

# CONCERNS IN EUROPE

## July - December 2000

### FOREWORD

This bulletin contains information about Amnesty International's main concerns in Europe between July and December 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 99 and 100 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 01/03/00

AI Index: EUR 01/01/00

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## ALBANIA

### **Background**

In the lead-up to municipal elections in October, and afterwards, political tensions between the ruling Socialist Party (SP) and the main opposition, the Democratic Party (DP) increased. The latter claimed that the elections had been rigged, and staged daily protest demonstrations from November on, during which public buildings and police officers were sometimes attacked. At the end of November a DP rally in the town of Bajram Curri ended in clashes between armed men and police in which one man died and others were wounded.

### ***Alleged torture and ill-treatment of detainees by police***

Scores of people, including both criminal suspects and opposition supporters, were reportedly tortured and ill-treated in police stations, but it was rare for police officers guilty of ill-treatment to be brought to justice (see Albania: "A disturbing pattern of disregard for basic human rights" AI Index: EUR 11/02/00).

### ***Criminal suspects***

In September police in Elbasan arrested Naim Pulaku on suspicion of stealing car tyres and beat him so brutally that he was admitted to hospital for surgery to his damaged sexual organs. Investigation proceedings on charges of "abuse of position" were started against two police officers. Other incidents of grave ill-treatment by police in Elbasan were reported in the press, and some five cases were said to be under investigation, but by the end of the year none had gone to trial. Following intervention by the People's Advocate (Ombudsman) several officers were dismissed or suspended from their duties.

In November police in Vlora arrested Ferit Çepi, Veli Mona and Ilir Mona, wrongly suspecting that they had stolen some money. Ferit Çepi, who suffers from hearing and speech defects, was tortured so badly by police that he reportedly lost sight in one eye, and his two companions were also said to have

suffered injuries.

### ***Opposition supporters***

A number of DP demonstrators detained in November on suspicion of organizing the demonstrations (which did not have official authorisation), or of throwing stones or other violent acts were reportedly ill-treated. Besnik Papa, who had shouted slogans over a megaphone, was beaten so severely at a police station in Tirana that he required hospital treatment for broken teeth, injuries to his jaw and bruising.

### ***Minors***

Local human rights organizations reported that the ill-treatment of children in police stations was common. At least 20 minors detained during the demonstrations in Tirana in November were reported to have been ill-treated; three of them when brought to court claimed that police had ill-treated them to force them to name the people who had allegedly incited them to throw stones.

In July a police officer in Saranda beat and burned with a cigarette a 10-year old orphan boy, Ergest Shele, whom he wrongly suspected of stealing a bag. The officer was later dismissed from his post.

### ***Delay in executing sentence imposed on police officers convicted of ill-treating a Rom***

In July the Court of Appeal in Tirana sentenced three police officers to two years' suspension from their duties and a suspended prison sentence of 18 months for ill-treating and injuring Rushit Korteshi, a Rom, in August 1999. However, several weeks later this sentence had still not been carried out and the officers reportedly continued to persecute him.

### ***Detention of political opponents***

Over 1,000 opposition demonstrators were arrested in November; most were released within 24 hours, but between 10 and 20 were detained in custody for up to several weeks for investigation on charges of damaging public property or organizing illegal demonstrations. A few were still under house arrest by the end of the year. Some were possible prisoners

of conscience. Among those arrested was Edi Paloka, a journalist and spokesman for the DP. He was detained on 29 November and held for nine days on charges of organizing and taking part in illegal demonstrations, and offering violent resistance to police; he denied both charges. He was released pending trial.

#### ***Ratification of Protocol No. 6 to the European Convention on Human Rights***

In December 1999 the Constitutional Court ruled that the death penalty was incompatible with the Constitution of Albania. In September Albania ratified Protocol No.6 to the European Convention on Human Rights concerning the abolition of the death penalty, but by the end of 2000 the Criminal Code had not been correspondingly amended.

## ***ARMENIA***

#### ***Accession to the Council of Europe***

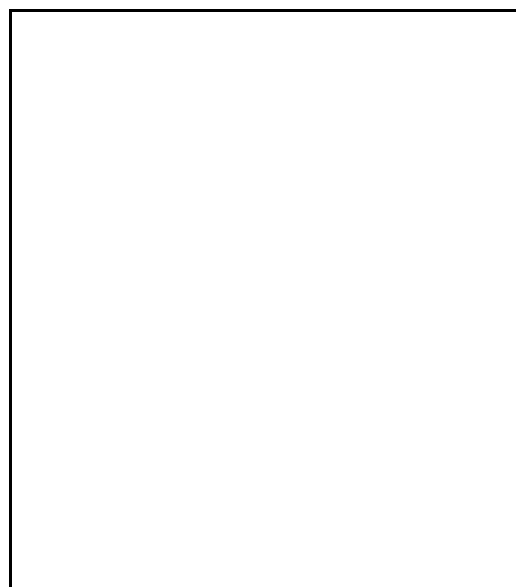
In June the Parliamentary Assembly of the Council of Europe (PACE) had voted to approve applications by Armenia and Azerbaijan for full membership of that body (see AI Index: EUR 01/03/00). However, the Committee of Ministers - the Council's executive body - decided to postpone formal admission until after parliamentary elections on 5 November in Azerbaijan. On 9 November the Committee of Ministers issued invitations to both countries to join simultaneously. A formal accession date was expected in January 2001, following the repeat elections in Azerbaijan (see Azerbaijan entry).

#### ***Prisoners of conscience***

Armenia's commitments on acceding to the Council of Europe include introducing a law on alternative service, and pardoning imprisoned conscientious objectors to compulsory military service. At the end of the period under review, however, AI knew of at least 24 young men, all Jehovah's Witnesses, imprisoned for refusing on grounds of conscience to perform military service. This is twice the number reported in June, when PACE voted to approve

Armenia's application to join the Council of Europe. There were also a further 14 young men in December who had been released early, but conditionally, from their imprisonment as conscientious objectors. They were living at home, but required to report regularly to the police. All those imprisoned had expressed a willingness to perform an alternative, civilian service.

Four of the men imprisoned in December were awaiting trial. Most of the remaining 20 had been tried and sentenced for refusing their call-up papers (Article 75 of the Criminal Code). Four, however, had been sentenced under the military section of the criminal code: two for refusing to perform military duties and two for desertion. Such prosecutions have usually resulted after the young man in question, having refused to respond to his call-up papers, is forcibly conscripted into the army. At the military unit the young man then continues to refuse to perform military service, for example by donning a uniform or carrying a weapon, and may eventually seek to desert as the only way of escaping the ensuing intolerable - and insoluble - conflict with their deeply-held religious beliefs.



***Conscientious Objector Rafik Tonoian © private***

Several of those imprisoned reported that they had been beaten in detention, because of their beliefs and refusal to perform military service. One such was **Rafik Tonoian**, from the village of Vardenik in the Gegharkunik Region of Armenia. He was arrested on 28 August, when he voluntarily presented himself at the District Department of Internal Affairs in the city of Martuni. There Rafik Tononian was reportedly verbally abused and beaten by police officers, and subsequently suffered severe pain in his knee joints. He was then transferred to Sovetashen pre-trial prison in Yerevan. Rafik Tononian was sentenced to two years' imprisonment on 1 November by a court of first instance in Martuni, for refusing his call-up papers, and is currently serving this term in a corrective labour colony in Kosh. **Nairi Ugurlian**, sentenced to the same term in November, reports that guards verbally abused him, and tore up religious literature and his Bible, while he was being transferred to Sovetashen prison.

At the end of the period under review the authorities were still declining to register officially the Jehovah's Witnesses, although church sources reported that their members were facing fewer harassments than earlier in the year. In April, for example, when wishing to gather for their commemoration of the death of Jesus Christ, Jehovah's Witnesses reported that officials in various parts of the country sought to prevent them meeting, by harassing and intimidating those from whom the religious group was seeking to rent premises, or by breaking up meetings. On 19 April officials from the Ministry of National Security are said to have entered the rented premises and announced that they had orders not to allow the service as the Jehovah's Witnesses were not registered in Armenia. 120 people had gathered, and were unable to carry out their meeting. The church had still been unable to gain registration at the end of the period under review.

#### *Alleged illegal detention*

AI was also concerned about at least one further report that police officers detained a family member

illegally and arbitrarily, in effect as a hostage, to force his brother who was liable to call-up to report for conscription. **Yervand Pogosian**, a Jehovah's Witness, contacted AI in August to report increased efforts by military authorities to find, detain and forcibly conscript him. He feared that these efforts were increasing as he would turn 27 in October, and thereby be beyond the maximum age of conscription. Yervand Pogosian described how his brother, Vahan Pogosian, was detained on 17 August by police from the Arabkir district of Yerevan city. Yervand alleged that a senior police officer (whom he named) put pressure on Vahan to reveal his brother's whereabouts, threatening that if he did not do so, Vahan would be accused of a fabricated criminal offence such as resisting the police. Vahan Pogosian was released shortly, but Yervand Pogosian was detained by officers from Arabkir District Department of Internal Affairs on 10 October. The court of first instance of the Arabkir District of Yerevan sentenced him to 18 months' imprisonment on 19 December for evading call-up (Article 75). Yervand Pogosian had previously written to various authorities stating his objections on religious grounds to performing compulsory military service.

#### *The death penalty*

Another of Armenia's commitments regarding accession to the Council of Europe was adoption of the new Criminal Code, leading to abolition of the death penalty. During the period under review at least two death sentences were passed. On 28 July the court of first instance of Yerevan's Avan and Nor Nork communities sentenced Armed Ter-Sahakian and Alik Grigorian to death, with confiscation of their property. The two men were among a group of nine defendants convicted of various offences in connection with the murders, several years previously, of a number of people regarded as opponents of those in power at the time.

Although there is a moratorium on executions, there were some 30 men on death row at the end of the period under review (Armenia's delegates to the session of the UN Committee against Torture in

November - see below - reported the figure as 33 at that time). Among those were some men believed to have been under sentence of death for a number of years. This issue of their long wait, and of abolition of the death penalty in general, was raised by the UN Committee against Torture in November (see below). Among other things the Committee recommended that Armenia adopt as soon as possible the draft new Criminal Code, which abolishes the death penalty, "in order to resolve the situation of the many persons who have been sentenced to death and who are being kept in uncertainty amounting to cruel and inhuman treatment".

***UN Committee against Torture reviews  
Armenia's second periodic report***

In November the Committee reviewed Armenia's second periodic report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. AI had submitted its own report to the Committee (see AI Index: EUR 54/02/00). This detailed, among other things, persistent allegations that law enforcement officials subjected people to torture and ill-treatment as a tool for obtaining confessions and coercing testimony, and that in some cases the authorities appeared reluctant to conduct prompt and comprehensive investigations, or to initiate proceedings against those alleged to be responsible.

In its conclusions and recommendations the Committee noted several positive aspects, such as the moratorium on executions, and the difficulties associated with problems of transition. However, it expressed concern about a number of points including the absence of a definition of torture as provided for by Article 1 of the Convention; the lack of effective compensation for victims of acts of torture committed by government officials; poor prison conditions; and the ongoing practice of hazing in the army. The Committee made various recommendations in line with these concerns, including guaranteeing detainees immediate access to a lawyer, family members and a doctor of their own choice; establishing a truly independent and effective

system for the inspection of all places of detention; conducting impartial investigations without delay into allegations of hazing in the military, and instituting proceedings in substantiated cases. The Committee also called on Armenia to consider making relevant declarations under the Convention to allow the Committee to examine complaints by individuals or other states parties.

***Allegations of ill-treatment***

***Arrests following parliamentary assassinations -  
allegations of torture and violations  
of due process***

(update to AI Index: EUR 01/01/00  
and AI Index: EUR 01/03/00)

AI has 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 1999 (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.

A number of those detained alleged that they had been beaten or otherwise ill-treated in detention (see AI Index: EUR 54/02/00); some withdrew their testimony on the grounds that it had been extracted under duress, and others were released in consequence. One such was Arutiun Arutiunian, a deputy director of Armenian National Television. He was released from pre-trial custody on 2 June, and the case against him was dropped some two weeks later, after two principal suspects retracted earlier testimony implicating him in the attack. Speaking later that month, Arutiun Arutiunian alleged that he had been subjected to physical and verbal abuse while in custody, including being beaten by interrogators, in an effort to force him to implicate the director of Armenian National Television, a presidential advisor and other figures close to President Robert

Kocharian.

In July the Chairman of the presidential Human Rights Commission, Paruir Airikian, was quoted as saying that there were “serious grounds to presume that the law-enforcement agencies engaged in torture” during the pre-trial investigation in this case, and that the commission had asked the prosecutor’s office to look into the allegations of torture. AI was not aware of any response, or any results made public, by the end of the period under review.

*Independent supervision of places of detention*

At its session on 15 November the presidential Human Rights Commission, which functions as a consultative body in the administration of the President of Armenia, reported that it had been granted free access to prisons and corrective labour colonies to monitor conditions.

Speaking at the same session about a recent visit to the investigation-isolation prison in Gyumri, Chairman Paruir Airikian, a former prisoner of conscience, is reported to have said that the dirt, damp and cold they observed were worse than in Soviet times. He also expressed concern that complaints from prisoners held at the Gyumri prison were sent not to his commission, but to investigatory bodies in Gyumri who then sent them back to the prison.

AI welcomes the work being done by the commission on monitoring prison conditions, but notes the problems the commission itself has reported on gaining access to all premises. AI continues to call on the Armenian authorities to establish an effective system of independent inspection of all places in which people are deprived of their liberty (see also AI Index: EUR 54/02/00).

## A U S T R I A

### *Allegations of police ill-treatment*

AI learned of an incident of alleged police ill-treatment of a foreign national during a stop-and-search police operation in Vienna in July. Seventeen-year-old Afghan national, Mohammad Nazir Rafik, alleged that

after being stopped and searched by two police officers on Ludo-Hartmann Platz in Vienna on the morning of 15 July one police officer allegedly pulled him into a concealed passageway of a house, reportedly grabbing hold of Mohammad Nazir Rafik’s throat and forcefully thrusting him against a passageway wall. The police officer then allegedly kicked the detainee’s left leg twice, causing him to fall. After ordering Mohammad Nazir Rafik to stand up, the police officer is alleged to have punched Mohammad Nazir Rafik on the chest. AI was also informed that the police officer allegedly ordered the detainee to stop screaming and shouting and then verbally abused Mohammad Nazir Rafik, calling him an “arsehole” (*Arschloch*). Although the other police officer is not reported to have taken part in the alleged ill-treatment, he apparently made no attempt to prevent it. Eventually Mohammad Nazir Rafik was allowed to leave, reportedly without being charged with any offence.

A report of a medical examination of Mohammad Nazir Rafik conducted by a doctor at the City of Vienna’s General Hospital (*Allgemeines Krankenhaus der Stadt Wien*) later that day stated that longitudinally running reddening of the throat and haematoma colouring on the left side of the thigh were visible. AI wrote to the Ministry of the Interior in early August, calling on the Austrian authorities to initiate a prompt, impartial and thorough investigation into the incident and requesting to be informed of its findings. In mid-August AI received a response from the Ministry of the Interior, stating that the allegations had been sent to the General Administration for Public Security (*Generaldirektion für öffentliche Sicherheit*) who would contact the organization at a later date.

In October AI wrote to the Ministry of the Interior concerning the arrest in Graz of a 51-year-old retired police officer, Heribert Wolsch, who alleged that police officers physically ill-treated and arbitrarily deprived him of his liberty on the evening of 24 September. Heribert Wolsch has stated that he was arrested by a police officer of the Mobile Deployment Command (*Mobiles Einsatzkommando*) while walking by the *Schwarzenegger* football stadium on his way to go jogging in another part of the city. A confrontation

was reportedly taking place between rival football supporters outside one part of the football stadium at the time. Heribert Wolsch has stated that he saw the crowd disturbance while walking past but attempted to leave its vicinity. A police officer reportedly approached Heribert Wolsch as he stood next to a tobacconist's shop outside the stadium and told him to leave. Another police officer reportedly pushed Heribert Wolsch from behind. Heribert Wolsch maintained that his behaviour was in no way threatening and he reportedly explained to the police officers that he himself had been a district inspector (*Bezirksinspektor*) and that he was prepared to leave the area. The police officers allegedly made disparaging comments about Heribert Wolsch's claim that he had been a district inspector. While this exchange with the police officers took place Heribert Wolsch allegedly saw another police officer, located some five to seven metres away from him, brutally detain a man with whom he had been having a discussion and who had not been behaving aggressively. Heribert Wolsch reportedly shook his head in reaction to what he had witnessed and stated: "It shouldn't be like that". He then reportedly demanded the name and the service number of the police officer who had insulted him but turned to leave after the police officer ignored him. Heribert Wolsch alleged that as he turned to leave the police officer attacked him from behind, putting him into an arm-lock, forcing him onto his knees and then onto his stomach and handcuffing his arms behind his back. While lying on the ground he was allegedly kicked on the left upper arm and the police officer alternatively placed his boot on his head and back in order to pin him to the ground.

After some time the police officer pulled Heribert Wolsch upright and took him into an entrance of the football stadium where the handcuffs were removed and he was allowed to sit down. He was later reportedly transferred to a police station on *Karlauerstraße* where he was charged with resisting state authority (*Widerstand gegen Staatsgewalt*). He was later transferred to a police gaol where he remained until his release at around 11am the next

morning on 25 September. After being released, he proceeded to hospital (*Landeskrankenhaus Graz*) where he was medically examined. AI has been provided with a medical report which states that he suffered bruising to his arms and head and contusions to his thorax and sternum. AI wrote to the Austrian authorities, requesting to be informed what steps had been taken to investigate these allegations made by Heribert Wolsch. The organization also requested to be informed of the exact reasons for Heribert Wolsch's arrest and, in particular, to be informed of any actions on the part of Heribert Wolsch which might have warranted the charge that he resisted state authority. AI remains concerned that he may have been arrested solely for his criticism of the behaviour of the police outside the *Schwarzenegger* football stadium. Heribert Wolsch subsequently informed AI that he had received a preliminary court date for 16 November at Graz District Court for Criminal Matters (*Landesgericht für Strafsachen Graz*) on the charge of resisting state authority. At the end of the period under review no reply had been received from the Austrian authorities.

#### **Police counter-complaints**

AI has previously expressed concern about complainants of police ill-treatment being threatened with police counter-complaints, such as defamation, resisting state authority and physical assault after lodging a complaint (see AI Index: EUR 13/01/00). In the period under review AI learned of a number of complainants or witnesses of alleged police ill-treatment who were subsequently charged or threatened with police counter-complaints.

In July both Hasan Canpolat, who lodged an official complaint against a police officer who allegedly ill-treated his 13-year-old son, Goekhan Canpolat, on New Year's Eve 1999, and AI, which subsequently wrote to the Austrian authorities calling for an impartial investigation into the allegation, were threatened with court action. A police officer in the town of Neunkirchen allegedly grabbed Goekhan Canpolat by the collar of his jacket, then by his hair, and punched him on the back of his head after the

police officer had caught him playing with fireworks in the town centre. Goekhan Canpolat, who is of Turkish origin but lives in Germany, has alleged that he was also verbally abused as a "shit foreigner" and a "stupid boy" (see Austria entry in AI Index: EUR 01/03/00). The Mayor of Neunkirchen, Herbert Kautz, reportedly stated in a news interview in July that if it transpired that the allegations were unfounded, both Hasan Canpolat and AI would each be sued for one million Austrian Schillings for damage of reputation and compensation. At the end of the year no substantive reply had been received from the Austrian authorities concerning the request for an investigation.

