aporti Prison for Minors, Turin, and the alleged ill-treatment of inmates of Secondigliano Prison, Naples. At the same time AI asked the Minister for news of any reforms envisaged in the training of prison officers as well as news of progress made towards introducing a criminal offence of torture, as defined in international law, and as recommended in recent years by the UN Human Rights Committee and the UN Committee against Torture.

European Court finds Italy guilty of failing to effectively investigate alleged ill-treatment in Pianosa Island Prison

Article 3. European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention): "No one shall be subjected to torture or inhuman or degrading treatment".

On 6 April the European Court of Human Rights found Italy guilty of violating Article 3 of the European Convention because it had failed to carry out a "thorough and effective investigation into the credible allegations" made by Benedetto Labita that he had been ill-treated by Pianosa Prison officers. Benedetto Labita alleged that he and other prisoners had been subjected to physical and mental ill-treatment, mainly between July and September 1992.

A press release issued by the Registrar to the European Court, summarizing the court's judgment, indicated that "... the statements made by the applicant to the authorities had given reasonable cause for suspecting that he had been subjected to improper treatment in the prison, especially as the conditions of detention at Pianosa had been the centre of media attention during the period concerned and other prisoners had complained of treatment similar to that described by the applicant. The investigations were, however, very slow and not sufficiently effective: it took the authorities fourteen months to obtain photocopies (not prints) of photographs of the warders who had worked at Pianosa. Throughout that period the applicant remained a prisoner there. Moreover, although the applicant had twice said that he would be able to recognise the warders concerned, if he could see them in person, nothing was done to enable him to do so and, just nine days later, the public prosecutor's office had sought and been granted an order for the case to be filed away on the ground, not that there was no basis to the allegations, but that those responsible had not been identified".

During August and September 1992 AI received a number of allegations that prisoners held in Pianosa Prison had been subjected to ill-treatment by prison guards and in September 1992 wrote to the Minister of Justice seeking information about the steps being taken to investigate them. The organization cited a September 1992 report by the magistrate of surveillance responsible for monitoring the treatment of Pianosa inmates which appeared to lend credibility to a number of the allegations. Following an August 1992 visit to the prison the magistrate concluded that criminal acts had possibly taken place there and described several incidents involving "gratuitous and illegal brutality" against detainees. No reply was

received from the Minister. (For further information see *Italy: An increase in alleged ill-treatment by prison guards*, AI Index: EUR 30/04/93, *Italy: Alleged torture and ill-treatment by law enforcement and prison officers*, AI Index: EUR 30/01/95) and *Amnesty International Reports 1993, 1996 and 1997*).

Human rights violations by members of the Italian armed forces in Somalia (update to AI Index: EUR 01/02/99)

In January the Ministry of Justice responded to an AI letter of March 1999 which had sought clarification regarding the number, nature and status of criminal proceedings opened in connection with alleged human rights violations committed by members of the armed forces while participating in a multinational peace-keeping force in Somalia in 1993 and 1994. The Ministry stated that - with regard to episodes of alleged violence - a request by the Milan Public Prosecutor for investigations concerning the alleged rape and murder of a Somali boy in March 1994 to be closed without further action was pending decision by the relevant judge of preliminary investigation. The Ministry also stated that the judge of preliminary investigation attached to the court in Livorno had ordered the closure without further action of proceedings relating to the alleged gang rape of a Somali woman at the Demonio checkpoint in Mogadishu. The Ministry indicated that, although the judicial investigation had established that such a rape had occurred, it had not been possible to identify the perpetrators or the victim. The Livorno judge of preliminary investigation had also ordered the closure, due to lack of concrete evidence, of proceedings against a non-commissioned officer accused of raping a Somali woman inside the former Italian embassy in Mogadishu and of proceedings regarding allegations that in June 1993 soldiers had shot and killed three Somali citizens on board a vehicle. The Ministry indicated that the outcome of three further proceedings, including that concerning the case of a Somali man, Aden Abukar Ali, photographed while Italian soldiers were in the act of

attaching electrodes to his body, were still awaited at the time of its letter.

In April the court in Livorno convicted two soldiers in connection with the treatment of Aden Abuker Ali. A former paratrooper, a non-commissioned officer, was tried and sentenced to 18 months' suspended imprisonment for abusing his authority and, pending the outcome of connected civil proceedings, made provisionally liable to the payment of 30 million lire (15,500 euros) to the victim. A second officer apparently received a lower sentence after plea-bargaining.

Violations against Italian citizens in South America: criminal proceedings in Italy (update to AI Index: EUR 01/01/00)

In March Rome Court of Assizes began the trial *in absentia* of seven former members of the Argentine armed forces in connection with human rights violations committed against Italian citizens in Argentina. The Italian government has filed for civil damages along with relatives of the victims.

A former army general is charged with ordering the abduction and murder of five individuals holding Italian nationality and the kidnapping of the newborn child of one of them. The six other military officers are being tried for the murder of two further Italian citizens. The crimes occurred during the years of military rule in Argentina (1976-1983) when thousands of people, including dozens of Italian citizens, were abducted by the security forces and "disappeared".

Criminal proceedings are also being pursued against five more Argentine officers accused of the murder of three Italian citizens in a secret detention centre in Argentina. Several other criminal proceedings, at various stages of investigation, are under way into complaints of further human rights violations committed against Italian citizens by members of the Argentine security forces and as a result of past collaboration between the security forces of several South American countries.

Fair trial concerns: the cases of Adriano Sofri, Giorgio Pietrostefani and Ovidio Bompressi (update to AI Index: EUR 01/01/00)

In January Venice Appeal Court confirmed a verdict issued by Milan Appeal Court in 1995 which had sentenced Adriano Sofri, Giorgio Pietrostefani and Ovidio Bompreschi -- three leading members of the former extra-parliamentary left-wing group *Lotta Continua* -- to 22-year prison sentences for participation in the killing of police commissioner Luigi Calabresi in Milan in 1972. The 1995 sentence had resulted in their imprisonment in January 1997, after nine years of judicial proceedings and seven trials.

AI has repeatedly expressed concern at the excessive length and complexity of the proceedings leading to the men's imprisonment. The organization has also expressed serious doubts about their fairness, including the extent to which the final verdict relied on the uncorroborated evidence of a *pentito* (a person benefiting from remission of sentence in return for collaboration with the judicial authorities), whose testimony contained contradictions and inaccuracies.

The Venice Appeal Court's January ruling was the outcome of a judicial process commenced in 1997 when the defendants first applied for a judicial review of the 1995 sentence, following exhaustion of the appeals process. They argued that their application was admissible because it contained new witness and technical evidence. However, in 1998 Milan Appeal Court declared the application inadmissible. The Supreme Court then annulled that decision and returned the cases to appeal court level for re-examination. In March 1999 Brescia Appeal Court also ruled the application inadmissible and a further appeal was lodged with the Supreme Court which in May 1999 annulled the Brescia decision. It referred the application to Venice Appeal Court which ruled it admissible in August 1999, suspended the three men's prison sentences and ordered the review proceedings to commence in October 1999.

Following the court's January ruling Adriano Sofri was reimprisoned immediately while Ovidio Bompreschi and Giorgio Pietrostefani went into hiding. In early March Ovidio Bompreschi surrendered voluntarily to the judicial authorities and was reimprisoned but released at the end of that same month, having been granted a suspension of his

sentence on health grounds. Although maintaining his innocence of the killing of Commissioner Calabresi, he indicated his wish to bring the judicial proceedings to an end and his intention of asking for clemency and renouncing his appeal to the Supreme Court.

The court's 480-page judgment (*motivazione*), setting out the reasoning behind its decision, was deposited at the end of March. Adriano Sofri and Ovidio Bompreschi subsequently lodged an appeal against the judgment with the Supreme Court which is scheduled to examine it in October 2000.

KAZAKSTAN

Administrative detention of former prisoner of conscience Madel Ismailov (update to AI Index: EUR 01/02/99)

On 6 April a district court in Almaty sentenced Madel Ismailov to 15 days' administrative detention for participating in an unsanctioned demonstration in Almaty on 30 January.

Madel Ismailov is the leader of the opposition *Workers' Movement*. He had been sentenced to one year's imprisonment for slandering the President of Kazakhstan in February 1998.

Allegations of ill-treatment and torture in detention

AI continued to receive reports of torture or ill-treatment in police custody and pre-trial detention in Kazakhstan. In February and March the Kazakhstan International Bureau for Human Rights and Rule of Law (KIBHR), a non-governmental human rights organization, publicized a number of cases of alleged torture in police custody, among them the cases of 11 juveniles and that of one woman detailed below. Most of the detainees claimed that they were severely beaten, choked, or handcuffed to radiators, or had plastic bags or gasmasks placed over their heads to force them to divulge information. AI and KIBHR raised all the cases with the Kazakstani authorities, calling for full and comprehensive inquiries to be launched into these and other cases of alleged torture by law enforcement officers, for the findings to be

made public and for anyone found guilty of torture or ill-treatment to be brought to justice in accordance with the norms of international law. KIBHR reported that the standard response from the authorities to these allegations was that law enforcement officers had not committed any violations and that allegations of torture could not be substantiated. However, according to KIBHR, at the beginning of the year three police officers were convicted by a court in Atyrau Region in the west of Kazakstan of having beaten detainees in order to extract confessions from them. They were sentenced to four and six years' imprisonment. One of the victims, a 21-year-old man, committed suicide in 1999 following interrogations by the convicted police officers. In his suicide note he reportedly gave detailed information of the various torture methods he was subjected to in order to force him to confess to a crime he had not committed.

In April President Nursultan Nazarbayev publicly admitted that torture and ill-treatment of suspects and detainees by law enforcement officers was become widespread and common practice. He was quoted by the Russian news agency *Interfax* as having accused law enforcement officers of using torture methods that "can surprise the most out-and-out sadists" in a speech in Astana on 19 April, singling out searing a suspect's body with a hot iron and pouring ice-cold water over detainees in freezing weather conditions. The President also stated that a third of the 16,000 complaints received by the presidential administration in 1999 concerned abuses by law enforcement officers.

In a letter to KIBHR Irina Cherkasova alleged that she was tortured in police custody in order to force her to confess to a murder charge. According to Irina Cherkasova, some 12 police officers started beating her almost as soon as she arrived at the Abaysk District Office of Internal Affairs (ROVD) in the city of Chimkent in the south of Kazakstan after being detained on suspicion of having organized the murder of a local family in January 1998. At first the officers reportedly took turns in beating her on the head with a plastic bottle filled with water until she fainted. They would revive her and lift her up by her hair, in the process tearing out chunks of hair. They continued beating her with sticks, books, keys,

anything they could lay their hands on. During intervals in the beating they would threaten to throw her off the balcony. When she still did not confess, the officers reportedly undressed her, bent her over and sexually assaulted her with a stick, two of them pinning her down and one forcing her mouth shut. Irina Cherkasova also claimed that a forensic doctor later recorded injuries, which were said to be consistent with her report that one of the officers had threaded a pencil between her fingers, then beat her hand against her knee to cause pain. It is not known to AI whether other injuries were also recorded. Furthermore she alleged that another officer beat her with some instrument that was connected to electric current and that with every strike she experienced excruciating pain in her head. She eventually fainted from the pain. The questioning and beating continued until 10pm by which time she agreed to sign a confession. She spent that night handcuffed to a radiator in a cell in the ROVD and was reportedly deprived of sleep for another three nights, beaten with rubber truncheons and raped. During her trial the court did not take into consideration her allegations of torture and she was later convicted for murder. As a result of torture she has reportedly suffered from recurring headaches, a stammer and badly diminished eyesight.

In February police in Zhanatas in the south of Kazakstan detained 11 young men aged between 17 and 20 on suspicion of having participated in a fight during which a police officer was injured. Most of the detainees claimed that they were severely beaten while in police custody. Kairat Seidahmetov, who had just turned 17, and who was reportedly not even in Zhanatas on the day of the said fight, told his mother that police investigators put a volume of the Kazak Criminal Code on his head and then hit it with truncheons. A medical examination later stated that he was suffering from concussion. His mother also claimed that police officers asked her for money in order to release her son. Zhandos Zhandarbekov's arms were reportedly broken and he too suffered from concussion. Another young man, Baglanov (first name not known), said that police officers cut his feet with a knife. Kurmangazay Bogubaev allegedly had his neck broken during interrogations. The detainees

also claimed that they had needles stuck under their finger nails. They had no access to lawyers or medical assistance and their families were only informed of their whereabouts eight days after their detention. In court all of them retracted their confessions and stated that they had been extracted under duress. However, the court did not take these allegations into consideration when reaching its verdict. Despite the fact that the court had ruled earlier that there had been a number of procedural violations during the investigation, all of the accused were found guilty and sentenced to prison terms of between two and four years. Kairat Seidahmetov and two other co-accused were reported to have cut their necks with a blade in the court room in protest at the verdict. Kairat Seidahmetov died from his injuries later that day. The torture allegations sparked mass protests in Zhanatas. As a result the Zhanatas chief of police was dismissed from his post and a criminal investigation opened into the conduct of the responsible police officers. However, the investigation was reportedly closed without the torture allegations having been examined.

Forcible deportations (update to AI Index: EUR 01/02/99 and EUR 01/01/00)

There has been no official confirmation of the fate of Hemit Memet, Ilyas Zordun or Kasim Mapir, all of whom were deported from Kazakhstan to China in February 1999 and subsequently imprisoned in the Xinjiang Uighur Autonomous Region (XUAR). Their return had heightened AI's concern that the Kazakstani authorities were complying with China's request to a number of Central Asian republics to help China fight what it terms "ethnic separatism" in XUAR. AI was also concerned that the Kazakstani authorities were returning the men in spite of a serious risk that they might be tortured and face the death penalty. Hemit Memet was reported to have been sentenced to death at a secret trial in June or July 1999. He had reportedly been tortured while in pre-trial detention, and was said to be held in harsh conditions, incommunicado and in solitary confinement, in the Ili prefectural prison. All three men were reported in late August 1999 to have been

executed. However, subsequent reports cast doubts on this news.

The fate of Kasim Mapir remained unknown, but unofficial sources reported in late 1999 that Hemit Memet and Ilyas Zordun were believed to be still imprisoned, although in secret detention. This made it difficult to ascertain what their situation was, but no official notification of their execution was known to have been issued. In view of a report which indicated that Zulikar Memet, Hemit Memet's brother, may have been secretly executed on 14 June 2000 in XUAR, it was feared that Hemit Memet and Ilyas Zordun, if still alive, might also be executed imminently.

KYRGYZSTAN

Prosecution of journalist for criminal libel

Moldosali Ibrahimov, a freelance correspondent of the Jalal-Abad regional newspaper *Akyikat (Justice)* and local activist of the Kyrgyz Committee for Human Rights, was found guilty of defamation under Article 127, parts two and three of the Kyrgyz Criminal Code and sentenced to two years' imprisonment by Jalal-Abad City Court on 19 June. Moldosali Ibrahimov was arrested in the courtroom. The defamation charge related to an article written by Moldosali Ibrahimov entitled "Did the Judge Commit a Crime?" published in *Akyikat* on 8 April. In the article the journalist reported rumours that a local district court judge had accepted a bribe of US \$15,000 in a dispute between two rival candidates in the February/March parliamentary elections. Sources in Kyrgyzstan reported that the judge of Jalal-Abad City Court who heard the libel case was allegedly biased against the journalist because he had been accused of corruption in a series of articles critical of the regional judiciary written by Moldosali Ibrahimov in 1998. AI recognizes that public officials in Kyrgyzstan may wish to seek legal redress for written or oral statements that they consider defamatory. However, it is widely recognized that public officials should expect to be subjected to a greater degree of public criticism than other individuals, and that the degree of restriction permitted to protect an

individual's reputation should be more limited in the case of a public official than a private person. The organization also argues that using criminal proceedings in libel cases implies that the defendant is responsible for an injury to society at large. AI questions that the alleged defamation in this case constitutes any such injury to society. It believes that defamation complaints such as this should be addressed in civil proceedings in which a complainant can seek redress for personal injury to their reputation. Criminal legislation should not be used in such a way as to stifle criticism of public officials, or to intimidate those who voice legitimate concerns about the actions or practices of public officials. AI called for Moldosali Ibrahimov's conviction on the charge of defamation to be quashed and for him to be released from detention immediately and unconditionally.

Use of excessive force

In March the US State Department called into question Kyrgyzstan's commitment to democracy after law enforcement officers reportedly used excessive force to break up peaceful demonstrations in several regions of the country protesting irregularities in the February 20 and March 12 rounds of parliamentary elections. Hundreds of demonstrators were reportedly detained and beaten.

The elections were heavily criticized by the Organization for Security and Co-operation in Europe (OSCE) who said that they had failed to meet the organization's standards. The OSCE observer mission was particularly concerned that the high level of political interference witnessed in some constituencies was aimed at excluding particular political forces, especially opposition ones, from competing in the election. In particular the observer mission confirmed that during the second round of the election in Kara Bura District 44 in Talas they found "clear evidence of systematic fraud, committed by state and election authorities, aimed at securing the defeat of Felix Kulov", the chairman of the opposition Ar-Namys party and former Minister of National Security who had stood as a candidate in this district. The allegedly politically motivated arrest

of Felix Kulov on 22 March on charges of abuse of authority while serving as a Minister, just days after his second round defeat, led to further demonstrations and confrontations with law enforcement authorities. In Kara Bura special police reportedly violently dispersed hundreds of demonstrators who had been protesting against electoral fraud on 22 March. The police officers allegedly charged the demonstrators, beating them indiscriminately with batons, pulling down and burning yurts - traditional Kyrgyz tents which the protestors had put up in the main square - and forcefully pushing them into buses. More than a hundred demonstrators were arrested and taken into custody, among them women and elderly people. Dozens of demonstrators needed medical attention and several were hospitalized. 50-year old demonstrator Baiysbubu Suiorkulova told Radio Liberty correspondents that she had had to spend three days in a hospital intensive care unit after being severely beaten by police officers who were trying to break up a peaceful protest demonstration in Kara Bura on 22 March. She was kept in detention for twenty-four hours without being given access to medical help. Other women reported that they suffered concussion, broken arms or hands and severe bruising. Several also said that police officers had pulled them by their hair in order to remove them from the main square in Kara Bura. Peaceful protest pickets in the capital Bishkek which started in March were broken up by police on several occasions in April and June. Every time protestors reported use of excessive force by police, including beatings, violent methods of restraint and destruction of tents, posters and personal property.

Human rights organization denied registration

On 5 April former prisoners of conscience Zamira Sydykova, Yrysbek Omurzakov and Topchubek Turgunaliyev as well as other Kyrgyz human rights activists founded the *Guild of Prisoners of Conscience*, a new independent human rights organization and applied to be registered with the Ministry of Justice. On 4 May the Ministry returned

the application saying it was unable to register the organization because its charter was not wholly compliant with the law on non-governmental organizations. The Guild of Prisoners of Conscience resubmitted an amended registration application but was again refused registration on 23 May. The Ministry of Justice explained that it could not proceed with the registration of an organization created to defend the rights of prisoners of conscience since the Kyrgyz Constitution prohibited any one from being discriminated against because of their political views and the current criminal code did not carry any articles for political crimes.

Forcible deportation

Jelil Turdi, an ethnic Uighur from the Xinjiang Uighur Autonomous Region (XUAR) in the People's Republic of China (PRC) was reported to have been forcibly deported to China at the end of April. He may face torture and possibly the death penalty in China for alleged "separatist" activities.

Jelil Turdi, a trader originally from Artush in XUAR, had lived in Kyrgyzstan for the past three years and was married to a Kyrgyz citizen. He was first detained by Kyrgyz police in early March 2000, reportedly for having an illegal residence permit. Released a few days later, he was ordered not to leave the capital, Bishkek. He was rearrested a few weeks later. Kyrgyz national security sources reportedly said the Chinese embassy in Kyrgyzstan told them his Chinese documents were false.

According to unofficial sources, however, Chinese security officers told their Kyrgyz counterparts that Jelil Turdi was wanted in China for involvement in a nationalist opposition group. The Chinese officers reportedly took part in Jelil Turdi's interrogation, during which he was allegedly tortured.

The information received by AI indicates that Jelil Turdi was taken back to China at the end of April by Chinese security officers sent to Kyrgyzstan, under arrangements made by the Chinese Embassy in Bishkek. The Kyrgyzstan General Procuracy reportedly participated in the deportation procedure. Jelil Turdi was denied the opportunity to challenge the decision to deport him before a court in

Kyrgyzstan. The forcible deportation of Jelil Turdi violates Kyrgyzstan's obligations under international law, in particular the principle of *non-refoulement*, which prohibits the return of a person to a country or territory where they might face serious human rights violations. The principle of *non-refoulement* is enshrined in the UN Convention against Torture and the 1951 Convention relating to the Status of Refugees. Kyrgyzstan is a party to both. AI wrote to the Kyrgyz authorities to express dismay at their action in deporting Jelil Turdi to China in violation of Kyrgyzstan's obligations under international law.

LATVIA

Conscientious Objectors

In June AI once again wrote to the Latvian authorities urging them to take steps to introduce a genuinely civilian alternative to military service - thereby complying with Latvia's various international obligations with regards to Article 9 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which states: "Everyone has the right to freedom of thought, conscience and religion".

AI learned that the Latvian parliament, the Saeima, adopted the final draft of *The Amendment to the Law on Compulsory Military Service* on 20 December 1999, which exempted from military service ordained clerics who belong to religious organizations registered by the Ministry of Justice, and persons being trained in educational institutions of these organizations to become members of their clerical staff. During the parliamentary debate about the amendment Chairman Seiksts of the Commission of Human Rights and Public Affairs reportedly proposed that legal provision for an alternative civilian service should be made in the legislation being debated. Although 37 members of the Saeima voted for his proposal, four were against and 35 abstained, which meant that the proposal was not adopted.

AI had originally written to the Latvian authorities in August 1999 expressing concern that two men, Vladimirs Gamajunovs and Romans Nemiro, who as

Jehovah's Witnesses had refused to serve in the Latvian army on grounds of conscience, faced possible imprisonment for their refusal to serve in the military (see entry on Latvia in AI Index: EUR 01/01/00). As a result of the adoption of the final draft of *The Amendment to the Law on Compulsory Military Service*, Vladimirs Gamajunovs, who is an ordained priest of the Jehovah's Witnesses, was exempted from military service on 19 January 2000. However, Romans Nemiro, who is not a trainee or an ordained priest, was not exempted from compulsory service and due to the absence of an alternative civilian service may still be imprisoned for his conscientiously held beliefs. AI is also informed that there are currently several other men in Latvia who may face imprisonment for their conscientiously held beliefs.

AI urged Latvia to introduce a genuine alternative civilian service that is not punitive in length and that is of purely civilian character and under civilian control for conscientious objectors in Latvia whose objection is based on profound conviction arising from religious, ethical, moral, humanitarian, philosophical or similar motives. The organization will adopt as prisoners of conscience anyone who is imprisoned for refusing to bear arms on grounds of conscience, provided they have not had access to such an alternative civilian service.

MACEDONIA, FORMER YUGOSLAV REPUBLIC OF (FYROM)

The Ara..inovo incident: torture, ill-treatment and possible extrajudicial execution

On 11 January three police officers were murdered at a checkpoint at Ara..inovo, a predominantly ethnic Albanian village near Skopje. In the following days dozens of people -- all of them ethnic Albanians -- from Ara..inovo village and Skopje town were tortured, beaten or otherwise ill-treated by police. Men were held incommunicado for up to 11 days and

there were strong indications that Sabri Asani, who died in custody, may have been extrajudicially executed. In a report *After the Ara..inovo murders: Torture, ill-treatment and possible extrajudicial execution* (AI index: EUR 65/03/00) AI stressed that the murder of the police officers was a very serious crime which may have justified a vigorous reaction from the police, but that it was not justification for the human rights violations which had occurred. The organization called for impartial and thorough investigations into all incidents related to the Ara..inovo case and for those found responsible to be brought to justice.

Police searches of the houses in Ara..inovo were characterized by the use of excessive force. On 14 January, when a number of houses in the village were searched, men and boys were beaten in several houses. For example, in one house a man had his jaw broken, reportedly with a police rifle butt. Six men and two 15-year-old boys were made to lie face down outside another house and were kicked and beaten as they lay. A 70-year-old man was allowed to sit up, but the others were reportedly kept on the ground for up to three hours. At least eight men were taken to police stations and were held until late at night and subjected to further beatings and questioning about the murder of the police officers.

Almost all of the men who were arrested in Ara..inovo on 14 January and in the village or other locations on other days were transported to and moved between police stations with hoods over their heads, in some cases reportedly plastic bags. They were kept incommunicado in the police stations, moved between police stations and subjected to torture and beatings in between questioning. National and international human rights standards were violated as at least eight men were detained for periods of up to 11 days without the decision of a judicial authority. Basic rights such as those of access to a defence lawyer of their choice and the right to notify their families were denied during this period.

Despite public admissions by the Interior Ministry that the police had arrested some of the detainees by mistake and caused unwarranted damage to houses during searches, the only action taken by the authorities by the end of June was to provide limited

financial compensation to some of the house owners who had suffered damage. The Ombudsman recommended a thorough investigation into the incidents including examination of the need for criminal and disciplinary charges against the police officers involved. The Interior Ministry failed to take action on the Ombudsman's recommendations despite being reminded to do so.

Of particular concern was the case of Sabri Asani, who was arrested in Mavrovo on the night of 17/18 January. He was dead before reaching the police station in Skopje. The reason for his death announced by officials at the time was a heart attack allegedly linked to intoxication with drugs. An autopsy was carried out, but by the end of June the report had still not been made available to the victim's family. An experienced pathologist who viewed a video tape of Sabri Asani's body noted that marks around the entry wound suggested that the bullet had been fired at very close range. The body otherwise showed evidence of having been badly beaten. An autopsy was performed on his body. AI called for the pathologist's report to be urgently released, for thorough investigations to be carried out into the circumstances of his death and for those responsible to be brought to justice.

Further death in custody after alleged beating by police

On 14 May Samedin Guri, an ethnic Albanian from Skopje, died while in custody. He had been arrested around 7 May, reportedly because of criminal charges or convictions outstanding against him, and taken to a police station in Skopje. He was allegedly subjected to severe beating, during which he was reportedly questioned about his past activities as a member of the Kosovo Liberation Army, in Kosovo. After the detention and questioning by police, on 9 May he was sent to the Šuto Orizari investigatory prison, where his mother visited him on 14 May. She alleged that she found him to be badly bruised and missing several teeth. A statement attributed to the prison director stated that he had been kept in the

prison infirmary all the time he was there because of concerns about his health.

On 15 May the family received notification that Samedin Guri had died of poisoning on the evening of 14 May. AI is investigating the circumstances of his death and is concerned in particular at the allegations of ill-treatment by police.

Ill-treatment of an elderly man by a government official

Eighty-eight-year-old Ordan Jovanovski was reportedly seriously assaulted by a government official, a member of the governing VMRO-DPMNE party, on 29 May. Ordan Jovanovski, a supporter of the main opposition party, the SDSM, lives with his son and daughter-in-law in Skopje, but also maintains his old house and some land in his birthplace, Mañu..ište village near Prilep. On the evening of 29 May he was in the village café cum shop, where he alleges the government official, who was employed in Prilep town, but lives in Mañu..ište, picked an argument with him over politics. Exactly what happened in the argument is unclear as there are not eye-witnesses to this part of the incident. However, it is clear that it became violent and that Ordan Jovanovski was hurt, but was able to make his way home after the women who kept the shop, restrained the government official. However, shortly afterward, neighbours saw the government official kicking and punching Ordan Jovanovski as he lay on the ground outside his own house. He subsequently received treatment for facial injuries bruises to his back and other parts of his body. The police had been notified of the incident and spoke to Ordan Jovanovski while he was in hospital in Skopje. However, subsequent to this, there appears to have been no criminal investigation into the case. For example, none of four witnesses to the incident, whom are known to AI, have been questioned by an investigating magistrate or prosecutor by the end of June.

Ill-treatment of Roma in Štip

There were reports of the ill-treatment by police of Macedonian citizens, including Roma. One

particularly serious incident occurred in the forest near the town of Štip in the early hours of 27 May. A group of five Roma men and a boy had been gathering wood during the night without the necessary permits for wood cutting and were returning home with horse drawn carts. At about 3am they were stopped by four or five police officers and three or four civilians from a nearby village. Five Roma men were reportedly beaten by police officers or civilians on the spot. Two men alleged that they were beaten with wooden sticks by police officers, while three others state that they were beaten only by the civilians or were unable to be sure whether police officers or civilians hit them.

Four men were taken to the police station in Štip. Three of them, Mamet Redžepov, Orhan Aliov and Selajdin Mustafov, state that they were beaten or kicked further at the police station by one or more police officers. Each man was reportedly beaten individually while handcuffed and the others heard the screams from another room. A radio was allegedly turned up loud to hide the screams. One particular police officer was alleged to have participated in the beating of all three men. Orhan Aliov states that after he fell to the floor from the blows and was then ordered to kneel as if praying while he was kicked. Mamet Redžepov reports that the same officer handcuffed his hands behind his neck and, after he had fallen to the floor from the blows, kicked his head against the floor.

After the beatings which each believed to have lasted between 15 and 30 minutes, they were kept at the police station until the forestry police arrived and took charge of the men. They had no complaints about the behaviour of the forestry police.

At least four of the men were given medical treatment for their injuries. Selajdin Mustafov was recorded by doctors as having a fractured rib and the other men bruising to their heads and body.

Three conscientious objectors imprisoned

Three conscientious objectors, all of them Jehovah's Witnesses, whose faith does not permit them to carry arms or serve in military organizations, were in prison between January and June 2000. There is no

provision for an alternative to military service which is purely civilian in character and non-punitive in length for conscientious objectors. AI called upon the President, government and parliament to support an initiative by the Helsinki Committee for Human Rights in Macedonia to introduce a suitable alternative service for conscientious objectors. Public responses from the government indicated that alternative service would be provided for in a new defence law. However, AI expressed concern at statements from the government that the civilian alternative service might be as long as 18 months - twice the normal nine-month military service period, which would appear to be a punitive measure.

In January Šašo Nezirovski completed a three-month sentence for failing to answer call-up. He had already served an two-month sentence in 1996 for the same offence. Despite serving prison sentences and submitting a written request to be allowed to perform a civilian service he was served a further call-up order in June and risks further prosecution and imprisonment. Another Jehovah's witness served a three-month sentence between February and April and in June a third, Sašo Georgievski, started a two-month sentence.

MALTA

Total abolition of the death penalty

Malta abolished the death penalty in 1971 for all offences in the Criminal Code. However, it was retained under the Armed Forces Act of 1970 for certain offences committed in time of war by those subject to military law, such as aiding the enemy, desertion and taking part in a mutiny. The last execution was carried out in 1943.

On 21 March, following approval by the House of Representatives and the President, the Armed Forces (Amendment) Act 2000 was promulgated. Under its provisions, life imprisonment replaces the death penalty, thus abolishing the death penalty for all offences.

MOLDOVA

The imprisonment of Ilie Ilascu and the case of the "Tiraspol Six" (update to AI Index: EUR 01/01/99)

New initiatives to resolve the situation of Ilie Ilascu, Alexandru Lesco, Andrei Ivanuț and Tudor Petrov-Popa of the so-called "Tiraspol Six" were reported. They remain imprisoned in the self-proclaimed Dnestr Moldavian Republic (DMR), where they were arrested during the 1992 civil war between the DMR and the Moldovan authorities. They were convicted of terrorism offences, including the murder of two DMR officials, in December 1993 by a DMR court in a trial widely seen as unfair and politically motivated (see *Amnesty International Reports*). Ilie Ilascu was sentenced to death.

In late May the Romanian Foreign Minister Petre Roman proposed that a retrial should be conducted in a third European country and suggested Poland. Senior Moldovan politicians welcomed the proposal, but an impasse represented on the one hand by a 1994 Moldovan Supreme Court ruling that the 1993 Tiraspol court decision was illegal and on the other hand by a lack of response from the DMR authorities appeared to make such a compromise solution unlikely. On 5 July the European Court of Human Rights considered an application lodged by the four prisoners in April 1999. They alleged that their trial was unfair and that their continuing detention and their prison conditions violated the European Convention for the Protection of Human Rights and Fundamental Freedoms. They argued that the Moldovan authorities were responsible for the alleged violations as they had taken no measures to put a stop to them. They also maintained that Russia shared responsibility with Moldova "as the territory of Transnistria is under the de facto control of Russia". The European Court decided to invite both Moldova and Russia to submit written observations on the admissibility and merits of the application.

NETHERLANDS, KINGDOM OF THE

Netherlands Antilles

In May the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published a report about its visit to Koraal Specht Prison in Curaçao (Netherlands Antilles) in January 1999. The CPT which, during visits in 1994 and 1997, found conditions at the prison to be "inhuman and degrading", stated that it "remains seriously concerned" by the situation there. While finding some improvements, such as a decline in the prison population and an apparent recent decline in reports of ill-treatment of inmates by staff, the CPT was additionally concerned by a new phenomenon: ill-treatment of prisoners by police officers belonging either to the riot police or the voluntary corps of Curaçao (VKC). The CPT was also concerned by inter-prisoner violence, including a prisoner killed in 1998 and two deaths, and the infliction of injuries requiring hospital treatment on several other prisoners in December 1998, apparently following the ingestion of a poisoned drink prepared by fellow inmates. Other forms of inter-prisoner violence included rape, which continued to be common at the prison.

The report highlighted one case in which, in July 1998, police officers, who are routinely brought in to perform duties properly those of prison officers, beat prisoners who had already been brought under control and were apparently naked, with hands manacled behind their backs. More than a year later investigations were "still at an embryonic stage" and the officers continued to be deployed in the prison. Two prisoners also told the CPT delegation that, while the delegation were at the prison, they had been struck with batons by VKC officers. In one of these cases a prison officer also reported receiving a baton blow when he intervened to protect the prisoner. The CPT stressed that "the use of police officers or other law enforcement officials instead of prison officers in order to perform ordinary tasks within a prison inevitably leads to high risk situations". Among a number of other measures for improving staff and prisoner relations, and the conditions of the inmates, it recommended that outside agencies cease to be used at the prison within the next six months.

The CPT noted that an independent commission, the Kleinmoedig Commission, was set up in 1998 to guarantee the integrity of persons deprived of their liberty and to investigate abuses.

The Government of the Netherlands Antilles replied that in due course a new mobile unit of the prison (Mobile Eenheid) would take over the functions now performed by the riot team. The Kleinmoedig Commission would be subsumed in a new supervisory board, once the latter body came into force, and that board would have a special complaints bureau to deal solely with prisoners' complaints. A prisoners' affairs bureau (*Bureau Gedetineerdenzaken*) had also been set up to provide data about prisoners and to centrally register complaints. The Government described a number of other measures being taken to improve conditions at Koraal Specht, including a daily activity program and more occupational activities.

POLAND

Human rights violations in the army

AI wrote to the authorities, urging the implementation of UN Human Rights Committee recommendations on the elimination of reported practices of cruel, inhuman or degrading treatment of conscripted soldiers in the Polish army. In its Concluding Observations on the consideration of Poland's fourth periodic report on the implementation of its obligations under the International Covenant on Civil and Political Rights (ICCPR), published on 29 July 1999 (CCPR/C/79/Add.110), the Human Rights Committee stated:

"The Committee is concerned about the practice of *fala*" which persists in the army, whereby recruits are subjected to abuse and humiliation. (Art. 7). The State party should adopt firm measures to eradicate this practice."

The practice of *fala* is reported to be a *de facto* institution in the army whereby younger, more recently recruited soldiers are exploited or humiliated by older soldiers. In the assessment of the Polish Helsinki Foundation for Human Rights, military commanders have remained passive towards this

phenomenon and have tolerated its continuance. Allegedly, criminal proceedings have been instituted in the most drastic cases only. A report released by the Polish "Supreme Controlling Chamber" in March 1999 on the basis of inspections carried out in eight military units between January 1997 and August 1998 also raised concerns about *fala*. Reportedly, it observed that military officers turned a blind eye to *fala* because they considered it to be a useful introduction to military discipline for new conscripts. Scenes in a documentary film entitled "The Air Cavalry", screened on Polish television in February 2000, which were filmed in the 25th Air Cavalry Brigade, based at Tomaszow Mazowiecki, are reported to show non-commissioned officers tormenting conscripts with verbal abuse, and humiliating them during training. In April 2000 two corporals of this brigade were reportedly convicted by a military court for having forced two conscripts, who were caught smoking, to perform press-ups while wearing gas masks into each of which the butt-ends of 10 lit cigarettes had been inserted.

Particular methods of abuse feature both in the 1999 report of the "Supreme Controlling Chamber" and in recent cases heard in the first half of 2000 before military garrison courts. Thus, the report and the specific cases appear in aggregate to offer confirmation that the use of these methods is a systemic, institutional problem in the army. The report is said to note that one method of cruel, inhuman or degrading punishment to which senior soldiers subject junior soldiers is to make them perform press-ups until they collapse from exhaustion. The above reported court case offers confirmation in a specific case of this occurrence. Another degrading punishment practice noted in the report was that senior soldiers made new conscripts crawl around the floor until permitted to get up. At another recent court case, heard before the Szczecin Garrison Court in February 2000, seven former senior conscripts of the Sixth Armoured Cavalry Brigade were indicted for cruel treatment of junior conscripts. Among other reported abuses such as physical ill-treatment, they allegedly forced their younger colleagues to "play sheep", which involved crawling around on the floor and hitting their heads

against the wall. Another variant of this treatment was referred to as “playing little tortoise”. Reportedly, some of the junior conscripts were obliged by elder conscripts to wear leads around their necks and act out the part of dogs, and were undressed and sexually assaulted. The reported details of this case appear again to offer specific confirmation of a cruel, inhuman or degrading punishment practice referred to in the report of the “Supreme Controlling Chamber”. Another apparent confirmation that these types of abuse are institutionalized in the army is that both perpetrators and victims are reported to refer to them by specific names: “playing sheep” and “playing little tortoise”, i.e. they appear to be established rituals. Moreover, the reported culture of “*fala*” appears to be underpinned by the wide use within the army of specific names to signify its respective roles. The report of the “Supreme Controlling Chamber” observed that senior conscripts were widely referred to within the army as “grandfathers” and junior conscripts were referred to as “cats”.

PORTUGAL

Oporto: Two deaths after alleged police beatings

On the same night in January two men died after allegedly being ill-treated by Public Security Police (PSP) officers when they were taken into custody. Both incidents took place in Oporto, one in the area of Aldoar, the other in that of Cerco. **Álvaro Rosa Cardoso**, a Rom, was allegedly severely beaten after police had been called to a street disturbance. After being held for several hours in custody, he was taken to the Hospital de Santo António, where he died. According to a police statement, endorsed by Ramos de Campos, the General Commander of the PSP of Oporto, the cause of death was one, or possibly two, heart attacks. The autopsy report, however, referred to a number of external and internal injuries, stating that the cause of death was bleeding from a ruptured spleen.

The authorities acted promptly. A judicial inquiry was immediately opened and an inquiry was also opened by the Interior Ministry’s General Inspectorate (IGAI). IGAI’s preliminary report found sufficient evidence to link the death with use of violence by one or more PSP officers. The Interior Minister subsequently ordered the opening of disciplinary inquiries into the conduct of two police officers from the Foz and Pinheiro Manso stations. In April they were detained, under investigation for homicide. The General Commander of the Oporto PSP was removed from his post shortly after the death of Álvaro Cardoso and replaced by António Herlander Chumbinho. At the end of June the two PSP officers were still in detention.

Paulo Silva died of internal injuries - notably a ruptured spleen - after being taken by ambulance from his mother’s house to the Hospital de São João. According to his mother’s testimony he had gone to the Cerco area to buy drugs, but had not succeeded. He returned home at about 1am, tottering and unable to stand upright. He told her he had been badly beaten by the police and complained of pains in his stomach and kidneys. Suspicion fell upon eight PSP officers of the 4th Division, but the police denied responsibility for the death, arguing that Paulo Silva must have been beaten by others, and there was conflicting testimony about their presence in the area. The officers were questioned by the homicide branch of Oporto’s Judicial Police but by June had not been formally accused and were continuing in their posts. IGAI reportedly stated that it was a “very complex” inquiry. A separate internal inquiry was also being conducted into a report, signed by the officer in command of the police unit suspected of involvement in Paulo Silva’s death. The report allegedly made no reference to the presence of the unit that night in the area of Cerco, although it did refer to its presence in other areas of the city. However, doubt was cast on the veracity of the report after it was discovered that the officer had not been on duty that night, even though he had signed the report.

The detention of the two officers in connection with the death of Álvaro Cardoso caused widespread anger and emotion in police ranks and - as in the case of the fatal shooting of Carlos Araújo in 1996, when

a judge took the unusual step of ordering the detention of a police officer - many police officers surrendered their weapons (see AI Index: EUR 01/01/99 and EUR 01/06/97). Some were reported to be weeping as they cried "We're not criminals!" AI was concerned about the reported reaction of a number of police officers who, at this time, gathered around the entrance to the courthouse (TIC) in Oporto to await the decision of a judge about the continuing detention or release of the two officers. Hearing that the officers were to remain in provisional detention, those waiting outside the TIC were reported to have used menacing behaviour towards a prosecuting magistrate as she left the court house, and she was forced to resort to a Judicial Police escort to accompany her to her car. Once inside the car, she was apparently surrounded by PSP officers who threatened her with death. The judge told a newspaper that she had felt extremely intimidated. She was reported to have lodged a complaint with the PSP and to have sent a report to the public prosecutor's office.

Allegations of PSP ill-treatment

Juvenal Reis Louro Ova informed AI that, in January, he was ill-treated by two of several PSP officers at O Poeta café in Tavira. He claimed that an officer interrupted a conversation he was having and hit him with a helmet, injuring his nose, which streamed with blood, and both his eyes. Juvenal Ova said that the emergency services were called but that before they arrived he was threatened with further physical violence by the officer. A superior officer from the same police station intervened to prevent this. Juvenal Ova was, however, allegedly then punched by a third officer, whose identity he did not know. He was taken to the Hospital de Faro where he was treated for his injuries, which reportedly included damage to the lens of the right eye. He further alleged that he was later warned against making a complaint by the officer who had first assaulted him. However, he lodged a judicial complaint with the prosecutor of Tavira.

Mário João Augusto Rocha, who is black, claimed that in February he was assaulted by PSP

officers who intercepted him while he was walking to his girlfriend's home at Arroja in Odivelas. He told the newspaper *Jornal de Notícias* that an unidentified vehicle drew up alongside him and some men got out. He later realised they were plainclothes police officers. He alleged they beat him both before and after taking him to the police station at Odivelas, where he was also racially abused, and punched in the bladder, before any demand was made to see his identity papers. After leaving the police station he went to the Hospital de Santa Maria, where he received treatment for his injuries. He reported that he was still in pain from these, with marks on his body and a swollen face. He lodged a complaint with the PSP of Santo António dos Cavaleiros (Loures). The Command of the Metropolitan Area of Lisbon of the PSP confirmed to the newspaper that a judicial inquiry had opened and that an internal police inquiry was also under way to determine whether disciplinary proceedings should be instituted.

Portugal before the CAT

In May the UN Committee against Torture considered Portugal's third periodic report on its compliance with the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. An AI representative attended the hearing in Geneva. The Committee noted several initiatives being taken by the Portuguese authorities to ensure that its laws and institutions conformed to the requirements of the Convention. These included the imminent establishment of a new prison inspectorate, the enactment of new regulations governing police use of firearms, the initiation of monthly prison visits by magistrates who would be able to receive complaints from prisoners and the introduction in 2000 of a new system of police training with a curriculum developed by a board including members of the public. It also noted the introduction of new regulations governing conditions of detention in law enforcement agency establishments.

However, the Committee expressed concern about the continuing reports of deaths and ill-treatment

“arising out of contact by members of the public with police” and the continuing reports of inter-prisoner violence. It urged Portugal to “continue to engage in vigorous measures, both disciplinary and educative, to maintain the momentum moving the police culture in Portugal to one that respects human rights”. The Committee also said that Portugal should particularly ensure that the criminal investigation and prosecution of public officials, such as police officers, were undertaken, where appropriate, “*as a matter of course*” [the Committee’s emphasis] where the evidence revealed the commission of torture or cruel or inhuman or degrading treatment and punishment by them.

At the time of the hearing AI submitted a report to the Committee which summarized the organization’s main concerns about death and ill-treatment in police custody and in prisons, and about cases of effective impunity and excessive use of force by law enforcement officers between 1997 and the beginning of 2000. In its conclusions AI stated that recent serious allegations of police ill-treatment, in some cases leading to death, pointed to the need for increased training in human rights issues for all officers. It urged more thorough, and regular, training in use of firearms and that the different police codes on firearms be unified under provisions in line with international standards⁵. AI also reiterated its concern that many cases of ill-treatment by law enforcement officers may not come to court because of the distinction drawn in the Penal Code between “public crimes” and others.⁶

⁵AI was not yet in possession of the new regulations on firearms and so could not comment on these in its submission.

⁶ Such cases are more likely to be considered under Article 143 of the Penal Code, covering crimes of common assault, rather than Article 243, which defines “torture, and other cruel, inhuman or degrading treatment”. The latter is classified as a “public crime” which does not require a complaint from the victim prior to investigation. But Clause 2 of the former article stipulates that any criminal investigation into crimes of common assault requires such a complaint. AI considers that there are valid reasons why the victim of an assault by

AI acknowledged the positive contribution made by IGAI, as a relatively new police oversight agency, to the monitoring and supervision of the activities of the Public Security Police (PSP) and National Republican Guard (GNR) and to speedier implementation of disciplinary inquiries into alleged offences or crimes carried out by these police forces. Nevertheless, questions remained over the thoroughness of some of the investigations that had been carried out into cases of alleged acts of violence by police officers.

In June AI wrote to the Interior Minister in connection with the CAT examination and with the concerns expressed in its own submission to the Committee. AI asked the Minister to confirm whether deontological codes were yet available to all law enforcement agencies, notably the PSP, and requested details about the reported new regulations governing police use of firearms. AI also asked for new or updated information about several cases of shootings or alleged ill-treatment by law enforcement officers and for information about the reports of police intimidation of a magistrate (see above).

Update on prisons

Following publication of *Amnesty International Report 2000*, in which AI expressed concern, among other things, about ill-treatment allegations it had received and about reports of inhuman and degrading conditions in Portuguese prisons, the Ministry of Justice provided AI with further information about the general prison situation. According to the DGSP, the problem of overcrowding was diminishing. Between 1998 and 1999 there was a decrease in the prison population of 12.3 per cent. There had at the same time been an increase in prison capacity, and by June 2000 the decrease in the “rate of overcrowding”, which had been falling since 1996, was 13.1 per cent. As regards complaints of ill-treatment of prisoners by custodial staff, the DGSP admitted that there were some cases in which custodial staff assaulted prisoners, but that such

a law enforcement officer may legitimately not wish to make a complaint.

incidents were always the subject of inquiries. Out of a total of 1,164 proceedings for 1998 and 1999, only 117 related to alleged acts of violence by prison staff and 23 prison officers (out of a total of approximately 4000) were punished with dismissal or compulsory retirement, but these did not all relate to assaults on prisoners. The DGSP cast doubts on allegations that rats and cockroaches infested some prisons. It admitted that inter-prisoner violence took place, but said that measures were being taken to prevent this through an increase in the number of prison guards and improvements in training. The Justice Ministry confirmed that a new prison inspectorate was being created⁷. This would also be responsible for inspecting the Judiciary Police. Its work was already being complemented by magistrates who carry out monthly visits to prisons and who are empowered to receive complaints from prisoners.

As regards the allegation, mentioned in the AI report, that disproportionate force had been used at Pinheiro da Cruz against **António Palma**, who was reportedly beaten by between eight and 10 guards, accompanied by two dogs, the Ministry confirmed that guards with dogs had been used to bring him under control and to force him to take his medication. AI was told that António Palma, suffering from a psychotic condition, refused to take his prescribed medicine if left to do so himself. Force therefore had to be used. He had now been transferred to a prison in Alentejo. The Ministry also informed AI that an inquiry into the "reciprocal aggression" of a prisoner and guard at the prison of Angra do Heroísmo, in the Azores, was being conducted by the Judicial Police and that the director of Sintra prison had been removed from his post.