AI learned that two police officers accused of ill-treating and racially abusing the French citizen of African origin, Mohammed Ali Visila, at the Schottenring underground station in Vienna on 3 March 1999 attempted to sue privately two of the five eyewitnesses, for defamation of character (see AI Index: EUR 13/01/00). The Austrian authorities informed AI in December 1999 that after reviewing the available evidence the state prosecutor considered that a verdict of guilt on the part of the two police officers of ill-treating the detainee was not to be expected and no further action would be taken against them. Irrespective of this decision, the eyewitnesses have not retracted their original statements and as a result two of them have faced the charge of defamation. An initial court hearing into the counter-complaint in late August was adjourned for technical reasons. During the original investigation into this case of alleged ill-treatment AI also became concerned about the comments made by one senior official in the police about the reliability of the eyewitnesses and about threats of a defamation suit. The then leader of the police trade union *Freiheitliche Polizeigewerkschaft*, Josef Kleindienst, reportedly stated to an Austrian newsagency: "I am preparing to bring legal proceedings against these eyewitnesses for various, punishable offences. It cannot be, that police officers suffer professional and private disadvantage through untrue allegations" (*Ich bereite gegen diese Zeugen eine Anzeige wegen diverser strafbarer Handlungen vor. Es kann nicht sein, daß Polizisten*

*durch unwahre Behauptungen dienstliche und private Nachteile erleiden*). He is also reported as having said: "They [eyewitnesses] only want to protect drug-dealing black Africans from the police and not the other way round, parents and children from those sort of criminals" (*Diese wollen ja nur die drogendealenden Schwarzafrikaner vor der Polizei schützen und nicht, umgekehrt, Eltern und Kinder vor derartigen Kriminellen*).

### ***Unequal age of consent***

In August AI wrote to the Ministry of Justice expressing concern about the conviction of 20-year-old Michael Wodicka under Article 209 of the Austrian Penal Code on 19 July 2000 at Vienna's District Court. The court found Michael Wodicka, who was 19 years old at the time, guilty of having sexual relations with his then 16-year-old boy friend in 1999, fining him 4500 Austrian Schillings. While AI welcomed the decision of the court not to sentence Michael Wodicka to a term of imprisonment, the organization expressed concern that other men may still face imprisonment under Article 209 of the Austrian Penal Code which states: "A man over 19 years of age who engages in same-sex lewdness with a person who has attained the age of 14 but not yet the age of 18 shall be punished with imprisonment from six months to five years". While the age of consent for homosexual males is 18, the age of consent for heterosexuals and lesbians is placed at 14 years of age. AI once again urged the Austrian authorities to comply with their obligations under international law by repealing Article 209 of the Penal Code and to ensure that domestic legislation is consistent with Austria's international obligations to protect the right to privacy and prevent discrimination.

### ***Intergovernmental bodies***

In June the Committee on the Elimination of Discrimination against Women considered Austria's Third, Fourth and Fifth Periodic Reports in Geneva. The Committee expressed concern about "women



seeking asylum in Austria, and in particular, about reports of human rights violations by State officials".<sup>1</sup> The Committee went on to recommend that the Austrian authorities "...adopt policies that acknowledge gender-specific grounds for women seeking asylum in Austria, including gender-based violence and persecution and female genital mutilation".<sup>2</sup> The Committee also expressed concern about the trafficking of women to Austria and called upon the Austrian authorities to "...take responsibility in guaranteeing the human rights of all trafficked women and girls".

## A Z E R B A I J A N

### *November parliamentary elections*

On 5 November elections took place to the Milli Mejlis (Parliament) of Azerbaijan. They were monitored by, among other groups, the International Election Observer Mission (IEOM), a joint effort of the Organization for Security and Co-operation in Europe and the Parliamentary Assembly of the Council of Europe. In its preliminary conclusions the IEOM noted progress, but stated that the elections fell short of international standards. On election day itself, for example, the IEOM report notes: "Observers reported ballot stuffing, manipulated turnout results, pre-marked ballots and producing either false protocols or no protocols at all. Additionally, party proxies frequently suffered intimidation, harassment and sometimes even arrest whilst carrying out their legitimate activities... In several instances international observers were denied access to polling stations and were frequently expelled from election commission premises." Results were subsequently annulled in 11 constituencies where serious violations were found,

<sup>1</sup>UN Doc. CEDAW/C/2000/II/Add.1. - 15 June 2000 - paragraph 21.

<sup>2</sup>UN Doc. CEDAW/C/2000/II/Add.1. - 15 June 2000 - paragraph 22.

and repeat elections called for January 2001.

The elections were won comfortably by the ruling "New Azerbaijan" party.

### *Accession to the Council of Europe*

Azerbaijan's accession to the Council of Europe formed a backdrop to the November parliamentary elections. In June the Parliamentary Assembly of the Council of Europe had voted to approve applications by Azerbaijan and Armenia for full membership of that body (see AI Index: EUR 01/03/00). However, the Committee of Ministers - the Council's executive body - decided to postpone formal admission until after the elections in Azerbaijan. On 9 November the Committee of Ministers issued invitations to both countries to join simultaneously, but, among other things, asked Azerbaijan to respond within one month to charges by international observers of electoral fraud. A formal accession date was expected in January 2001, following the repeat elections.

### *Political Prisoners*

Among the commitments Azerbaijan undertook to observe in connection with its accession to the Council of Europe was to release or grant a new trial to "those regarded as 'political prisoners' by human rights protection organizations" (see AI Index: EUR 01/03/00). Three such prisoners were mentioned specifically. They were **Rahim Hasan oglu Qaziyev**, former Minister of Defence under previous President Abulfaz Elchibey, who was sentenced to death *in absentia* in May 1995, **Alakram Alakbar oglu Hummatov**, sentenced to death for treason in February 1996, and **Iskender Mejid oglu Hamidov**, former Interior Minister under President Elchibey, who is serving a 14-year sentence imposed in September 1995.

AI has previously expressed concern that in a number of political cases there were allegations of fair trial violations, including ill-treatment in detention and unlawful pressure on relatives of those held. In the case of Alakram Hummatov, for example, it was alleged that his wife, Sudaba Rasulova, was detained

without charge in July 1995, effectively as a hostage to force her husband to give himself up. It was also reported that the couple's eldest child, Ramal Hummatov (who was 14 at the time), was beaten by police on several occasions in an attempt to force him to reveal the location of his mother. She had herself gone into hiding after she was released following the arrest of her husband in August 1995 (see AI Index: EUR 55/01/96). The family have now been granted asylum in the Netherlands. Alakram Hummatov also alleges that he himself was tortured while in pre-trial detention. Several relatives of Rahim Qaziyev, including a brother and two cousins, were said to have been beaten severely after they were detained in August 1995. Unofficial sources have also alleged that the charges against them were fabricated, and brought as a means of exerting pressure on Rahim Qaziyev to give himself up (he escaped from the prison of the Ministry of National Security in 1994, and was subsequently detained in Russia in 1996 and handed back to Azerbaijan, see also AI Index: EUR 55/01/96). Iskender Hamidov, a member of parliament at the time of his arrest, was reportedly detained without the necessary prior permission of parliament (granted only the following day). It was also alleged that his lawyer was detained on fabricated charges a month before the trial began, and so was unable to represent his client. After the trial Iskender Hamidov was kept for some 15 months in solitary confinement in the prison of the Ministry of National Security, rather than transferred to the less strict regime of a corrective labour colony, as required by the Code of Criminal Procedure. Relatives and unofficial sources alleged that this was being done deliberately, in order to limit Iskender Hamidov's contact with the outside world.

Although President Heydar Aliyev issued a number of pardons during the year, they did not include these three men specifically mentioned in the commitment to the Council of Europe. AI has asked the Azerbaijani authorities what steps they are taking to initiate a judicial review of the cases, given this commitment and allegations that the trials were unfair.

The three prisoners named specifically by the

Council of Europe have also alleged increased arbitrary pressure on them since their cases were given this higher international profile. In September, for example, Rahim Qaziyev's sister reported that the authorities had accepted only one food parcel for him since the beginning of the year (many prisoners depend on such parcels to supplement their food). In October it was reported that Alakram Hummatov was experiencing similar problems over parcels, which were particularly important to him as he was said to be suffering from tuberculosis contracted during his imprisonment. During the period under review it was also reported that a number of other political prisoners who had been vocal about their cases, or had appealed to international bodies such as the Council of Europe, were subjected to a range of disciplinary punishments as a way of exerting pressure on them in connection with these protests. These punishments included periods in solitary confinement, or transfer from a corrective labour colony to the stricter regime at Gobustan prison, with fewer privileges.

#### **Arrests post elections**

AI is also seeking information about a number of arrests that occurred as a result of disturbances that followed the November parliamentary elections, particularly in relation to allegations that a number of those detained were beaten or otherwise ill-treated by law-enforcement officials.

The disturbances took place at various locations around the country. In some cases demonstrators were said to be protesting over the election results, such as at an unsanctioned opposition rally in Baku on 18 November. Other protests were linked with social and economic concerns. A serious clash between some protesters and police took place in the town of Sheki, some 400 kilometres to the north-west of the capital, Baku. Several thousand people are said to have gathered on the streets of Sheki on 11 November to protest against the level of unemployment and problems with the supply of electricity and gas. They were persuaded to disperse, but stated their intention to meet a week later if their

demands were not met. On 18 November people again gathered, and police attempted to disperse them. At one point the confrontation turned violent, with protesters reportedly throwing stones at police, who fired over their heads. Damage was reported to cars and property, and a number of protesters and police officers needed medical treatment. Over 20 people were said to have been arrested subsequently, including members of opposition parties. Some of those were reportedly beaten. For example Anvar Gulusoy, a member of the opposition Musavat Party, was said to have sustained a broken arm after being beaten by police. He had been detained in Sheki on 18 November, and was still in detention, reportedly in the investigation-isolation prison at Ganja, at the end of the period under review.

Most of those detained in connection with the various protests were released shortly afterwards, after serving a term of administrative detention or being fined. Some remain imprisoned, however, on criminal charges relating to public order offences.

#### **Arrest of Rauf Arifoglu (Rauf Arif oglu Abbasov)**

Another arrest of concern to AI, which took place before the November elections, was that of Rauf Arifoglu, at that time editor of the opposition newspaper *Yeni Musavat*. Rauf Arifoglu was arrested on 22 August at his home in Baku after police claimed to have found an illegally-held "Makarov" pistol in the apartment. Rauf Arifoglu strongly denies the charge, and claims that the pistol was planted by police to fabricate grounds for arrest and implicate him in a failed hijacking several days earlier.

Events leading to Rauf Arifoglu's arrest began on 18 August, when a man attempted to hijack an aircraft carrying over 100 passengers en route from the Azerbaijani exclave of Nakhchivan to the capital, Baku. Mehdi Israfil oglu Huseynli, described as the chairman of the opposition Musavat Party's regional office in Julfa, Nakhchivan, is said to have threatened to blow up the plane unless the crew diverted it to the Turkish capital of Ankara. He is also reported to have

made a number of political demands to the Azerbaijani leadership regarding forthcoming parliamentary elections. Mehdi Huseynli was eventually overpowered by a Ministry of National Security representative on the plane, which later landed safely in Baku. According to press reports, Mehdi Huseynli was taken to the investigation-isolation prison of the Ministry of National Security and a criminal case was opened on charges of hijacking (Article 212-2 of the Criminal Code) and terrorism (Article 212-3). The Musavat Party swiftly issued a press statement condemning the attempted hijacking, and denying that the party itself had any knowledge of or involvement in the events.

Rauf Arifoglu claims that his involvement in the events began only when Mehdi Huseynli telephoned him on his mobile phone, apparently while on the plane, to list his demands regarding the elections. Rauf Arifoglu says that immediately after the call he rang the Minister of National Security and the press services of the Interior Ministry and the General Procurator's Office. On 19 August, the day after the events, Rauf Arifoglu described how two employees of Baku's Sabail district procurator's office and three police officers arrived at the *Yeni Musavat* offices with a search warrant, stating that they were looking for a cassette tape made of the telephone conversation with Mehdi Huseynli. Rauf Arifoglu was taken to Sabail police department where he gave oral and written testimony, and the cassette tape was taken from him. He was then released.

Three days later police arrived at Rauf Arifoglu's apartment at around 5pm, and started to conduct a search. Rauf Arifoglu rang journalist colleagues to alert them to the search, and they gathered outside as police would not allow them to enter. Rauf Arifoglu's lawyer, Vidadi Makhmudov, was also reportedly denied permission to enter the apartment while the search was conducted. When the pistol was found, Rauf Arifoglu shouted down to his colleagues that it had been planted, and refused to sign the police protocol of the search. He was arrested on a charge of illegally possessing a weapon, and taken away. It is further alleged that a television journalist outside

attempting to video events had his camera taken away by police, who also physically assaulted him.

Rauf Arifoglu was charged with illegal storage of a weapon (Article 220), complicity in the hijacking of an aeroplane (Articles 17, 212-2), involvement in a terrorist act (Articles 17, 212-3) and calls to overthrow the state system by force (Article 63 part 2). Following widespread international concern about his case he was eventually released on bail on 5 October, but the charges against him were not dropped and the investigation was continuing at the end of the period under review.

AI outlined its concerns in this case in a letter to the Procurator General of Azerbaijan, Zakir Bakir oglu Garalov. Responding in November, the Procurator General confirmed the charges against Rauf Arifoglu and claimed that the investigation had shown the latter's prior knowledge of, and complicity in, the hijacking.

### ***New Criminal Code***

A new criminal code came into force in Azerbaijan on 1 September, replacing the Soviet-era code which had been operating, with amendments, since independence. Positive aspects of the new code include the decriminalization of consensual homosexual relations between adult males (see AI Index: EUR 01/03/00), and offences defining torture more closely in accord with the definition stipulated by the UN Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment. One aspect still of concern to AI, however, is that the new code retains a law punishing "defaming or degrading the honour and dignity of the President of the Azerbaijani Republic" (Article 323), punishable by up to five years' imprisonment. Unlike the previous code, however, the new article contains a note specifying that such an offence does not extend to public statements critical of the President's actions, or policies carried out under his direction.

Nevertheless, AI remains concerned that such an article may be used to punish the legitimate exercise of the right to freedom of expression. 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, and that libel complaints by officials, 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.

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

Some positive moves were noted. In June, for example, Russia extradited to Azerbaijan a former investigator said to have been involved in the torture and subsequent death of a prisoner in 1994. Vidadi Samedov had headed the Investigation Department of Baku City Prosecutor's Office. In 1994 he was reportedly in charge of a group of 17 officers from Baku's Nariman district police department who tortured a detained trade unionist, Jamal Aliyev, so severely that he died. Three of the police officers involved were subsequently given long prison sentences (see AI Index: EUR 55/02/99). Vidadi Samedov has been charged with "exceeding his authority", among other things.

Also in June, the Administration of the President of the Republic of Azerbaijan provided AI with an excerpt from a session of the Pardon Commission, which operates under the presidential administration. This stated that, in order to provide effective guarantees for protection of human rights and liberties, the Pardon Commission had decided not to apply acts of amnesty and pardon to those convicted of using torture. AI had previously expressed concern that in some instances officials convicted of offences involving violence may fall under an amnesty.

In July the Prosecutor General of Azerbaijan

responded to a number of allegations of ill-treatment raised with him by AI in connection with opposition attempts to hold a meeting on 29 April. 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 was 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 (see AI Index: EUR 01/03/00). The Prosecutor General told AI that a forensic medical examination had found light bodily injuries on Vajif Hadjibeyli, and that measures were being taken to determine those responsible. However, at the end of the period under review AI was not aware of the results of any such measures. The Prosecutor General also stated that Vajif Hadjibeyli had received timely and appropriate medical aid.

AI has continued to receive allegations of ill-treatment, however. Among those alleging that they were beaten by police following the disturbances in Sheki was a 61-year-old woman named **Gulhar Pashayeva**. She reported that on 20 November police officers took her to a police station in the city and demanded that she admit to taking part in the meeting, and name others who had done so. She refused and then described how three officers (she knew only their first names) had severely beaten her and threatened to rape her with a truncheon. Employees at the Central Hospital in Sheki were said to have been too afraid of the police to render medical assistance to Gulhar Pashayeva, and it is also reported that the state forensic service would not examine her as the procuracy declined to request a medical examination from them.

#### ***Optional Protocol to CEDAW***

On 6 June Azerbaijan signed the Optional Protocol to the Convention on the Elimination of All Forms of

Discrimination against Women. Under this Protocol women who claim their rights have been violated will be able to seek redress from the Committee on the Elimination of Discrimination against Women, once they have exhausted national remedies. AI welcomes this move, but is now urging Azerbaijan to ratify promptly this Optional Protocol, and in so doing be among the countries which have expressed their commitment to ensuring that women have a means to receive full implementation of their rights under the Convention.

#### ***Rome Statute on the International Criminal Court***

In December AI wrote to President Heydar Aliyev, urging Azerbaijan to show support for the International Criminal Court by signing the associated Rome Statute before the deadline for signatures at the end of that month. The Rome Statute was adopted by an overwhelming majority of states on 17 July 1998. It provides for the establishment of a permanent International Criminal Court with jurisdiction over genocide, crimes against humanity and war crimes, in both international and non-international conflicts. As of 1 December, 117 of the 189 UN Member States from all regions of the world had signed the treaty (including the two other states of the South Caucasus, Georgia and Armenia).

#### ***Concerns in the disputed Karabakh region***

##### ***The trial of Samvel Babaian - allegations of torture and violations of due process***

On 18 September the trial began of Samvel Babaian and 14 others accused of involvement in a failed assassination attempt on Arkady Ghukasian, "President" of the self-proclaimed Nagorno-Karabakh Republic (NKR, see AI Index: EUR 01/03/00). The case is being heard by the Supreme Court, under judge Suren Aleksanian. During the pre-trial investigation, lawyers for some of the defendants had alleged problems in meeting with their clients, and gaining access to case materials. Samvel Babaian's lawyer, Zhedeks Shakarian, also alleged that his client

had been ill-treated. At the end of August Shakarian reported that Samvel Babaian had been severely beaten on 29 March, and that he had made a confession on 3 April at a session from which his previous lawyer had been absent. Zhedeks Shakarian alleged at that time that he had requested, but not been granted, a medical examination of Samvel Babaian which could have registered traces of ill-treatment. Samvel Babaian later retracted his confession in court, claiming that he had been beaten and drugged at the time it was made. Defendant Vardan Tashchian also alleged in court that he had been beaten in detention to extract testimony. Some of the lawyers alleged in addition that defendants had been threatened by officials, who tried to intimidate them into testifying against Samvel Babaian and promising mitigated sentences in return. Other defendants reaffirmed their testimony given in pre-trial detention, admitting their part in the events.

Samvel Babaian's sister, Anush Akopian, announced in July that she intended to seek asylum abroad after she was evicted from her flat in the capital of the NKR which she had occupied for some 10 years (a court found that she had acquired it illegally). The trial of Samvel's brother, Karen Babaian, began on 2 November 2000. He is charged with abuse of power and illegal possession of weapons. Karen Babaian was arrested in March, in the wave of detentions that followed the failed assassination. During the period of pre-trial detention Karen Babaian complained that for six months he was not allowed out of his cell for a daily walk, and was denied food parcels from his relatives and access to newspapers.

## BELARUS

### *Intergovernmental bodies*

#### *UN Committee against Torture reviews Belarus' third periodic report*

In mid-November Belarus came before the UN Committee against Torture and Other Cruel, Inhuman

or Degrading Treatment or Punishment (UN Committee against Torture) as part of its four-yearly review. The Committee was particularly critical of the Belarusian authorities, expressing concern about "[t]he numerous continuing allegations of torture and other cruel, inhuman and degrading punishment and treatment, committed by officials of the State party or with their acquiescence, particularly affecting political opponents of the government and peaceful demonstrators, and including disappearances, beatings, and other actions in breach of the Convention".<sup>3</sup> Related to these human rights violations the Committee also expressed concern about "[t]he pattern of failure of officials to conduct prompt, impartial and full investigations into the many allegations of torture reported to the authorities, as well as a failure to prosecute alleged perpetrators, in nonconformity with articles 12 and 13 of the Convention".<sup>4</sup> In recent years AI has repeatedly highlighted instances of human rights violations and has expressed concern about the failure of the Belarusian authorities to initiate prompt and impartial investigations.