ROMANIA

Alleged ill-treatment by police

In August AI published a report detailing cases of alleged ill-treatment by the recently established emergency intervention police sub-unit of the Buz|u

County Police Inspectorate (*Romania: Alleged ill-treatment by emergency intervention police unit in Buz|u county - Concerns and Recommendations* (AI Index: EUR 39/02/00)). Such sub-units were established at county level throughout Romania in the fourth quarter of 1999.

In the late evening of 8 January plainclothes officers of the Buz|u emergency intervention police sub-unit apprehended Constantin Vrabie and Valentin Barbu while they were dancing in a discotheque, led them to a van and allegedly beat them. Police officers allegedly continued intermittent beating of the two men at the police station, as they asked them to make statements. Constantin Vrabie was then fined for "insults". The same officers had fined him for a similar alleged offence a month before, when they stopped his car to check his identity. Constantin Vrabie declared his intention to challenge both these fines in court. On 10 January he obtained a medical certificate describing his injuries: "Massive eye bruise with central open wound and contusion; massive bruises on the lower lip and in the occipital area; massive headache..."

On the night of 25/26 January Buz|u businessman Silviu Rosioru and a female companion were drinking at a pub on the Buz|u-Ploiesti road. Silviu Rosioru reportedly made a flippant remark about officers of the Buz|u emergency intervention police sub-unit, who were sitting at a nearby table. On hearing it, they allegedly threw him to the floor, handcuffed him, kicked him and severely beat him with their batons. Silviu Rosioru and his companion attempted to escape to their waiting taxi-cab outside, yet the police officers dragged him out of the taxi-cab and placed him in their van. Allegedly, the officers continued to beat him in the van on the way to the police station. At the police station the officers fined him for allegedly insulting the pub personnel and refusing to provide identification. Five days later, in a press release, the Buz|u police further alleged that he had insulted and kicked the police officers. Silviu Rosioru claimed that police officers forged his signature on a police report, by which he reportedly confessed to the offences he was charged with. Silviu Rosioru was unable to walk unaided when he was released by the police at roughly 5am on 26 January. He was sent to

⁷The "Inspecção Geral dos Serviços de Justiça"

Buz|u county hospital, and from there to hospitals in Bucharest. The Bucharest emergency hospital released him on 1 February, having issued a diagnosis of: "Signs of aggression. Multiple contusions. Chest and abdominal contusion. Massive bruise on the left thigh and buttock."

At least four complaints of ill-treatment were filed against the emergency intervention police sub-unit of the Buz|u County Police Inspectorate in its first three months of existence. An investigation by the Buz|u newspaper *Opima* revealed that Captain M.T., the commander of the unit, was previously disciplined for acts of violence against waitresses, hospitalizing one in 1996 and breaking the ribs of another in 1998. AI expressed concern to the authorities about their appointment of a commanding officer with a reported history of brutality and reminded them of their obligation under international human rights treaties to take the necessary steps to guarantee freedom from ill-treatment or torture and to "take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under [their] jurisdiction". AI urged the authorities to establish the number of complaints of ill-treatment filed against each of the new emergency intervention police sub-units throughout the country. AI urged that focused and sustained measures of institutional reform are considered vis a vis police units against which such complaints have been filed.

Persecution of complainants and witnesses of ill-treatment by police

Viorel Baci, an alleged victim of torture and arbitrary imprisonment, was released from prison on 6 December 1999 after serving four years of a sentence for having allegedly stolen sacks of grain. He was arrested in Suceava on 19 September 1996, the day before the scheduled court hearing of his complaint against two police officers who allegedly tortured him in 1988 to force him to confess to charges of rape, battery and theft, for which he was subsequently sentenced to 17 years in prison. In 1992 the Prosecutor General ordered Viorel Baci's release, considering the charges against him groundless. Harassment of the Baci family under the

Ceausescu regime, overthrown in December 1989, is well documented. It was due to Viorel Baci's father's religious beliefs. He was a Jehovah's Witness. However, the Supreme Court overturned the Prosecutor General's decision and re-imprisoned Viorel Baci in 1993. He was pardoned by presidential decree and released again in September 1994.

Viorel Baci appealed against his 1996 sentence on the grounds that the court did not examine his alibi and had convicted him solely on evidence provided by persons instigated (and allegedly beaten) to testify against him by the officers (and their colleagues) who were due, the day after his arrest, to be tried for allegedly torturing him in 1988. Interviewed by the UN Special Rapporteur on Torture in Iasi prison in April 1999 Viorel Baci claimed that, on arresting him in September 1996, police officers taunted him that he would miss the court hearing due the next day. Allegedly, the warrant for Viorel Baci's pre-trial detention was not renewed after the first 30 days, and he may have been arbitrarily detained from then until he was sentenced. He was transferred to Jilava prison in February 1997 at the summons of the Bucharest Military Tribunal, to testify at the trial of the two police officers. However, this was repeatedly postponed and the Military Tribunal prevented him from attending the Appellate Court in Suceava, to appeal against his own sentence.

AI has received reports of a new case of alleged persecution of a complainant and a witness of police ill-treatment, in Bârlad. At Bârlad police headquarters on 3 July 1995 Dorinel Vrinceanu was allegedly beaten, and his jaw broken, by two police officers to compel him to confess to the theft of six shirts. He was subsequently found not guilty, and another man was later convicted for the theft. Dorinel Vrinceanu filed a complaint with the Iasi Military Prosecutor in April 1996. Reportedly, the two police officers were found guilty, but appealed, and to date there have been over a dozen appeal hearings, successively at the Bucharest Military Prosecution Court, the Court of Appeal and the Supreme Court of Justice. Allegedly, in the intervening years Dorinel Vrinceanu was subjected to numerous threats that if the two police officers are convicted and lose their

jobs he will regret it all his life. In January and February 2000 Ioana Toma, a witness to the alleged ill-treatment of Dorinel Vrinceanu who is now a pensioner, was visited by a police officer from Iasi, who insisted that she change her testimony. She was then summoned to appear at a Iasi police station on 17 February as an accused person in a criminal case initiated by the two police officers alleged to have ill-treated Dorinel Vrinceanu. On 17 February Dorinel Vrinceanu filed a new complaint with the Military Prosecutor's Office in Iasi, alleging harassment and intimidation of himself and Ioana Toma by police officers. According to recent reports the police filed criminal charges against Dorinel Vrinceanu for alleged theft from his factory workplace, and he was dismissed from his job in June. AI expressed its concern to the authorities, particularly about alleged violations of Article 13 of the Convention against Torture, under which they are obliged to ensure that "the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given".

Excessive use of firearms by police

Despite the concern expressed by the UN Human Rights Committee in July 1999 about continued reports of police using firearms and its call for close regulation in order to prevent violations of the right to life and personal security the Romanian authorities failed to initiate reform of the law or practice relating to police use of firearms, to bring them into line with international standards. Thus there were new cases in which law enforcement officials shot and killed or severely wounded people who were reportedly unarmed and not presenting any danger.

In Bucharest on 18 May a police officer shot 20-year-old Roma man Mugurel Soare in the head, crippling him. Mugurel Soare is now paralyzed and unable to speak. He and his brother were chasing their former brother-in-law along a street by the "Caritas" hospital between 7 and 8pm when they were interdicted by three plainclothes police officers who had been in a parked car. Police sources briefed journalists that Mugurel Soare had been armed with a knife and stabbed a police officer in the abdomen,

and that the officer shot in self defence. However, this was contradicted by witnesses. Moreover, the police officer reported his wound with a delay of two hours, prompting speculation that it was created after the event. It was a "Z" shaped scratch on his abdomen which required no treatment. Moreover, his uniform appeared undamaged.

Witnesses Angela Vlasceanu and Dorel Baicu reported seeing a man in civilian dress beating Mugurel Soare on the street corner. The assailant had a pistol. He knocked Mugurel Soare's head against a wall, causing him to fall to his knees. The assailant then stuck the barrel of his pistol into the back of Mugurel Soare's neck and shot him. Unaware that the assailant was a police officer Angela Vlasceanu attempted to apprehend him and called to other gathering bystanders to summon the police. He brushed her off and with his two companions, dragged Mugurel Soare's slumped body into the car and drove to the Floreasca emergency hospital. Other police officers arrived 10 minutes later and took the two witnesses to Bucharest 10th precinct police station, where they were held from 9pm until 7am the next morning, and reportedly denied water throughout these 10 hours. Police officers and an investigator of the military prosecutor's office questioned them in an intimidating way. Dorel Baicu was allegedly threatened that he risked being accused of incitement to scandal if he continued to maintain his version of the shooting incident. AI expressed concern to the Romanian authorities that such reported treatment of witnesses could amount to a breach of Romania's obligation under Article 13 of the Convention against Torture to ensure that witnesses and complainants are protected against ill-treatment and intimidation.

In the early afternoon of 21 May a police officer shot and killed Petre Letea and wounded Marian Pilos. The two Roma men were fleeing in a car in Bucharest after police officers discovered Petre Letea and another man allegedly attempting to burgle an apartment. The officer fired six shots into the car, hitting Petre Letea in the head and Marian Pilos in the back, causing the car to veer out of control and crash into another car. Neither of the two shot men was reported to be armed.

On 5 and 9 May Romanian coastguard vessels opened fire on Turkish fishing boats allegedly fishing illegally in Romanian territorial waters in the Black Sea. Such use of firearms by coastguards against Turkish fishing vessels, apparently in breach of international standards, is emerging as a dangerous pattern in the Black Sea (see also Ukraine entry). It comes against a background of dwindling fish stocks, and over-capacity in the Turkish Black Sea fishing fleet.

AI called upon the Romanian authorities to amend the national law relating to police use of firearms, to bring it into harmony with the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. At present the national law allows police officers to shoot “to apprehend a suspect who is caught in the act and attempts to escape without obeying an order to stay at the scene of the crime”. The UN Basic Principles permit law enforcement officials to use firearms only if other means remain ineffective or without any promise of achieving the intended result. Firearms may be used against people only after giving warning, in order to prevent death or serious injuries, where less extreme means are insufficient to achieve such objectives. In doing so, law enforcement officials must respect and preserve human life, and minimize damage and injury. The Principles underscore that intentional lethal use of firearms may be made only when it is strictly unavoidable in order to protect life.

AI expressed concern that a proposed revision of the law relating to the police use of firearms appeared to expand the list of circumstances under which Romanian police officers may resort to the use of firearms. These circumstances fell outside those under which the UN Basic Principles allow the use of firearms. If confirmed, such a revision would worsen rather than improve the situation and present an expanded risk of violations of the right to life. It would represent not only a refusal to implement the recommendations of the UN Human Rights Committee, but a move in a direction contrary to them.

Reform of the Penal Code

On 28 June the Romanian Chamber of Deputies, the lower house of parliament, adopted a bill to modify the Penal Code. The modifications now pass to the Senate, which will debate them in the autumn parliamentary session at the earliest. The reforms were prompted by Council of Europe recommendation 1123 of 1997, by which it ended human rights monitoring of Romania. Minister of Justice Valeriu Stoica reportedly warned parliament that Romania risked the resumption of Council of Europe monitoring and problems with its European Union accession negotiations if these reforms were delayed any longer.

The modifications included the abolition of Article 200, which prohibits homosexual relations between consenting adults “if the act was committed in public or has produced public scandal”, and which stipulates a maximum prison sentence of five years for anyone found guilty of enticing or seducing a person to perform same-sex acts. Article 200 also violated the right to freedom of expression in that it imposed the same prison sentence of up to five years for publicly promoting homosexuality or for forming associations for that purpose. The move to abolish Article 200 has been strongly opposed by the Romanian Orthodox Church.

Other modifications of the Penal Code will repeal or soften Articles which have impinged upon the right to freedom of expression. The Chamber of Deputies voted for the repeal of Article 238 and Article 239 paragraph 1, which stipulate crimes of “offence to authority” and “verbal outrage”. Deputies voted to modify the penalty for the crime of “insult”, Article 205, from a prison sentence to a fine. The crime of libel, Article 206, will be punishable by a fine or a prison sentence of up to one year, whereas the present law stipulates a prison sentence of up to three years.

While these changes, if they are approved by the Senate, are welcome, they represent a minimum program of reform. Recommendations of the UN Human Rights Committee, such as the need for a law to invalidate confessions extracted by means of torture, do not appear to have been considered by the authorities.

RUSSIAN FEDERATION

Prisoners of conscience

The case of Aleksandr Nikitin (update to AI Index: EUR 01/02/99)

On 17 April the Supreme Court of the Russian Federation upheld the 29 December decision of the St Petersburg City Court to acquit human rights defender Aleksandr Nikitin. Aleksandr Nikitin faced charges of espionage and revealing state secrets, carrying a sentence of up to 20 years' imprisonment, after writing two chapters for a Bellona Foundation report on the risks of radioactive pollution from Russia's Northern Fleet. AI welcomed the Supreme Court ruling, but pointed out that Aleksandr Nikitin should never have had to face trial in the first place for the peaceful exercise of his right to freedom of expression.

Politically motivated murder

The case of Galina Starovoitova (update to AI Index: EUR 01/01/00)

According to Russian media reports in February 2000, which quoted police sources in St Petersburg, a woman was being held in connection with the murder of prominent member of parliament Galina Starovoitova. The police had searched the woman's flat and uncovered traces of gunpowder, similar to that found at the crime scene. No further details of the suspect's identity had been revealed.

Galina Starovoitova was shot outside her flat in central St Petersburg on 20 November 1998, in what appeared to be a politically motivated killing. According to the police, a man and a woman intercepted the politician and her aide, Ruslan Linkov, in the stairwell of her apartment and shot them with an automatic weapon and pistol. AI believed Galina Starovoitova was murdered because of 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.

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An investigation into the murder was opened, led by the Federal Security Services (FSB). The then Director General of the FSB, Vladimir Putin, was reported as saying a day after the killing: "I do not have any elements from which I can conclude that this was a political murder".

In October 1999 a former Russian police officer became a suspect in the assassination. Latvian police reportedly found the same type of unusual gun used in the killing at the home of Konstantin Nikulin, a 32-year-old former member of Soviet police special forces in Riga. He had been detained as part of an investigation into allegations of atrocities carried out by the special forces during Latvia's drive for independence in the late 80s and early 90s.

However it was reported in January 2000 that Latvian Criminal Police Chief, Aloizs Blonskis, had stated there was insufficient evidence to link Konstantin Nikulin with Galina Starovoitova's murder. He was reportedly still facing weapons charges. According to other reports in the same month, Russian police also investigated a possible lead that members of a gang, based in the Latvian port of Liepaja, may have been responsible for Galina Starovoitova's murder – but turned up nothing.

AI continued to call on the authorities to make public the findings of the criminal investigation into the murder of Galina Starovoitova and bring to justice anyone suspected of being responsible, in accordance with international law. AI also urged the government of the Russian Federation to take urgent steps to ensure the safety of human rights advocates and outspoken critics by sending a clear public message that abuses against them would not be tolerated and would be punished in accordance with national law and international standards.

Violations of human rights and international humanitarian law in the context of the armed conflict in Chechnya

The case of Andrey Babitsky

Andrey Babitsky, a Russian war correspondent working for Radio Liberty, went missing in Chechnya while trying to leave the capital Grozny. He last made contact with his colleagues at the Moscow

Amnesty International September 2000

office on 15 January, before his departure. It later emerged he had been arrested by the Russian military authorities and was being held incommunicado.

On 3 February the Russian authorities announced that Andrey Babitsky had been handed over to Chechen fighters at crossroads between Argun and Shali in the Chechen Republic. They reportedly stated that Babitsky had agreed to be exchanged for Russian soldiers held by the Chechens. Russian television broadcast footage, filmed by Russia's Federal Security Services (FSB), of what they said was the handover of Babitsky. However, Chechen authorities denied any involvement. On 25 February Andrey Babitsky resurfaced in Dagestan, in detention in the capital Makhachkala, from where he was released and flown to Moscow, following the intervention of Acting President Vladimir Putin.

In a telephone conversation with AI four days later, Andrey Babitsky said that he had been detained in Chernokozovo "filtration camp" prior to the 3 February exchange. He spoke of being beaten with truncheons by Russian guards while in Chernokozovo, and hearing the screams of other detainees, including a woman, being tortured. He stated that the exchange had been arranged by the Russian authorities against his will, and that following the handover he was held in a house in southern Chechnya by unidentified Chechens, who he believes were pro-Moscow.

Since his release in February, Andrey Babitsky has been unable to leave Moscow due to an investigation into charges made against him of possessing a forged passport, an offence which carries a penalty of up to two years' imprisonment. On 6 July, the Russian Interior Ministry announced that, following the investigation, Andrey Babitsky had been formally charged with knowingly using false identity papers. It was also announced that his case had been filed with the Office of the Public Procurator but no trial date had been set. AI was not aware of any investigation by the Russian authorities into allegations of ill-treatment of Andrey Babitsky, or into the torture of other detainees held at the same time in Chernokozovo.

Arbitrary detention

The case of Chechen journalist, Taisa Isayeva

AI was concerned about the reported arrest on 2 June of Taisa Isayeva, a Chechen journalist, at the border checkpoint "Nizhny Zaramag", between North Ossetia in the Russian Federation and Georgia. According to Russian sources, Taisa Isayeva, who works for *Chechen-Press* news agency based in Georgia, was detained at the border because she was carrying a video camera and a portable computer.

AI asked the Russian authorities to make public the whereabouts and well-being of Taisa Isayeva, and to reveal whether she had been charged with any recognizably criminal offence. The organization was concerned that Taisa Isayeva might have been taken to a secret "filtration camp" where she would be held incommunicado and would be at risk of torture and ill-treatment. Independent journalists and human rights monitors were still not officially allowed into Chechnya, and any recording devices or communication equipment, such as computers, tape recorders and video cameras, were confiscated at the Chechen border. AI believed that the detention of Taisa Isayeva called into question the Russian authorities' commitment to freedom of expression.

The case of 16-year-old Adam Abubakarov

In March AI learned about the case of 16-year-old Chechen Adam Abubakarov who was held incommunicado by the Russian authorities, reportedly in the hospital of the pre-trial detention centre (SIZO) in Pyatigorsk. He was believed to have been held in several secret "filtration camps".

Adam's father, Khamzat Abubakarov, told AI's field researcher that in October 1999 he and his family fled to Ingushetia from their home in the Chechen capital, Grozny, to escape the Russian bombardment. He said that in February Adam travelled back to Chechnya to help his grandparents dig their vegetable garden and build an air-raid shelter in their basement.

On his way back to Ingushetia, Adam was detained by Russian forces at an army checkpoint in the Chechen town of Urus-Martan. The Russian officers apparently detained him on suspicion of

being a Chechen fighter. They had seen blisters on his hands and assumed these to be proof he had been handling weapons or digging trenches. It is believed he was then taken to a "filtration camp", known as the "Internat".

When his parents learned this, his mother visited the "Internat" camp along with relatives of other detainees. Chechen guards at the camp gave her a list of 11 names of detainees for 100 rubles; this list included Adam Abubakarov and another 16-year-old boy, "Akhmed". The prison authorities demanded US\$1,000 for the release of each detainee, and gave the relatives until 27 March to deliver the money. Khava Abubakarova collected \$1,000, but when she went back to the camp Chechen guards told her that the 11 prisoners had already been transferred to another detention facility in the Chechen village of Znamenskoye. She returned to Ingushetia. When she tried to travel to the Znamenskoye detention facility the Chechen-Ingush border was closed, so she missed the 27 March deadline.

The family have since received reports that Adam was transferred to a "filtration camp" in Mozdok, and possibly from there to the prison hospital at the SIZO in Pyatigorsk, in Russia's Stavropol Territory. As of 1 June 2000, Adam Abubakarov had not been seen since his detention. His family believed that he was still being held in incommunicado detention at Pyatigorsk, although they have not been officially informed of his whereabouts for over three months.

In a meeting in Moscow on 2 June, AI requested the help of the office of Vladimir Kalamonov, the special representative of the Russian President on human rights in Chechnya.

Allegations of torture, including rape, of men, women and children in detention in the so-called "filtration camps"

Russian forces are reported to be still detaining people in Chechnya at checkpoints and in the territories under their control; either during so-called "cleansing operations" in newly-occupied towns or while carrying out identity checks on civilian convoys travelling from Chechnya to neighbouring Ingushetia. People are most often detained for not having proper registration and residence permit, or on suspicion of

belonging to armed Chechen groups. Women are also detained on suspicion of being related to Chechen fighters. Although Russian forces claim to have rescinded the 11 January 2000 order allowing them to hold any Chechen male aged between 10 and 65 on suspicion of being a fighter, witnesses claim that children as young as 10 continue to be detained.

People apprehended by Russian forces are sent to secret "filtration camps" where they are held without access to their relatives, lawyers or the outside world. AI has collected testimonies from survivors of "filtration camps", which confirm that detainees - men, women and children - are routinely and systematically tortured: they are raped, beaten with hammers and clubs, tortured with electric shocks and tear gas, their teeth are filed off and some are beaten around both ears simultaneously to burst the eardrums.

In March, AI learned from witnesses that a 14-year-old girl, originally from Urus-Martan, died in detention in Chernokozovo at the beginning of the year - allegedly as a result of being tortured and ill-treated, including being repeatedly raped, by the guards. She had reportedly been detained at a checkpoint while travelling on a bus. According to the witnesses, the girl was among 60 women held together in cell number 25 in Chernokozovo, who were subjected to beatings by the guards. One of these, "Zuliykhan"⁸, was seven months pregnant and, although not beaten, was constantly threatened with torture. She was subsequently released and gave birth prematurely.

Former detainees of Chernokozovo camp told AI how, in January, they witnessed a 14-year-old girl being raped by a dozen prison guards in the corridor outside their cells. The girl was visiting her detained mother and, for the price of 5,000 rubles, had been permitted a five-minute meeting. However, her short meeting became a four-day ordeal during which she was locked in a cell, beaten and repeatedly raped by guards.

"Musa", who was held at Chernokozovo between 16 January and 5 February, spoke of a 16-year-old

⁸Some names have been changed for the victims' own security.

boy called Albert, originally from the village of Davydenko, who was brought to his cell after being gang-raped and severely beaten by prison guards. One of his ears had been cut off and guards referred to him by the female name, Maria. "Musa" believed that up to 10 men were raped in the camp during his 21-day detention.

"Musa" shared a cell for one week with Andrey Babitsky. His other cell mates included a man whose hands had been severely burnt by prison guards with cigarette lighters and a 17-year-old youth whose teeth had been filed with a metal file and whose lips were shredded, leaving him unable to eat, drink or speak. "Musa" estimated that 10-15 new detainees were brought to the camp each day. Among those he saw were 13 to 14-year-old girls.

AI also received disturbing testimonies from survivors of the "Internat" camp, in the town of Urus-Martan in Chechnya, who independently confirmed allegations of torture and ill-treatment. "Zelimkhan", 20, spoke of being brutally gang-raped by four or five officers from OMON, the Russian federal forces' special detachment, after being taken to the "Internat" from his home in Urus-Martan on 6 May on suspicion of being a Chechen fighter. He was blindfolded, handcuffed and ordered to lie face down on a table before being raped with wooden clubs and machine-gun butts. He was repeatedly kicked in the genitals and ordered to stand naked by a wall. "Zelimkhan" said officers squeezed his genitals, saying they would make him handicapped and incapable of producing children. He was severely beaten and tortured several times a day during his week-long detention. He was only released after paying \$300 and signing a document to say he had not been ill-treated. Upon his release he was immediately hospitalized. Doctors concluded he had sustained numerous bruises and haematomas in the area of his ribs, chest and kidneys and needed treatment for inflammation and infection of his genitals.

AI calls for an international investigation into crimes against civilians in Chechnya

In March AI revealed the existence and location of secret "filtration camps". However, Vladimir Kalamonov, the Russian Presidential Representative on Human Rights in Chechnya, and Yury Kalinin, the Deputy Minister of Justice, publically denounced AI's findings claiming that no such camps existed and no detainees in Chechnya were tortured.

In the same month, AI obtained new evidence pointing to an official cover-up of the true scale of atrocities in the "filtration camps" in Chechnya. The organization obtained three separate lists containing the names of 60 of the 300 or so people believed to have been transferred from Chernokozovo "filtration camp" – almost the entire population of the prison – to other detention facilities before February's official visit to the camp by the Council of Europe's Committee for the Prevention of Torture.

The Russian authorities also refused to allow Mary Robinson, UN High Commissioner on Human Rights, to visit a number of secret "filtration camps" made public by AI. The reasons they gave were bad weather and security problems. For AI, this was yet another confirmation of the Russian authorities' lack of will to engage in an open and credible investigation.

In April, the Parliamentary Assembly of the Council of Europe voted to suspend the Russian delegation's voting rights and called on its Committee of Ministers to immediately invoke a procedure for the suspension of Russia's membership. This decision sent a strong and clear message that human rights violations would not be tolerated.

AI urged the UN Commission on Human Rights to call for an international investigation and continued to lobby various governments and intergovernmental organizations for their support. In March AI UK wrote an open letter to Prime Minister Tony Blair, urging him to voice grave international concern at the grievous human rights situation in Chechnya when he met with acting Russian President Vladimir Putin. AI also appealed to US President Bill Clinton in June to address the same issues during his meeting with President Putin.

Amnesty International report seized as "propaganda"

Two boxes containing AI's report on Chechnya, *For the Motherland* (AI Index: EUR 46/46/99), were confiscated by Russian customs officials in May as field researcher, Mariana Katzarova, arrived at Moscow's Sheremetyevo airport.

The researcher was on her way to North Ossetia to attend a seminar on Democracy, Rule of Law and Human Rights in the North Caucasus, at the invitation of the Russian government.

Upon opening the boxes, officials at the airport commented that it seemed to be full of "anti-Russian propaganda" and decided to seize the materials on the grounds that AI might use the report for "commercial purposes".

The Russian Ministry of Foreign Affairs has been informed of the incident but so far they have not cooperated in getting the reports released. AI believes this incident further calls into question the real commitment of the Russian authorities to investigate human rights violations, particularly in Chechnya, and permit freedom of speech.

Attacks on civilians

Direct military attack on a group of women and children near Samashki

Chechen civilians, including medical personnel, continued to be the target of military attacks by Russian forces. In March a group of up to 60 civilians in the village of Samashki, mostly women and children, were promised a "safe corridor" for one day by Russian forces to allow them to collect food – to pick wild garlic in the nearby forest. Despite these assurances, the group came under artillery attack and at least three women were killed and five were wounded. In March AI's field researcher interviewed the wounded women survivors of this incident who were undergoing medical treatment in hospital in Ingushetia.

Violations of human rights by Chechen fighters. Hostage-taking

Civilian hostages kidnapped before the current conflict in Chechnya are reportedly being held by armed Chechen groups, possibly for political reasons.

Two former hostages say they witnessed the killing of Vladimir Yatsina, a Russian news agency ITAR-TASS photojournalist, who was kidnapped in Ingushetia by a Chechen group on 19 July 1999. Vladimir Yatsina's wife, Svetlana Golovenkova, an economist, told AI: "I believe he was kidnapped by professional criminals before the war, for whom this was their business. After the war began, they lost interest in Vladimir as a "business commodity" and as far as I know, his group of hostages had been transferred from one Chechen group to another several times."

Another former hostage, Kiril Perchenko, described his ordeal. "We were kidnapped before the war purely for financial gain...when the war began they forced us [the hostages] to dig trenches for them, while they were fighting against the federal forces...this is not just some ad-hoc mafia; this is a well-organized military group." Another civilian, known to have been taken hostage in the Chechen Republic, was Brice Fleutiaux, an independent French photographer who was detained in the country from October 1999 until his release in June after an operation by the Russian Security Services.

SPAIN

Race riots at El Ejido

In early February, El Ejido (Almería), which has a large population of foreign workers, mainly involved in fruit picking, was the focus of serious racist violence, sparked by the killing of a Spanish woman, allegedly by a Moroccan. The scale of racially motivated violence was unprecedented in Spain, although the country has seen other recent attacks on immigrant populations. Roads were blocked, and cars, shops, dwellings, eating houses and other property belonging to or associated with immigrants were attacked and burned over several days. Approximately 50 people, including immigrants, police officers and local inhabitants, were injured. Some immigrants were forced to take shelter in their homes, often no more than makeshift plastic shacks near the greenhouses where they worked, or in the central police station, while others fled to the foothills

of the mountains, where they relied on Red Cross supplies. The General Council of the Judiciary, the judiciary's supreme body, was among those appealing for peace and tolerance and for the integration of immigrants into the local community. The Attorney General and Ombudsman both requested reports on the disturbances. AI is concerned by the growing increase in racially motivated attacks in Spain as immigrants continue to enter the country from the Maghreb and other parts of Africa, South America and Eastern Europe (see *Amnesty International Report 2000*). Non-governmental organizations in Spain, including AI, have also expressed concern about certain proposed changes to the immigration laws (*Ley de Extranjería*), which would affect in particular the rights of undocumented foreign nationals.

ETA: Killing campaign resumes

In June **Jesús María Pedrosa Urquiza** became the fifth person to be killed by the Basque armed group *Euskadi Ta Askatasuna* (ETA) since the beginning of the year. Jesús María Pedrosa, a member both of a nationalist trade union and of the ruling centre-right Popular Party (PP) - which won an absolute majority in the general election in March - was shot dead in Durango (Vizcaya) in the Basque Country. PP members have not, however, been the only target. **José Luis López de Lacalle**, journalist and founder of the "Ermua Forum" - a peace movement which was formed in 1997 in response to the abduction and killing of PP councillor Miguel Ángel Blanco - was shot dead in May. In February **Fernando Buesa Blanco**, a Socialist Party (PSOE) official, and his police escort, **Jorge Diez Elorza**, were killed in a car bomb explosion and army officer **Pedro Antonio Blanco García** was killed in a car bomb explosion in Madrid in January. Four others were injured in this explosion, including a child.

In June AI called on ETA to end its new killing campaign. The organization expressed concern not only about the intentional killings and attacks carried out by ETA against specific individuals or categories of civilians, such as councillors and journalists, but also about the numerous acts of intimidation and

violence, sometimes life-threatening, connected with the "*kale borroka*", or urban struggle, waged by radical nationalist groups reportedly linked to ETA. These have persisted throughout the first six months of the year in the three provinces of the Basque Country and Navarre and are reported to have already exceeded in number the total number of recorded acts of politically-motivated violence attributed to the *kale borroka* in 1999.

Lasa/Zabala trial ends with heavy sentences (Update to AI Index: EUR 01/01/00)

The trial hearing ended in April of seven men allegedly involved in the abduction, torture and murder in 1983 of ETA suspects **José Antonio Lasa** and **José Ignacio Zabala**. The National Court sentenced General Enrique Rodríguez Galindo and former civil governor Julen Elgorriaga to a total of 71 years' imprisonment each for illegal detention and murder. Three former Civil Guard officers were sentenced to between 67 and 69 years' imprisonment and two - including a former secretary of state, convicted in the case of Segundo Marey - were acquitted. The five convicted men were also ordered to pay 25 million pesetas to the families of the two victims. However, the court ruled out charges of membership of an armed band and of torture on the grounds of insufficient evidence.⁹ General Galindo and his co-defendants appealed against conviction to the Supreme Court. However, owing to the extreme gravity of the crimes committed, and the high sentences passed, the National Court ordered the immediate detention of those defendants who were

⁹The court found that, although the bandages and poultices discovered with the remains of the two ETA suspects, who had been buried in quicklime at Busot (Alicante), suggested that they had indeed been tortured before being shot, the complete absence of soft tissue meant that this could not be proved. More controversially, the court ruled that there was not enough evidence to prove that the structure put in place by the defendants to carry out the crimes was also used to carry out other GAL-related acts. The charge of membership of an armed band was therefore set aside.

not already in prison, including General Galindo, without awaiting the verdict of the Supreme Court.

AI continues to monitor closely the judicial proceedings related to the Anti-terrorist Liberation Groups (GAL), such as the Lasa-Zabala case, because of its longstanding concern about effective impunity in Spain. AI welcomes the fact that the perpetrators of gross human rights violations have been brought to justice in this case - although the verdict is not yet definitive. However, it is concerned about the extreme length of time it has taken to bring the case to trial, and about the numerous obstacles that have reportedly been placed in its way, including abuse and intimidation of several "protected" witnesses, and the abduction and torture of one. The fact that the trial hearing did not open until 16 years after the murders of José António Lasa and José Ignacio Zabala meant that crucial evidence was undoubtedly lost. It is also a matter of concern that Enrique Rodríguez Galindo was promoted to the rank of general by the former administration in 1995, *after* the emergence of evidence that he could be implicated in the murders.

Lanzarote: death in custody

António Augusto Fonseca Mendes, a native of Guinea-Bissau, died in police custody in Arrecife, Lanzarote (Canaries) in May. He was allegedly ill-treated by National Police officers prior to his death. According to reports, António Fonseca, who lived in Madrid and had valid work and residence permits, was arrested after refusing a request by two police officers on patrol in Arrecife to hand over his papers. António Fonseca was reportedly seen by his sister, and by other witnesses, arguing and struggling with the officers before being handcuffed, and bundled into the boot of their car. According to police statements, he had attempted to run away and any injuries sustained had been caused by his aggressive attitude in resisting arrest. After being taken into custody he lapsed into semi-consciousness and medical help was sought. He was said to have swallowed a packet of drugs, which had led to fatal internal damage. The police version was questioned by António Fonseca's family, who had taken photographs of his body at the mortuary. These

appeared to show external injuries on his body, including the face, part of which seemed to be caved in. Relatives stated that there were numerous haematoma on his body, and blood on his clothes and fingers and shoes, and they expressed fears that he had been ill-treated and died of asphyxiation.

A first autopsy found no sign of external injury and its findings apparently confirmed police reports. However, a second autopsy, ordered by the investigating judge and conducted by an independent forensic specialist, noted a number of contusions, haematomas and grazes on the body and an injury of "special significance" to the sternocleidomastoid muscle on the right side of the neck, which he believed, had led to suffocation. The forensic specialist concluded that the injury was caused by a "blow with a blunt instrument". A separate toxicological report, an exhaustive examination conducted by representatives of the National Institute of Toxicology, did not find any trace of drugs in the blood and viscera of the victim.

According to AI's latest information the police officers involved have not been suspended pending the outcome of the judicial inquiry, which was opened following the lodging of a formal complaint by António Fonseca's sister.

The death of António Fonseca led to unrest among the African community on the island. A government representative appealed for calm, stating that the death was in no way related to racist attitudes to immigrants.

Allegations of police ill-treatment

AI received a disturbing number of allegations of ill-treatment in police custody. In January the father of **Trinidad Arteaga Orejón**, who is 20, filed a judicial complaint claiming police ill-treatment after her arrest following an altercation at the Café Teatro in Valladolid. Trinidad Arteaga, who suffers from anorexia, and was on medication, admitted that the alcohol she was drinking went quickly to her head. She was told to leave the bar for making too much noise but returned. The police were called. Trinidad Arteaga said that she became angry after being arrested and handcuffed, because the handcuffs "hurt

me a lot”, and that she shouted at and insulted officers. But she also claimed that, while at the police station, while handcuffed, and in the presence of four uniformed officers, she was violently pushed against a wall, injuring her head, and then punched (“with closed fists”) on both arms and on the head, until she fell to the ground, where she was repeatedly kicked. She was then pulled up by the hair. A medical report referred to “multiple contusions: cranial and coccyx” and to a sprained left wrist. Trinidad Arteaga, who is undergoing treatment for her eating disorder, was immediately afterwards admitted to hospital, where she remained for nine days. The police charged her with resisting police authority and “threats and insults”.

Araceli Benita Ramos Dacosta, an undocumented Cuban national, alleged that in February, when she was four months pregnant, two officers of the Catalan autonomous police, the Mossos d’Esquadra, assaulted her in Figueres. Araceli Ramos claimed she was involved in a dispute with her husband over their children and at the time was standing outside a hotel, shouting to her husband to return the children to her. She had herself called on the police to help her. When she refused to leave the scene the police attempted to arrest her. In the course of an ensuing struggle she was allegedly kicked on the shin, and then beaten with a baton on the head and kneed in the back. A medical report referred to contusions on the left hand and head and to bruising on the knee. She was driven in handcuffs to the Rosas police station. She lodged a judicial complaint.

Several other allegations were received. Among these, **Emilio Romero Arancibia**, a journalist of Chilean nationality, filed a judicial complaint that he was punched and beaten with a baton by two National police officers in Barcelona in March. A medical report referred to multiple contusions and injuries to the wrists. This, and other allegations - including one made by **Sami Bouhamla-Riedo**, a man of dual Swiss and Tunisian nationality, on holiday in Ibiza in May, who claimed he was beaten by police with batons, punched and hosed with cold water and that his head was beaten against a wall, and another made by **Maria de los Milagros Robles García**, a civil servant who alleged ill-treatment by

police in Badajoz in February, and who was detained after police approached her and her husband to check their identity, because they “looked foreign”¹⁰ - appeared to have racial connotations.

CPT presses for investigation of Civil Guard interrogation methods

In April the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published two reports. The first described a visit, carried out in January 1997, to examine the treatment of ETA prisoner Josu Arkauz Arana, who alleged he had been ill-treated by Civil Guards after his expulsion from France. The second report described a visit in 1998 to a number of police or Civil Guard establishments and prisons.

The CPT concluded that the account of his treatment given by Jesu Arkauz was “detailed and coherent”, and “essentially accurate” as regards a number of factual issues. The CPT stated: “...Mr Arkauz’s description of the ill-treatment alleged by him and his reactions to it are, from a technical standpoint, quite credible; the manner in which he described the sensation of losing consciousness as a result of asphyxiation was particularly convincing”. The CPT further commented that when allegations of ill-treatment, such as asphyxiation using plastic bags, came to the attention of prosecutors and judges, they “should not treat the absence of marks or conditions consistent with those allegations as in itself proving that they are false ...” The CPT recommended, among other things, “a general investigation of a thorough and independent nature ... into the methods used by members of the Civil Guard when holding and questioning persons” suspected of involvement in armed bands.

In its second report, the CPT expressed disappointment that the Spanish authorities had still

¹⁰ The police complaint itself states that the officers, part of a team checking the identity of foreigners at the bus station at Badajóz, approached them to check their identity since “*por sus facciones se podría determinar que eran extranjeros* [since their features showed them to be foreign]”.

not carried out such an investigation and that “there has as yet been no on-the-spot scrutiny of the manner in which detained persons are being treated by law enforcement officials”. The CPT, which visited law enforcement agency establishments in Barcelona, Jaén, Las Palmas de Gran Canaria, Madrid and Mataró, also stated that, while it had received no allegations of torture from persons interviewed, there had been allegations of use of excessive force at time of arrest, attributed in particular to the National Police. It also noted that: “...both before and during the visit, the CPT received reports from other sources containing a considerable number of allegations of ill-treatment by the National Police, the Civil Guard and the Basque Autonomous Police (the Ertzaintza) relating to periods of custody during 1997 and 1998. Those allegations involved blows to various parts of the body and, in some cases, more serious forms of physical ill-treatment, including sexual assault of female detainees by male police officers, and asphyxiation by placing a plastic bag over the head. In certain cases, the reports included medical certificates recording injuries or conditions consistent with the allegations made by the persons concerned”. Many of those reports related to terrorist suspects detained in the Basque Country or Navarre. The CPT additionally noted: “...in the course of the delegation’s discussions with members of the General Council of the Judiciary, it emerged that examining judges and prosecutors may not always be displaying due diligence when allegations of ill-treatment are brought to their attention”, and that judges and public prosecutors could be more proactive.

The CPT delegation also visited Barcelona Prison for Men (Modelo), Jaén, Las Palmas de Gran Canaria Prison (Salto del Negro) and Madrid V Prison (Soto del Real). It observed that the number of prisoners considered to be “dangerous” and held in special units had declined consistently over the last few years. Material conditions in the special units visited were satisfactory, but the quality of relations between staff and prisoners remained a source of particular concern. The CPT noted that in the latter three prisons it received some allegations from prisoners of physical ill-treatment by prison officers. At Soto del Real allegations mainly referred to blows

with batons inflicted on prisoners in the prison’s special regime. At Salto del Negro “allegations were consistent as regards the form of ill-treatment involved, namely blows with batons whilst handcuffed to beds in the prison’s segregation unit. From discussions with prison staff and consultation of the relevant registers, the delegation ascertained that, on a fairly regular basis, inmates at this prison were indeed being handcuffed (in a variety of positions) to metal rings attached to beds in the segregation unit. In some cases, prisoners had been restrained in this manner for prolonged periods of time (for example, for some 15 hours overnight). Prison staff also indicated that inmates thus restrained were not provided with mattresses”.

AI has also received allegations from prisoners or prisoners’ relatives that inmates in some establishments were being chained to beds for prolonged periods. (see *Amnesty International Report 2000*). Further information about prisons will be available in the next bulletin.

Judge supports derogation of special anti-terrorist laws

National Court judge Baltasar Garzón Real reportedly reiterated in May comments made the previous year, according to which the laws extending the period of incommunicado detention and denying effective legal assistance to terrorist suspects should be derogated. Baltasar Garzón, one of the judges before whom such suspects are brought following arrest and detention, was reported as saying that the special laws were not necessary and did not contribute to the effectiveness of the investigation.

SWEDEN

Deaths in police custody: Osmo Vallo

On 30 May, the fifth anniversary of the disputed death in police custody of Osmo Vallo, AI wrote to the Minister of Justice to express concern that five years later, due to the lack of an impartial,

independent and thorough investigation into the full circumstances, no one had been held accountable for his treatment and subsequent death.

Osmo Vallo died shortly after his arrest on 30 May 1995. He had been ill-treated by police officers, including being bitten by a police dog, and he was stamped on his back by a police officer as he lay face down on the ground. After he appeared to have collapsed, no attempt was made to assist or resuscitate him. Instead, the police officers transported him, still handcuffed and lying face downwards, to the hospital.

The police investigation into the death of Osmo Vallo was not carried out thoroughly and impartially. The scene of arrest was cleaned before detailed forensic testing was carried out, and some eyewitnesses were reportedly asked by police officers to keep quiet about what they had seen. The first post-mortem examination, a week after the death, was not carried out properly: it failed to take account of detailed eyewitness statements and thus examine the body thoroughly. A thorough examination would have discovered the broken ribs and damage to a neck vertebra. Pathologists carrying out subsequent post-mortem examinations disagreed on whether the police violence and/or positional asphyxia contributed to his death. The National Board of Forensic Medicine (*Rättsmedicinalverket*) failed to review properly the first post-mortem examination, and the Judicial Council (*Rättsliga Rådet*) of the National Board of Health and Welfare (*Socialstyrelsen*) failed to produce an authoritative and impartial report on the post-mortem examinations and on international concerns on positional asphyxia as a cause of death in police custody in certain circumstances.

The prosecution authorities failed to question the results of the first post-mortem examination and why they did not correspond to eyewitness accounts; and failed to bring prosecutions based on the many eyewitness statements concerning the police officers' treatment of Osmo Vallo, which were consistent with the 39 wounds and bruises found on his body. The fact that the Prosecutor General acknowledged, almost five years after Osmo Vallo's death, that he may have died from being stamped on his back by a

police officer is a serious indictment of the whole investigation process.

In closing the investigation into Osmo Vallo's death on 30 March of this year, the Prosecutor General acknowledged that there had been flaws in the investigation and urged that a further investigation be carried out into how the authorities had handled the different aspects of the case. AI is concerned that the failures of all of the above agencies and authorities to carry out impartial investigations could indicate their participation in a cover-up in order to prevent the full truth from being known.

AI is also concerned that Osmo Vallo's death was not an isolated incident. There is 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, although the organization is not aware of the exact number of such deaths since 1992. International standards on investigation "into cases where complaints by relatives suggest unnatural death" (UN Principles on the effective prevention and investigation of extra-legal, arbitrary and summary executions) require that: "In cases in which ... [there is an] apparent existence of a pattern of abuse ... governments shall pursue investigations through an independent commission of inquiry or similar procedure." (Principle 11)

Given the lack of impartiality in many of the investigations to date, AI strongly urged the government to establish an investigation which would be carried out by a totally independent body. This could take the form of a commission of inquiry, and the government could consider including within it, experts from other countries. The remit of the investigation should include the handling of Osmo Vallo's case by the different authorities, as well as a more thorough investigation into the other cases of deaths in custody since 1992.

On 27 June the Minister of Justice replied to AI. In the letter, the Minister stated that the 21 June report of the Chancellor of Justice (*Justitiekanslern*) was critical of actions taken by various authorities involved in the handling of the Osmo Vallo case and indicated flaws within the criminal justice system.

The Chancellor of Justice's report called for further consideration of certain questions. The Minister of Justice stated that a commission of inquiry would be set up in the early autumn to look into past deaths in custody in order to propose measures to prevent such deaths from happening.

The Chancellor of Justice's report was immediately followed by a report by the Parliamentary Ombudsperson (*JO, Justitieombudsmannen*) who stated that the current procedure for dealing with complaints against the police was inadequate and proposed that an independent system be established. The Ombudsperson was particularly critical of the local prosecutors' failure to initiate preliminary investigations into some cases of alleged police misconduct even though such investigations would have been justified.

Deaths in custody - Police shootings

AI was also monitoring the cases of two people who were killed, while unarmed, by police shootings.

A 19-year-old man, who has not been named, was shot dead in Kalmar on 13 May after a car chase and a struggle with police officers. A police officer was accused of manslaughter and alternatively, of breach of duty, on 6 July.

Mikael Pettersson, aged 31, was shot dead on 13 March at Vikbolandet near Norrköping after he crashed his car while being chased by the police and then tried to run away. The police officer reportedly fired a warning shot, then shot at Mikael Pettersson from behind because he was convinced that Pettersson was armed. The police officer was charged in June with breach of duty, serious ill-treatment and causing the death of another.

Death in prison custody

On 12 June AI wrote to the Minister of Justice to express concern about reports concerning a death in prison custody on 6 June. A 28-year-old prisoner, who was unnamed, died after being restrained by four prison guards. AI was concerned that he may have died as a result of excessive use of force leading to

positional asphyxia and urged the government, which is responsible for the protection of the right to life, to ensure that his death will be fully, impartially and independently investigated.

The prisoner escaped from the Storboda Institution around 5.30pm on 6 June. The prison authorities were immediately alerted to his escape and he was chased and caught by four prison guards. The prison guards restrained him, including reportedly by sitting on him as he lay on the ground. When the police arrived on the scene shortly afterwards, the prisoner was apparently already unconscious. The Director of Corrections, Dag Bönke, told the media that the prisoner "went blue in the face and stopped breathing". Reportedly, the prison guards tried to resuscitate him, but he was dead on arrival at the hospital.

The prison guards were suspended pending the police investigation into the death. The Director of Corrections has already stated that his "impression" was "that they did not use excessive force". He stated in an interview with the media, "During the night, I have spoken to the prison guards, and based on their statements, it is my impression that they did not use force beyond what is permissible according to the rules."

SWITZERLAND

Alleged police ill-treatment

AI continued to receive fresh reports of alleged ill-treatment and racist abuse of detainees by police officers.

In January "Didier", a 17-year-old Angolan secondary student residing in Geneva, lodged a complaint with the Geneva Attorney General accusing three police officers of abusing their authority, causing him bodily harm and subjecting him to racist insults in November 1999. The officers detained the boy and his two companions on a Geneva street, apparently on suspicion of assaulting a man. AI understands that, according to Didier's version of events, the boys were pinned against a wall and handcuffed with their hands behind their backs. Didier claimed he was thrown to the ground and hit

with truncheons by more than one officer. Separated from his two friends, he was then placed in a police vehicle and taken to Carouge police station. He maintained that during the transfer he was again hit with truncheons and on several occasions called a "dirty nigger" («*sale nègre*»). At the police station he said he was taken to a cell where, still handcuffed, he was kicked and again beaten with truncheons. He claimed that he lost consciousness and that, when he revived, found that he had been stripped to his underwear. He was subsequently questioned by a police officer, without the presence of any adult to represent his legal interests, and examined by a doctor who prescribed painkillers.

He spent the night in a police cell; his two companions, who had also been escorted to the station, were released. Didier himself was released the following morning after appearing before a judge attached to the Juveniles Court where he apparently learned for the first time that he had been accused of resisting the police. According to statements attributed to the police, the arresting officers indicated that they had been obliged to use a certain degree of force because Didier had resisted when stopped. They said that Didier was the only one of the three youths to have put up a struggle and that he continued to resist once inside the police vehicle. He was accused of sticking an unidentified sharp object into the thumb of one of the officers, an allegation which Didier categorically refutes.