In an effort to counteract the pervasiveness of police impunity in Belarus, the Committee recommended, among other things, that "...[u]rgent and effective steps be taken to establish a fully independent complaints mechanism, to ensure prompt, impartial and full investigations into the many allegations of torture reported to the authorities, and the prosecution and punishment, as appropriate of alleged perpetrators".<sup>5</sup> To this end the Committee recommended that the Belarusian authorities consider establishing an independent and impartial governmental and non-governmental human rights

<sup>3</sup>UN Doc. CAT/C/XXV/Concl.2/Rev.1 - 20 November 2000 - paragraph 6c.

<sup>4</sup>UN Doc. CAT/C/XXV/Concl.2/Rev.1 - 20 November 2000 - paragraph 6e.

<sup>5</sup>UN Doc. CAT/C/XXV/Concl.2/Rev.1 - 20 November 2000 - paragraph 7b.

commission with effective power to promote human rights and investigate all complaints of human rights violations.

*Visit of the UN Special Rapporteur on the independence of judges and lawyers to Belarus*

The UN Special Rapporteur on the independence of judges and lawyers, Dato' Param Cumaraswamy, visited Belarus from 12 - 17 June in order to study the state of the independence of the judiciary and the legal profession in the country. AI had previously expressed concern about the lack of independence of the judiciary, which has opened it to serious political abuse by the Belarusian authorities, and the extent to which the freedom of lawyers to practise their profession independently has been compromised in recent years (see AI Index: EUR 49/14/00). In an official press release from 22 June Dato' Param Cumaraswamy commented on the state of the judiciary: "The judiciary must not only be independent, but must be seen to be so. Only then can it command the respect of the people and the international community. So long as the laws remain as an impediment to such independence, the judiciary will remain and be seen to remain an extension of the executive". In relation to the restricted nature of the professional autonomy of lawyers the UN Special Rapporteur stated: "In these circumstances, the legal profession in Belarus cannot be seen as independent". During its recent review of Belarus the UN Committee against Torture also expressed concern about the lack of independence of the judiciary and the legal restrictions placed on lawyers which have put their professional independence into question.

**Possible 'disappearances'**

*Dmitry Zavadsky*

The whereabouts of the Russian Public Television (ORT) cameraman, Dmitry Zavadsky, became unknown on 7 July after he drove to Minsk airport to meet his former ORT colleague Pavel Sheremet, who was arriving on an aeroplane from Moscow later that

morning. Dmitry Zavadsky failed to meet his colleague, even though his car was found parked at the airport. A press release issued by the Committee to Protect Journalists stated that "Zavadsky was [reportedly] seen in the airport not long before the arrival of Sheremet's flight from Moscow". In the recent past AI has also expressed concern about several prominent members of the opposition who have apparently "disappeared" (see AI Index: EUR 49/14/00). The Belarusian authorities have denied any involvement in the apparent "disappearance" of Dmitry Zavadsky. On 8 July in an interview with Russia's Interfax news agency the First Deputy Chief of the presidential administration, Vladimir Zamyatalin, reportedly accused Belarus' opposition of having staged the abduction of Dmitry Zavadsky in order to tarnish Belarus' image abroad.

The apparent "disappearance" prompted expressions of concern in Belarus and abroad and a number of international non-governmental organizations in the field of press freedom and human rights have called on the Belarusian authorities to immediately and thoroughly investigate the case. In an open letter to President Lukashenka on 26 December the Committee to Protect Journalists condemned "the apparent reluctance of investigators to fully investigate and resolve this crime". The organization expressed concern that the Minister of the Interior, Vladimir Naumov, who was appointed in September, is a former head of the elite *Almaz* police unit, employees of which have been accused of involvement in the "disappearance". Members of Belarus' opposition have claimed that the Chairman of the Committee for State Security (KGB), Vladimir Matskevich, the Secretary of the State Security Council, Viktor Sheiman, and the Prosecutor General, Oleg Bozhelko, were unexpectedly dismissed by President Lukashenka at the end of November after several former and current employees of the *Almaz* police unit and the presidential security service had reportedly been arrested and questioned in connection with Dmitry Zavadsky's apparent "disappearance". While a presidential spokesman explained that this personnel reshuffle was partially a result of President

Lukashenka's "dissatisfaction that many important [investigation] cases have dragged on for too long without justification"<sup>6</sup>, the opposition have maintained that the dismissed personnel came too close to discovering what had happened to Dmitry Zavadsky. It has been alleged that Dmitry Zavadsky, who had returned from Chechnya after making a documentary film, had information suggesting that former and current Belarusian state security officers had been active combatants on the Chechen side against the Russians. Dmitry Zavadsky's wife, Svetlana Zavadsky, has reportedly stated that after her husband and Pavel Sheremet returned from Chechnya, Dmitry Zavadsky began to receive telephone calls from an unknown person requesting a meeting with him. She has maintained that her husband, suspecting the Belarusian security services were behind the calls, refused to consider the request. No information about the whereabouts of Dmitry Zavadsky had been received by the end of 2000.

#### *Update in the case of Yury Zakharenko*

AI learned that in July Olga Zakharenko and her two daughters left Belarus and applied for political asylum in Germany. Yury Zakharenko, a former Minister of the Interior and leading opposition figure, apparently "disappeared" on 7 May 1999, the first day of the unofficial presidential elections (see AI Index: EUR 49/14/00). A representative of AI Germany, who interviewed Olga Zakharenko and her daughter Elena Zakharenko in the German town of Münster late last year asked Olga Zakharenko whether she had been threatened by the Belarusian authorities: "Physically attacked I was not. But we were warned and later advised to leave the country. Outside our apartment a surveillance team sat in cars without registration plates and listened in on our bugged apartment and telephone. Once I was warned that I could be involved in a car accident". Elena Zakharenko stated: "After an article I had written about my father appeared an unknown man came up to me and

threatened that my child could be kidnapped, if I did not give up the campaign".<sup>7</sup> The family were officially given political asylum in Germany in December.

#### ***Release of possible prisoner of conscience***

On 5 October Vassily Leonov, former Minister of Agriculture and director of the agricultural company *Rassvet*, was released in a prison amnesty. In January he had been convicted of allegedly taking bribes and sentenced to four years' imprisonment on charges which members of the opposition have claimed were politically motivated. As a moderniser in the field of agriculture, he reportedly had clashed with President Lukashenka's wish for Belarusian agriculture to remain collectivized and within the state's domain. At the time of his release Vassily Leonov had spent nearly three years in prison.

#### ***Arbitrary arrest for freedom of expression***

AI continued to receive reports of people being arrested for exercising their right to peaceful assembly. In some cases significant degrees of force were reportedly used to effect the arrests and AI received allegations of police ill-treatment of detainees. In November the UN Committee against Torture also commented on such restrictions, expressing concern about: "[t]he deterioration of the human rights situation in Belarus ...including persistent abrogations of the right to freedom of expression, such as limitations of the independent of the press, and of the right to freedom of assembly, which create obstacles for the full implementation of the Convention".<sup>8</sup>

In the run-up to the elections in October, protestors in various cities and towns across Belarus, such as Minsk, Bobruysk and Vitebsk, were reportedly detained by police officers due to their attempts to organize a boycott of the elections. Police

<sup>6</sup>RFE/RL Newline 4/228 27 November 2000.

<sup>7</sup>*ai Journal* (Germany) 1.2001 p.13

<sup>8</sup>UN Doc. CAT/C/XXV/Concl.2/Rev.1 - 20 November 2000 - paragraph 6a.



officers reportedly searched the detainees for election-boycott materials and confiscated them. A number of protestors were fined and received periods of administrative detention for their boycott activities after being brought before the courts. Organizers of the boycott have stated that they were repeatedly harassed by the police during the election period. A large section of Belarus' opposition had decided to boycott the parliamentary elections due to doubts about their fairness. The Organization for Security and Co-operation in Europe and various Western governments also refused to send observers for this same reason.

AI learned that on the evening of 12 November police officers arrested around 100 young protestors during peaceful but unsanctioned pro-democracy demonstrations in the capital, Minsk, and in towns in the regions, such as Grodna, Mogilev, Baranovichy and Orsha. The organization received allegations that a number of the demonstrators were punched and kicked by police officers and repeatedly hit with truncheons as they were forced onto police buses. While a number of minors among the demonstrators were shortly released, other youth demonstrators were detained for longer periods of time and were later charged. Most demonstrators received official warnings or fines.

### ***Death penalty***

During its review of Belarus in November the Committee against Torture expressed concern about the "continuing use of the death penalty, and the inadequate procedures for appeals, lack of transparency about those being held on death row and the reported refusal to return the bodies of those executed to their relatives, inhibiting any investigation into charges of torture or ill-treatment of them in prison".<sup>9</sup> The head of the Belarusian delegation, Alyaksandr Ivanovsky, stated that in 1998 and 1999 respectively there were 45 and 13 executions.

<sup>9</sup>UN Doc. CAT/C/XXV/Concl.2/Rev.1 - 20 November 2000 - paragraph 6i.

However, the figure given for 1999 contradicted a statement made in August 1999 by the then Chairman of the Supreme Court, Valyantsin Sukala, who said that 29 people had been executed in the first seven months of 1999.

## **BELGIUM**

### ***Alleged ill-treatment by law enforcement officers***

A number of criminal proceedings and investigations relating to alleged ill-treatment by law enforcement officers were under way. Several such cases were reported from Brussels.

In August Muriel Mestres, a 26-year-old pregnant woman, stated that while she was at her mother's house in the Forest district of Brussels, her 15-year-old teenage sister arrived to collect her identity card to show to gendarmes asking to see her identity papers. On the street outside Muriel Mestres found three gendarmes guarding her sister's teenage boyfriend. She said that when she asked for clarification the officers told her it was simply an identity check and then pushed the boy into their vehicle and started hitting him. She said that when she remonstrated with them, pointing out that the boy was handcuffed and thus could not defend himself, she was threatened with arrest. She alleged that they then dragged another young male detainee out of their vehicle and started banging his head against the hood. When she intervened again, she said she was spat at and that the officers, although warned by her mother that she was pregnant, seized her violently and handcuffed her, and then dragged her out to their vehicle by her hair. She acknowledged that at this point she insulted an officer. She was taken to a police station where she was released after a few hours and informed that she was being accused of resisting arrest, and of using threats and racist language.

A medical practitioner and his assistant, who observed the events in the street from a neighbouring building, made statements to the media supporting the

allegations made by Muriel Mestres and announced their intention of lodging complaints against the police.

Investigations were under way into complaints lodged with the police and judicial authorities by Charles Otu, a Belgian citizen of Ghanaian origin. He alleged that he was repeatedly physically assaulted, threatened and subjected to racist abuse by law enforcement officers in Brussels on 14 October, after refusing to hand over his car-keys, but offering his driving and identity documents to two gendarmes who approached him while he was sitting in his car at traffic lights. He said that he was dragged out of the car, thrown to the ground, handcuffed, then kicked and hit with truncheons and that later both gendarmes, joined by an officer of the communal police, assaulted him again in a hospital car-park. He claimed that after transfer to Schaerbeek gendarmerie post two more gendarmes joined in a renewed assault, observed by colleagues, and that one officer kicked him with such force in the abdomen that he defecated involuntarily. A medical certificate issued within hours of his release later that day recorded cuts and bruises to his face and multiple bruising to his body. The gendarmes said that they had approached Charles Otu because they had seen him commit a traffic offence, that they believed he was drunk and that he had violently resisted them, injuring several officers. (For further information see *Belgium - The alleged ill-treatment of Charles Otu*, AI Index: EUR 14/06/00).

A month before, in September, a Brussels court sentenced a police officer attached to Schaerbeek police station to four months' suspended imprisonment as a result of racist remarks made while on duty in the Schaerbeek area - an area with a high proportion of non-Caucasian foreign and Belgian nationals. Local residents heard him - via the public address system attached to the roof of his patrol car - referring to a person just detained by the police as a "monkey".

***Alleged ill-treatment during deportation and in detention centres for aliens***

(update to AI Index: EUR 01/03/00)

On 16 October AI wrote to the Minister of Interior, expressing concern about the death of **Xhevdet Ferri**, an Albanian asylum-seeker, in a cell at Steenokkerzeel Detention Centre 127-bis on 12 October and allegations that he was subjected to medical neglect and cruel and degrading treatment before he died.

AI welcomed the prompt opening of a judicial investigation, ordered by the Brussels Public Prosecutor's office, and asked for the government's cooperation in providing the organization with the findings of the autopsy, when available, and of the eventual outcome of the judicial investigation and of any criminal or disciplinary proceedings arising from it. AI also urged that in their investigations the authorities pay special heed to the principles established in international human rights instruments regarding the use of force by law enforcement officials, as well as those regarding the protection of the health of detainees and prisoners and the provision of medical care to them. (For details see *Belgium - The death of Xhevdet Ferri*, AI Index: EUR 14/04/00).

Xhevdet Ferri participated in a breakout from the detention centre on 12 October but, after fellow escapees observed him lying on the ground in pain, they alerted the centre's personnel to his plight. In the days immediately following the death the Minister of Interior indicated that Xhevdet Ferri had apparently fallen from a perimeter wall some five metres high while trying to escape but that he displayed no outwards signs of having suffered injuries when recaptured. The Minister also indicated that he was kept under regular observation by personnel at the centre after transfer there and that, as soon as it was discovered that he was ill, first aid was administered and an ambulance called. However, the Minister stated that, although he considered that *prima facie* there were no grounds to censure any gendarmes or Centre 127-bis personnel, he intended to await the results of the judicial investigation before taking a definitive view of the case and the conduct of the personnel involved in the recapture and detention of

Xhevdet Ferri.

It was claimed that when gendarmes arrived to recapture Xhevdet Ferri they found him lying on the ground near a perimeter wall, groaning, but handcuffed him and took him back to the centre in their vehicle, without any medical examination, then dragged him out of the vehicle by his feet, while he cried out that he was ill and in pain. He was locked in an isolation cell with one of the fellow escapees who had initially alerted Centre 127-bis staff to his plight, again without any medical examination apparently being carried out. It was also claimed that, when his condition rapidly deteriorated, it was his cell-mate who raised the alarm and called for assistance. A member of the centre's personnel qualified to administer emergency first aid then tried to revive him. An ambulance arrived but the medical personnel were unable to resuscitate Xhevdet Ferri who died in the isolation cell.

A criminal investigation was promptly opened into his death and administrative investigations opened by Centre 127-bis and the gendarmerie. An autopsy carried out on 14 October was unable to shed light on the cause of death, identifying no internal or external injuries, or signs that he had suffered a fall.

In December the media reported that the findings of the internal investigation in Centre 127-bis largely supported the allegations. It was also reported that Xhevdet Ferri's cell mate had been deported to Albania, even though the criminal investigation into the death was still under way.

In his November response to AI the Minister of Interior expressed the government's willingness to inform the organization of the outcome of the judicial investigation into Xhevdet Ferri's death. He stated that the residents of the detention centre were treated "in a humane manner and with respect for the inherent dignity of the human person" but said that "Unfortunately, this is often not the case by the residents who treat the personnel with indignity." In addition the Minister supplied clarifications requested by AI regarding the medical staffing at Centre 127-bis.

In its October letter AI had also expressed

disappointment at the Minister's failure to respond to a letter of December 1999, in which AI had sought information and comment on a number of questions relating to the treatment of detained asylum-seekers, both during forcible deportation and in detention centres for aliens. In his November letter the Minister undertook to answer the questions raised in AI's December 1999 letter in the near future and underlined his willingness to engage in direct dialogue with the organization.

AI also wrote to the Minister of Justice in October, seeking his cooperation in informing the organization of the outcome of the judicial investigation into the death of Xhevdet Ferri. At the same time AI expressed concern that over two years after the death of Nigerian national, **Semira Adamu**, during a deportation attempt in September 1998, the findings of the criminal investigation into the circumstances of the death were still unknown and no one had yet been brought to justice. AI pointed out that international law lays great emphasis on the need for prompt action in investigating possible human rights violations and similarly requires that judicial proceedings should not last for an unreasonable time.

Semira Adamu died after gendarmes pressed a cushion over her face during a deportation operation. The so-called "cushion technique" - a dangerous but authorized method of restraint at that time - allowed gendarmes to press a cushion against the mouth, but not the nose, of a recalcitrant deportee. In 1998 three gendarmes were placed under investigation in connection with possible manslaughter charges. (See *Belgium: The death of Semira Adamu - Justice still awaited*, AI Index: EUR 14/03/00, for further details)

In its October letter AI sought confirmation from the Minister of Justice of reports that the investigating magistrate had concluded his inquiries into the case in February and that the Public Prosecutor's office would be submitting the dossier to a court (*chambre de conseil*) later in October where a judge would decide on any requests for prosecution.

In November the Minister responded to AI indicating that no decision had yet been taken. In December the media reported that the Public

Prosecutor's office had asked for three gendarmes to be charged with manslaughter.

In its October letter AI also sought information on the progress and outcome of judicial investigations into the criminal complaints of alleged ill-treatment in detention centre 127-bis lodged by **Blandine Kaniki** in 1998 and by **Hovhannes Karapetyan** in 1999 and of the alleged ill-treatment during forcible deportation lodged by **Matthew Selu** in 1999 (see AI Index: EUR 01/03/00).

The Minister stated that the dossiers relating to Blandine Kaniki and Matthew Selu were still under examination by the judicial authorities and that no decision had yet been taken. The investigation relating to Hovhannes Karapetyan had been concluded and a court had dismissed his complaint.

#### ***Changes to the regime in detention centres for aliens***

In December the government approved the draft text of a Royal Decree, drawn up by the Minister of Interior, regulating the regime within the detention centres for aliens operated by the Aliens Bureau, attached to the Interior Ministry.

In December 1999 AI had expressed concern to the Minister that the system for monitoring conditions of detention in the closed centres for aliens, laid down in a Royal Decree of May 1999, did not appear to offer the fully independent supervision of detention conditions required by relevant international standards (see AI Index: EUR 01/01/00).

AI welcomed certain provisions of the text approved by the government, expected to come into operation in the early months of 2001. A committee, including representatives of the judiciary and the Minister of Interior, led by the Centre for Equal Opportunities and Opposition to Racism (CECLR), a body reporting to the prime minister and parliament, is entrusted with the task of examining complaints from the inmates of detention centres. The CECLR is mandated to organize a regular duty service within the centres, to receive complaints and to carry out preliminary examinations to assess those appearing well-founded and requiring full examination by the

committee.

However, AI was particularly disappointed to note that the text allowed for the continued detention of unaccompanied minors in detention centres for aliens, despite a contrary position taken by the government in existing documents setting out its principles on asylum policy.

In December 1999, in commenting on the government's announced policy intentions on asylum and immigration, AI had welcomed the government's indication that steps would be taken to improve the situation of detained child asylum-seekers and to bring their treatment into line with Belgium's obligations under the UN Convention on the Rights of the Child (see AI Index: EUR 01/01/00). In view of the particularly vulnerable nature of this category of asylum-seeker, AI urged that relevant reforms be implemented with the utmost speed and urgency.

#### ***Alleged human rights violations by the Belgian armed forces in Somalia***

(update to AI Index: EUR 01/01/99)

In November, following investigation by the military judicial authorities, an army sergeant was arrested and accused of the murder of his two young children in 1998. Widespread media coverage also focused on the man's conduct during a UN peace-keeping operation in Somalia in 1993. In December the Minister of Defence issued a ministerial order suspending the man from the army for three months, on grounds of alleged racism, based primarily on photographs showing him posing for the camera, with his foot, clad in an army boot, pressing on the back of a young Somali prisoner lying face-down and handcuffed on the ground.

It emerged that the military judicial authorities had opened an initial criminal investigation into the photographs which also featured other Belgian paratroopers, but in January 2000, after more than a year's investigation, had apparently concluded that no act of racism could be attributed to the sergeant or the other paratroopers and that further criminal proceedings could not be justified.