At the end of January 2000 the judge acquitted him of these charges, apparently on the grounds that the versions put forward by the various parties concerned were too conflicting to allow the truth to be established.

Meanwhile, the Attorney General had promptly opened a preliminary investigation into Didier's January complaint, entrusted to the police, under his direction. AI understands that Didier was never questioned about his allegations in the course of this preliminary investigation. However, on its completion the Attorney General ruled that there were no grounds to justify further action and ordered the closure of the dossier. Thus Didier's complaint would not be allocated to an investigating magistrate for a full inquiry. Didier's appeal against the Attorney

General's decision was examined by a Geneva court on 14 June. The court's ruling was still pending at the end of June.

AI is urging that the relevant Geneva authorities ensure that a thorough and impartial investigation, to include questioning of Didier himself, be carried out into the allegations of ill-treatment and that special attention is paid to the provisions of the UN Convention on the Rights of the Child, to which Switzerland is a party and with which it is, therefore, bound to comply.

In January, the Geneva Chief of Police responded to AI inquiries concerning the allegations of ill-treatment made against the Geneva police by a 14-year-old Kosovan boy in October 1999 (See AI Index: EUR 01/01/00). He acknowledged that the boy had been bitten by a police dog but stated that police had made only legitimate use of the dog, and that the officers accused of physical assault and racist abuse formally refuted the allegations. He confirmed that the full police dossier had been referred to the relevant administrative and judicial bodies.

AI understands that an investigating magistrate is currently carrying out an inquiry into the boy's allegations and that, at the same time, a judicial investigation is under way into a complaint lodged against the boy by the police, accusing him of calumny.

A judicial investigation was opened into a formal complaint which Rashid Abdul-Ackah, an economics student and Swiss citizen of Ghanaian origin, lodged against the Zurich Municipal Police in December 1999. In his complaint, lodged with the Zurich District Prosecutor's Office, he accused police officers of causing him bodily harm, abusing their authority, subjecting him to racial discrimination and illegal detention.

He alleged that while walking through central Zurich on 23 November 1999 police stopped him and asked him on three occasions for his identity papers, and carried out checks which, however, all confirmed that his papers were in order. Following the second identity check he said he took issue, verbally, with the statement made by an officer that the police were obliged to carry out such checks on him because "his compatriots sold drugs." He said that following a

third request to produce his identity papers, made by officers who had already just checked them, the officers knocked him to the ground, handcuffed him, subjected him to racist abuse, took him to the Urania police station, put him in a locked cell and ordered him to strip. He was released without charge later that day and sought medical treatment at a local hospital which issued a medical report recording contusions to his left arm and head.

In his complaint Rashid Abdul-Ackah maintained that there were no legal grounds for his detention and that the only reason the police had taken him to the police station was to humiliate him.

The investigation was still open at the end of June.

Cruel and dangerous methods of restraint during forcible deportations from Zurich airport (update to AI Index: EUR 01/01/00)

In January the Bülach Public Prosecutor's office, in charge of the investigation into the death of Khaled Abu Zarifeh at Zurich-Kloten airport, during an attempt to forcibly deport him in March 1999, announced that autopsy and forensic tests had confirmed that he had died of suffocation following application of adhesive tape to his mouth to prevent him shouting. The Public Prosecutor announced that three police officers attached to the Bern cantonal police force and a doctor who had participated in the deportation operation had been put under formal investigation in connection with manslaughter charges.

In June, in view of the elapse of some 15 months since the death of Khaled Abu Zarifeh and the opening of the judicial proceedings, AI wrote to the head of the Zurich Cantonal Justice Department, seeking information as to any approximate date for the conclusion of the judicial investigations. No response had been received at the time of writing.

In correspondence with the Zurich authorities in 1999, AI had explained its opposition to the use of any materials or methods of restraint which might block the airways of a deportee. From the start of its correspondence AI sought to establish whether detainees facing imminent forcible deportation from the airport received automatic medical examination to

ensure their fitness for travel and to check whether they would be at particular risk in the case of the use of restraints.

In August 1999 the Zurich cantonal authorities had indicated that adhesive tape would no longer be used to cover the mouth during forcible deportations, and confirmed that a new type of open-faced helmet was in use, described as "a light rubber helmet, as used in boxing". It explained that a so-called chin-cup was attached to the helmet, to force the jaws together, as well as a cover which could be placed across the mouth, containing a small aperture for a breathing tube. The authorities stated that the cover was to be removed "as soon as the person calms down or there are signs of a deterioration in his health", and that while in use the person should be kept under permanent observation.

In May 2000, pursuing an exchange of correspondence with the Zurich cantonal department responsible for police matters, AI welcomed information contained in a January letter from the department which had indicated that, although detainees facing imminent deportation had not in the past received any medical examinations, a standard practice had been introduced for police officers to obtain a medical certificate from a medically qualified person before carrying out a forcible deportation.

However, in its letter AI noted with regret the department's continued refusal to provide the organization with copies of the service instructions relating to the treatment of detainees during forcible deportation which are given to police officers involved in their execution. AI urged the department to re-examine this position in the interests of transparency and in the light of the concern about the treatment of detainees during forcible deportation from Europe recently expressed by the public and domestic non-governmental organizations as well as by various intergovernmental organizations.

AI also asked to be informed whether there had been any consultation with suitably qualified medical personnel to assess the safety of the new helmet before its implementation in the summer of 1999 and, if so, to receive details of the relevant studies and their findings. AI also sought information as to

any training in the dangers of mouth restraint and in recognizing signs of deterioration given to police officers carrying out placement of the helmet and acting as escorts during deportations.

At the same time AI asked for clarification about an administrative investigation which the cantonal government had carried out into the complaint of excessive force by the police which had been lodged by a Lebanese national A.S. in February 1999, in connection with his forcible deportation in January 1999 (see AI Index: EUR 01/01/00). In its January 2000 letter the department had informed AI that the complaint had been rejected by a December 1999 decision of the Zurich Cantonal Government. AI explained that it had since obtained a copy of the decision. It noted that the government had concluded that the complainant's mouth had not been taped as he alleged and that it did not make any comment on his allegations of being deprived of food, drink and access to a lavatory for many hours during the deportation operation. AI also noted that there was no indication in the government's decision as to the steps taken to investigate the allegations made by the complainant, other than reference to the service reports of the escorting officers. AI asked, therefore, whether the investigation had sought evidence from the cabin crew or other passengers on board the flight on which A.S. was deported. At the same time it pointed out that the complainant had waived official secrecy restrictions with regard to AI and had authorized the organization to have access to information regarding his expulsion and related proceedings.

However, in June the head of the department replied stating that, with regard to the case of AS, as an individual member of the Zurich government she was not in a position to comment on a collegial decision of the government and indicating that, with regard to AI's request for further information on the execution of forcible deportations, she was unable to provide such internal information to third parties. She stated that she considered the exchange of correspondence with AI regarding these matters to be closed and that the department would not reply to any further AI letters raising them.

During June AI also wrote to the federal Office for Refugees and the Federal Department for Justice and Police. It recalled that in October 1999 these federal authorities had informed AI that it had been agreed that "certain uniformity in both the planning and implementation of departure procedures should be reached" across the cantons of the confederation and that it was the view of the federal government and cantons that it was "essential that escorting officers receive proper training and authority".

AI inquired, therefore, as to any progress made in the intervening months towards reaching uniformity in departure procedures and of any steps taken by the federal authorities to check and ensure that the cantons were providing escorting officers with proper training.

In response the Federal Office for Refugees informed AI that it was "planning to set up an airport service in order to coordinate cantonal efforts concerning the return by air of voluntary and non-voluntary returnees. The aim is to simplify the work of various cantonal and federal agencies and, up to a point, to harmonise it. Included in this project are certain improvements concerning repatriations by air of aliens under police escort." At the same time the Office underlined that, given the provisions of Swiss law and the Swiss Constitution, the federal authorities could not "force the cantons to adopt uniform standards of procedure in the use of coercive measures."

Universal jurisdiction over war crimes: the case of Rwandese national Fulgence Niyonteze (Update to AI Index: EUR 01/02/99)

Fulgence Niyonteze, a former local government official in Rwanda, arrived in Switzerland in October 1994 and sought asylum there. He has been in detention since his arrest in August 1996.

In May a military appeal court examined Fulgence Niyonteze's appeal against a sentence which had been issued by a military court in Lausanne in April 1999. In the first trial of its kind in the national jurisdiction of a foreign country the military court in Lausanne had found Fulgence Niyonteze guilty of murder, incitement to murder and war crimes during the 1994 genocide in Rwanda. It sentenced him to life

imprisonment and expulsion from Switzerland for 15 years. He was tried under military jurisdiction because under Swiss law, military courts are responsible for trying those accused of war crimes and violations of the Geneva Conventions.

On 26 May the military appeal court found him guilty of committing war crimes and sentenced him to 14 years' imprisonment for violation of the Geneva Conventions. It also confirmed a 15-year expulsion from Switzerland to begin after completion of the custodial sentence. However, it set aside the charges of murder and incitement to murder, declaring that a military tribunal was not competent to examine such offences when committed abroad by a civilian.

Both Fulgence Niyonteze, who has pleaded not guilty throughout the judicial proceedings, and the Public Prosecutor subsequently lodged appeals against the sentence with the Court of Cassation.

As in the first instance trial, there were serious concerns that the anonymity of witnesses was not adequately protected during the appeal hearings.

confession was extracted under duress, and that she had not killed Kamil Kurbanov. She also claimed that she was forced to have an abortion in prison in late January. Under Tajik law pregnant women may not be executed. She was reportedly beaten several times in pre-trial detention, and after the trial, was allegedly held in very harsh conditions in Dushanbe City Prison. According to unofficial sources her health had deteriorated seriously in detention. Unofficial observers at her trial at Dushanbe City Court claimed that it was unfair and biased. At the beginning of April Ambassador Gerard Stoudman, Director of the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Co-operation in Europe (OSCE) wrote a letter to the President of Tajikistan asking for a review of Dilfuza Numonova's death sentence.

On 30 March the Supreme Court sentenced 22-year-old Khakimbek Khomidov to death without right of appeal. He was charged with organizing an armed gang that was reportedly responsible for multiple house robberies between October 1998 and May 1999. Other members of the gang were sentenced to 12 years' imprisonment. The outcome of Khakimbek Khomidov's petition for clemency to the President - his only hope of avoiding execution - was not clear at the end of June.

TAJIKISTAN

The death penalty

New death sentences

Twenty-one-year-old Dilfuza Numonova was sentenced to death by Dushanbe City Court on 18 January. She was accused of having shot dead her lover, Kamil Kurbanov, on 16 November 1999 and was convicted of premeditated, aggravated murder under Article 104 of the Tajik Criminal Code and illegal possession of firearms under Article 195. On 14 March the Supreme Court turned down her appeal and upheld the death sentence. Her petition for clemency - her last hope of escaping execution - was believed to be still pending with the President at the end of June. Dilfuza Numonova stated that her

Commutation of a death sentence

In April AI learned that Asadullo Shomatov's death sentence had been commuted to 25 years of imprisonment. Asadullo Shomatov had been sentenced to death by the Supreme Court on 7 May 1999 for "organizing a criminal group with the aim of transporting and selling narcotics" (Article 40 of the Tajik Criminal Code). The Supreme Court of Tajikistan had rejected an appeal against his death sentence on 4 July 1999 after re-examining the case. Asadullo Shomatov, a police colonel who was working as First Deputy in the Department of the Interior of Dushanbe at the time of his arrest in September 1997, had been unwilling to apply for a presidential pardon, on the grounds that this entailed confessing to a crime of which he claimed to be innocent. There were allegations that Asadullo

Shomatov's trial was unfair, on the grounds that there was insufficient evidence to support the charge; key evidence which would have exonerated Asadullo Shomatov was not considered; and witnesses and the judge were reportedly intimidated to ensure that he was found guilty.

TURKEY

In December 1999 Turkey had been accepted as a candidate for EU membership. Although the conditions for the accession procedure to start include an improvement of the country's human rights record, AI was not aware of any substantive reforms and improvements in the period under review. The State Minister with responsibility for human rights and the Chairman of the High Coordination Board for Human Rights, resigned. The latter had drafted a proposal for steps to be taken to meet the Copenhagen criteria, a precondition for the start of accession negotiations with the EU. A revised version of this report was adopted in late June.

The harassment of human rights defenders, restrictions to freedom of expression, and torture and ill-treatment continued. The Parliamentary Human Rights Commission published at least six reports on their investigations into torture and ill-treatment. They had interviewed inmates of prisons in different provinces of the country and subsequently carried out unannounced on-the-spot visits to detention centres frequently mentioned in relation to torture and ill-treatment. For example, in Istanbul the Commission found equipment used for suspending detainees by the arms. The reports, which contain pictures of detention places, interrogation rooms and torture equipment, as well as the transcripts of interviews, represent an extraordinary step forward in official circles in documenting and acknowledging torture and might be very helpful in raising awareness in Turkey of the urgent need for remedy. With the decision in January to halt the procedures related to Abdullah Öcalan's death sentence (see AI Index: EUR 01/01/00), the *de facto* moratorium on executions was upheld. In June, the Prime Minister repeated his call for the abolition

of the death penalty and the military signalled their approval.

Torture and impunity (Update to AI Index: EUR 01/01/00 and EUR 44/18/00)

On a mission to Turkey in April 2000, AI delegates received numerous reports on torture and ill-treatment, some of them documented, both from western cities and the southeast. The reports related to political activists and representatives as well as people arrested on suspicion of criminal charges, yet the latter rarely complain for fear of reprisals and further repression. Leading representatives of civil society seem less likely to be tortured, but are exposed to forms of ill-treatment such as food and sleep deprivation.

However, AI received reports that leading politicians from the pro-Kurdish People's Democracy Party (HADEP) were exposed to torture and ill-treatment. Ramazan Tekin, Deputy Mayor of Diyarbakir, was detained on 21 January 2000 by Gendarmerie officers. For 10 days he was held at Diyarbakir Gendarmerie. When his lawyer was allowed to visit him after five days Ramazan Tekin told him that he had been beaten, suspended by the arms and tortured with electric shocks. On 30 January Ramazan Tekin was remanded. Doctors from the Forensic Institute who examined him reportedly confirmed that his ribs were broken and his kidneys damaged. His lawyer filed a formal complaint against the security officers responsible for torturing him. In Diyarbakir E-type prison Ramazan Tekin was visited by a second lawyer who has reported seeing visible marks of torture on him. Ramazan Tekin gave a detailed statement about the torture, saying that it had increased after his lawyer visited him at the Gendarmerie.

On 19 and 20 February in broad daylight three mayors in southeast Turkey were illegally arrested by gendarmerie who are solely responsible for policing rural areas. Until 24 February they were held in incommunicado detention at the Diyarbakir Gendarmerie Headquarters where they were reportedly exposed to torture and ill-treatment. Feridun Çelik, Mayor of Diyarbakir, and Feyzullah

Karaaslan, Mayor of Bingöl, were reportedly being made to sit blindfolded in cold rooms, deprived of sleep, kicked, slapped and verbally abused and had their hair pulled. The Mayor of Siirt, M. Selim Özalp described being kept blindfolded, being subjected to a form of strangulation where the hollow of his throat was repeatedly pressed by the thumb of his assailant, having strong pressure applied to his underarms by the hands of his assailant, having his testicles squeezed, his hands cuffed behind his back for eight hours at a time and being beaten and threatened.

On 17 January 2000, Turkish security forces started an extensive operation against the armed Islamist organization Hizbullah, arresting hundreds of alleged members. Subsequently, some 67 dead bodies were excavated which were attributed to people abducted and killed by Hizbullah. Some observers claimed that Hizbullah had been acting in collusion with parts of the Turkish security forces in their fight against PKK, but that Hizbullah was no longer needed. On the one hand AI still awaits an independent, impartial and comprehensive investigation into the many cases of political killings and missing people. On the other hand, AI is concerned that some of those detained in the raid against Hizbullah were held in detention for illegally prolonged periods in which they were at risk of torture and ill-treatment. For example, Fahrettin Özdemir went missing on 19 February. Only after making persistent inquiries were his relatives told by the director of the Public Order Branch of Police Headquarters in Gaziantep that Fahrettin Özdemir had been detained on 25 February and that he would be brought before a court on 28 February. It was then reported that he had been taken to Diyarbakir State Security Court on that day. On 7 March they were told that he was registered in Diyarbakir E Type Prison, but that he had been taken to hospital. When they went to the hospital, however, a gendarme told them his name was not in the hospital records. Fahrettin Özdemir's lawyer finally gained access to him on 23 March at Diyarbakir Police Headquarters Anti-Terror Branch. His brother was allowed to see him the next day. The meetings, which took place in the presence of policemen, lasted a few minutes during which Fahrettin Özdemir reportedly appeared

nervous, thin and unkempt. His lawyer was subsequently threatened by the head of the Anti-Terror Branch and told not to interfere further. Fahrettin Özdemir was later indicted in the main Hizbullah trial in which he and 14 others are charged with violent acts and some 150 murders and in which the death sentence is sought. On 10 July, in the first trial session, he stated that he had been held in detention for a total of 59 days and that he was tortured at Police Headquarters in Gaziantep. Torture methods he reported to have been exposed to included electric shocks, being suspended by the arms, squeezing of the testicles and beating.

AI has campaigned for an independent and comprehensive investigation into the allegations of Fatma Deniz Polattas and N.C.S. that they were exposed to torture including rape and sexual abuse in police custody in Iskenderun between 6 and 12 March 1999. A trial was opened in which the four police officers who signed the statements of the young women in police custody are charged with torture. In the first trial session on 14 April the young women identified three of the police officers. Although the court decided that the two young women should be examined at the Psycho-social Trauma Center of Çapa Medical Faculty in Istanbul and if necessary be held up to three weeks under observation in order to find out whether or not they had been sexually abused and ill-treated, they were only transferred to Istanbul in early June. After a first visit to the hospital the prison administration prevented them from being brought to their medical appointments until 13 July. For this reason, the psychological report for which the court is waiting as a major piece of evidence has not yet been prepared. On 29 June the Appeal Court upheld the sentences against the two young women without waiting for the outcome of the trial against the four police officers.

In September 1999 10 prisoners died and dozens were injured in a violent clash with guards and soldiers in Ankara Central Closed Prison. The circumstances of the deaths were disputed and lawyers and relatives of the dead were excluded from the autopsy. Subsequently a trial was opened against 85 prisoners held responsible, among other charges, for five of the deaths. At the same time the prosecutor

decided against the prosecution of any security officials in this respect. The appeal against this decision was accepted by a local court in May 2000. In June the Turkish Parliamentary Human Rights Commission gave a press statement on their report on the incident and concluded that excessive force had been used.

On 5 July a mutiny in Burdur prison in which political prisoners barricaded themselves in the wards was forcibly ended by security forces. According to the accounts of the prisoners the security forces threw smoke bombs, tear gas and nerve gas into the wards and started to break down the walls with bulldozers. The prisoners say the security forces attacked them with iron poles, truncheons, roof tiles and stones, dragging unconscious prisoners out of the wards with long-handled hooks. They reportedly trampled on prisoners who had collapsed, and sexually assaulted unconscious women prisoners and kicked them in the groin until they bled. More than 30 lawyers representing the prisoners, from the Bar Associations of Izmir, Istanbul, Ankara and Antalya, came to Burdur on 5 July to try to meet their clients and make sure they were safe. They were obstructed by excuses and delays created by both senior and junior officials. Three lawyers were allowed to be present briefly while the prosecutor took statements from their clients in the prison on 6 July. They reportedly heard screams as attacks on other prisoners continued. The following day the lawyers were not allowed into the prison while the prosecutor took statements from the other prisoners. On 8 July they were told that 41 of the prisoners had been moved, and they were finally permitted to meet the 18 who remained. They noted that all the prisoners had signs of severe injuries on the visible parts of their bodies, and had difficulty breathing and speaking.

In several cases AI was informed about threats and repression against people who filed complaints against security officers whom they hold responsible for torture. According to reports three armed plainclothes officers, who introduced themselves as police from the Anti-terror branch, came to the house of a 51-year-old woman, K.Ö., in Adana at about midnight on 19 November 1999. They asked about the whereabouts of her daughter, whom they alleged

to have joined the Kurdistan Workers' Party (PKK). After an attempt to strangle her, K.Ö. was blindfolded and raped with a truncheon. She was later found unconscious and bleeding. On 7 December she lodged an official complaint against the police officers and in February 2000 spoke publicly about what had occurred. Police officers have raided her house several times since then, beaten her and threatened her with death. Adana State Prosecutor has issued a decision not to prosecute anyone over her complaint. Her lawyers appealed on 12 June against that decision. On 24 June a group of men wearing snow masks allegedly came to K.Ö.'s house and tried to force her to sign a statement alleging that the person/s responsible for the rape were from the PKK. When K.Ö. refused, they beat her and forced their guns against her neck.

Attempts to silence human rights defenders (update to AI Index: EUR 01/01/00)

In Izmir two trials ended and one continued against human rights defenders who are trying to document torture and ill-treatment and provide treatment to the victims. Dr Zeki Uzun, a gynaecologist working voluntarily for the Turkish Human Rights Foundation (TIHV) in Izmir, had been arrested and reportedly tortured in detention in October. Afterwards he was presented as a "PKK doctor" to the public. A trial was opened in which he was charged with supporting the PKK. This charge was mainly based on the allegation that he undertook abortions for two women "although he knew they were PKK members". AI believes that these charges present a pattern of intimidation against doctors who provide medical care consistent with medical ethics and campaigned for the charges to be dropped. Dr Uzun was acquitted on 23 May.

Dr Alp Ayan and Günseli Kaya, both working at TIHV in Izmir had been arrested together with others on 30 September 1999 when they attempted to attend the funeral of one of the 10 prisoners killed in Ankara prison. Subsequently they were remanded. They were released on 20 January in the first session of the trial opened against them. The trial still continues. Professor Veli Lök, Representative of TIHV Izmir

who had criticized this trial, was sentenced to one month's imprisonment on 13 June. The sentence was commuted to a fine and suspended conditionally for five years. This in effect means that Professor Lök will be censored from commenting on certain political issues for five years or otherwise will have to pay the fine.

Doctors in Istanbul who certified torture were also harassed, but Professor Sebnem Korur Fincanci at the Istanbul Forensic Institute did not give way to the attempts to silence her. The governor of Istanbul had asked the Justice Minister on 19 October 1999 to dismiss her because of her alleged "decisions in favour of illegal organizations and utmost efforts to show police guilty". His complaint was based on a forensic report on Süleyman Yeter's death in custody as a result of torture (see AI Index: EUR 01/02/99) which was issued by her and five others doctors,¹¹ and the fact that she voted in favour of her colleague Professor Sahika Yüksel in a disciplinary investigation opened because Professor Yüksel had certified the rape in custody of Asiye Zeybek Güzel. The governor's letter was treated as a formal complaint, and the police were ordered to find evidence. On 30 December 1999 the prosecutor decided not to prosecute. Professor Korur Fincanci filed a formal complaint against the governor. The first session of this trial was observed by AI on 4 April.

The Diyarbakir branch of the Human Rights Association (IHD), an important source of information on human rights violations in the southeast, had been closed since May 1997 although the board members were acquitted in the related trial in May 1999. After a local court lifted the closure decision on 31 March 2000 AI delegates tried to speak with the governor. A day later he gave the permission to reopen the branch. Yet a few weeks

later, on 12 May the branch was again closed for three months by the offices of the Governor of the Provinces under Emergency Rule and the Diyarbakir governor. At the same time, the IHD branch in Van that had only reopened after years of closure half a year ago was also closed for three months. The Malatya branch was closed from February to June. Similarly the Islamic-oriented human rights organization Mazlum Der has been suffering from repression. Its Urfa branch was only reopened on 17 April and the Malatya branch remains closed.