In publicly reported statements, the military

judicial authorities said that the Somali prisoner had been questioned in the course of the investigation and had indicated that he had cooperated in the taking of the photographs, the purpose of which, according to the authorities, had probably been to demonstrate to families at home the dangerous circumstances in which the Belgian army contingent were living in Somalia.

In December the Minister of Defence also announced that henceforth there would be a policy of zero-tolerance towards racism and any other form of discrimination in the army. He stated that in 2001 he intended to institute a new independent body to receive such complaints against the army.

## BOSNIA - HERZEGOVINA

In November general elections were held throughout the country, the outcome of which closely mirrored that of municipal elections of March 2000 - with nationalist parties remaining by and large in political control. However, in the Federation, the (Bosniac-dominated) Party of Democratic Action (SDA) managed only a very narrow majority vote over the opposition Social Democratic Party (SDP). In the central and southwestern parts of the Federation, the Croatian Democratic Union (HDZ) gained the majority of votes, and in the Republika Srpska the Serb Democratic Party (SDS) reinforced its hold over the electorate. Presidential elections in the Republika Srpska resulted in a victory for the SDS candidate Mirko Šarović, the former Vice-President. In the aftermath of the elections, the Organization for Security and Co-Operation in Europe (OSCE) which supervised the elections, disqualified ten HDZ candidates for their involvement in the organization of a referendum which effectively asked Bosnian Croat voters to support the creation of a separate Croat entity.

During the period under review, the High Representative removed a total of 24 public or governmental officials in both entities from their

functions, in the majority of cases for their obstruction to the implementation of the Dayton Agreement and the right to return of minorities.

Two further executive decisions of the High Representative, both issued in December, included the imposition of the Law on the Human Rights Ombudsman, and the establishment of a State Court. Both measures were taken to strengthen the capacity of the state's institutions to protect and enforce human rights and further the state's accountability to its citizens, and were taken by the High Representative after the national government and parliament had failed to resolve these issues by the prescribed deadlines.

### *Implementation of the right to return*

Over 40,000 minority returns took place in the second half of the year according to statistics by the United Nations High Commissioner for Refugees (UNHCR), continuing the positive trend which had started in the spring of the year. Most such returns, as before, were to rural areas and to destroyed property.

Implementation of the property laws improved slightly in both entities, although the overall rate remained dissatisfactory: at the end of the year only 20% of all claims for the return of private and socially owned property had led to repossession in the Federation, and just 12% in the Republika Srpska. As efficiency rates went up however, some officials working in the offices tasked to implement property laws were subjected to violent attacks, threats and intimidation by individuals opposed to minority returns. In December a High Representative spokesperson stated that such attacks had taken place on housing officials in Foča, Pale, Srpsko Gora and Srpsko Sarajevo, and involved in many cases members of the RS Association of War Veterans.

Durable return remained an objective which was extremely difficult to achieve, compounded by the lack of access to social and economic rights. In many areas minority returnees were an ostracized group, and attempts at integration were not sufficiently

supported or were openly obstructed by the local authorities. For example in the Brčko District, where Serb and Bosniac pupils were to start sharing schooling space in mid-October, the attack on a Bosniac pupil was followed by demonstrations by Bosniac pupils. During three days of large-scale Serb counter-demonstrations demanding separate education for each ethnic group, violent clashes broke out and houses and shops of Bosniac returnees were attacked and damaged. These demonstrations were joined by large numbers of Serb students from nearby Bijeljina in the Republika Srpska and were reportedly organized by hardline politicians from that town.

Minority returnees faced violence against life and property in many areas in the country - reportedly in two cases resulting in death. Impunity for such attacks persisted: a spokesperson for the United Nations Missions in Bosnia-Herzegovina (UNMIBH) stated in early January 2001 that the police in the Herzegovina-Neretva Canton (Canton 7) had failed to arrest any perpetrators for the more than 100 attacks against Bosniac returnees in that Canton - especially in the municipality of Stolac - over the last two and a half years.

In November, the standing conference of interior ministers in Germany decided to grant the right to stay for another two years to severely traumatized refugees from Bosnia-Herzegovina - however this category of refugees reportedly only included persons who had entered the country before 15 December 1995 and who had undergone psychotherapeutic treatment since at least 1 January 2000.

#### ***Prosecutions for war crimes***

No arrests were carried out by Stabilization Forces (SFOR) in the period under review, although in October an unsuccessful attempt was made to arrest Bosnian Serb Janko Janjić in Foča in the Republika Srpska, which resulted in his death when he reportedly detonated a hand grenade. He had been publicly indicted for war crimes and crimes against humanity, in particular sexual abuses against Bosniac women in Foča.

Five separate trials were ongoing before the

Tribunal's three trial chambers in the period under review, one of which, the trial against Bosnian Serb Milorad Krnojelac for crimes committed against Bosniac detainees in Foča prison, opened in October 2000.

In November it was revealed that a sealed indictment existed against two Bosnian Serbs, cousins Milan and Sredoje Lukić, for war crimes and crimes against humanity committed in Višegrad; the Office of the Prosecutor noted that it had been decided to reveal the charges to increase the possibility of the arrest of these suspects after all previous attempts to apprehend them had failed.

A defence motion on behalf of Stevan Todorović, who was challenging the legality of his arrest and detention in 1998, was resolved in December 2000, when the accused pleaded guilty to one count of the indictment and the prosecution withdrew all other counts under a negotiated plea agreement. Stevan Todorović had previously alleged that he had been unlawfully arrested in the Federal Republic of Yugoslavia and handed over to SFOR in Bosnia-Herzegovina by armed kidnappers. In October the Trial Chamber had summoned SFOR as well as its responsible authority, the North Atlantic Treaty Organization (NATO) and the states supplying troops to SFOR, to disclose documents relating to Stevan Todorović's arrest.

Domestic prosecutions for war crimes continued in the Federation, in particular in the Herzegovina-Neretva and Sarajevo Cantons. In all these cases, the local prosecutors had cleared the investigations files beforehand with the Office of the Prosecutor at the Tribunal.

In August, Federation police arrested Dominik Ilijašević, a Bosnian Croat and former commander of a special unit of the Kiseljak Bosnian Croat armed forces (HVO - *Hrvatsko vijeće obrane*). He was suspected of having ordered and participated in mass killings of Bosniac civilians in the Stupni Dol hamlet in central Bosnia in 1993.

In September, trial proceedings opened against Bosnian Serb Miroslav Pandurević before the Sarajevo Cantonal Court. He had been charged with war crimes against the civilian population in the Sarajevo

quarter of Grbavici - then under Serb control - in 1992.

In November the trial of five Bosnian Croats started before the newly-composed multi-ethnic Cantonal Court, two of whom were tried *in absentia*, as they had not been arrested by the Cantonal police, despite the fact that warrants for their arrests had been outstanding since March 2000. The five defendants are accused of war crimes against mainly Bosniac victims, specifically the murder of 24 prisoners of war. Also in November, six Bosniac war crimes suspects surrendered to the Mostar Cantonal police after the President of the Mostar Cantonal Court revealed the names of 23 persons who had been charged with war crimes committed in and around Mostar. The defendants were still awaiting the start of their trial proceedings at the end of the year.

#### **Judicial reform**

In November, the High Representative established the Independent Judicial Commission (ICJ), which took over the work of the Judicial Systems Assessment Program (JSAP) within the United Nations Mission in Bosnia-Herzegovina (UNMIBH). The latter had been supervising and assisting in the program of judicial reform since late 1998. The ICJ consists of both national and international lawyers and judges and its main task is to monitor the extraordinary judicial review currently taking place in both entities. During this review the performance and qualifications of all serving judges and prosecutors will be examined in an attempt to ensure the Bosnian judiciary's impartiality and independence from governmental and political influence. The review is based on the standards and criteria set out in new laws which were adopted and imposed in both entities earlier on in the year, which regulate the selection and appointment procedures for judges and prosecutors.

A separate commission tasked with implementing legal reform in the autonomous Brčko District (Brčko Law Revision Commission) drafted a number of laws to be applied uniformly in the District, including a Criminal and Criminal Procedure Code which were

adopted by the Brčko District Assembly in October. The Commission devised a new criminal procedure which differed quite considerably from the one adhered to in either entity. For example, it abolished the role of the investigative judge whose activities were seen as duplicative and diminishing the authority and powers of the public prosecutor in investigating crimes.

#### ***Trials of political prisoners***

In July the Human Rights Chamber of Bosnia and Herzegovina ruled that appeal hearings should be repeated in the case of Edin Garaplija, a former officer in the state security services AID (*Agencija za istraživanje i dokumentaciju*) who had been convicted in 1997 of the kidnapping and attempted murder of another secret police officer. In 1996 Edin Garaplija had been ordered to investigate a paramilitary formation, known as the *Ševe*, which had been established by the Bosnian Interior Minister during the war and which had reportedly been involved in a number of criminal activities, including the execution of 12 reserve officers in the JNA (the former Yugoslav army) in Sarajevo in April 1992.

Edin Garaplija had remained silent during his original trial before the Sarajevo Cantonal Court in 1997, apparently under orders from his AID superiors that he should not reveal anything about his investigations or he would lose his life. He was not allowed to attend subsequent appellate proceedings before the Federation Supreme Court. The Human Rights Chamber concluded that Edin Garaplija had been denied the right to be present in person at appellate proceedings without reasonable justification and that therefore his right to a fair hearing as guaranteed by the European Convention on Human Rights and Fundamental Freedoms had been violated.

On 5 October appeal hearings in the case opened before the Supreme Court. Prior to this, AI had appealed to the Federation Justice Minister to ensure that Edin Garaplija would be allowed to be present to testify in person and that the appeal court should not include judges from previous proceedings in the case.

However the panel of judges was reportedly identical to the one which heard Garaplija's appeal in 1997. The request by Edin Garaplija's defence lawyer that one of the sitting judges who had reportedly had contacts with the state security services before the hearing be excluded was rejected. During the second hearing on 24 October Edin Garaplija testified in his defence before the Supreme Court and revealed some of the findings of his investigations in 1996, which implicated various former members of the *Ševe* and serving government officials in criminal activities, including human rights violations. On that same day he was convicted of attempted murder and the reclassified charge of ill-treatment in the course of duty and sentenced to seven years' imprisonment. To AI's knowledge, no investigation had been launched by the Sarajevo public prosecutor into the account of alleged crimes given by Edin Garaplija by the end of the year. His lawyer filed a new application with the Human Rights Chamber for a fresh review of the case.

***Intimidation and harassment  
of independent journalists***

AI remains concerned about restrictions on the freedom of expression, which is particularly illustrated by the frequency with which media workers are subjected to violent attacks or other forms of harassment, often instigated by politicians or government officials. According to the Organization for Security and Co-Operation in Europe (OSCE) mission, which set up a confidential help line at the end of 1999, reports of intimidatory incidents increased in particular in the period from August until November, prior to the elections. A report of the Helsinki Committee for Bosnia and Herzegovina, issued in January 2001, expressed concern about the lack of protection for journalists, and the failure of the entity authorities to draft and enact the necessary legal guidelines regulating the status and functioning of media workers.

For example in September, Gordana Katana, a Bosnian Serb correspondent for the (Federation) daily *Oslobodjenje* and for *RTV BiH*, based in Banja Luka,

was threatened by an SDS politician after she had criticized the slow pace of minority returns to the Republika Srpska during a public meeting. The SDS member reportedly reminded her of the attack on *Đeljko Kopanja* (editor of a Banja Luka newspaper and radio station who lost both legs in a car bomb attack in October 1999) and implied that a similar attack might take place on her house in Banja Luka.

The manager and staff of *RTV Mostar* received a large number of threats after they refused to show an election video spot by the HDZ in October. The Election Appeals Subcommittee (a juridical body which enforces the rules and regulations established for the OSCE-sponsored and organized elections in the country) subsequently examined the spot, and having concluded that its content was provocative and could spread hatred ordered the HDZ to stop broadcasting it immediately.

## B U L G A R I A

***Forcible exile of  
Ahmad Naim Mohammed Musa***

AI is concerned that the decision of the Directorate of National Police to expel Ahmad Musa from Bulgaria was arbitrary and in violation of international human rights standards. Ahmad Naim Mohammed Musa was deported to Jordan on 6 August.

Ahmad Musa, a citizen of Jordan, came to Bulgaria in 1984 to study at the Higher Institute of Mechanical and Electrical Engineering where he received a master's degree in 1992. He then travelled back to Jordan and after about a year returned to Bulgaria where he married a Bulgarian national in 1994. The same year he was granted permanent residence status in Bulgaria. Ahmad Musa and his wife have three children, all of whom have Bulgarian citizenship. Until his deportation he was the director of a charitable foundation which was registered in Sofia in 1999. He was also director of an enterprise investing in property and constructions in Sofia.

On 17 May the Directorate of the National Police issued an order for his expulsion. The Law on



Foreigners in Bulgaria authorises the Minister of the Interior to revoke the residence permit of a foreigner on grounds of national security. The same law provides that orders of expulsion on security grounds are not subject to a judicial review.

The Minister of the Interior rejected Ahmad Musa's appeal in a letter dated 6 June, and reportedly gave the following reasons for his expulsion: "The competent authorities of the Ministry of the Interior have found out that you have engaged in unregulated religious activity thereby violating the national interest, the rights of the religious, ethnic and minority groups, as well as the preservation of the national spiritual values and traditions."

In an interview with Radio Free Europe which was broadcast on 13 August, Colonel Zahariev, Chief of the Department for Identity Cards and Passports in the Sofia Directorate of Internal Affairs, reportedly stated that Ahmed Musa had been expelled from Bulgaria because he had "engaged in unauthorized religious activities and had organized structures of a fundamentalist Islamic sect in Bulgaria".

On 4 August, Ahmed Musa was arrested by the police in front of his home and taken to the Detention Centre for Adults on the outskirts of Sofia. He was allowed only one visit from his wife the following day. However, Ahmed Musa was denied the right to see his lawyer before he was placed on a flight to Jordan in the evening of 6 August.

AI considers Ahmed Musa to have been forcibly exiled from Bulgaria. Although he has Jordanian citizenship, the nature of his long-term residence in Bulgaria indicates that his real and substantial ties are to his country of residence rather than to the country of his citizenship. The decision to deport him from Bulgaria was apparently based on his religious beliefs. Therefore, the decision of the Bulgarian authorities to forcibly exile Ahmed Musa was arbitrary and in violation of international standards, including Article 9 of the Universal Declaration of Human Rights (UDHR) which states: "No one shall be subjected to arbitrary arrest, detention or exile". The International Covenant on Civil and Political Rights (ICCPR) in Article 12 (4) guarantees the right of return to one's

own country: "No one shall be arbitrarily deprived of the right to enter his own country".

AI is also concerned that the Law on Foreigners in Bulgaria is in violation of international human rights standards and can be abused in order to prevent independent judicial scrutiny of apparently arbitrary decisions.

In September AI urged the Minister of the Interior to immediately and unconditionally allow Ahmed Musa to return to Bulgaria and to bring provisions of the Law on Foreigners in Bulgaria into line with international human rights standards by initiating legislative procedures to ensure that a judicial review is provided for in all cases of deportation.

#### ***Imprisonment in violation of the right to freedom of expression***

AI is concerned that the imprisonment and prosecution of Alexander Kandjov for defamation and hooliganism is in violation of his right to freedom of expression.

As a political activist Alexander Kandjov campaigned in 1997 for the Union of the Democratic Forces (the UDF) in Pleven District. After the elections and the formation of the UDF government, Alexander Kandjov became disappointed with some of its policies and leaders. In 1999 he wrote to Ivan Kostov, the Prime Minister, informing him about corruption cases and political machinations in Pleven, involving Teodosii Simeonov, member of the National Assembly elected in Pleven who was appointed Minister of Justice in December 1999.

In June, *Monitor*, a national daily newspaper, criticized Teodosii Simeonov for referring to Libya in an interview as a "not white country" and called him the "top idiot" of the Cabinet. On 20 June Alexander Kandjov complained to the Pleven District Prosecutor's Office that the Minister of Justice Teodosii Simeonov was responsible for inciting xenophobia and anti-democratic attitudes. On 30 June a police inquiry was opened against Alexander Kandjov for false accusation, an offence punishable with up to six months' imprisonment.

On 7 July, Alexander Kandjov informed the Mayor of Pleven that a number of UDF voters intend to collect signatures for a petition calling for "the resignation of the top idiot of the Bulgarian government - Teodosii Simeonov" in the city centre. At around 9am on 10 July Alexander Kandjov was stopped by the Head of the Police who informed him that the Vice-Mayor of Pleven had rejected his request to collect signatures to the petition. Alexander Kandjov then went to the City Hall where he waited about an hour to meet the Vice-Mayor who reportedly refused to see him. At 11.35am a police officer presented a written warning to Alexander Kandjov, who was collecting signatures, that he was suspected of breaching public order and an hour later he was arrested in the presence of several journalists and TV crews.

A police inquiry was initiated against Alexander Kandjov for "insulting in public Teodosii Simeonov, in his official capacity as Minister of Justice" under Article 148, paragraph 1, points 1 and 3, and for hooliganism under Article 325, paragraph 2, of the Penal Code. On 11 July Pleven District Prosecutor ordered that Alexander Kandjov should be kept in detention for a further 72 hours. On 14 July the prosecutor requested the District Court to keep Alexander Kandjov in custody pending a trial. However, the court released Alexander Kandjov on bail after he had been held for three days and 23 hours in detention.

On 25 July Alexander Kandjov was indicted for hooliganism, an offence punishable by up to five years' imprisonment. The trial began on 14 September and four subsequent hearings have taken place to date.

AI is concerned that the detention and prosecution of Alexander Kandjov is apparently aimed at stifling criticism of state authorities and intimidating him for voicing legitimate concerns about the actions or practices of state authorities. The organization considers that this imposes unacceptable curbs on his right to freedom of expression protected by Article 19 of the International Covenant on Civil and Political Rights (ICCPR) and Article 10 of the European Convention on Human Rights (ECHR), both of which

Bulgaria has ratified and is legally bound to observe.

Should Alexander Kandjov be convicted under the present charges and imprisoned, AI would consider him to be a prisoner of conscience and call for his immediate and unconditional release.

## C R O A T I A

In September the Parliamentary Assembly of the Council of Europe discontinued the monitoring mechanism which had been in force to supervise Croatia's commitments with regards to enforcing its obligations to protect human rights and to further the rule of law and the democratization process. In spite of this, the country rapporteurs' memorandum indicated that many of the undertaken commitments had not yet been completely or satisfactorily fulfilled.

In November, the *Sabor* (Croatian Parliament) adopted several amendments to the Constitution which limited the powers of the President and the executive, bringing them under greater control of parliament.

Also in November the Council of Ministers of the European Union approved directives which would enable the European Commission to start negotiating a stabilization and association agreement with Croatia. The Commission had recommended that such an agreement be concluded with Croatia in July, in response to the changed political leadership and their resolve to restore democracy and promote fuller integration into European institutions.

### **Returns of refugees and displaced persons**

Over 7,000 Croatian Serb refugees were registered as having returned to the country under the Return Programme (a decree adopted by Parliament in June 1998) during the period under review, according to figures released by the United Nations High Commissioner for Human Rights (UNHCR) which were based on government statistics. In addition, tens of thousands of refugees are presumed to have returned spontaneously. However no precise data were available, as before, on how many of such

returns proved to be sustainable and it was clear that huge problems persisted in the effective reintegration of returnees.

While this problem is compounded by social and economic factors, which affect the return situation as a whole, the legal and political obstacles Croatian Serb returnees faced in regaining access to pre-war housing clearly demonstrated the lack of will on the part of the responsible authorities to effectively facilitate durable return. Local housing committees, which are responsible under the Return Programme to process applications and enforce decisions on the return of private property to the pre-war owner, were apparently inactive in many municipalities in return areas, thereby blocking access to housing and the prospect of durable return for returnees.

The Return Programme makes the evacuation of temporary occupants from property conditional on them being provided with alternative accommodation. However no legal or administrative guidelines exist on this matter. Therefore housing committee officials opposed to returns can exploit this virtual loophole in the Return Programme in order to desist from evicting temporary occupants. According to official figures released by the government in November, so far only 30% of the total of claims for the repossession of property had led to restitution of the pre-war owner.