Prisoners of Conscience (update to AI Index: EUR 01/01/00)

Akin Birdal, President of the IHD until he was forced to resign due to the sentences against him, was reimprisoned on 28 March. He has to serve the remainder of two one-year sentences for speeches he gave related to the World Peace Day in 1995 and 1996. He had been temporarily released from prison on 25 September 1999 to enable him to receive proper medical treatment, but was banned from leaving the country and thus prevented from taking advantage of offers of specialized medical treatment abroad. In March 2000 the prosecutor rejected his application for the postponement of his sentence on medical grounds, despite a medical report warning that the injuries he retained from the assassination attempt in May 1998 were a danger to his life. AI again adopted Akin Birdal as a prisoner of conscience, imprisoned for the peaceful expression of his views. He is due to be released on 23 September 2000. AI also continues to campaign for the release of the blind lawyer Esber Ya•murdereli (who was awarded the sixth Ludovic-Travieux Human Rights Prize on 2 March by the Human Rights Institute of the Bar of Bordeaux and the European Lawyers' Union), the former MPs of the meanwhile banned Democracy Party (DEP) and the students in Ankara. Three of the students were imprisoned in March.

On 5 July the Appeal Court upheld a sentence of one year's imprisonment against Necmettin Erbakan, the former leader of the banned, Islamist Welfare Party (RP). Necmettin Erbakan had been sentenced on 10 March 2000, for a speech he delivered in

¹¹ Süleyman Yeter died in custody on 7 March 1999 after reported torture. Finally in late 1999 a trial was opened against three police officers charged with responsibility for his death. Two of them surrendered in April 2000 and were remanded, but nevertheless did not appear at the subsequent trial hearings. In June 2000 the authorities had not yet been able to find the third police officer.

Bingöl on 25 February 1994 during the local election campaign, under Article 312/2 of the Turkish Penal Code which refers to incitement to hatred based on religious and ethnic difference and is often used to restrict freedom of expression on the Kurdish issue and the question of Islam in politics. In his speech Necmettin Erbakan had blamed the representatives of other parties for “false beliefs” and being dependent on the infidel and the West. In his speech to the Kurdish electorate he also said: “[They] abolished the ‘Bi’smillahi ar-rahmani ar-rahim’ at the schools and replaced it with ‘I am Turkish, I am right, I am industrious’. If you say this, then a Muslim child of Kurdish origin gained the right to say ‘Really? And I am Kurdish, I am more right, I am more industrious’. And thus you have alienated the people of this country from each other.” There was no incitement to violence in his speech. Therefore, AI would consider him a prisoner of conscience should he be imprisoned. The trial had been opened only four and a half years after the speech was delivered. Additionally, the proceeding began shortly after his party was closed and Necmettin Erbakan had appealed to the European Court of Human Rights against his ban from politics for five years.

AI is also closely following the trial against the journalist and human rights activist Nadire Mater. AI would consider her to be a prisoner of conscience if she is convicted and imprisoned. She has been charged with having insulted and vilified the Turkish military with the publication of her book *Mehmedin Kitabı - Mehmet’s book* (“Mehmet” stands for the Turkish soldiers). Nadire Mater intended to look at the armed conflict in southeast Turkey from the perspective of its - voluntary or involuntary - “subjects” and to present a picture of what the “Mehmets” experienced. For this purpose, she conducted a total of 42 interviews with young men who did their military service in the region under emergency rule between 1984 and 1998 and with two relatives of soldiers, taking special care to include in her sample the different ethnic, religious, confessional and cultural groups, rightists as well as leftists, nationalists as well as Islamists, supporters and opponents of the conflict. The indictment solely refers to the interviews, not her own introductory

text. The quotes from the book with which the author allegedly insulted the army contain references to deliberate intimidation of civilians, accounts or criticism of human rights violations, war crimes and extreme brutality against PKK militants, brutality of senior soldiers against conscripts, allegations of drug abuse or smuggling and the existence of Islamists in the army.

TURKMENISTAN

Persecution of the political opposition

Prisoner of conscience Nurberdi Nurmamedov and his son Murad Nurmamedov

On 25 February Nurberdi Nurmamedov, co-chair of the opposition movement *Agzybirlik*, was sentenced to five years’ imprisonment by Giyaversky District Court in Anau, near the capital Ashgabat. AI believes that he was arrested under fabricated charges of “hooliganism” in order to punish him for his peaceful criticism of President Saparmurad Niyazov’s policies. Despite an official invitation to send trial observers, representatives of foreign embassies and the Organization for Security and Co-operation in Europe (OSCE) were refused access to the court. At the same trial Nurberdi Nurmamedov’s 25-year-old son Murad Nurmamedov was sentenced to a conditional two-year prison sentence and confined to live in Ashgabat during this time. AI believes that Murad Nurmamedov was put on trial in order to pressurize his father. Appeals against their sentences were turned down by Akhalsky Veloyatsky (Regional) Court in Anau on 15 March. Reportedly, the two lawyers who represented Nurberdi Nurmamedov at the appeal left the courtroom before the end of the hearing to protest against violations of international fair trial standards. Another defence lawyer who was due to represent Nurberdi

Nurmamedov was reportedly not informed by the authorities that the appeal hearing was going to take place. At the end of March Nurberdi Nurmamedov was reportedly forced to publicly confess his guilt and ask to be pardoned by the President. According to unofficial sources he was held in the prison colony of Bezmein near Ashgabat.

Persecution of religious believers

In March AI published a short paper which focussed on human rights violations experienced by some religious believers in the context of the clampdown on dissent in Turkmenistan. For example, law enforcement officials were said to have broken up peaceful religious meetings in private homes, fining participants or detaining them for short periods; confiscated religious material; physically and verbally abused religious believers; and imprisoned some solely for the peaceful exercise of their right to freedom of thought, conscience and religion. For further details please see *Turkmenistan: Harassment and imprisonment of religious believers* (AI Index: EUR 61/07/00)

Prisoners of conscience

Jehovah's Witnesses Nuryagdy Gairov and Igor Nazarov were imprisoned for their conscientious objection to military service. Nuryagdy Gairov was sentenced to one year's imprisonment on 19 January. He is serving his term in a corrective labour colony in Tedzhen. Reportedly, he did not fall under an amnesty because he had refused to swear the oath of allegiance to President Niyazov. Igor Nazarov is detained in the same corrective labour colony. He is serving his second sentence, imposed on 14 March, for refusing his call-up papers. The length of this latest term is currently not known to AI. Igor Nazarov had previously been sentenced to a two-year term on 8 June 1996 by Kopetdag District Court. The sentence was suspended on condition that he perform compulsory labour, which he carried out for six months at special commandant's office No. 1 in the city of Bezmein.

AI Index: EUR 01/03/00

AI learned that conscientious objectors Roman Sidelnikov (see entry on Turkmenistan in AI Index: EUR 01/02/98), Oleg Voronin and Roman Karimov (see entry on Turkmenistan in AI Index: EUR 01/01/99) who had been imprisoned for their conscientious objection to military service were released under a presidential amnesty in 1999.

Possible prisoner of conscience Shagildy Atakov and harassment of his family (update to AI Index: EUR 01/02/99)

Shagildy Atakov, an ethnic Turkmen member of a Baptist congregation in Turkmenbashi, was serving his sentence of four years' imprisonment in a corrective labour camp in the town of Seydi in the northeast of Turkmenistan. He was charged with "swindling" but Shagildy Atakov's supporters believed that the true reason for his arrest was his religious affiliation (for more information see *Turkmenistan: Harassment and imprisonment of religious believers*, AI Index: EUR 61/07/00).

Shagildy Atakov's wife Artygul Atakova and their five children were deported from the town of Mary, to the village of Kaakhka some 200 kilometres from Mary on 3 February and were put under "village arrest". Most of their relatives who also live in Kaakhka were reportedly dismissed from their jobs. Shagildy Atakov's brother Chariyar, who had reportedly been beaten by officers of the Committee for National Security (KNB) after they had confiscated religious literature from him and his companion Anatoly Belyayev on 17 April 1999 (see entry on Turkmenistan in AI Index: EUR 01/01/00), was detained in Kaakhka on 3 March and given a 15-day term of administrative detention. It was not clear on what charge his arrest was based. In the first half of February a younger brother of Shagildy Atakov was found hanged. The circumstances surrounding his death remained unclear.

Detention and deportation of religious believers

A number of foreign missionaries were deported during the time under review. It was said that on 23 May the last remaining Russian missionary in Turkmenistan, Vitaly Tereshin, and his family were

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deported to Russia. He had gone into hiding in March and had been located in April by KNB officers.

Among those deported was the Baptist pastor Anatoly Belyayev (see entry on Turkmenistan in AI Index: EUR 01/01/00). After repeated short-term detentions Anatoly Belyayev was taken from prison to Ashgabat airport on 11 March, where he was reunited with his wife and daughter just before the whole family was deported to Russia on a Moscow-bound flight.

Internal exile

The authorities were reported to be restricting freedom of movement within the country, by enforcing residence permits for some religious activists who are citizens of Turkmenistan.

Apart from the family of Shagildy Atakov, which was forced into internal exile (see above), 72-year-old Khodzha Akhmed Orazgylych, a Muslim cleric, was in internal exile in the period under review. He was arrested on 7 February and charged with "swindling" under Article 228 of the Turkmen Criminal Code. In an interview with Radio Free Europe/Radio Liberty's Turkmen service, Khodzha Akhmed Orazgylych had reportedly criticized an invitation by President Niyazov at the end of 1999 for children to celebrate the new year by dancing around a Christmas tree in Ashgabat and chanting a prayer to the President. The cleric had questioned any relationship between Islam and greeting the new year with a Christmas tree. Around a month later, on 3 March, Khodzha Akhmed Orazgylych was said to have been among a group of prisoners taken to a session of the cabinet where he met President Niyazov. The cleric reportedly asked forgiveness, and President Niyazov replaced a possible prison term with internal exile in the village Govki Zereng in Khodzha Akhmed Orazgylych's home region of Tedzhen (although it appeared that at that point Khodzha Akhmed Orazgylych had not actually been tried and sentenced).

UKRAINE

The death penalty

On 22 March President Leonid Kuchma signed a law abolishing the death penalty with immediate effect. The Constitutional Court had earlier ruled on 30 December 1999 that the articles on the death penalty in the criminal code were unconstitutional in that they violated the principle of respect for human life and permitted inhumane treatment. Following the court's decision, on 22 February the Ukrainian parliament, *Verkhovna Rada*, removed the death penalty from the criminal code - replacing it with a maximum sentence of life imprisonment. It also ratified Protocol No. 6 to the European Convention on Human Rights and Fundamental Freedoms in line with Ukraine's commitments to the Council of Europe, which it had joined in 1995. At the time of the ruling of the Ukrainian Constitutional Court 400 prisoners were reportedly under sentences of death.

Torture and ill-treatment of detainees by police officers

AI continued to receive allegations of torture and ill-treatment of detainees by police officers in Ukraine. Sergey Lazarenko was arrested at home on 9 June 1999 in the town of Krasny Luch in Lugansk region on the suspicion of having committed a burglary approximately three months previously. During his subsequent interrogation, which lasted more than a month, three police officers allegedly repeatedly beat him in order to force him to confess to a range of crimes, including murder. As a result of being beaten by the police officers Sergey Lazarenko reportedly suffered various injuries to his head and chest, a broken lower jaw and multiple bruising, for which he did not receive medical treatment. It is reported that both Sergey Lazarenko and his mother have repeatedly attempted to lodge a complaint against the police officers with Krasny Luch's Prosecutor General Shvachko, who has reportedly refused to take the complaint into consideration. In addition, the three police officers have allegedly exerted pressure on Sergey Lazarenko and his mother to dissuade them

from making further complaints. Sergey Lazarenko remains in prison and is awaiting trial, after having reportedly confessed to a number of crimes under duress.

In another incident, the Lugansk resident Anatoly Zhovtan, who was arrested on suspicion of murder on 27 November 1998, was allegedly tortured by police officers during his subsequent interrogation at Leninsky district police station. He has alleged that the police officers repeatedly beat him and subjected him to a number of other torture methods. He has also alleged that the torture method '*slonik*' was used on him, whereby a gas mask was placed over his head and the flow of oxygen was cut off in order to force him to confess to the alleged murder. The three police officers also allegedly burnt his genitals and inserted a stick into his anus. As a result of his treatment Anatoly Zhovtan reportedly spent 42 days in hospital, where he was treated for multiple bruising, burns, broken ribs and concussion. AI is informed that, although an investigation was initiated into the incident, the three police officers were not suspended from duty and have allegedly intimidated Anatoly Zhovtan and other witnesses.

Ill-treatment and torture in the Ukrainian army

AI wrote to the Ukrainian authorities in May, expressing concern about the continuing practice of alleged ill-treatment and torture of young recruits in the Ukrainian army, sometimes referred to as hazing, which in a number of cases has reportedly resulted in death.

In Ukraine conscription is compulsory and recruits normally are obliged to serve for a period of 18 months. The organization expressed concern that hazing appears to be an institutionalized practice. In addition to soldiers, who had themselves experienced hazing, subjecting new recruits and their physically weaker colleagues to various forms of ill-treatment in the course of their military service, the pervasiveness of the practice suggests that officers tolerate the hazing of new and physically weaker recruits.

According to one source there were around 800 cases of injury in 1997 which resulted from the use of force against recruits, resulting in five deaths and 44

permanently crippling injuries. Between 10 and 12 recruits reportedly died as a direct result of being beaten in 1998 and it is believed that between 20 and 30 men died as an indirect result of their injuries. AI is also informed that each year a significant number of recruits are reportedly driven to suicide as a result of their violent treatment at the hands of other soldiers and officers.

AI also expressed concern about reports that recruits who have deserted from the army in order to escape hazing by other soldiers may subsequently be sentenced to periods in prison of up to five and seven years respectively for desertion under Articles 240 and 241 of the Ukrainian Criminal Code. The Kharkov Union of Soldiers' Mothers has stated that in the period May 1998 - September 1999 18 recruits, who had deserted from their units, turned to the organization for help. The organization has claimed that 16 of these 18 recruits stated that they deserted because they had been subjected to hazing.

In one instance a recruit, referred to only as A. by the union, having deserted from his unit in Simferopol, returned to his home of Kharkov and appealed to a local military prosecutor's office, stating he had been a victim of hazing in his unit. Two other recruits had reportedly previously deserted from the same unit as a result of their violent treatment. After being medically examined by doctors, evidence of beatings and cigarette burns was found on his body. Although the military prosecutor's office reportedly stated that the recruit had voluntarily turned to them and included the medical report supporting the recruit's allegations of having been subjected to violent physical abuse, the military prosecutor's office in Simferopol reportedly refused to consider the evidence and put pressure on the recruit to withdraw the allegations. In desperation the recruit reportedly deserted again shortly afterwards and his whereabouts remain unknown.

In another case, a recruit suffering from mental health problems referred to as Private Gula by the Kharkov Union of Soldiers' Mothers, deserted from his unit in Zhytomyr as a result of being subjected to various forms of ill-treatment by other recruits. He was reportedly sentenced to three years in a 'disciplinary battalion', which is in fact a special

military prison with a very strict regime. During his trial by a military court in Zhytomyr he was reportedly not represented by a lawyer, his family members were not summoned to give evidence and the medical report confirming his mental health difficulties was not taken into consideration.

AI requested to be informed of the steps the authorities are taking to prevent the violent hazing of conscripts in the army and whether soldiers and officers found guilty of the practice have been brought to justice.

Conscientious objection

In June AI wrote to the Ukrainian authorities expressing concern about the restricted nature and prolonged length of the alternative civilian service to military service in Ukraine. The current law on alternative service in Ukraine, the Law on Alternative Non-Military Service, extends only to those who object to military service on religious grounds and does not mention other beliefs, ethical or political convictions as a reason for conscientious objection to military service. In addition, according to reports, followers of religious confessions which have not been registered officially by the authorities are denied the right to alternative civilian service on the grounds of their religious beliefs. AI also expressed concern that alternative service in Ukraine lasts 36 months and is twice as long as military service. For people with a university degree, military service is only 12 months, making the prolonged duration of civilian service even more punitive. AI urged the Ukrainian authorities to take steps to introduce a genuinely civilian alternative to military service - thereby fulfilling Ukraine's various international obligations such as Article 9 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which states: "Everyone has the right to freedom of thought, conscience and religion".

Excessive use of firearms

AI learned about two separate incidents of the Ukrainian coastguard firing on Turkish fishing vessels in the Black Sea on 22 March the Ukrainian

coastguard discovered a number of Turkish fishing boats fishing illegally in Ukrainian waters around 200 kilometres from Odessa. After being discovered by the Ukrainian coastguard, the captain of one Turkish vessel attempted to evade capture, refusing to stop and allow coastguard officials to board his vessel. AI has been provided with video footage of the incident, which shows the coastguard in pursuit of the fishing vessel, first firing warning shots from a machine gun over the vessel and then shells after the captain of the vessel continued to evade capture. The fishermen on board have alleged that the shells hit the gangway and starboard side of the vessel, causing it to take on water and list heavily. During the chase, which reportedly lasted around 45 minutes, the captain of the fishing vessel reportedly made a number of SOS radio calls as his boat came under fire. The vessel is reported to have stopped after a shell hit its stern and it began to sink. The Ukrainian coastguard reportedly took the 18 crew members on board before their vessel sank and took them to Sebastopol, where several of them were reportedly detained and later charged.

In the course of another incident which also occurred on 22 March 2000 a Turkish fisherman, Gûrmiz Çinar, was killed and one of his colleagues was injured by a shell fired by the Ukrainian coastguard. The second Turkish fishing vessel was discovered fishing illegally in the same Ukrainian waters around 200 kilometres from Odessa. After the captain of the fishing vessel reportedly refused to allow coastguard officials to board his vessel, the coastguard fired a shell which hit the hull of the vessel below the water-line, killing Gûrmiz Çinar, and injuring his colleague. The fishing vessel was reportedly towed to Odessa by the coastguard. AI expressed concern that the use of shells by the Ukrainian coastguard to stop the two vessels may have represented unreasonable and excessive use of force and urged the Ukrainian authorities to explore the possibility of employing non-violent ways of protecting its territorial waters from illegal fishing.

Possible prisoner of conscience - update on the case of Sergey Piontkovski

In December 1999 AI wrote to the Ukrainian authorities expressing concern about the scientist, Sergey Piontkovski, of the Institute of Biology of the Southern Seas in Sevastopol by the Ukrainian Security Service on 16 October. The case of Sergey Piontkovski caused a significant amount of concern among academics around the world. He was subsequently interrogated and investigated for allegedly passing on sensitive state information relating to plankton ecosystems in a number of the world's seas and oceans to Western European marine research institutes, in the course of an officially sanctioned international collaborative research project, and receiving hard currency research grants from abroad (see AI Index: EUR 01/01/00). AI is informed that all charges against him were dropped in February and he left Ukraine with his family to work in the USA on 22 March.

UNITED KINGDOM

NORTHERN IRELAND

Multi-Party Agreement: Developments in Northern Ireland

The peace process broke down in February, with the government's decision to dissolve the Northern Ireland Assembly and re-instate direct rule. However, after months of negotiations, the Assembly was re-established in May.

The Police (Northern Ireland) Bill was submitted to parliament. Although it was supposed to be based on the report of the Independent Commission on Policing for Northern Ireland, under Christopher Patten (see AI Index: EUR 01/01/00), AI was disappointed that human rights protection was not at the heart of the draft legislation. In its Comments on the Police (NI) Bill (AI Index: EUR 45/48/00), AI urged the government to ensure that the policing service would be accountable to the law and to the communities it would serve.

In June Nuala O'Loan became the first Northern Ireland Police Ombudsperson. Her task is to create an independent, impartial police complaints service, involving a team of independent investigators.

In March, the Review of the Criminal Justice System in Northern Ireland was published by a group set up under the terms of the Good Friday Agreement. The 447-page Review (with, additionally, 18 Research Reports) contains 294 recommendations, including the creation of a new prosecution service, the creation of an Independent Judicial Appointments Commission, the removal of overtly British symbols from court houses, the appointment of a minister for justice and a local attorney general.

Killings: Patrick Finucane and Rosemary Nelson and freedom of expression

Patrick Finucane, a lawyer, was killed in February 1989 by Loyalist paramilitaries in collusion with intelligence agents (see AI Index: EUR 45/06/98). It was reported in January that the police re-investigation into his murder, under Sir John Stevens, had submitted evidence to the DPP in which a six-man Loyalist team (three hit-men and a back-up team) is identified as responsible for the murder. The investigation also reportedly found evidence that warnings of the killing had been ignored by RUC and army intelligence officers. In February a high-profile delegation including family members, representatives from AI, British Irish Rights Watch and the Committee on the Administration of Justice, met the Irish Taoiseach, Bertie Ahern, and urged him to support the call for a public inquiry into the killing of Patrick Finucane.

AI published a report entitled "Patrick Finucane's killing: Official collusion and cover-up" (AI Index: EUR 45/26/00) giving further details on the case and including detailed excerpts from a legal opinion, prepared by prominent human rights barristers for AI, which argued that the UK government had an obligation to call a public inquiry and that such an inquiry would not prejudice the outcome of ongoing criminal proceedings.

A former military intelligence officer, using the name of Martin Ingram, revealed to the *Sunday Times* in November 1999 that a military intelligence unit had been involved in setting fire to John Stevens' first inquiry into collusion in Northern Ireland in 1990. He also gave information about the use of

informants and agents; the government obtained a “gagging” order blocking any further publication of his information. Martin Ingram was arrested in December 1999 and bailed in connection with possible breaches of the Official Secrets Act. Papers allegedly stolen during a burglary in February at the home of Martin Ingram were used to confront the ex-soldier about a fortnight after the break-in. The Ministry of Defence told the soldier’s lawyer that the papers had been delivered to them anonymously. Liam Clarke, the *Sunday Times* journalist who covered the story, was questioned by police about allegations that he breached the Official Secrets Act. AI is concerned that these actions are being taken in order to intimidate and discourage these and other journalists and former members of intelligence services from revealing misconduct by the security forces.

Rosemary Nelson, also a lawyer, was killed by a Loyalist car bomb in March 1999 (see AI Index: EUR 01/01/00). In January, the DPP decided that the Royal Ulster Constabulary (RUC) officers accused of issuing death threats against the lawyer, Rosemary Nelson, would not be prosecuted. In May the ICPC also decided that no disciplinary action would be taken against the officers alleged to have issued threats. After 16 months of police investigation, no one has been charged in connection with her murder. In March a man, arrested by police investigating the murder of Rosemary Nelson, was charged with possession of weapons and explosives. William Ian Thompson, 28, a former RIR soldier, was also charged with membership of the Loyalist Volunteer Force.

Bloody Sunday inquiry

The public judicial inquiry into the events of Bloody Sunday, in which 13 people were killed and hundreds injured in January 1972, opened on 27 March. It is expected to last two years.

Killings by the Security Forces: European Court of Human Rights

In April the European Court of Human Rights examined four cases, involving 12 killings of Catholics, in which it was alleged that the RUC operated a shoot-to-kill policy or colluded with Loyalist paramilitaries. The cases are: Pearse Jordan, Gervaise McKerr, 9 men killed during an IRA attack on Loughgall RUC station in 1987, and Patrick Shanaghan. The lawyers argued that the incidents all violated article 2 of the European Convention on Human Rights, which guarantees the right to life, and that the deaths of the 12 men had never been properly investigated. The European Court declared the cases admissible and the judgment is pending. AI has monitored all of these cases.

Collusion

Concerns about continued collusion between members of the security forces and Loyalist paramilitaries were heightened by reports that a list of names, car makes and registration numbers of 23 Republicans was found in a soldier’s wallet in March. The possession of such details could contravene safeguards on the handling of security force intelligence material.

A civil case was launched in March by a man whose personal details were included in leaked security forces documents found in Co Antrim. He was seeking judicial review of the RUC Chief Constable’s refusal to give him detailed information relating to the papers containing his personal details.

Ill-treatment - Police

In June David Adams lost a high court action against a decision not to prosecute RUC officers alleged to have ill-treated him during his arrest in 1994. David Adams claimed he had been beaten and kicked; he suffered multiple injuries and was awarded £30,000 compensation by a judge who stated that one police officer’s evidence was unconvincing and unworthy of belief. The High Court dismissed Adams’ application for judicial review of the decision by the DPP and rejected a complaint about the DPP’s failure to give reasons for the decision not to prosecute: “I am not persuaded that the DPP has acted in such an aberrant,

inexplicable or irrational manner that the case cries out for reasons to be furnished”.

In May, Bernard Griffin, 21, decided to sue the RUC for allegedly verbally abusing and beating him, and threatening that he would be killed. Griffin had originally been charged with disorderly conduct, assault and resisting arrest, but the charges were dropped when one officer admitted police misconduct. Further charges of possession of explosives were inexplicably dropped by the DPP. Consequently, in May one officer was jailed for two years for attacking Griffin, threatening to have him shot and perverting the course of justice. A second officer was jailed for a year after admitting taking part in the cover-up.