The political obstruction underlying to a large degree the intransigence of the local authorities was further demonstrated by the frequent and widespread occurrence of illegal or multiple occupancy. In August, the UNHCR and the Organization for Security and Co-Operation in Europe (OSCE) missions requested the Croatian government to urgently resolve 88 cases of reported illegal or multiple occupancy throughout the country as a first step to tackling this problem. However, by the end of the year, only seven Serb households who had been affected by this had reportedly been reinstated into their property. In the Knin area in the former *Krajina*, bordering Bosnia-Herzegovina and one of the main return areas, 25 such cases had been registered, out of which two were apparently resolved in this same

period.

Legal certainty and consistency in the issue of property repossession was undermined also by the fact that in other areas of the country, notably eastern Slavonia, the local courts continued to enforce different housing legislation (passed prior to the Return Programme) in cases where the claimants were Croat displaced persons. Serb temporary occupants were in several cases reportedly evicted without having been offered alternative accommodation or having been given guarantees that they could repossess their own property elsewhere in the country. For example in September, an unlawful eviction was reported in Vukovar where a Serb displaced family, who were originally from Osijek, had been temporarily living in a Croat-owned house. Although the local court had returned the house to the pre-war owner, it had also issued an order staying the eviction of the current occupants until they had been given alternative accommodation. However the legal owner appeared at the property on 24 September (a Sunday), accompanied by some friends, some of whom reportedly carried arms, and ordered the temporary occupants to leave, which they did.

***Investigations and prosecutions for war crimes and other human rights violations committed during the war***

In August unknown perpetrators killed Milan Levar, a former Croatian special policeman, presumably in connection with the fact that he had on many occasions previously publicly revealed and condemned the mass killings of Serb civilians by Croatian police and armed forces in the Gospif area at the start of the war. He was also known to have provided extensive information on these violations to investigators of the International Criminal Tribunal for the former Yugoslavia (Tribunal), which in 1998 had requested the Interior Minister to provide him with adequate protection. However it appeared that the Gospif police had never been ordered to ensure that Milan Levar would be given such protection. The killing was officially condemned by government representatives and a police investigation was opened

immediately - by the end of the year however, no one had yet been arrested or charged for the crime.

Five Croatian Army officers were arrested in Gospić in September, on suspicion that they had been involved in the above-mentioned executions during the war, and an investigation was launched by the Rijeka County Court investigative magistrate which was still ongoing by the end of the year. In December the investigative magistrate ordered the exhumation of a mass grave near Udbina, which reportedly contained the bodies of 18 victims of these executions. A sixth suspect in the case, also a former Croatian Army officer, was arrested in December.

Croatian police arrested a further four men in September. Two of them, both Bosnian Croat former special police officers, had allegedly been involved in the killing of over 100 Bosniac (Bosnian Muslim) civilians in the central Bosnian village of Ahmići in 1993. The two other, both Croatian police officers, had been accused of providing them with false identity papers and driving licences - thereby shielding them from prosecution - but were acquitted of criminal charges in November for lack of evidence.

In November the Croatian Supreme Court ruled that its own decision of 1997 that the Amnesty Law should be applied in the prosecution for murder of a former Croatian special police officer, had been unlawful. The defendant had been found guilty of the killing of Josip Reihl-Kir, the Osijek police commander, and two other local officials at an allegedly rogue checkpoint in July 1991. The victims died when fire was opened at the car in which they were entering the village of Tenja in eastern Slavonia, where they had gone in an attempt to negotiate the removal of barricades which had been erected by local Serbs. However, the November Supreme Court decision only has declarative authority, and the case may only be reopened when the Constitutional Court will decide on the constitutional complaint, filed already in 1997 by the legal representative of Mr Reihl-Kir's widow, requesting a renewed trial.

Scores of Croatian Serbs - many of them returnees - were arrested in the period under review, and there were indications that several of the arrests were based on insufficiently supported charges, or

that acts for which the accused had been previously amnestied had been arbitrarily reclassified as war crimes charges. In one case, a 67-year-old Croatian Serb female returnee, Jovanka Nenadović, was arrested in October in Pakrac on the basis of an indictment brought against her and 27 others, which had been issued during the war. The sole evidence against her appeared to be a statement by a witness - who had in the meantime died - who said that he had heard that Jovanka Nenadović had participated in the ill-treatment of prisoners.

In September the Croatian Justice Minister stated in press interviews that, according to his Ministry's statistics, currently 62 persons were detained in Croatian prisons on charges or convictions of war crimes, of whom all but two were Croatian Serbs. According to other sources, notably the Serb Democratic Forum (SDF), 69 Croatian Serbs had been convicted of war crimes or genocide. The Justice Minister also stated that a further 379 convictions had been brought after trials conducted *in absentia*, and implied that there had been cases where the verdicts had not been satisfactorily explained by the courts.

### ***Unresolved 'disappearances'***

In July the governmental commissions for detained and missing persons of Croatia and the Federal Republic of Yugoslavia (FRY) met for the first time after a two-year interval. A subsequent meeting took place in November. Although neither meeting produced many concrete results and previous differences between the parties remained unresolved, the Croatian commission did for the first time in November acknowledge that over 1,000 Croatian Serbs remained unaccounted for. Previously the Commission had only registered the thousands of missing Croats - who at the end of year still numbered over 1,500 - and had not been actively searching for missing Serbs. In addition, to AI's knowledge, no cases of missing Serbs had been clarified either by the Subcommittee for Missing and Detained Persons in the Danube region (eastern Slavonia) during the period under review.

In November, AI called upon the newly elected Federal Yugoslav President, Vojislav Koštunica, to immediately arrest and transfer to the custody of the Tribunal three officers of the former Yugoslav People's Army (JNA), who had been publicly indicted in 1997 for their role in and responsibility for the killings of some 260 persons taken from Vukovar hospital after the fall of that town to the JNA and Serb paramilitaries in November 1991. To date no one has been brought fully to justice before the Tribunal for these crimes.

#### ***Violent attack on human rights lawyer***

On 30 December a murder attempt on a prominent criminal lawyer, Srdj Jakšić, took place in Dubrovnik, when two masked men fired seven bullets, four of which hit him, causing serious injury. There were indications that this attack could be linked to his long-standing and widely respected work representing victims of human and civil rights violations and political prisoners. Two weeks prior to the attack a client of Srdj Jakšić, a Yugoslav national who had been convicted for war crimes charges, was acquitted on appeal. AI was concerned that, although a police investigation was launched into the attack immediately, this did not appear to be conducted promptly, thoroughly and impartially. For instance police failed to immediately collect forensic evidence from the crime scene and from Dubrovnik hospital where Srdj Jakšić had been taken. In addition the commander of the Dubrovnik police made incorrect and speculative comments on the case on a local radio station alleging that Srdj Jakšić had been only slightly hurt and that his attackers had merely wanted to "scare him off".

## **CZECH REPUBLIC**

### ***Alleged arbitrary detention and police ill-treatment***

AI is concerned about a number of human rights violations which apparently affected hundreds of people who had been detained following protests

organized in Prague on 26 and 27 September to coincide with the annual meeting of the World Bank and the International Monetary Fund. The organization has investigated reports of arbitrary detention, police ill-treatment of detainees and violation of detainees' rights. These have included violation of their right to access to a legal counsel of their choice; to inform relatives or a third party of their whereabouts; to be informed about their rights and charges in a language that they can understand; to adequate medical treatment and to conditions of detention which respected the inherent dignity of the human person. AI has received detailed complaints from over 60 people who had been detained in Prague, most of them foreign nationals. Its representatives interviewed many of the complainants and collected medical documentation and corroborating statements from people who were not involved in any protest activity. The organization has also received information concerning some of the investigations conducted by the Czech authorities into complaints submitted by the victims of the reported human rights violations.

According to numerous reports examined by AI, the detention of the vast majority of those who were held in custody appears to have been arbitrary and in violation of international human rights standards. Furthermore, AI is concerned that in the majority of cases it examined those detained were subjected to ill-treatment by police officers following their arrest. In a few reported cases, in view of the severity of the force used by the police officers involved, and the pain and injuries which had been suffered by the victims, AI considers that the ill-treatment inflicted by police officers may amount to torture. Finally, AI is concerned that the initial investigations into the complaints of arbitrary arrests and detention and police ill-treatment conducted by the Police Inspectorate could not be considered prompt and impartial as required by international human rights standards.

The findings of AI's investigations are illustrative of a pattern of police abuses reported in previous years by the organization as well as various other

sources, including the Czech government's Commissioner for Human Rights and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. AI has urged the Czech authorities to implement appropriate measures in order to ensure that law enforcement officials respect the rights of people deprived of their liberty and to put in place a system for prompt and impartial investigations into all complaints of torture and ill-treatment.

## FINLAND

### ***Law on Non-Military Service***

In December Parliament rejected by a very slim majority the government's draft amendment to the Act on Non-Military Service which proposed a reduction in the length of alternative civilian service from 395 to 362 days. As a consequence, conscientious objectors continue to serve 395 days as opposed to the 180 days' military service for over 50 per cent of recruits. AI considers such a discrepancy in length of service discriminatory and punitive and continues to regard as a prisoner of conscience anyone imprisoned for refusing to perform alternative civilian service.

During the last six months AI continued to urge the government to reduce the length of alternative civilian service to an extent that it no longer discriminates against conscientious objectors. The government bill eventually presented to Parliament on 6 October merely proposed a reduction from 395 to 362 days of alternative civilian service. AI had written to the Minister of Labour in July and September, while the bill was being drafted, informing the authorities that a length of 362 days would still constitute a form of punishment for conscientious objectors and be in violation of international norms (recommendations by Council of Europe and the United Nations). In a letter of 12 July to AI members in Sweden the Minister of Foreign Affairs stated that the Foreign Office and he personally were aiming for a legislation that would take into account the issue of

human rights. The Minister of Labour wrote to AI on 14 and 28 of August that the draft bill in preparation proposed 330 days for non-military service, the length for unarmed military service. However, on 10 October, the Minister of Labour, in a letter to AI Croatia, although agreeing that the duration of non-military service must not lead to discrimination or be punitive, also informed AI that the government's final proposal put before Parliament was 362 days.

Since the bill was rejected the Minister for Foreign Affairs wrote on 29 December to AI members in Sweden that the Ministry for Foreign Affairs and the Minister himself would continue working towards a shortening of the service period for conscientious objectors, keeping in mind the international arena.

### ***Update on prisoners of conscience***

During the second half of 2000 AI adopted as prisoners of conscience Joonas Miikael Peltola and Juho Viktor Lindman who were both convicted for a "non-military service crime" and sentenced to 197 days' imprisonment. The two men have been imprisoned since August. Both had refused to carry out alternative civilian service.

### ***Rome Statute on the International Criminal Court***

On 29 December Finland ratified the Rome statute of the International Criminal Court.

## FRANCE

### ***Moves towards greater autonomy***

Since the 1998 Noumea agreement, which awarded a new status to the French Pacific territory of New Caledonia, and which envisages the possibility of the territory's total independence from France after 15 or 20 years, various processes of decentralisation have been taking place with regard to what are still known

as the “DOM-TOM”.<sup>10</sup> In December, after the signing of the “Matignon Agreement” on the future status of Corsica, the Assembly of Corsica approved a draft law aimed at transferring a range of regulatory and legislative powers to the island. The agreement had reverberations in other parts of the French Republic, including French Guiana, and in Cayenne in November several people were hurt in riots attributed to agitation over a new status for the department which would carry greater autonomy.

There was also growing unrest among Breton and Basque nationalists in metropolitan France. In Brittany there was renewed debate about decentralisation and the status of the Breton language and French Basques sought the creation of a Basque Country department, with nationalists demanding the union of the seven Spanish and French Basque provinces.

#### **Breton nationalists in detention**

At the end of the year a number of Breton nationalists suspected of acts of violence, or of collaboration with such acts, remained in preventive detention. Four had been provisionally detained in connection with the bomb explosions in April at a McDonald’s outlet in Quévert (Côtes-d’Armor) in which one of the employees, Laurence Turbec, was killed, and at Pornic (Loire-Atlantique). A third bomb, discovered at Rennes (Ile-et-Vilaine), was defused. Another five were held in connection with a joint theft of explosives at Plévin (Côtes-d’Armor) in September 1999 by members of the Breton nationalist *Armée révolutionnaire bretonne* (ARB) and members of the

<sup>10</sup>“Départements d’outre-mer, territoires d’outre-mer”. These are French Polynesia, French Southern and Antarctic Territories and Wallis and Futuna Islands (TOM); French Guiana, Martinique, Guadeloupe and La Réunion (DOM). Corsica and St. Pierre-et-Miquelon are “territorial collectivities”. French since 1841, Mayotte, in the Comores, is in transition between a territorial collectivity and a “departmental collectivity”. Almost all have independence movements.

Basque armed group *Euskadi Ta Askatasuna* (ETA). In December at least one of those detained, Denis Riou, who had been held for 15 months, was reported to have been released from prison by order of the investigating judge.<sup>11</sup> AI is monitoring these cases in relation to its concern about fair trial within a reasonable time.

#### **Call to try French killers and torturers of Algerian war**

In November AI called on the French government to bring to justice those responsible for war crimes and crimes against humanity during the Algerian war of independence (1954-62). The call followed fresh allegations about summary executions and the use of torture by French troops during the war. The torture debate was reopened in June after the appearance of testimony in the newspaper *Le Monde* by an Algerian woman, Louisette Ighilahriz, who, as a member of the Algerian National Liberation Front (FLN), had been tortured by French parachutists in 1957. She described a three-month ordeal in which she had been manacled to a steel bed and left in her own excrement during torture sessions. Her testimony, made in the context of her search for a French military doctor who had saved her life by arranging her transfer to a hospital, implicated General Jacques Massu, the principal military figure in the 1957 Battle of Algiers,

<sup>11</sup>Some of those detained have undertaken hunger strikes in support of their demand for political status and to be transferred to Brittany. It should be noted that AI does not have a position on the awarding of “political” status to detainees or prisoners. As regards “rapprochement” of prisoners or the transfer of prisoners to prisons in or near their home territory, AI’s position is based on international standards and recommendations, such as the UN Body of Principles for the Protection of all Persons under any Form of Detention or Imprisonment. It thus supports the rapprochement of all prisoners - whether “political” or “non-political” - always and so long as the individual prisoner requests it. However, this situation relates in the main to convicted prisoners, and not necessarily to those held in provisional detention pending judicial proceedings.

and General Marcel Bigeard. While the latter called the claims made by Louise Ighilahriz a “tissue of lies”, General Massu admitted that torture of suspects was routine and added, “No, torture is not indispensable in time of war ... In Algeria things could have been done differently”.<sup>12</sup> He agreed that France should acknowledge and condemn the fact that torture had taken place and accepted that it had been both general and institutionalised. General Massu and General Paul Aussarresses, at the time a senior intelligence officer, both agreed to contribute to a “*travail de mémoire*” by those who had direct experience of the Algerian conflict. General Aussarresses, who admitted that he had personally shot 24 Algerians during the Battle of Algiers, as well as committed torture, and that 3000 other suspects had been killed and that their bodies had “disappeared”, differed from Jacques Massu in that he did not believe there were grounds for repentance.

Although the existence of torture, both during and - by French police - before the Algerian war, was a known fact, it was only during the last six months of 2000 that the full scale of the atrocities began to be discussed openly. The French Communist Party (PCF), which had consistently opposed the war, called for the establishment of a parliamentary inquiry into the practice of torture during the war. On 31 October the newspaper *l'Humanité* published an appeal by 12 public figures, calling on the President and Prime Minister to publicly condemn the practice of torture during the war.

Torture by French officers in Algeria included recourse to the “*gégène*”, a radio device that generated an electric current, electrodes attached to the ears and penis, the forcible swallowing of many litres of water or sometimes petrol, and the “*baignoire*”, or bath tub.

The 1962 Evian agreements, which put an end to the war and paved the way for Algeria’s independence, included a general amnesty for

atrocities committed by both sides, and there have been subsequent amnesties. In its November press release AI stated that there was no limit on the time within which crimes against humanity could be tried. They should therefore be investigated, all those responsible brought to trial and the victims compensated. Simply to recognize that such crimes had occurred was not enough and the real issue was the impunity still enjoyed by the perpetrators and the denial of justice to the victims and their families. AI pointed out that the French authorities had welcomed the arrest of Augusto Pinochet in England and referred to the judicial proceedings brought against war criminals such as Klaus Barbie and Maurice Papon in France. “The lack of political will by successive French governments to bring the perpetrators of these crimes to justice has contributed to the presentation of torture, summary executions and “disappearances” as necessary evils”, AI said.

#### ***Alleged police ill-treatment at Roissy***

AI continued to receive reports about police ill-treatment of asylum-seekers at the holding areas and border police detention facilities of Roissy-Charles de Gaulle airport. Police violence on outbound flights, during forcible expulsions, was also reported. A Cuban national, Roberto Viza Egües, who claimed to be a political dissident and member of a human rights movement, arrived in France on 13 August after stowing away on an aircraft. He was held at the holding area of Mesnil-Amelot (Seine-et-Marne) and briefly at Roissy before being expelled from the country on 31 August. After his forcible return to Cuba he claimed that when at Roissy he resisted attempts to escort him to the aircraft. As a result he was shackled by hands and feet and taken to an isolated room where he was beaten by several police officers. He was also allegedly kicked and jostled and either fell or was pushed some of the way down an escalator. A passenger on the flight to Cuba, where Roberto Viza Egües was escorted by three officers, told the newspaper *Le Monde* that he had seen the Cuban, who was shouting, being beaten by the officers. He was also seen staggering and with a

<sup>12</sup>“*Non, la torture n’est pas indispensable en temps de guerre ... En Algérie on aurait pu faire les choses différemment*”. (Quoted in *Le Monde*, 23 November 2000.)



swollen face as he left the aircraft on arrival at Habana. Roberto Viza Egües, who claimed that the officers perforated his left eardrum, lodged a judicial complaint against them on a charge of voluntary acts of violence (“*coups et blessures volontaires*”).

Earlier in the year AI had expressed concern to the Interior Minister about alleged ill-treatment of asylum-seekers at the holding area in the Ibis Hotel at Roissy (AI Index: EUR 01/03/00). The minister did not reply.

#### **Fair trial and compensation**

The appeal of 33 “Chalabi” trial defendants, convicted in 1999, was heard in January. AI had criticized the entire judicial proceedings for falling short of international fair trial standards on a number of grounds (for more details see AI Index: EUR 01/01/99). Among AI’s concerns was the length of provisional detention in which many defendants were held and the wide application of an open-ended conspiracy law, “criminal association with a terrorist enterprise”, introduced in 1996, which effectively absolves investigating and prosecuting authorities from the duty to link alleged participation with any actual commitment of a “terrorist” act. In March the Paris appeal court found four people not guilty, its decision bringing to a total of 55 (out of 138) those who had been acquitted of the conspiracy charge during the judicial proceedings. In November a compensation commission<sup>13</sup> awarded to 20 of those acquitted a total sum of almost two million francs, on account of the long periods they had spent in provisional detention.

#### **Updates on cases of police shootings/ deaths in custody**

(see previous Concerns in Europe/AI Report entries)

#### **Abdelkader Bouziane**

<sup>13</sup>Commission nationale d’indemnisation de la détention provisoire (CNI).

In December, three years after 16-year-old Abdelkader Bouziane was shot dead at a police roadblock at Fontainebleau (Seine-et-Marne) the *chambre d’accusation* of the Paris appeal court referred the case against one police officer to the court of assizes on a homicide charge (*coups mortels*). The charge against a second officer was dropped (*non-lieu*). The investigating judge had requested that one officer be tried for homicide and the other for “voluntary acts of violence with use of a weapon leading unintentionally to death” (“*violences volontaire avec l’usage d’une arme ayant entraîné la mort sans intention de la donner*”). The prosecution had requested a *non-lieu* against both officers. The police officer now facing the assize court may appeal against to the Court of Cassation against the decision of the *chambre d’accusation*.