Abuses by members of armed political groups

Several killings were carried out reportedly by members of Loyalist armed groups or other Loyalists. In January, Denver Smith, a member of the Progressive Unionist Party (PUP), was savagely battered to death in Antrim. In the same month, Ulster Volunteer Force (UVF) leader Richard Jameson was gunned down outside his home, apparently after clashes between two loyalist groups, the Loyalist Volunteer Force (LVF) and the UVF. In February, the bodies of two teenagers, David McIlwaine and Andrew Robb were found murdered and mutilated. In May, Martin Taylor, was shot several times and killed by two gunmen in Belfast.

Edmund McCoy, 28, was shot in a pub in west Belfast on 28 May and died the day after; allegedly, McCoy had received death threats over his drug-dealing activities from senior IRA officials last year.

Both Republicans and Loyalists continued to mete out “punishment” shootings and beatings. Republicans shot a 30-year-old man in both legs in north Belfast in March, the first victim of a Republican shooting in four months. In May Paul MacDonald, 22, was beaten and shot four times while at his home in Dungannon by four masked assailants, believed to be Republican. His partner Yolanda Hamilton said: “It was unbelievable. They beat him, shot him and then beat him again with a sledgehammer. He is lucky to be alive.”

Children are frequently subjected to “punishment” beatings. In April, a 16-year-old youth suffered head injuries after being beaten by two Republicans wielding iron bars in west Belfast. In the same month, a 15-year-old and a 17-year-old were shot and injured by Loyalists in Belfast.

ENGLAND AND WALES

Pinochet

In January Home Secretary Jack Straw announced that for reasons of ill-health he was likely to decide not to extradite former General Augusto Pinochet from the UK to Spain, where he faced charges of torture and conspiracy to torture, including “disappearances”. The Home Secretary stated that he based this view on a report of a medical examination of Augusto Pinochet which he had commissioned. The Home Secretary's refusal to disclose the contents of the medical report to the interested parties -- the four countries seeking Pinochet's extradition (Belgium, Spain, France and Switzerland), was successfully challenged in the courts by Belgium and six human rights organizations including AI. In February the High Court ruled that fairness required that the Home Secretary disclose the report to the four states and provide them with an opportunity to comment on it. Despite the reservations expressed by the states about the report, on 2 March, Jack Straw decided not to extradite him and following 17 months' detention in the UK pending extradition Augusto Pinochet returned to Chile. In Chile Augusto Pinochet faces the prospect of prosecution for human rights violations following a decision in June by the Court of Appeals in Santiago Chile stripping him of his Parliamentary immunity in connection with the “disappearances” of 19 people during a 1973 military operation known as the “Caravan of Death”. Augusto Pinochet's appeal of this decision to the Supreme Court remained pending in June.

Deaths in custody

In May following strong criticism expressed by lawyers, non-governmental organizations (including AI), national authorities and the European Committee for the prevention of Torture over the past few years, the Home Office opened a consultation on the reform of the investigation system into serious police misconduct and on the creation of an independent body to carry out such investigations. In the context of this consultation, AI published a document entitled *UK - Deaths in custody: lack of police accountability* (AI Index: EUR 45/42/00). AI has identified a pattern of deaths in police custody in England and Wales, due to excessive use of force and restraint techniques leading to asphyxia. In many incidents, the victims have also been subjected to ill-treatment. A large proportion of the victims have been from black or ethnic minority communities. AI is concerned that the authorities have failed to carry out independent investigations into the full circumstances of each death; to make the results of the investigations public; and to bring to justice those allegedly responsible. These failures have eroded public confidence in the criminal justice system. AI believes that the system of investigation and prosecution of deaths in police custody is seriously flawed and is unsuitable to bring about impartial, thorough and transparent investigations and just prosecutions and is intrinsically biased in favour of police officers.

In the period covered by this bulletin, the following developments were recorded in three of the death in custody cases which AI has monitored:

- in May, at the inquest into the death in custody of Glenn Howard, the jury returned a verdict of "accidental death", but added that the police officers used excessive restraint followed by an immediate and subsequent neglect of medical care and attention. Glenn Howard died in January 1999 after having been in a coma since December 1997 following restraint by several police officers. He had a long history of schizophrenia and had gone absent from a mental health hospital in Sutton, South London.

The Crown Prosecution Service (CPS) decided not to bring prosecutions and no disciplinary action has been taken against any of the officers involved;

- in June, an inquest was opened into the death in custody of Christopher Alder, a black ex paratrooper who died in April 1998 on the floor of Hull's police station. He had been arrested just after attending hospital for an injury received in an incident outside a nightclub. At the inquest it emerged that police officers found him in an unresponsive state in the back of a police van and partially dragged and partially carried him into the police station. The coroner was reported to have said that the officers thought Christopher Alder was play acting or asleep and 12 minutes passed before they realized he was not making any noise and called an ambulance. The inquest is ongoing;
- in June, in a landmark ruling, the High Court instructed the prosecution authorities to re-examine their decision not to prosecute the prison officers involved in the death in prison custody of Alton Manning, a black man who died in 1995 of asphyxia after eight prison officers restrained him, including using a neckhold and kneeling on his back in contravention of control and restraint guidelines. An inquest jury returned a verdict of unlawful killing, and yet the prison officers involved were not prosecuted.

Inquest into killing of Diarmuid O'Neill

In February, after a three week inquest into the death of Diarmuid O'Neill, a Coroner's jury issued a verdict which effectively rendered the killing lawful. Diarmuid O'Neill was shot and killed during a police raid in West London in September 1996. The raid followed a surveillance operation which was supposed to culminate in the arrest of Diarmuid O'Neill and of others allegedly involved in an Irish Republican Army bombing campaign. After publishing a first document in January (AI Index: EUR 45/14/00), AI, which had a representative at the inquest, published a second document in April (AI

Index: EUR 45/41/00), containing a revised analysis of the events leading to the death of Diarmuid O'Neill, based on the new evidence which emerged at the inquest, and which necessitated AI reconsidering its concerns. The inquest seemed unable to determine the truth about the circumstances of Diarmuid O'Neill's death. AI's continues to be concerned about revelations during the inquest concerning the use of CS gas, about the general planning of the operation including the rehearsal procedures, and about some aspects of the Coroner's summing up. In a wider context, AI is also concerned about the wording of the Criminal Law Act, as it lacks detailed rules strictly limiting the use of lethal force, which are required by international standards.

Racist killings

The deaths of Harold and Jason McGowan in Telford renewed allegations that police forces were not investigating the deaths of black people, which could have been racially motivated, with the same rigour as in other cases. The family believes police made an assumption of suicide when the body of Harold McGowan was found in July 1999. Six months after the death of Harold McGowan, the body of Jason McGowan, the 20-year-old-nephew of Harold, who had been investigating his uncle's death, was found hanging from roadside railings on 1 January. The police reportedly systematically neglected all hints suggesting that there was threat of a racist attack on Harold McGowan and his family. Weeks before Harold McGowan was killed his niece had been told by a stranger that he was on a death list drawn up by white supremacists. As part of the same hate campaign, his eight-year-old son needed hospital treatment after being beaten by a white adult gang. Although the incident was reported to the police, the family claimed it was dismissed as a "street scuffle". Harold McGowan himself was also attacked and threatened by a gang of white youths. After being advised that he was on a death list, he had informed police he was in fear. The family eventually persuaded the Metropolitan Police's Race and Violence Crimes Unit to assist in the investigation.

In March, it was announced that a fresh inquiry into the police handling of the death of Ricky Reel would take place following complaints from his family. Ricky Reel died in October 1997 after drowning in the Thames River. His family believe he died as a result of a racist attack (see AI Index: EUR 01/01/00). The Police Complaints Authority is to investigate allegations that the Metropolitan Police attempted to "smear" the family at the student's inquest and failed to examine the case with an open mind. This is the third inquiry into complaints about the way Scotland Yard had handled the case.

Ill-treatment: prisons and police

In February it was reported that, according to Martin Narey, the Prison Service director general, there is "a culture of violence" in some of Britain's prisons - allowing officers to abuse inmates with impunity. Narey referred to Wormwood Scrubs, Wandsworth Prison and Portland Prison. This echoed concerns expressed by the Chief Inspector of Prisons and reports by NGOs about ill-treatment in prisons. Inspectors at Wormwood Scrubs and Wandsworth apparently found high levels of violence and described a "mafia-like culture" among officers. The Chief Inspector of prisons also published a report in which he highlighted that the long-term confinement of dangerous prisoners in solitary punishment cells is jeopardising their mental health and making them more disruptive. The report summarized the findings of a two-year experiment in the creation of two close supervision centres at Woodhill and Durham. The report also revealed that seven "high control cells" have been established in Britain's maximum security prisons in which the most disruptive inmates are given a 56-day lie-in as punishment.

In March, Stuart Melchor, aged 35, a black warehouse manager, was reportedly bitten by a police dog and hit with truncheons by police who presumed he was breaking into the building in London he was employed to protect. It was reported that he suffered seven deep bites on his thigh, and several wounds to his head and that he believed the assault may have been racially motivated.

Freedom of expression

In February the government announced it was suing David Shayler, a former MI5 (intelligence) officer who has made a series of allegations about the security and intelligence agencies, for breaches of confidence and contract. Having failed in January 2000 to extradite him from France to face a criminal prosecution here under the Official Secrets Act, it sought damages in the civil courts for everything he has said. It also sought damages from the publishers of the *Mail on Sunday* for causing "injury to the national interest". In August 1997 the newspaper published revelations by Mr Shayler. In March, a court ordered the *Guardian* and the *Observer* to comply with an MI5 order to hand over documents and e-mails relating to contacts with David Shayler, and to assist in the prosecution of David Shayler. The *Observer* had published information about an alleged MI6 plot to assassinate Libyan leader Mu'ammarr al-Gaddafi. *Observer* journalist Martin Bright and its editor Roger Alton were investigated for contravening the Official Secrets Act by receiving and publishing the damaging disclosures. In May the newspapers were granted the right to challenge the court orders. David Shayler has stated that he is prepared to return and stand trial under the Official Secrets Act.

Charges under the Official Secrets Act were also brought against a former army general, Nigel Wylde, who provided information to journalist Tony Geraghty for his book, "The Irish War". The book included information about the extent of computer-assisted surveillance of the population in Northern Ireland.

In May, the UN Special Rapporteur for Freedom of Expression and Opinion, Abid Hussein, issued a lengthy report which was critical of provisions and practices which limit freedom of expression in the UK.

UZBEKISTAN

Human rights defenders

Prisoners of conscience Makhbuba Kasymova and Ismail Adylov (update to AI Index: EUR 01/01/00)

On 29 September 1999 Ismail Adylov, an active member of the unregistered Independent Human Rights Organization of Uzbekistan (NOPCHU) and the opposition movement *Birlik*, was sentenced to six years' imprisonment by Syrdarya District Court. AI believes he is a prisoner of conscience detained because of his human rights work, and is in addition concerned for his state of health as he suffers from a chronic kidney disease which makes him extremely susceptible to infection. In October 1999 Ismail Adylov's appeal against his sentence was turned down by the Syrdarya Regional Court. A further appeal was still pending with the Supreme Court at the end of June. In December 1999 he was transferred to a corrective labour colony in Chirchik, some 40 kilometres from Tashkent. (For further information see AI report *Uzbekistan: Ismail Adylov - Human Rights Defender and Prisoner of Conscience*, AI Index: EUR 62/02/00).

Another NOPCHU member and prisoner of conscience, Makhbuba Kasymova (previously referred to as Marbuba Kasimova), was sentenced to five years' imprisonment in July 1999 for "concealing a crime" and "misappropriation of funds" after a grossly unfair three-hour trial described by human rights monitors as a "farce". In August 1999 Tashkent City Court turned down Makhbuba Kasymova's appeal against her sentence after a hearing lasting 14 minutes, at which she was not present. An appeal lodged by her lawyer with the Supreme Court was still pending at the end of June. Both the lawyer and Makhbuba Kasymova's family have been able to visit her at Tashkent City Prison. Makhbuba Kasymova was reported to be suffering from heart problems. (For further information see AI report *Uzbekistan: Makhbuba Kasymova - Human Rights Defender and Prisoner of Conscience*, AI Index: EUR 62/04/00).

Possible prisoners of conscience

Detention of relatives and associates of the exiled leader of the banned opposition Erk party, Muhammad Salih (update to AI Index: EUR 01/01/00).

Unofficial sources reported that writer Mamadali Makhmudov and Muhammad Bekzhon, a brother of Muhammad Salih, were transferred to Yaslik prison in May. AI had previously expressed concern at reports that the authorities were running prison camps in remote areas of Uzbekistan where the overwhelming majority of prisoners were reported to be members of independent Islamic congregations accused of supporting the banned Islamic opposition. The existence of one of these prison camps - Yaslik - located in former Soviet army barracks in the Karakalpakstan Autonomous Republic (a desert area south-west of the Aral Sea), was independently confirmed in the autumn of 1999. Conditions were said to be cruel, inhuman and degrading with prisoners being denied adequate rations of drinking water while doing forced labour. There was concern that the camp is situated in chemically or biologically contaminated areas. According to the latest information obtained by the international non-governmental organization Human Rights Watch, Mamadali Makhmudov was reported to have faced punitive treatment, including being forced to sit crouching for extended periods with his hands behind his head while in Yaslik. There was serious concern about his health and well-being. He was said to have lost a lot of weight and to be suffering from pain in his chest, sides and back. He had apparently not been given access to appropriate medical care and adequate food rations and had fainted on several occasions.

On 18 August 1999, after a trial which fell far short of international standards, Tashkent Regional Court sentenced Muhammad Bekzhon, Mamadali Makhmudov and their co-accused Yusif Ruzimuradov, Rashid Bekzhon, Kobil Diyarov and Negmat Sharipov to prison terms of between eight and 15 years. Their appeals against their sentences were turned down by the Supreme Court in October. All six men were reportedly tortured in pre-trial detention, in order to force them to confess to fabricated charges and to incriminate Muhammad

Salih. In a written statement Mamadali Makhmudov, for example, described how he had been systematically tortured by, among other things, being constantly beaten, having his hands and feet burned, being suspended by his hands tied behind his back, having a gas mask put over his face with the air supply turned off and being threatened with rape and death. In addition, he wrote, he was told that his wife and children had been taken into detention and that they would be raped in front of him if he did not confess on film.

Conviction of Ravshan Khamidov

On 12 May 1999 a group of plainclothes officers from the Yunusobod district department of Tashkent City police entered the flat of human rights defender Makhbuba Kasymova (see above) and searched it. Ravshan Khamidov, who was staying in her flat was detained after a hand grenade and small quantity of drugs were allegedly found. No warrant was shown, nor did the officers state who they were, as the law requires. Although Makhbuba Kasymova was convicted of concealing a crime in relation to Ravshan Khamidov, his case was not heard until some two months after her conviction.

According to human rights sources in Uzbekistan, Ravshan Khamidov was beaten in custody at the end of June 1999 in order to force him to give testimony against Makhbuba Kasymova and another NOPCHU member, Mikhail Ardzinov. It was also alleged that law enforcement officers beat Ravshan Khamidov's nephew at around the same time, in order to force him to testify that his uncle had sought to enlist men in the Kokand region to fight in Afghanistan and Chechnya.

Ravshan Khamidov was sentenced to 20 years' imprisonment on 2 October 1999 by Yangiyul District Court. He was convicted under six articles of the criminal code including attempting to overthrow the constitutional order, organizing a criminal association, mass disorders, and organizing a banned public association (Articles 159, 242, 244, and 216 of the Criminal Code). Ravshan Khamidov is currently serving this term in a corrective labour colony at Zaravshan.

The death penalty

Commutations (update to AI index: EUR 01/01/00)

The death sentences passed on the two young musicians, Arsen Arutyunyan and Danis Sirazhev, were commuted to 15 years' imprisonment on 31 March by the Presidium of the Supreme Court of Uzbekistan.

Executions (update to AI index: EUR 01/02/99)

AI learned that by the end of June at least 15 death sentences handed down in 1999 for alleged religious extremism had been carried out.

The six men who were sentenced to death by the Supreme Court on 28 June 1999 for their part in the February 1999 bombings in Tashkent were reportedly executed at the beginning of January. The defendants had been accused of being members of extremist religious organizations who advocated a jihad (holy war) to overthrow the constitutional order in Uzbekistan and the assassination of President Karimov, charges to which most of the defendants reportedly pleaded guilty. There were reports that the defendants had been beaten or otherwise ill-treated in pre-trial detention and forced under duress to give false evidence. Human rights monitors had expressed concern that fair trial standards, although promised by the authorities, had not been respected. The defendants had reportedly been denied the right to a lawyer of their own choice and there were allegations that the defence lawyers did not represent the defendants' interests. According to a trial observer from Human Rights Watch there was no presumption of innocence and the prosecution failed to present any solid evidence to prove the defendants guilty.

New death sentences

AI learned of at least 55 death sentences and 15 executions in the past 18 months. Many of these sentences were handed down after the February 1999 bomb explosions in Tashkent and the organization received a steady stream of allegations that many of those accused of religious extremism were tortured

by police and had weapons and narcotics planted on them.

In June AI learned that the Supreme Court of Uzbekistan upheld the death sentences of Oybek and Uygun Ruzmetov, Shikhnozov Yakubov, Sardor Allayarov and Utkir Yusupov. The six men had been sentenced to death by Tashkent Regional Court in July 1999 for planning to blow up a water reservoir, attempting to overthrow the constitutional order and setting up an Islamic state. According to the mother of Oybek and Uygun Ruzmetov, law enforcement officers planted cartridges in Oybek Ruzmetov's room the day before they arrested the brothers in December 1998. In February 1999 the police reportedly briefly detained their mother and father and humiliated them by forcing them to undress and taking them handcuffed and in their underwear to see their sons. Oybek and Uygun Ruzmetov reportedly told their parents that they had been tortured in detention and that law enforcement officers had threatened to arrest their parents and rape Uygun Ruzmetov's wife. AI also received unconfirmed reports that Shikhnozov Yakubov had died of beatings in prison in October 1999.

On 14 May Polvonnazar Khodzhayev was sentenced to death by Tashkent Regional Court for attempting to overthrow the constitutional order of Uzbekistan in order to create an Islamic state. According to Human Rights Watch the trial did not meet international fair trial standards and neither Polvonnazar Khodzhayev nor his 13 co-accused were allowed to choose their lawyers. The co-accused were sentenced to prison terms ranging from 14 to 24 years' imprisonment.

Polvonnazar Khodzhayev was detained by officers of the Russian Special Services in the Russian town of Samara on 5 April and was subsequently handed over to Uzbek law enforcement officers.

Reportedly, in the first quarter of 1999 officers of the Khorezm Internal Affairs Department had frequently questioned Polvonnazar Khodzhayev's parents about the whereabouts of their sons whom the officers suspected to have links with "religious extremist groups" and of being trained in terrorist camps in Tajikistan or Chechnya. The parents

affirmed that their sons frequently travelled to Russia for business purposes. On 5 April 1999 Polvonnazar Khodzhayev's father Azimboy Khodzhayev was arrested in his home. According to unofficial sources law enforcement officers said to his wife: "We will arrest your husband instead of your sons." On 2 April 1999 President Karimov had reportedly said he would issue a decree allowing for the arrest of a suspect's father if the sons who were involved in "religious extremism" could not be found. "If my child chose such a path, I myself would rip off his head," he was quoted in the press as saying.

On 11 June 1999 Azimboy Khodzhayev was sentenced to eight years' imprisonment by Khorezm Regional Court under reportedly fabricated charges of "illegal possession of narcotics". Only two weeks after the trial he was said to have died in custody in Yaslik prison camp. The family reportedly received an official death certificate but was not allowed to see his corpse. AI was concerned that allegedly he died as a result of torture.

AI also received a number of reports that defendants accused of non-political criminal activities have been tortured and ill-treated in detention in order to make them confess.

Dmitry Chikunov was sentenced to death for premeditated, aggravated murder by Tashkent Regional Court on 11 November 1999. In a letter to his mother he described how police ill-treated him while he was in pre-trial detention: "When I came to myself after they had beaten me unconscious, they tied my hands and put a gas-mask over my head. Then the interrogator cut off the air supply and shouted: 'Now, confess that you are a murderer'." Reportedly, police also threatened to rape his mother unless he confessed. AI is not aware of any investigation instigated into the allegations of ill-treatment. His appeal against his death sentence was rejected by the Supreme Court on 24 January 2000.

YUGOSLAVIA, FEDERAL REPUBLIC (FRY)

The situation in Serbia and Montenegro

Within the area of FRY (excluding Kosovo) the human rights, security and political situation continued to worsen as the authorities increased pressure on opposition groups, journalists and human rights defenders.

Relations between the Serbian and Federal authorities, both effectively controlled by Yugoslav President Slobodan Milošević, and the smaller republic of Montenegro, ruled by a coalition of parties opposed to his policies, deteriorated further. The Montenegrin authorities continued to distance themselves from Belgrade, although Montenegrin President Milo Djukanović stopped short of announcing a referendum on the question of secession - a step that might risk armed conflict breaking out between the Yugoslav Army (a federal body) and the Montenegrin police. In Serbia itself the political opposition remained divided and ineffectual, and its direct influence on the progress of events was minimal.

Tensions continued to increase in the area of southern Serbia close to the administrative border with Kosovo where there is a high proportion of ethnic Albanians. Part of this area lies in the five-kilometre wide Ground Security zone established by the June 1999 Kumanovo Military-Technical agreement between the FRY government and NATO. Under the terms of this agreement Serbian police under the control of the Ministry of the Interior are permitted to patrol there, although members of the Yugoslav Army (VJ) are not permitted to enter the zone. Members of an ethnic Albanian armed opposition group, the *Ushtria Çlirimtare e Preshevës, Medvegjës dhe Bujanocit* (Liberation Army of Preševo, Bujanovac and Medvedje - UCPMB) established a presence in the area, and carried out a number of attacks on police and police stations, leading to the death of both ethnic Albanians and Serbs and the wounding of others. Both ethnic Albanian and Serb civilians are reported to have abandoned their homes in the area, the former fleeing to Kosovo and the latter to other towns within Serbia.

The early part of the year was marked by a series of murders, many of which appeared to have political links. A number of the victims were reportedly close to the regime, or had been so in the

past. The victims included Đeljko Račinović "Arkan", a former paramilitary leader, who had been indicted by International Criminal Tribunal for the former Yugoslavia (ICTY) for human rights abuses, who was killed on 15 January. Ten men were later arrested and charged with murder or related offences after the Arkan killing. Defence Minister Pavle Bulatović was killed in Belgrade on 7 March, and Đika Petrović, the general director of the national airline was shot and killed on 25 April. No arrests are reported to have resulted from investigations into these killings, which the authorities blamed on "outside forces" acting against the national interest, including the ICTY and NATO.

Boško Perošević, a government official in Vojvodina province and a member of the ruling Socialist Party of Serbia (SPS) was murdered in Novi Sad, Vojvodina, on 13 May. Milivoje Gutović, a member of the security staff in the building where he was murdered, was immediately apprehended, and remains in custody. The authorities rapidly issued a series of statements claiming that Gutović was a member of both *Otpor*, a movement with a largely student-based membership, and the opposition Serbian Renewal Movement (SPO), and accused them of terrorism and acting on behalf of enemies of the country, including the USA and NATO. *Otpor* and the SPO both denied that he was a member of their respective organizations. On 15 May arrest warrants were reportedly issued for Stanko Lazendić and Miloš Gagić, although the district courts in Novi Sad and Bačka Palanka have since denied that either man was being investigated. The two men were prominent members of *Otpor*, and had fled to the Republika Srpska (RS) after receiving death threats from men in plain clothes claiming to be police officers. Both men have denied any connection with Gutović, but have stated that they fear that they would be at risk if they returned to Serbia.

On 31 May Goran Đugić, the security advisor to Montenegrin President Milo Đukanović was shot dead outside his home in Podgorica. No arrests have yet been made. On 15 June shots were fired at SPO leader Vuk Drašković at his holiday home in Budva, slightly wounding him. A number of arrests have been made and the investigation is continuing.

Drašković had previously claimed that a road accident in October 1999 in which he was injured and four of his companions killed was also an assassination attempt.