#### **Sydney Manoka Nzeza**

In July two Anti-Crime Brigade (BAC) officers were sentenced by the Correctional Court of Lille to a nominal suspended seven-month prison term for “involuntary homicide” in connection with the death in custody of Zairean-born Sydney Manoka Nzeza. Three other officers were found not guilty. The family’s lawyer stated that an appeal would be lodged against the light sentences. In 1998 Sydney Manoka was apprehended by a number of police officers during an argument with a car driver. He was pinned to the ground and held under restraint, shackled by arms and feet and taken to the police station, where he died. An autopsy established that death was caused by thoracic compression.

#### **Mohamed Ali Saoud**

In October a judge ordered that a charge of “voluntary and involuntary homicide” be dropped (*ordonnance de non-lieu*) against police officers involved in the death of Mohamed Ali Saoud, a French and Tunisian national. In the course of a violent struggle in 1998, Mohamed Ali Saoud, who was suffering from a mental disability, and in urgent need of medical attention, was shot with rubber

bullets and allegedly repeatedly beaten before and while being held under heavy restraint. The judge concluded that the officers had found themselves in a dangerous situation and had not acted criminally. An appeal was lodged against the decision.

***Update on torture case: Ahmed Selmouni***

On 31 May the Court of Cassation rejected the appeal by five officers of the Judiciary Police (PJ) against the sentences delivered by the court of appeal, which had considerably reduced the length and gravity of the original sentences. Pending the decision of the Court of Cassation the officers were reported to have continued to work in the police force.

## GEORGIA

***Allegations of ill-treatment,  
and impunity for perpetrators***

Allegations of torture and ill-treatment by law enforcement officials continued, amid reports that many official investigations instigated in such cases were not pursued impartially and with vigour. There were also continuing complaints that officials obstructed access by defence lawyers, and to an independent forensic medical expert seeking to examine prisoners who had made allegations of torture. This expert told AI delegates in September that she had been routinely denied permission to visit prisoners while they were held in police custody. When access was granted, after a prisoner had been transferred to a remand facility under the Ministry of Justice, it was often weeks after the initial allegations had been made and correspondingly much more difficult to determine the nature and cause of any injury sustained.

***Alleged ill-treatment of children***

An 11-year-old boy was reportedly beaten while kept for three days in a juvenile holding facility. "A" (his name is known to AI, but withheld to protect his identity) was detained by police in Tbilisi on 18 August while trying to sell a sheet of aluminium, and

taken to the city's facility for holding juveniles while officials trace their parents or guardians. He reports that one of his teeth was knocked out during a beating by officials on the second day of his stay there, and that he saw other children, boys and girls, also being ill-treated, including by being punched around the head and shoulders and hit with a bunch of keys. It is also alleged that the parents of "A" more than once rang the local police station after their son failed to return home the first day, but that the police, in hope and expectation of a bribe to reveal his location, failed to tell them his whereabouts. After his parents and neighbours held a protest demonstration on the third day, "A" was released late that evening.

In September it was reported that police in Akhaltsikhe physically assaulted two young boys who had been detained on suspicion of theft. Fourteen-year old Nika Gakharia and 15-year-old Valery Ostrovsky, held in preventative detention since 3 September, were visited by Elena Tevdoradze, the chairwoman of the parliamentary Human Rights Committee, following their allegations. She reported seeing traces of boot prints on the boys' backs. The boys were said to have been able to name the alleged perpetrators.

***Attacks on Jehovah's Witnesses***

(update to information in AI Index: EUR 01/03/00)

In October 1999 police in the Georgian capital, Tbilisi, 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 1999. 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 - including from President Eduard Shevardnadze - 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 1999, and laid charges against Father Basil Mkalavishvili. At the time of writing, however, no proceedings against him have yet come to court. Furthermore, on 9 June 2000, the police charged with assault one of the Jehovah's Witness worshippers - Mirian Arabidze - who was himself said to have been a victim of the 17 October 1999 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.

The case came to court on 16 August 2000, at the Gldani-Nadzaladevi Court in Tbilisi under presiding judge Tamaz Sabiashvili. Mirian Arabidze stood trial along with another Jehovah's Witness named Zaza Koshadze, also said to have been a victim of the 17 October 1999 attack, and two female supporters of Father Mkalavishvili. According to reports by the Jehovah's Witnesses and others, including journalists and human rights monitors, the hearing itself became a focus for more violence by Father Mkalavishvili's supporters. During a recess on the first day of the hearing, supporters burst into the courtroom and forcibly ejected two Canadian observers, reportedly while security guards watched but did not intervene. The following day, 17 August 2000, Father Mkalavishvili's supporters also physically assaulted two journalists, a lawyer and foreign observers as they left the courtroom after the hearing was adjourned until 18 September 2000. On 28 September 2000, Mirian Arabidze and Zaza Koshadze were convicted of "hooliganism" and sentenced to probationary terms of three years and six months respectively. The case against the two female supporters of Father Mkalavishvili was sent

back by the judge for further investigation, even though the women reportedly admitted to their part in the attack.

Father Mkalavishvili and his supporters have since carried out further violent attacks on Jehovah's Witnesses, again with apparent impunity. In at least one case some police officers are said to have joined them in the assaults. On 16 September 2000, for example, a number of buses carrying Jehovah's Witnesses were reportedly stoned and passengers assaulted outside the town of Marnueli. The Jehovah's Witnesses had planned to hold a convention there that day. However, police at roadblocks set up that morning were said to have turned back all vehicles carrying Jehovah's Witnesses, while giving free passage and a police escort to busloads of Father Mkalavishvili's supporters. In the light of this the convention was cancelled, and delegates on buses were told to return home. At one roadblock, however, some buses returning to Tbilisi were reportedly attacked by a stone throwing crowd. Windows were broken, and one woman passenger was said to have been struck on the head by a rock. According to the Jehovah's Witnesses, Orthodox supporters also stopped another bus, dragged out three male passengers and beat them. The attackers also entered the bus, shouted insults, and robbed passengers. Police at the scene are said to have supported and participated in the beatings, and also to have joined in the looting and destruction of the site of the cancelled convention. On 8 September 2000 a previous convention of Jehovah's Witnesses, in Zugdidi, was forcibly broken up by masked police.

Earlier that month Jehovah's Witnesses had reported attacks in two other Georgian cities. On 3 September 2000 members of the Senaki congregation were attacked while gathering in a private home by an armed group of men, and the same day two traffic police officers are said to have assaulted a Jehovah's Witness on the street in Kutaisi.

Yura Papava said that the Senaki congregation was meeting peacefully in his home when a man entered the house and demanded to know what they

were doing and teaching. Without waiting for an answer, he and five or six other men started smashing the furniture. The group also pulled out a gun, and burned the presiding minister with a cigarette. Yura Papava said that the congregation contacted the police, "but when they arrived they were of little help and began to abuse the attack victims with obscene language."

Vladimir Gabunia, a Jehovah's Witness living in Kutaisi, described how two traffic police officers approached and then assaulted him on the street. "I was walking down Nikea Street when one of two traffic police asked me to give him some of our literature. When I gave him a magazine, he tore it apart in front of me. His partner punched me in the stomach, and when I doubled over to catch my breath, he took my remaining literature and tore it up. Then he took my two Bibles and put them in his car. They threatened to throw me in the Rioni River and forbade me to walk on the streets."

#### *Allegations of ill-treatment in pre-trial detention*

There were further allegations of ill-treatment in pre-trial detention, either directly by law enforcement officials or with their tacit consent. **Paata Skhirtladze** suffered severe injuries to one of his ears after he was assaulted in custody by a person or persons who believed he was responsible for a series of child murders. Paata Skhirtladze is connected with the Osho Community, described as a spiritual group focussed on Eastern philosophies and meditation. He was detained on 20 June in Rustavi, after an incident in which he is alleged to have exposed himself, and transferred to Ortachala investigation-isolation prison in Tbilisi. There other prisoners are said to have become suspicious about his non-orthodox spiritual beliefs, and to have assumed from these that Paata Skhirtladze was linked with the child murders (two of which are said to have been of a "ritual" nature). According to some reports, a prisoner or prisoners gained access to Paata Skhirtladze, even though he was reportedly in solitary confinement at the time, and physically assaulted him, including by cutting off a part of one of his ears. In September the

investigator is said to have sent Paata Skhirtladze, who reports describe as psychologically vulnerable, to the Institute of Psychiatry for a psychiatric examination.

AI delegates in Tbilisi in September raised this case, among others, with the Georgian Public Defender (ombudsperson), Nana Devdariani. She reported that her office had raised the case with prison officials when the allegations of abuse emerged, and that at the time of the meeting Paata Skhirtladze had been transferred to a communal cell, at his own request, where his relations with the other prisoners were said to be normal. By the end of the period under review AI had no details of any charge or charges instituted in connection with the assault on Paata Skhirtladze.

#### *Prison conditions*

Prison conditions were widely criticized, including by officials. Elene Tevdoradze, for example, the chairwoman of the parliamentary Human Rights Committee, was among those reporting extremely poor prison conditions, including cases in which officials attempted to extort bribes before transferring a sick prisoner to appropriate medical facilities. Nana Devdariani, the Public Defender, was also very critical, and was quoted in December as describing prison conditions as "terrible". Hopes for improvement rose, however, with the appointment of a noted reformer, Mikheil Saakashvili, as Minister of Justice on 4 October. Speaking to Georgian radio later that month, the new minister was quoted as describing the situation regarding the prison service "catastrophic". He criticized large-scale corruption, including the widespread practice of prison officers extorting money from prisoners and their families in exchange for granting visits and handing over food parcels. The following month Mikheil Saakashvili criticized the death rate among Georgian prisoners as too high, saying that the cause of prisoners' deaths was often a delay in transferring sick prisoners for hospital treatment - while some healthy prisoners easily obtained such a transfer by paying bribes (the minister is quoted as reporting that an inspection

carried out during the first two weeks in November revealed a total of 215 completely healthy prisoners at the central prison hospital, where conditions are less severe than in prisons or colonies).

### ***Deaths in custody***

#### *The case of Mamuka Rizhamadze*

There was at least one allegation that torture or beatings in police custody led to the death of the detainee.

Mamuka Rizhamadze was detained by police on 24 May in Tkibuli, and transferred the following day to preliminary detention facilities in Kutaisi. On 31 May he was found hanged in his cell by a noose made from a blanket. A post mortem carried out by the state forensic service concluded that he had committed suicide. However, an independent forensic expert carried out a second post mortem at the request of the family on 5 June. She found two wounds to Mamuka Rizhamadze's head, caused in her opinion while he was still alive and by a blunt heavy object, and concluded that these injuries were the cause of death. Investigation of the skin on Mamuka Rizhamadze's neck also indicated to her that he was dead before the noose was applied.

#### *The case of David Vashaqmadze*

During the year criminal proceedings began against a traffic police officer in connection with the 1999 death of Davit Vashaqmadze (see AI Index: EUR 56/01/00). Davit Vashaqmadze was stopped by officers in the evening of 13 November 1999 in Tbilisi, and reportedly beaten so severely by them that he died in Tbilisi's neurological hospital two days later.

The Tbilisi City Procurator's office opened a criminal case in connection with Davit Vashaqmadze's death. On 26 November 1999 the head of the Tbilisi City Police, Soso Alavidze, stated at a press conference that two men had been arrested. They were later named as traffic police inspector Revaz Bzishvili and David Geladze, head of

a special division of the traffic police. David Geladze's deputy Revaz Morbedadze was also initially detained in connection with this case, but later both men were released and the criminal charges against them dropped.

Subsequently criminal proceedings continued only against Revaz Bzishvili, charged with "exceeding his authority" under Article 187 of the Criminal Code, and "intentional lethal wounding" under Article 110. He was sentenced on 24 July to two years' imprisonment for "exceeding his authority". The sentence will run from November 1999, when he was first taken into custody.

### ***UN Committee on the Rights of the Child***

In June the UN Committee on the Rights of the Child issued its concluding observations following a review the previous month of Georgia's initial state report on the steps the country was taking to implement the Convention on the Rights of the Child.<sup>14</sup> While noting positive aspects, such as Georgia's efforts in the area of legal reform, and acknowledging the economic and social difficulties faced by Georgia, the Committee had various subjects of concern. For example, while noting Georgia's establishment of a Public Defender to examine complaints of human rights violations, the Committee was concerned that insufficient efforts had been made to ensure that this complaint mechanism was easily accessible and available to children whose rights had been violated. The Committee also noted with concern that there had been several reported incidents of sale, trafficking and abduction of children, especially girls, for commercial sexual exploitation, and recommended that Georgia study how to prevent and combat such issues. With regard to juvenile justice, the Committee expressed concern at the increasing number of children in conflict with the law; the absence of adequate legislation on juvenile justice; the poor condition of juvenile detention facilities (including the lack of

<sup>14</sup> See UN index: CRC/C/15/Add.124, 28 June 2000.

adequate food, clothing, heating, educational opportunities and leisure activities for child detainees); and the lack of a complaint mechanism for children whose rights have been violated.

### **Concerns in the disputed region of Abkhazia**

The situation in Abkhazia remained relatively calm although unstable, especially in the southern district of Gali. Widespread, organized crime along the cease-fire line and the lack of effective law enforcement on both sides were major contributors to the poor security situation, hampering the return of refugees and displaced people. In November the United Nations (UN) Security Council called on both sides to take concrete steps to guarantee the security of those wishing to return, and to address urgently the undefined and insecure status of those who had returned spontaneously. Another destabilizing factor was sporadic activity by Georgian illegal armed groups.

During the year the UN Human Rights Office in Abkhazia reported raising cases of rights violations with the *de facto* authorities, including incidents of harassment on ethnic and gender grounds; monitoring places of detention; building the capacity of local non-governmental organizations and carrying out human rights education and training program (including a seminar for law enforcement officials).

#### *Prisoner of conscience Elgudzha Tsulaya*

During the period under review AI received information about two young men reportedly imprisoned in Abkhazia for their refusal, on religious grounds, to perform compulsory military service. One of the men is named Elgudzha Tsulaya, aged 18. It is reported that when he became eligible for the draft in the first half of the year he refused to report to the conscription office in the town of Tkvarchel on the grounds that his religious beliefs were incompatible with compulsory military service. Elgudzha Tsulaya was then detained in Tkvarchel from 17 to 30 May, although it is not clear to AI on what grounds he was held, or whether a criminal

case was instituted against him at that time. On 30 May he was forced to report to the conscription office, but left, apparently without permission, the following day. He is said to have lodged a complaint about his treatment with the regional procuracy, who allegedly took no action on it. On 10 August Elgudzha Tsulaya was charged with desertion, presumably in connection with the steps he took to avoid forcible conscription, and placed under arrest.

His trial took place on 17 October, at the Military Court under presiding judge Roman Mushba. Elgudzha Tsulaya was convicted and sentenced to four years' imprisonment. His appeal was turned down on 21 November by the criminal case review board at the Supreme Court, at a session chaired by deputy chairman Gennady Stepanov.

Very little is known to AI about the second man reportedly imprisoned, apart from that he was said to have been sentenced for refusing conscription, rather than desertion. About 30 draft-age members of the Jehovah's Witnesses are reported to have been imprisoned for refusing to serve in the army since the organization was banned in 1995 under a decree by President Vladislav Ardzinba.

AI believes that the imprisonment of conscientious objectors offered no civilian alternative to compulsory military service is a violation of the internationally recognized right to freedom of thought, religion and conscience. AI welcomes reports that the Abkhaz authorities are currently working on a draft law on alternatives to military service, and has urged that this be given prompt attention, and that all efforts be made to ensure that it provides a fully civilian service, of non-punitive length, for all those with a conscientious objection to military service. It is equally important to ensure that the decision-making procedures for applying an alternative service are independent and impartial, and that all relevant persons affected by military service, including those already serving in the army, have information available to them on the right to conscientious objection and how to apply for an alternative service. AI has urged the authorities in addition to release anyone imprisoned in Abkhazia for their conscientious objection to military service immediately and

unconditionally, and to refrain from imprisoning anyone else as a conscientious objector.

*The murder of human rights defender Zurab Achba*

Zurab Achba, a legal assistant to the UN Human Rights Office in Abkhazia, was shot and killed in Sukhumi on 15 August. According to reports, he was hit by gunfire from a passing car as he walked back from the beach to his home at around 10.40pm. Zurab Achba had been a member of parliament in Abkhazia, but found himself in opposition to the authorities and left the region in 1993 for Moscow. He returned in 1998, and became again an opposition figure. He was also, in the words of the UN, "widely known and respected, both for his professionalism in the field of jurisprudence and his personal commitment to the cause of protection and promotion of human rights".<sup>15</sup> The same UN report from October states that, although they had received a commitment from the Abkhaz side to keep them fully informed about the progress of the criminal investigation, these assurances had not been fully kept.

At the end of the period under review no progress had been reported in the investigation into Zurab Achba's murder. AI was concerned not only that the murder of a prominent human rights defender had as yet gone unsolved, which in itself placed great pressure on others in the same position, but also about allegations that some official structures were implicated in the killing. AI expressed these concerns to the Abkhaz authorities, and urged them to ensure that the investigation into Zurab Achba's death was thorough and impartial.

*The death penalty*

On 21 October the Abkhaz Supreme Court sentenced Albert Tarba to death for the 1995 murder of Abkhaz Deputy Prime Minister Yury Voronov. Press reports

<sup>15</sup> Report of the Secretary General concerning the situation in Abkhazia, Georgia, UN index: S/2000/1023, 25 October 2000.

stated that Albert Tarba, who had been in hiding, had been seized in March in the Krasnodar Territory of Russia, but it was not clear by whom or through which channels he had been transferred to Abkhazia. A second man named Sayed Itslyayev, from the Chechen Republic in Russia, had been sentenced to death in Abkhazia in 1997 for his role in the murder.

At least 15 death sentences are believed to have been passed in the region since it declared independence, although no judicial executions have been reported.

## GERMANY

### *International Court of Justice*

In the course of the *LaGrand Case* the International Court of Justice in the Hague considered a complaint brought by Germany against the USA between 13 - 17 November. Germany accused the USA of violating the 1963 Vienna Convention on Consular Relations by depriving Germany of the possibility of rendering consular assistance to two German citizens, brothers Karl and Walter LaGrand, who were convicted of committing murder in Arizona in 1982. The two brothers were not informed of their right to consular assistance when they were arrested and Germany was only informed of their conviction in 1992 by the brothers themselves. Germany argued that the failure of the USA authorities to notify Germany about the arrests deprived Germany of its right and of the ability to render more effective and timely assistance to the two brothers, in particular by helping them to obtain adequate legal representation in the decisive phases of their trial. Germany has argued that a poor legal defence was a significant factor contributing to the final outcome of the trial. The two brothers were executed in Florence prison, Arizona, in February and March 1999. The second execution arguably violated an order of the International Court of Justice that the USA should take all measures at its disposal to ensure that Walter LaGrand was not executed pending the final decision in the proceedings. The International Court has not yet made a final ruling on the case.

### ***Police shootings***

In early November AI wrote to the Ministry of the Interior of Baden-Württemberg requesting to be informed of the findings of an investigation into the fatal shooting of a mentally disabled man, 28-year-old Grün Bui, on 20 September in woods near the town of Ulm. At the time of the shooting Grün Bui was in possession of a plastic toy gun which the police officers reportedly believed was real. Grün Bui went missing from a home for the mentally disabled, where he was a resident, in the middle of the afternoon on 20 September. The local police were informed after initial attempts to locate him had been unsuccessful. A search by staff from the centre continued until the early evening when employees at the home were informed that Grün Bui had been shot dead by the police. According to media reports about the fatal shooting, the police had been called earlier in the afternoon after someone had sighted a man with a gun roaming through the local *Gögglinger* woods. Two police officers reportedly came upon the man, later identified as Grün Bui, who had what they believed to be a real a gun in his possession. The police officers reportedly fired at the man after he refused to put down the weapon and surrender himself to them. Nevertheless, AI remained concerned that, in shooting 21 times at Grün Bui, who did not return fire, and hitting him eight times, the two police officers appeared to have paid little regard to the principle of proportionality of force.