Pressure on journalists and media and restrictions of freedom of expression

In Serbia, pressure on journalists and the independent media continued to increase. Serbia's Law on Public Information, introduced in October 1998, continued to be used to levy huge fines on media firms, their owners and individual journalists, as well as on printing houses. Journalists were also detained and questioned while attempting to cover the progress of demonstrations against the regime. Some members of the media have been jailed for asserting their right to freedom of expression. On 2 June Dušica Radulović, the proprietor of the small independent newspaper *Borske Novine* was sentenced to three months' imprisonment by the district court of Zaječar for publishing an article which allegedly libelled members of the municipal authorities of Bor, although she was not herself the author. A week later, on 9 June, the satirist Boban Miletić was sentenced to five months' imprisonment for ridiculing Yugoslavia and President Slobodan Milošević during a public reading to mark the publication of a book of his aphorisms.

Journalist Miroslav Filipović was arrested at his home in Kraljevo on 8 May, and apart from three days, was held in custody until 26 July when he was tried and convicted on charges of "espionage" and "spreading false information". Since the case allegedly concerned "state secrets" no details were made available about the charges, evidence or progress of the trial, part of which was held *in camera*. He appears to have been indicted as the result of a number of articles he had written, one of which reported alleged eye-witness accounts of human rights violations carried out by members of Serbian and FRY forces in Kosovo. AI considers him to be a prisoner of conscience.

On 17 May the authorities took control of the independent television station Studio B, sacking its staff and appointing a new editor in chief. This

effectively rendered Radio B2-92, the most prominent independent radio station, unable to broadcast, as it had been using Studio B's equipment and premises since the authorities took control of its predecessor, B92, in April 1999. The print media also suffered restrictions, mainly because of the 1998 law but also because of the refusal of the authorities to grant import licenses for newsprint.

Harassment and ill-treatment of members of opposition movements

There were daily reports of the detention by police of members of parties and organizations opposed to the rule of FRY President Slobodan Milošević. Prominent among these were members of *Otpor*. Most periods of detention lasted only a few hours, and did not result in criminal charges. Some of those who were taken to police stations and questioned reported being fingerprinted and photographed. Government officials repeatedly tried to label *Otpor* a "terrorist" organization, despite its peaceful tactics (see the cases of Gutović and Luković et al).

Members of opposition parties and organizations were subject to ill-treatment by the police during arrest or detention, or during demonstrations. In Kragujevac Nenad Simonović was beaten by police and private security guards on 23 March while attempting to distribute *Otpor* leaflets at a meeting called by representatives of the ruling coalition, suffering injuries that required hospital treatment. On 17 May, during clashes between police and demonstrators protesting against the authorities' assumption of control over Studio B (see above) several people, including three journalists, were injured. During the course of a demonstration outside the parliament building in Belgrade the following day, Marta Manojlović, a 17 year old woman, was one of a number of demonstrators struck by police officers using batons who suffered injury requiring medical attention.

Reports of ill-treatment by police increased during June. On 9 June ten members of the opposition Democratic Party in Zaječar were detained by police while putting up posters. They were taken to the police station where four of them, Vladan Stanković,

Aleksandar Djordjević, Dragan Džonić and Miloš Dončević, were beaten by a police officer. In Novi Sad on 19 June *Otpor* member Vladimir Jesić, who was walking in town with his mother, was approached by two police officers who verbally threatened him, and one of the officers kicked him on the shin. Jesić had previously been threatened by police and held for questioning about the movement's activities on several occasions. On other occasions, members of opposition movements reported physical attacks from men in civilian clothing or private security guards. Police reportedly showed little interest in investigating these incidents, or if actually present at the scene, were reluctant or refused to intervene.

'Otpor' members Radojko Luković, Momčilo Veljković and Nebojša Sokolović

On 2 May *Otpor* members Radojko Luković, Momčilo Veljković and lawyer Nebojša Sokolović, were arrested on charges of attempted murder following a fight with a number of men, allegedly members of the SPS and the Yugoslav United Left (both parties in the ruling coalition). The SPS and JUL men were said to be employed as private security personnel by Marko Milošević, son of Slobodan Milošević. The three men had reportedly come to the assistance of another *Otpor* member who was being harassed and threatened. In the ensuing fight, Momčilo Veljković, Radojko Luković and Nebojša Sokolović suffered injuries which required hospital treatment. During the fight Momčilo Veljković grabbed the pistol with which he was being beaten, and attempted to return the blow in self defence. All three were later arrested while seeking medical treatment at the local hospital. One was taken to a Belgrade hospital and the other two were detained in the Požarevac district prison. All three were released from custody on May 8 by Boško Papović, the investigating judge assigned to the case, who found that there was no basis for continuing criminal proceedings. However, Luković and Veljković were rearrested early on the morning of 9 May. On 15 May Papović was suspended from his post by a decision of the Supreme Court of Serbia,

reportedly on the direct orders of the office of the Public Prosecutor of Serbia. Shortly after the rearrest the state-controlled newspaper *Politika* published an article containing allegations about the mental health of all three men, including documents which purported to be extracts from confidential medical files containing a psychological assessment and psychiatric history of Momilo Veljković.

The trial opened on 30 May. On 12 June the defence lawyers decided not to appear in court - although they continue to represent their clients - saying that they believed that there was no point in continuing the trial as all the relevant evidence had been heard. They stated that on the basis of the hearings on 11 June, the prosecutor should begin perjury proceedings against the [prosecution] witnesses. Despite the absence of defence counsel, the investigating judge resumed hearing defence witnesses on 19 June. On 30 June a charge of attempted murder was brought against Momilo Veljković, while Radojko Luković and lawyer Nebojša Sokolović were charged with "participation in a brawl resulting in bodily injury". Security guards Saša and Milan Lazić were also charged with participation in a brawl. Both Veljković and Luković were released from custody. Reports suggest that the charge of attempted murder was brought at the direction of the Republican Public Prosecutor, despite a recommendation by the District Prosecutor's office that the only charges that should be brought were those of participation in a brawl. No date has yet been set for the trial.

On their release Veljković and Luković complained about their lack of access to proper medical treatment. On 16 June the independent news agency *Beta* reported their lawyers as stating that Radojko Luković, who had suffered serious injuries in the incident, had been seen by a neurologist and a psychiatrist, and was reportedly suffering from dizziness and frequent blackouts, as well as depression. AI remains concerned that the charges against the men and the suspension of Boško Papović were politically motivated.

Vladimir Nikolij - unfair trial concern

On 3 March Vladimir Nikolij, a legal analyst and former employee of the State Security Service (SDB) was sentenced to 22 months' imprisonment for communicating official secrets and possessing firearms without a licence. He had been stopped by traffic police on 1 October 1999, and was then approached by men in civilian clothing who allegedly handcuffed him, placed a sack over his head and took him to a cellar where he was detained without access to a lawyer for three days and allegedly kept without food or sleep and verbally threatened. As the case involved state secrets the subsequent hearings were held *in camera*. At a preliminary hearing on 30 December the bench was reportedly unable to agree on a verdict, and the hearing resumed at the end of February with a new bench. Neither the contents of the judgment nor a date for the hearing of his appeal have been made public. AI is concerned that Vladimir Nikolij received an unfair trial, and by reports that he was ill-treated while detained.

Attacks on Roma

Roma were reported to be the victims of attacks by skinheads, and on some occasions police were allegedly reluctant to carry out a full investigation. On 8 June police officers reportedly ill-treated a number of Roma who were inhabitants of the "Antena" settlement on the outskirts of Belgrade. The settlement was home to over one hundred people, more than half of whom were minors, and included a considerable number of internally displaced Roma from Kosovo. The settlement had not been granted planning permission. The police officers, both uniformed and in plain clothes, and accompanied by bulldozers, arrived at the settlement demolishing the huts which the inhabitants had built and reportedly beating and kicking a number of people including women and children.

Proposed law on terrorism

On 28 June the government published a draft of a new law on terrorism, which was to be submitted to the Federal Parliament on 30 June. The provisions of the law, intended to replace some articles of the

Federal Criminal Code, allow for longer sentences for attempts to overthrow the constitutional order by violent means (including explosions, fires, abduction and other violent acts), as well as distributing written, audio-visual other materials calling for such actions; organizing or becoming a member of a group which aims to carry out such acts; as well as enabling a period of "preventive detention" for those suspected of involvement in such acts for up to 30 days, and detaining witnesses who refuse to testify for up to 30 days. The draft also contains provisions which could legitimize the activities of *agents provocateurs*, and foresees a higher sentence for those found guilty of distributing materials if they have received aid from abroad. Although the law was unexpectedly withdrawn for revision, following an announcement by the extreme nationalist Serbian Radical Party (a member of the ruling coalition), government representatives repeatedly referred to its imminent reintroduction. AI believes that the law is framed in such a way that it violates international standards on fair trial and that it will restrict freedom of expression and association.

KOSOVO

The overall situation for human rights in Kosovo (Kosova) remained of deep concern. Kosovo was plagued by violence, despite the international security presence in the form of the KFOR (Kosovo Force) peacekeeping operation led by the North Atlantic Treaty Organization (NATO) and United Nations (UN) civilian police officers with executive powers. Although people belonging to all communities in Kosovo were affected, much of the violence, in the form of murder or attempted murder, rape or house-burning, was directed towards members of the remaining Serb and Roma communities. In addition ethnic Albanians were targeted in attacks which in some cases appeared to have a political motivation. There was widespread concern at the overall level of criminal activity in Kosovo which included forced prostitution and trafficking in women who were sent on to other countries. Although the frequency of violent incidents, particularly against minorities, was reduced between January and June, part of the reason

for this may simply have been the increased separation of the communities.

Despite repeated appeals by UN officials, governments had only provided some 3,000 suitably qualified police officers for the UN force. A strength of 4,718 had been authorized following an original request of 6,000 officers. In addition to the difficulties of KFOR and UN police in maintaining law and order and protecting vulnerable groups, the interim judicial system established by the UN Interim Administration Mission in Kosovo (UNMIK) continued to be beset by problems, including violations of the rights of pre-trial detainees and the right to a fair trial (see below).

The situation of minorities

The situation of non-Albanians in Kosovo remained precarious because of continuing tensions and violent attacks upon them. Serbs continued to live in enclaves with little freedom of movement through the ethnic-Albanian populated areas, except with KFOR or UN police escorts. Fears for their security restricted the movements of Serbs, Roma or members of other minorities and thus made access to food, work, schooling, healthcare and other necessary activities difficult and the viability of the remaining communities may be in question in many areas. Roma had either to live among ethnic Albanians (many of whom regarded them as Serb "collaborators" during the war in 1999) or to face displacement and live in the Serb enclaves where there was greater, but not guaranteed security from violent attacks by ethnic Albanians. Such choices remained difficult for them as living in one or other community may be perceived as "loyalty" or "disloyalty" by another community and result in further problems for them.

Attacks on Roma often consisted of the throwing of hand grenades into their houses or yards. For example, 72-year-old Axhije Agush from Gnjilane (Gjilan) lived with her husband surrounded by ethnic Albanian neighbours in one of the former Roma-inhabited quarters of the town, where only a few dozen Roma remain in contrast to hundreds before the war. A KFOR soldier stood guard about 20 metres from her home, but on 28 April a grenade

was thrown into her yard. She was dead by the time she reached a hospital. The perpetrator of the incident remains unidentified.

Although ethnic Albanian leaders have made statements condemning the attacks on Serbs, Roma and others, suspicion remains that little is actually being done to deter perpetrators.

Human rights standards and UNMIK and KFOR policing methods

Kosovska Mitrovica (Mitrovica) was the focus of tension and violence between the ethnic Albanian and Serbian communities. Since June 1999 the town has been divided between the southern part which is now almost exclusively inhabited by ethnic Albanians and the north which is predominantly populated with Serbs, but with some pockets of ethnic Albanians and people of other nationalities. Thousands of people of various nationalities have been displaced, some of them violently -- Roma in particular -- from both the south and north of the town since June 1999. A bridge spanning the Ibar river, which now divides the town, has repeatedly been the scene of demonstrations on both sides.

In February, in a sequence of incidents which were illustrative of the problems in Kosovo, a particular wave of violence in the town left 13 people dead, 50 people injured and 1,500 people displaced from their homes. AI had particular concerns regarding the actions of KFOR soldiers and UN police in response to the incidents which were described in a report *Setting the standard: UNMIK and KFOR's response to the violence in Mitrovica* (AI Index: 70/13/00). The organization identified significant failures of the international organizations in upholding international human rights standards on the use of force and pre-trial detention of suspects. The responsibility to protect and promote human rights were highlighted in UN Security Council Resolution 1244 (1999), which provided the mandate for the international presence in Kosovo. AI considered that the international presence set a poor example of adherence to international human rights standards in a situation where the previous Serbian administration had flagrantly violated them, and

where the international presence had a clear role in laying the foundations for a future administration which would uphold such standards.

The sequence of events commenced on 2 February with an attack on a bus operated by the UN High Commissioner for Refugees (UNHCR) which was carrying Serbs to a village near the town. Three elderly Serbs were killed as a result of the attack. In the following days more people were injured and killed by bomb attacks on Serbian cafes in the north of Mitrovica and in attacks on ethnic Albanians, Turks and Muslim Slavs remaining in the north. Violent demonstrations by both ethnic Albanians and Serbs were held around the Ibar bridge. Events came to a head on 13 February with gunfights in the northern part, apparently involving armed ethnic Albanians and Serbs and KFOR troops. Two French KFOR soldiers were shot and injured in the exchanges and an ethnic Albanian, Avni Hajredini (whom KFOR initially claimed to have been a sniper), was shot dead by KFOR soldiers. KFOR subsequently withdrew its allegation that Avni Hajredini had been a sniper firing upon KFOR troops. Information gathered by AI, including a video tape of the incident shot by a foreign news agency, also cast doubt on the claim that he had been carrying a weapon at the place alleged by KFOR. However, Avni Hajredini's body, was released from a KFOR hospital and buried without an autopsy having been performed.

AI was concerned that no thorough, independent and impartial investigation into Avni Hajredini's death was initiated promptly by the international authorities despite the controversy surrounding his death. The need for such investigations are outlined in international human rights standards, including the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.

Concerned at the shooting of two of its soldiers on 13 February, KFOR soldiers rounded up ethnic Albanians in the area where the shooting had happened. Some 50 people were detained by KFOR, in collaboration with UN police, some of them for up to five days. International human rights standards, such as the UN International Covenant on Civil and

Political Rights (ICCPR) (which sets out the rights of pre-trial detainees) were contravened in numerous ways during KFOR's actions. For example, they were kept sitting for many hours in positions which caused them pain. The detainees also suffered from inadequate heating, muddy floors and the denial of access to washing facilities. Soldiers arresting them and guarding them reportedly behaved in a rough and threatening manner.

Besides poor conditions of detention which the detainees suffered, their rights as pre-trial detainees under international standards and the applicable national law were violated in several different ways. The reasons for their detention were not immediately explained to the detainees in a language which they understood; two juveniles and a woman were not kept separately from the adult males; they were not given access to defence counsel during their detention and their families were not formally notified of their detention, nor were they able to contact them themselves. Despite clear rules laid down in international standards and the applicable Code of Criminal Procedure, they were not brought promptly before a judge who could examine the cases and either confirm the need for their detention or order their release. Some were held for up to five days. Without access to defence counsel or a judge, and in the absence of provisions in the applicable law, the detainees were unable to exercise their right under international standards to challenge the lawfulness of their detention. Moreover, there was confusion between KFOR and the UN police as to who was responsible for their detention.

AI made a series of recommendations to UNMIK and KFOR on investigations into events in Mitrovica and the procedures used to detain people within their jurisdiction. These recommendations were accepted and AI was informed that an investigation into the death of Avni Hajredini had been ordered, but not concluded.

The organization remained concerned, however, that UN police were failing to uphold international human rights standards. The concerns were exemplified by the case of Moses Oweno, a Kenyan citizen, who was accused of theft of money from the UN International Organization for Migration (IOM).

After being arrested by police in Kenya on 2 June, at the request of IOM and UNMIK police he was transferred to Kosovo by IOM staff. He was reportedly denied the opportunity to contest his arrest and removal from Kenya. He arrived in Kosovo and was arrested and detained by UNMIK police on 8 June. UNMIK police then held him for five days without bringing him before a judge, as the law and international standards require. During this period he was questioned without being informed of his rights, and he was given no opportunity to have defence counsel present or to contact or have his relatives contacted. He was eventually released after the lawfulness of his arrest, transfer to Kosovo and detention in Kosovo were challenged.

Concerns with the judicial system

Along with many other challenges, UNMIK has been given the task of creating a multi-ethnic, independent and impartial judicial system to ensure the rule of law in Kosovo. This task has clearly proved challenging and the deficiencies in the judicial system have hindered the establishment of the rule of law. Problems have included a lack of resources -- including the means to ensure that judicial staff are paid adequately and on time and thus not exposed to increased risk of corruption, and a lack of representation of minorities within the judiciary (which this undermines the appearance of impartiality). There are also reports that judicial staff have been subject to threats, intimidation and even violent attacks. Members of minorities are particularly vulnerable to such intimidation and this is clearly one of the reasons for their failure to take up or remain in judicial appointments.

Judicial decisions, particularly those on pre-trial custody, have often appeared questionable. The evidence suggests that ethnicity is a factor in determining whether an individual is remanded in custody or allowed to remain free while awaiting trial. In some cases Serbs have been kept in custody awaiting the commencement or completion of their trials for more than a year while ethnic Albanians accused of similar crimes remain free.

AI concerns also extended to the applicable law and regulations issued by the Special Representative of the (UN) Secretary-General (SRSG), which have the force of law. The applicable laws and regulations are not fully in keeping with international human rights standards, particularly with respect to those governing pre-trial detention. The problems are compounded by a lack of adherence to the applicable laws and regulations even among the international presence, as illustrated by the Mitrovica incidents described above. Moreover, members of the legal profession operating as defence counsel are frequently ignorant of international human rights law and ill-equipped to challenge violations of their clients' human rights.

In February AI issued a document: *Amnesty International's recommendations to UNMIK on the judicial system* (AI Index: 70/06/00). AI's recommendations included the review and amendment of all applicable laws to bring them into line with international human rights standards; training legal professionals in international human rights and humanitarian law; the appointment of international judges and prosecutors within the judicial system to build confidence in the impartiality of the system and spread knowledge of the application of international human rights standards; allowing the participation of international defence lawyers; separating UNMIK's judiciary and judicial monitoring functions or removing it completely from the UNMIK structure.

AI's recommendations applied both to the established courts in Kosovo and a proposed special court to try cases of war crimes or ethnically motivated crimes (Kosovo War and Ethnic Crimes Court (KWEC), although this court was to be staffed only by international judges and prosecutors.

Within the reporting period some progress had been made, and further reviews of the applicable law were underway. International judges and prosecutors were also introduced. However, significant problems remained, examples of which are given below, and little progress was made towards establishing the KWEC.

The Mom..iloviĝ trial

The case of Miroljub Mom..iloviĝ and his sons Boban and Jugoslav from Gnjilane (Gjilan) provided ample illustration of AI's concerns about the judicial system. The three men were arrested in July 1999 and were accused of the murder of an ethnic Albanian man, Afrim Gagica, and the attempted murder of another. The alleged murder happened when armed ethnic Albanians called upon their house and a firefight developed involving the ethnic Albanians, people in the Mom..iloviĝ's house and an American KFOR soldier who came upon the scene.

The Mom..iloviĝ men were kept in custody until the opening of their trial in April 2000, and remained so in early July, pending completion of the trial. Ethnic Albanians arrested at the same time as them on similar charges were quickly released on bail. Not only were there long delays in bringing their case to court, but the investigating judge (an ethnic Albanian) refused to admit a crucial piece of evidence – a video tape of the incident in question which may have been vital to their defence as it appears to confirm that armed men had come to the house with unlawful intent. Moreover, forensic evidence was lacking to link the Mom..iloviĝ's to the killing of Afrim Gagica – KFOR admitted responsibility for the death of another man in the incident, and it could not be ruled out that KFOR soldiers also killed Afrim Gagica. AI expressed concern that unless these points were addressed the Mom..iloviĝ's were likely to be victims of a serious miscarriage of justice.

The trial judge did eventually consider the video tape, but then referred the case for re-trial and it was taken over by an international judge. At the time of writing the case was still not completed and the Mom..iloviĝ's remained in custody. Most significantly, in the last hearing KFOR representatives provided new evidence in which it contended soldiers were responsible for the Afrim Gagica's death.

Ethnic Albanian prisoners in Serbia - the Niš trial, Flora Brovina

AI remained deeply concerned about the fate of ethnic Albanians prisoners who were transferred to prisons in Serbia in June 1999 (see AI Index: EUR 01/01/00). Although releases of prisoners continued, around 1,000 prisoners remained in detention at the end of June. Those released included some against whom trials did not proceed or who were released on bail, and others who completed their sentences - most frequently having been given "time served" as the sentence at the trials. Relatives of many defendants paid large sums of money to defence lawyers in Serbia, part of which was in some cases allegedly paid to judicial staff or even witnesses to bring about reduced sentences or release on bail. Nevertheless, unfair trials against many prisoners proceeded. AI's concerns were illustrated by the case of 143 men from Djakovica (Gjakovë) who were tried and sentenced to between seven and 13 years' imprisonment in May.

The men were part of a group of 155 men, all from several streets in the town, who were rounded up together with others by Serbian police between 7 and 15 May 1999 - during the NATO bombing of the FRY and the height of the conflict between the Serbian/FRY forces and the ethnic Albanian KLA (Kosovo Liberation Army) in Kosovo. The men were tested for alleged contact with firearms using a forensic test for nitrates and nitrites of questionable reliability. Those men who tested "positive" were kept in detention and were subsequently charged with "terrorism" and "association for the purposes of hostile activity". The charges against them alleged that they were all responsible for three attacks on Serbian police or FRY soldiers in their neighbourhood in April and May 1999, in which police officers and soldiers had been killed or injured.

The process against them was characterized by flaws which contravened international standards of fair trial at every stage. The men were denied access to defence counsel until November 1999 and for most of the time up until then there was no judicial decision regulating their detention. The holding of a trial of such a large group with only 15 days of court time and limited opportunity for them to gain access to defence counsel and prepare their defence may in itself have violated their right to a fair trial.

At their trial the main evidence against them was a forensic report which simply listed the men's names and confirmed positive results for contact with nitrates and nitrites on their hands and clothes covering the right shoulder. The report gave no individual details nor indication of what constituted a "positive" result. In court, forensic staff were unable to confirm important details and admitted that corners had been cut in performing the tests for this group. They also admitted that a number of everyday substances such as urine and paint could produce positive results in the test which was used.

No other witnesses or evidence were produced to confirm the men's participation in the alleged attacks, nor was there any attempt to establish individual criminal responsibility thus violating the right to be presumed innocent. Each man was accused of participating in all three attacks.

It was particularly disturbing that the presiding judge was reported to have admitted that there may have been shortcomings in the forensic tests, but decided to accept them nonetheless, since they were "conducted in wartime conditions". During the trial ethnic Albanian defence lawyers (including Teki Bokshi who had previously been kidnapped, see AI Index: EUR 01/01/00) were taken by police for questioning from their hotel late one night.

AI called for an urgent retrial of the men and reconsideration of the evidence against them. AI was concerned that there may have been prisoners of conscience among the ethnic Albanian prisoners held in Serbia although mass trials such as that in Niš made it difficult to determine the status of individual prisoners. One prisoner whom it was possible to identify as a prisoner of conscience was Flora Brovina, who was sentenced to 12 years' imprisonment in December (see AI Index: EUR 01/01/00). On 8 June the Serbian Supreme court which heard the appeal on her case ruled that it should be returned for retrial. Flora Brovina remained in custody awaiting the retrial which was expected to take place later in the year.

"Disappeared" or abducted

In June the International Committee of the Red Cross (ICRC) published the names of more than 3,000 people missing in Kosovo since 1998. These included ethnic Albanians who had “disappeared” at the hands of Serbian police or paramilitary forces between 1998 and June 1999, as well as Serbs, Roma and ethnic Albanians who had been abducted by the KLA or other armed ethnic Albanians beginning in 1998 (but mostly since June 1999, when the Serbian police withdrew). Little progress was made in resolving cases. Some 500 bodies exhumed from graves in Kosovo between April and June were mostly awaiting identification, with the prospect of the resolution of only a small percentage of these cases.

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