### ***Excessive use of force***

AI was informed about a raid by police officers on the Xenion Psychotherapeutic Counselling Centre for the Politically Persecuted (*Xenion Psychotherapeutische Beratungsstelle für politisch Verfolgte*) on the morning of 24 November in the *Charlottenburg* district of Berlin. The centre counsels people who have fled political persecution and have been subjected to torture. The organization reportedly receives financial support from the Berlin Senate, the European Union and the United Nations High Commissioner for Refugees for its work. Police

officers were reportedly searching for a 17-year-old youth, referred to as Davut K., a Kurd of Turkish origin and a patient at the centre, who was undergoing counselling for torture which was allegedly inflicted on him while in detention in Turkey. Davut K. had been caught using public transport without a valid ticket earlier that morning and had run away from the ticket collectors, after identifying himself to them using his appointment card for the centre. It is thought that the ticket collectors subsequently informed the police about the incident and the scheduled appointment which he had at the Xenion counselling centre at 10am the same morning.

Shortly after Davut K.'s arrival at the centre two police officers reportedly came there searching for him. The head of the Xenion counselling centre, Dieter Koch, refused the two police officers entry to the premises of the counselling centre due to the sensitive nature of the work carried out at the centre and the fact that they did not possess the required arrest and search warrants. The two police officers returned several minutes later with three or four colleagues and demanded entry to the counselling centre. Dieter Koch has stated that he told the group of five or six police officers that they had no legal justification to enter the premises of the counselling centre and that their presence as uniformed police officers was not at all conducive to the rehabilitation work being carried out there. Disregarding Dieter Koch's objections to their entry, the police officers allegedly forced their way into the centre's reception area and, upon hearing noises in a nearby room, the police officers allegedly drew out their service revolvers and began searching the centre, shouting to one another. Davut K. was reportedly nowhere to be found and was only located by one of the police officers lying on the ground of an inner courtyard. It is believed that Davut K. either fell or jumped from a second story window trying to escape from the police officers. He was subsequently taken to hospital, reportedly with injuries to his legs, arms and back. In December AI wrote to the Senator for the Interior of Berlin requesting to be informed whether an investigation had been initiated into the incident and to be informed of its findings. AI also questioned



whether such force was necessary and appropriate to detain a 17-year-old youth who had failed to produce a valid ticket for the underground.

### ***Intergovernmental bodies***

A delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) undertook a 13-day visit of Germany starting in early December, visiting places of detention in a number of German *Länder*. It was the fourth time the CPT had visited the country, having previously travelled to Germany in 1998, 1996 and 1991. The report of the most recent visit has not yet been made public.

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

AI learned about the suspension of three police officers in Cologne for their alleged attack on a taxi driver of Tunisian origin in the early hours of 21 September. Prior to the incident the three off-duty police officers and their two companions had been drinking in Cologne's city centre and were allegedly highly intoxicated at the time. A driver of a taxi reportedly refused to take the group on the grounds that there were too many of them and he was only legally allowed to carry four persons. The three police officers are alleged to have physically assaulted the taxi driver after he repeatedly refused to transport them. He was reportedly knocked to the ground and subjected to repeated kicks and punches, resulting in bruising to his head and chest. According to media reports of the incident, eyewitnesses of the attack, who called the police, have stated that prior to the attack the taxi driver was abused with racist language. Cologne's District government (*Bezirksregierung Köln*) informed AI in December that both disciplinary and criminal action had been initiated against the three police officers, although the disciplinary action was pending the results of the criminal investigation. It had transpired in the course of the investigation that the charge of xenophobic language could not be upheld in relation to two of the three police officers and they had been allowed to

return to duty. In the light of the ongoing investigation the authorities were not yet able to comment on the third police officer's conduct.

### ***Police impunity***

In November AI learned about the repeal of the criminal convictions of two police officers who had originally been found guilty of physically injuring the detainee Anthanasios Kapritsias in the course of a trial at Stuttgart District Court (*Amtsgericht Stuttgart*) in March and April 2000. The court gave the police officers eight-month suspended prison sentences on 6 April for ill-treating Anthanasios Kapritsias on 2 February 1995 during a stop-and-search operation at a café in Frankfurt and ordered them to pay 10, 000 German marks each to a charitable organization. However, AI was informed that on 14 September Stuttgart District Court, with the agreement of the prosecutor's office, reversed its original decision and repealed the sentences of the two police officers. AI wrote to the German authorities requesting to be informed of the reasons why the Stuttgart District Court and the state prosecutor's office deemed it appropriate not to prosecute the two police officers.

### ***Restraint techniques***

AI learned of the alleged ill-treatment during the arrest of a 20-year-old pregnant woman, originally from Togo, in June after she reportedly refused to leave a baby-care shop in the town of Geldern in North Rhine-Westphalia after a dispute with the shop's management about a returned pushchair. The woman, who was 17 weeks pregnant at the time, and her husband have alleged that during the arrest the police officers ill-treated her and rolled her onto her front, even though she was obviously pregnant, in order to handcuff her. AI was also concerned about allegations that police officers refused to remove her handcuffs when she received medical treatment. The detainee has complained that an emergency doctor at a police station in Geldern reportedly requested that the pregnant woman's handcuffs be loosened to allow adequate blood circulation to her hands, a

request which the police officers refused. The woman, still handcuffed, was then reportedly taken in the emergency doctor's car to St Clemens hospital in Geldern where she eventually was to undergo a gynaecological examination to ensure that her unborn baby had not been injured. A gynaecologist at the hospital reportedly initially refused to conduct an examination of the detainee due to her handcuffed state. As a result the arresting police officers reportedly had to be contacted at the police station to remove the handcuffs. AI called for a prompt and impartial investigation into the allegations and asked to be informed why police officers refused to remove the handcuffs of the pregnant woman when she required a gynaecological examination. The detainee was subsequently charged with obstructing police officers in the course of their duties, physical assault and threatening behaviour, charges which she denies. The case was due to be heard at a juvenile court (*Jugendgericht*) in Krefeld on 19 January 2001.

In July AI expressed concern about the ill-treatment of 56-year-old Thomas Müller, who was shackled to a hospital bed for three days, reportedly on grounds of security, while undergoing medical treatment at Kemperhof hospital in Koblenz in late June. Thomas Müller was being held in pre-trial detention for alleged fraud in Koblenz. An additional chain was reportedly linked around the shackles and attached to the hospital bed. In addition to the shackles and the chain, two prison officials were present in the hospital room and a light remained constantly on in the room for a substantial part of the three-day stay, causing the patient great difficulties in sleeping. When Thomas Müller appeared in court on 30 June the medical director of the public health department, who examined Thomas Müller at the request of his lawyer, reportedly stated that he was completely exhausted and unfit to stand trial. AI urged the authorities to review current practices regarding the prolonged shackling of detainees in hospital in order to ensure that the treatment of detainees does not constitute or lead to cruel, inhuman or degrading treatment.

#### ***Danger of refoulement - update***

AI learned that the Egyptian nationals 'Abd al-Akher Hammad, Muhi al-Din Ahmad 'Abd al-Mun'im and their respective families were given refugee status in Germany. AI feared there was a possibility of forcible return to Egypt after their original asylum applications had been rejected by the authorities at Frankfurt am Main airport at the end of January 2000 (see German entry in AI Index: EUR 01/03/00). The Federal Office for the Recognition of Foreign Refugees (*Bundesamt für die Anerkennung ausländischer Flüchtlinge*) reversed its initial decision in the cases of Muhi al-Din Ahmad 'Abd al-Mun'im and 'Abd al-Akher Hammad (and their families) on 8 and 9 November respectively.

## G R E E C E

There is no entry on Greece due to ill-health in the research and action team. Please see next edition of Concerns in Europe

## I R E L A N D

### ***Human rights aspects of the Multi-Party Agreement***

The establishment of the new Human Rights Commission was delayed due to a controversy over the process of appointment, which will be resolved in early 2001. The President of the Commission, Donal Barrington, a former judge of the Supreme Court and the European Court of First Instance, had been appointed in July. The establishment of such a commission flows out of the government's undertakings in the Multi-Party Agreement 1998.

By the end of the year, the Irish government had still failed to produce legislation which would bring into effect its commitment under the Agreement to incorporate the European Convention on the Protection of Human Rights and Fundamental Freedoms into domestic law and to "ensure at least equivalent level of protection of human rights as will

pertain in Northern Ireland". AI was concerned that in favouring an "interpretative" incorporation of the Convention, the Irish government would fall short of meeting its requirements under the Agreement as it will not provide people with full access to Convention rights.

The Review of the Offences Against the State Act(s), which was set up by the Irish government as part of its undertakings under the Multi-Party Agreement, had still not reported its findings by the end of the year. AI had presented a detailed submission of its concerns to the Review group in October 1999.

#### ***Shootings by the security forces: Updates***

AI has been concerned about investigations into disputed killings because they consist of police officers investigating actions taken by other police officers. 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.

#### ***John Carthy***

An inquest into the shooting of John Carthy by the police Emergency Response Unit (ERU) in April 2000 took place in October (see AI Index: EUR 01/03/00). The pathologist testified that John Carthy was shot four times from behind; the first three shots would not have killed him, but the last one pierced his heart. The final shot would have entered his body as he was "bending or falling backwards". The ERU officers gave evidence in open court and did not claim anonymity. One of the officers, who fired the fatal shot, said he had acted to save lives of colleagues because when he saw Carthy walk up the road in a "menacing and purposeful manner" he believed he was about to shoot at gardai (police). The family's lawyer stated that Carthy had not fired a shot once he had left the house, even when he was fired at. The lawyer argued that it was likely that Carthy left the house to look for his sister: Carthy had been told by

negotiators that his sister was present to talk to him but had not been told exactly where she was.

The jury at the inquest confirmed that Carthy died as a result of being shot by gardai and declined to issue a verdict on the circumstances surrounding the incident. The coroner ruled out an unlawful killing verdict because the ERU member who fired the fatal shot had been identified. (The DPP had already decided not to bring criminal charges.) The jury failed to add any of the four riders proposed by the family's lawyer: a) that ERU members be provided with non-lethal weapons and additional negotiators for sieges; b) that a person under siege should get access to a solicitor; c) request the media to adopt a voluntary code of responsible reporting in similar situations; d) a review of the law relating to the publication and broadcasting of information in siege situations. The State asked the jury to consider the circumstances in which a person is allowed to own a weapon.

On 27 October after the inquest had been completed, the internal Garda report on the Abbeylara siege, in which Carthy died, was made public. The family called for an independent public inquiry into the full circumstances, following the publication of the report. The Parliamentary Joint Committee on Justice, Equality, Defence and Women's Rights will hold hearings on the killing in 2001.

AI believes that only an independent public inquiry could answer the questions that remained after the inquest. The following are some of the questions that have been raised:

- " conflicting evidence given at the inquest concerning the fourth bullet: the pathologist said the trajectory of the bullet was 45 degrees upwards, and that Carthy was falling when shot the fourth time, yet the ERU officers stated he continued walking after the first three shots, including the third shot which entered through the spine and exited through his scrotum;
- " why he was deprived of cigarettes when he was clearly agitated;
- " why the police refused to allow his sister to speak with him and failed to contact the solicitor he

requested;

- " why Carthy was allowed to hold a gun licence;
- " why the police at the scene did not have non-lethal weapons at their disposal.

*John Morris*

A Supreme Court ruling concerning the inquest into the killing by the ERU of John Morris (who was killed in June 1997) upheld in July the coroner's decision to allow officers from the ERU to testify anonymously and from behind a screen; and to deny the family's lawyer access to the full forensic evidence, including information concerning the identity of the firearm(s) used in the fatal shooting (see AI Index: EUR 01/03/00).

*Rónán MacLochlainn*

Officers from the ERU were also involved in the shooting of Rónán MacLochlainn in May 1998. His inquest had not taken place by the end of the year.

#### ***Ill-treatment***

AI continued to receive reports from people detailing their allegations of ill-treatment by gardai. The organization is concerned that the government has not taken adequate measures to ensure that safeguards are in place to deter police officers from ill-treating people, including provisions against incommunicado detention, for effective legal assistance, and for an effective complaints mechanism. Some people alleging ill-treatment stated that they had no confidence in the complaints procedure because they do not believe that the existing system is impartial and fair, in particular if the investigating officers come from the police force allegedly involved in the misconduct. AI has also been concerned that people detained for criminal matters in Ireland are not entitled to have access to legal counsel during police questioning, and that there is no provision for legal aid for lawyers to attend police stations. During their detention and interrogation, suspects may have to decide whether to exercise their right to silence; and

this decision may be used in proceedings against them. AI recommended that audio- and video-recording of police interviews with detainees be introduced forthwith.

#### ***The UN Human Rights Committee***

In July the UN Human Rights Committee examined Ireland's second periodic report under the International Covenant on Civil and Political Rights. The Human Rights Committee expressed concerns about the continued operation of the Special Criminal Court, the lack of independent investigations of complaints against the Garda and the treatment of prisoners. AI had raised a number of issues in its briefing to the Human Rights Committee, entitled *Ireland: Briefing to the UN Human Rights Committee on Human Rights Concerns* (AI Index: EUR 29/01/00).

#### ***Refugees and discrimination***

The Refugee Act of 1996 finally came into force in November; however, its amended version denies fundamental rights to people fleeing torture. AI was concerned that the legislation was flawed because of inadequate legal safeguards, including an effective appeal system. The organization was also concerned about the Illegal Immigrants (Trafficking) Bill 2000 which imposes sanctions on those who facilitate the entry into Ireland of immigrants without adequate documentation, or with false documentation, because this legislation could be used to prevent asylum-seekers from reaching Ireland and to target people who are engaged in refugee protection. Another policy, which is of concern to AI, is that of dispersing asylum-seekers throughout the country, which may undermine their right to effective access to the refugee status determination procedure, as well as the lack of safeguards surrounding detention of unsuccessful asylum-seekers.

The Equal Status Act, which was brought into force in October, outlaws discrimination by those providing both public and private services and is designed to combat discrimination on nine grounds: gender, race, religion, age, sexuality, disability, membership of the Traveller community, family and

marital status.

## ITALY

### ***Alleged ill-treatment and shootings by law enforcement officers***

There were further allegations of law enforcement officers physically assaulting detainees - both Italian and foreign nationals. In a report issued in October the European Roma Rights Center (ERRC) detailed its concerns about the situation of Roma in Italy in recent years, including its finding that "Physical abuse of Roma by police officers and other security officials in Italy is widespread."<sup>16</sup>

Criminal investigations were under way into a number of complaints of alleged ill-treatment, including that of Leontine Koadjo, from Côte d'Ivoire, who said that a police officer subjected her to an unprovoked physical assault after she asked for information while inside the Aliens Bureau attached to Palermo police headquarters in April. After being admitted to hospital with a facial fracture, she was visited by the Palermo Chief of Police who apologized for her treatment by the officer and opened disciplinary proceedings against him.

In October criminal and disciplinary investigations were opened after two Bologna police officers were accused of failing to intervene to stop an assault against two homosexuals by two other men and then of joining in the assault which took place in a restaurant. The Bologna chief of police subsequently indicated that it was likely that the other two unidentified men, who ran off after a police squad was called to the scene, were also police officers.

In December it was reported that three officers attached to the Florence railway police had been placed under house arrest, in the context of a criminal investigation into a complaint lodged by a young Italian woman in February. She said that the officers

had stopped her at Campo di Marte station in the early hours of the morning, apparently on the grounds that she was not carrying her identity papers. Although she indicated that the papers were at her nearby lodgings, she was escorted to a police station where she alleged the officers sexually assaulted her, forcing her to have oral sex. After she returned the next day to lodge a complaint the officers accused her of calumny. However, the criminal investigation apparently revealed that they had falsified the service report of the incident.

Criminal investigations were also under way into the fatal shootings of several unarmed suspects by law enforcement officers in disputed circumstances, including those of two 17-year-old youths - Mourad Fikri, a Moroccan national shot dead by a Rome police officer in May and Mario Castellano, shot dead by a Naples police officer in July.

In September the Salerno Public Prosecutor's office requested that a *carabiniere* corporal be charged with the murder of Mohamed Ahdiddou, a 24-year-old unarmed Moroccan shot in January, and that six other *carabinieri* be charged with perjury for lying about the circumstances of the shooting. After arresting a Moroccan national for robbery, police raided an unofficial camp for immigrants near Eboli at night, apparently searching for stolen goods. A group of men fled towards the open country surrounding the camp and were chased by the officers who detained several of them. Mohamed Ahdiddou was not detained. His dead body was discovered the next morning: he had been shot. Apparently, the officers initially all denied firing their arms during the chase. However, the criminal investigation established that two officers had fired a total of around 15 shots. It was claimed that Mohamed Ahdiddou ran off only because he feared being detained as an illegal immigrant.

### ***Alleged torture and ill-treatment by prison officers***

There were widespread protests in prisons, prompted to a large extent by unsatisfactory conditions, in some instances amounting to cruel, inhuman and degrading

<sup>16</sup>ERRC, *Campland: Racial Segregation of Roma in Italy*, October 2000

treatment. The government pressed forward with a program of reforms, aimed at the eventual improvement of conditions, but meanwhile severe overcrowding persisted, together with reports of inadequate medical assistance, poor sanitation and other connected problems, including high rates of suicide, attempted suicide and self-inflicted injuries.

Criminal proceedings and investigations were opened or continued into many allegations of ill-treatment, in some instances amounting to torture, by prison officers, as well as into several prisoner deaths in disputed circumstances.

Luigi Acquaviva died in the Sardinian prison of Bad'e Carros, Nuoro, in January, within 24 hours of taking a prison officer hostage for some four hours and placing a noose around his neck. Administrative and criminal investigations, involving six prison officers and the prison director, were opened into his death following claims that his death was not the result of suicide as the prison administration maintained. In June autopsy and forensic examinations by experts appointed by the Public Prosecutor had confirmed that his body, found hanging from a noose in a cell, had suffered extensive traumatic injuries before death. In November a forensic expert appointed by the judge of preliminary investigation found neck injuries consistent with suicide but confirmed the presence of other cuts and bruises to the head and body.

In September it was reported that, following complaints made to the judicial authorities by Bolzano prison inmates, 25 prison officers and a doctor were under criminal investigation in connection with allegations that during episodes occurring between 1994 and 1999 prisoners were regularly taken to an isolation cell and severely beaten.

In October it was reported that as a result of complaints made in previous months by Biella prison inmates alleging ill-treatment - including severe beatings - by Biella and other prison officers between 1994 and 2000, the Public Prosecutor had placed 23 prison officers and two doctors under investigation.

In December the Public Prosecutor requested that 96 people, including the director of Sassari district prison, Sardinia, and the regional director of

Sardinian prisons, be committed for trial following a criminal investigation into allegations that on 3 April more than 40 Sassari prison inmates, were subjected to cruel, inhuman and degrading treatment, in some cases amounting to torture, by dozens of prison officers employed in various Sardinian penal institutions. (See AI Index: EUR 01/03/00).

It was alleged that officers kicked, punched, slapped and beat prisoners with batons and truncheons, then stripped them naked, bound their hands behind their backs, beat them again and forced them to stand naked for two or three hours, with their faces turned to the wall, forbidden to complain, move, or turn round to see their aggressors, and beating them if they did so. Other prisoners were said to have been soaked with buckets of icy water after being stripped and then left in that condition for over two hours in low temperatures: it was claimed that at least two prisoners had their heads forced into buckets of water and kept there until they felt near the point of asphyxiation. A number of prisoners were reportedly transferred to other prisons half-naked, with untreated injuries and in some cases covered in blood and excrement: apparently several had defecated from fear during the beatings and one such prisoner was transferred to his new prison clothed only in a plastic rubbish bag.

Officers took other prisoners back to isolation cells within the prison where it was claimed they were left for several days without medical assistance and only a bottle of water. One prisoner said he was beaten again on reaching the cell, stripped and forced to bend up and down repeatedly, and left in isolation for three or four days in a cell equipped with a bed with two blankets but no mattress, while he remained covered in blood, without medical help and deprived of basic sanitary facilities to the extent that he was obliged to use his own clothes to clean himself every time he defecated. On medical examination by a forensic doctor he was found to have suffered a broken nose, amongst other injuries.

***Correspondence with the  
Department of Prison Administration***

In August the head of the Department of Prison Administration (DAP) attached to the Ministry of Justice, wrote to AI concerning certain issues relating to alleged ill-treatment by prison officers which the organization had raised in correspondence sent to the Minister of Justice in May 2000 and copied to the department. (See AI Index: EUR 01/03/00). The head of the DAP attached a report drawn up by the department, following receipt of AI's letter, and indicated that he had passed on the guidelines for action proposed in the report to the relevant parties.

The report recognized that the situation in the prisons warranted close observation in order to prevent ill-treatment and stated that, although some allegations of ill-treatment were probably exaggerated or without foundation, the existence of a consistent number of actual complaints and a likely number of corresponding "hidden cases" was in itself a reason for concern. It recognized the importance of appropriate training for prison personnel in creating a non-violent climate. It advised checking that current training programs met and integrated both the need to protect prisoners' rights and the needs of security. It recognized that, over a certain level, overcrowding constituted inhuman treatment and that it gave rise to tension and aggression involving both prisoners and prison personnel. Although various factors giving rise to overcrowding were not within DAP's control, it said DAP should draw up programs - including building programs - to reduce its impact. It said that the reported regular failure by magistrates of surveillance to visit prisoners in their own quarters within penal institutions should be brought to the attention of the Council of Magistrates. It suggested that disciplinary proceedings concerning personnel accused of torture be put on a fast track path and that, with regard to AI's criticism of a frequent lack of thoroughness and delays in criminal investigations into alleged ill-treatment, DAP could issue a directive to make relevant personnel aware of the need for prompt collaboration with the judicial authorities in investigations concerning episodes of torture or ill-treatment.

#### ***Universal jurisdiction over***

#### ***crimes against humanity***

In August former Argentine military officer Jorge Olivera was arrested in Rome on an international warrant issued by France for the abduction and torture of French citizen, Marie Anne Erize Tisseau, in Argentina in 1976. However, in September, while full examination of a French extradition request was still pending, Rome Appeal Court ordered his release, on the grounds that the crimes of which he was accused were subject to a statute of limitations. He immediately returned to Argentina. The Procurator General appealed against the court's decision, the Minister of Justice announced an internal disciplinary investigation into the conduct of the appeal court judges and the Public Prosecutor opened an investigation into apparently false information presented to the court by Jorge Olivera.

AI expressed extreme concern at the court's decision, pointing out that, under international law, the scale and magnitude of human rights violations committed under military rule in Argentina constitute crimes against humanity and, therefore, cannot be subject to statutes of limitation.

In December Rome Court of Assizes sentenced two Argentine generals to life imprisonment and five other former members of the Argentine armed forces to 24 years' imprisonment, following their trial *in absentia* in connection with the abduction and murder of seven Italian citizens and the kidnapping of the child of one them during the years of military rule in Argentina (1976-1983). The trial was the result of investigations opened by the Italian judiciary in 1983, following complaints lodged by relatives of "disappeared" Italian citizens.

Several other criminal proceedings, at various stages of investigation, were under way into complaints of human rights violations committed against Italian citizens by the Argentine security forces and as a result of past collaboration between the Argentine security forces and those of several other South American countries.

#### ***Fair trial concerns: cases of Adriano Sofri, Giorgio Pietrostefani and Ovidio Bompressi***

(update to AI Index: EUR 01/03/00)

In October the Supreme Court rejected an appeal lodged by Adriano Sofri, Giorgio Pietrostefani and Ovidio Bompressi - three leading members of the former extra-parliamentary left-wing group Lotta Continua - against a January 2000 decision by Venice Appeal Court. This had confirmed a Milan Appeal Court verdict of 1995 sentencing the three men 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 had repeatedly expressed concern at the excessive length and complexity of the proceedings, as well as several other aspects which raised 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 proceedings before the Supreme Court in October were part of a judicial process commenced in 1997 when, following exhaustion of the normal appeals process, the defendants had applied for a judicial review of the 1995 sentence, arguing that there was new witness and technical evidence.

Before the Supreme Court issued its October ruling, the Procurator General asked it to annul the Venice judgment and order new review proceedings.

Following an August 1999 ruling that the defendants' application for a judicial review was admissible their sentences had been suspended but Adriano Sofri was reimprisoned immediately after Venice Appeal Court's January 2000 ruling while Giorgio Pietrostefani and Ovidio Bompressi went into hiding. In March Ovidio Bompressi surrendered voluntarily to the judicial authorities and, after brief reimprisonment, was granted a suspension of sentence on health grounds. Giorgio Pietrostefani re-emerged in France where he had right of legal residence. Adriano Sofri was thus the only defendant in detention at the end of 2000.

The three men are pursuing a petition against Italy with the European Commission of Human Rights, claiming violations of the European Convention on Human Rights.

## K Y R G Y Z S T A N

### *Prisoner of conscience*

In September former prisoner of conscience, leader of the opposition *Erkindik (Liberty)* party and chairman of the independent human rights organization *Guild of Prisoners of Conscience*, Topchubek Turgunaliyev, was sentenced to 16 years' imprisonment with confiscation of property for allegedly intending to plot an attempt on the President's life in 1999 together with seven other defendants. He was arrested in the courtroom. Topchubek Turgunaliyev consistently denied the charges and alleged that the case against him was fabricated by the Ministry of National Security (MNS) in order to punish him for his peaceful opposition political activities. Three MNS officers reportedly admitted in court that there was not enough evidence to support the allegations. The charges were based on the testimony of one of the co-accused, Timur Stamkulov, who later confessed in an open letter that he had carried out MNS instructions to organize a group of men and plan a fictitious assassination attempt in order to implicate Topchubek Turgunaliyev. In court he reportedly retracted this confession. He was sentenced to four years' imprisonment but was amnestied and released from the court room.

In court Topchubek Turgunaliyev's co-accused, who were arrested in May 1999, alleged that they had been tortured and ill-treated in pre-trial detention in order to force them to confess to having been recruited by Topchubek Turgunaliyev to carry out an assassination attempt on the President. Mamadyar Orozov, for example, alleged that he was beaten with batons on the soles of his feet, nearly suffocated with a gas mask and handcuffed to a radiator. Kubanychbek Dzhalikulov claimed that he was beaten



continuously for 60 hours when he was first detained. The court did not take any of these allegations into consideration and sentenced the men to between 14 and 17 years' imprisonment with confiscation of property. Four of the accused, unemployed miners from the Jalal-Abad region who worked as market traders in Bishkek, claimed never to have met Topchubek Turgunaliyev until the trial.

On 26 November Bishkek City Court reduced the sentences on appeal by more than half. Topchubek Turgunaliyev's term was reduced to six years. On 30 November President Askar Akayev signed a decree amnestying Kubanychbek Dzhalikulov, Mamadyar Orozov, Kodzhokmot Akimbayev, Ismail Muratov and Raymyan Sarykov, reportedly because they had admitted their guilt and asked for pardon. Topchubek Turgunaliyev did not qualify for the amnesty because he refused to admit any guilt. A further appeal against his conviction to the Supreme Court was still pending at the end of 2000.

Topchubek Turgunaliyev had previously been held as a prisoner of conscience between December 1995 and April 1996 and between January and November 1997. In April 1996 Topchubek Turgunaliyev was found guilty of charges which included "defaming" and "insulting" the President of Kyrgyzstan. He received a one-year suspended prison sentence and was released from the court room. In January 1997 he was sentenced to 10 years' imprisonment after having been convicted of three offences relating to payments he authorized in 1994 as rector of the Humanities University in Bishkek. On appeal only the charge of "abuse of authority" was upheld by the Supreme Court which replaced the 10-year prison term with a sentence of four years' confinement in a low-security penitentiary. After serving eight months in the remote Arka penitentiary in Osh region, Topchubek Turgunaliyev was allowed to return to Bishkek and serve the remainder of his sentence in an open prison. In May 1998 the Supreme Court reduced his sentence to three years.

#### ***Harassment of human rights defenders***

In July Ramazan Dyrlydayev, the chairman of the

Kyrgyz Committee for Human Rights (KCHR), was forced into exile after the Kyrgyz authorities issued a warrant for his arrest, reportedly detained his son for questioning and sealed the committee's offices. Although the procurator general allegedly ordered the criminal case to be suspended, KCHR's lawyer claimed that it was not safe for Ramazan Dyrlydayev to return because the criminal investigation had not been officially stopped. The criminal charges related to a dispute with a former KCHR member of staff over an unfair dismissal claim.

In November a criminal case was opened against Albert Korgoldoev, the KCHR coordinator for Jalal-Abad region, for hooliganism under Article 234, part 2 of the Kyrgyz Criminal Code. The charge followed a complaint by a member of the Coalition of Non-Governmental and Non-Commercial Organizations (CNNO). Gulnara Mamatbekova reportedly accused Albert Korgoldoev and four others of having assaulted and verbally abused her during the monitoring of the October presidential elections. Albert Korgoldoev denied the charges and claimed that he was being punished for monitoring demonstrations in Jalal-Abad region in October and November protesting the alleged falsification of the outcome of the presidential elections. According to the KCHR, the CNNO was created at the initiative of the presidential administration and is not independent.

Albert Korgoldoev had previously been arrested and sentenced to 15 days' administrative detention in September 1998 for having organized a peaceful protest against a nationwide presidential referendum.

#### ***Restrictions on freedom of the press***

In July Moldosali Ibrahimov, a freelance correspondent of the Jalal-Abad regional newspaper *Akyikat* (Justice) and local activist of the Kyrgyz Committee for Human Rights, was released from detention on appeal. He had been found guilty of defamation and sentenced to two years' imprisonment by Jalal-Abad City Court in June. The defamation charge related to an article he had written in which he reported rumours that a local district court judge had accepted a bribe in a dispute between

two rival candidates in the parliamentary elections.

In August a criminal investigation was launched by the MNS against the independent Russian-language newspaper *Delo No.* (*Case No.*) for allegedly revealing state secrets after reporting on the closed trial of opposition leader Felix Kulov. The deputy editor-in-chief, Svetlana Krasilnikova, had to be hospitalized after a non-stop eight-hour interrogation by MNS officers during which she was not allowed to leave the room and was not given any water or food. On 29 November editor-in-chief Viktor Zapolski and journalist Vadim Nochevkin were charged with "divulgence of state secrets" under Article 300, point 1 of the Kyrgyz Criminal Code which carries a possible punishment of up to two years' imprisonment. The newspaper disputed that it had revealed any state secrets in its reports on the closed trial of Felix Kulov, and in particular in a 26 July article by Vadim Nochevkin. According to *Delo No.* the information used by the newspaper came from public sources, and in some cases from the MNS itself. The newspaper claimed it was being punished for exercising its right to freedom of expression and for giving a voice to the political opposition in Kyrgyzstan.

### ***Political prisoners***

In August at the conclusion of a closed trial Bishkek Military Court cleared Felix Kulov, the chairman of the opposition *Ar-Namys* party, of reportedly fabricated and politically-motivated charges of abuse of authority while serving as a Minister of National Security in 1997 and 1998. He was released from the court room. In September, after the prosecution lodged a protest against Felix Kulov's acquittal, the Board of the Kyrgyz Military Court ruled that the verdict should be reconsidered and ordered a re-trial in Bishkek Military Court under a new presiding judge.

Felix Kulov had been arrested on 22 March, just days after his second round defeat in the parliamentary elections, amid claims of fraud and political interference aimed at securing his defeat. His supporters had alleged that his arrest and the criminal

case brought against him were intended to disqualify him from running in the October presidential elections. In the event Felix Kulov was able to put forward his candidature, but had to withdraw from the race after he refused to take a controversial mandatory Kyrgyz language test for presidential candidates. His supporters claimed that the test was aimed at excluding him from the presidential race, in which incumbent President Askar Akayev won a third term in office.

## **L A T V I A**

### ***Conscientious objection***

AI has expressed concern about the absence of a genuinely civilian alternative to military service in Latvia on a number of occasions (see entries on Latvia entries in AI Index: EUR 01/01/00 and EUR 01/03/00). In its letters to the Latvian authorities the organization has stated that it 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 a genuinely civilian alternative to military service.

In August AI learned that the Latvian authorities were again considering whether to introduce a civilian alternative to military service. At the end of July AI received a response from the Chancery of the President of Latvia, which stated: "Corresponding to your concern about the absence of an alternative civilian service to military conscription in Latvia, we have asked for opinion from the State Office of Human Rights and the Committee of Human Rights and Society Affairs of the Parliament of Latvia. We will inform you about the point of view of the President in this issue when we have received replies from the above mentioned institutions". On 8 August the Ministry of Defence issued a statement outlining its position regarding the introduction of an alternative service in Latvia and its wish to convene a round-table discussion in order to debate the issue with various Latvian non-governmental organizations and religious groups. In its statement the Ministry of

Defence outlined its view of the possible form an alternative service would assume, stating: "According to the basic principles of general defence, all members of society are involved in the defence of the state, both military and civil structures are involved. This is why alternative service is a component of general defence and young men who choose not to serve in the military but in an alternative service also fulfil their duty to the state. Those undertaking alternative service are subjected to mobilization and in the case of need are assigned tasks that do not involve the bearing of arms. Therefore the manner how alternative service can be served will be expressed in regulations and will be determined by taking into consideration the non-military functions of general defence. Alternative service can involve only areas such as health care, social care, emergency services and rescue services, that, in the case of mobilization, can be given specific tasks. The length of alternative service would be the same as military service - one year".

AI welcomed the decision of the Latvian authorities to apparently seriously consider the right to conscientious objection in Latvia and its decision to invite the views of various non-governmental organizations and religious groups in Latvian society. However, AI expressed concern that the Ministry of Defence's model of an alternative civilian service is not genuinely civilian in form, since conscientious objectors might be forced to perform non-military support functions in Latvia's armed forces. AI therefore once again reminded the Latvian authorities that in order for any alternative civilian service to be genuine it must be of purely civilian character and under civilian control.

## MACEDONIA, FORMER YUGOSLAV REPUBLIC O F ( F Y R O M )

There is no entry on the Former Yugoslav Republic of Macedonia (FYROM) due to ill-health in the research and action team. Please see next edition of Concerns in

Europe

## M O L D O V A

### **Report of the European Committee for the Prevention of Torture**

On 14 December the Moldovan government permitted the publication of *The Report to the Moldovan government on the visit to Moldova carried out by the European Committee for the Prevention of Torture, Inhuman and Degrading Treatment or Punishment (CPT) from 11 to 21 October 1998 and Responses of the Moldovan government*<sup>17</sup>.

With regard to the police stations visited, the CPT report stressed that the "problem of ill-treatment is widespread in police stations across Moldova". Allegations of ill-treatment primarily concerned ill-treatment in the course of interrogation to obtain confessions, to a lesser extent referring to the time of arrest. In a large number of cases the gravity of the alleged ill-treatment could be considered of a severe nature, even torture. On the basis of information received by the CPT delegation during its visit it requested an independent and thorough investigation by the Moldovan authorities into the methods used for interrogation of detainees by police, irrespective of their position. The investigation by the Moldovan authorities of the police force of Baïul "confirmed the facts indicated by the CPT and as a result the commissariat was sanctioned". However the CPT recommended an investigation of police stations throughout the country as the problem of police ill-treatment is not limited to the police force of Baïul, but equally concerns numerous other police forces across the country. The CPT report stressed that police officials themselves could provide the best guarantee against ill-treatment by unequivocally rejecting any resort to ill-treatment. It therefore recommended that

<sup>17</sup>Reference number CPT/Inf (2000) 21 in French - quotations cited here are unofficial translations of the original.

a very high priority should be given to human rights training of police officials at all levels, which should include training by experts outside the police force. The CPT also noted that the role of the authorities other than the police (for example judges and prosecutors) who are in contact with detainees, is equally important in the prevention of ill-treatment. The CPT recommended that a judge or prosecutor when receiving complaints of police ill-treatment, or observing - or receiving other information - that the person before them has been subjected to ill-treatment should record this in writing, order a medical examination and undertake measures to ensure that the allegation is examined.

In its other recommendations the CPT urged the Moldovan authorities to ensure that the following rights are protected: the rights of all detained persons to inform, without delay, a relative or another person of their choice of their situation (any possibility of exceptionally delaying the exercise of this right should be clearly circumscribed in law, made subject to appropriate safeguards and strictly limited in time); the right of all people deprived of liberty to have access to a lawyer from the very outset of custody, with means to exercise this right effectively; that all people deprived of their liberty are informed about their right to medical assistance and the right, from the very outset of custody, to be examined by a doctor of their choice. All medical examinations should be performed out of hearing of police officers and out of sight (except when specifically requested by a doctor in special circumstance). The results of every examination, as well as any relevant statements by the detainee and the doctor's consultations, formally recorded by the doctor and made available to the detainee and his lawyer. Doctors should immediately inform the responsible prosecutor about any traces of violence resembling ill-treatment that might be observed in the course of an examination.

The CPT report further noted all persons deprived of their liberty should be informed about their rights immediately after they have been detained, in writing, which should be available in several languages. In view of the lack of precise provisions concerning the conduct of interrogations, the CPT

recommended that the Moldovan authorities establish a code of practice for police interrogations. A single and comprehensive custody record should also be kept for each person detained.

Conditions of detention in different types of police stations which were visited by the CPT in Bałți, Chisinau and Criuleni, (be it local, district or centres for provisional detention) were on the whole described as "miserable". In particular the conditions in the district police stations and the centres for provisional detention could be considered as "inhuman and degrading as well as a sanitary risk for the detainees".

The CPT described the conditions in penitentiaries visited as "atrocious and constituting a considerable health risk for the majority of the prison population". The CPT recommended that high priority should be given to improving conditions of detention, particularly to considerably reducing overcrowding, as well as to the continuing development of professional education, including interpersonal skills at all levels of personnel at penitentiaries. The management of penitentiaries should also give a clear message to their members of staff that ill-treatment of detainees is unacceptable and will be severely punished.

## P O L A N D

### ***Alleged human rights violations in sobering centres***

In December AI wrote to the Minister of Justice Lech Kaczyński expressing concern about reported deaths in suspicious circumstances in sobering centres in Poland. The organization was also concerned that a number of such incidents have not been investigated thoroughly and impartially as required by international human rights standards.

The Law on Education in Sobriety and Counteracting Alcoholism adopted in 1982 (referred to hereafter as the 1982 Law) provides for detention of up to 24 hours in sobering centres of anyone who causes "a scandal in a public place" or is "in a

situation in which his/her life or health is threatened, or constitutes a threat to other people's life or health". Reported cases indicate that the enforcement of this law by police officers may result in arbitrary detention. Furthermore, the decisions concerning detention in a sobering centre are not subject to a judicial review, even following the release of the detainee.

The arbitrary nature of the enforcement of this law in certain instances was confirmed by the European Court of Human Rights in its ruling in the case *Witold Litwa v. Poland* handed down on 4 April 2000. This ruling reiterated the Court's position that "a necessary element of the 'lawfulness' of the detention within the meaning of Article 5, paragraph 1(e), is the absence of arbitrariness. The detention of an individual is such a serious measure that it is only justified where other, less severe measures have been considered and found to be insufficient to safeguard the individual or public interest which might require that the persons concerned be detained. That means that it does not suffice that the deprivation of liberty is executed in conformity with national law but it must also be necessary in the circumstances". The court also noted that the 1982 Law provides for several different measures which may be applied to an intoxicated person, among which detention in a sobering centre is the most extreme one. Under Article 26 of this law an intoxicated person may also be taken by the police to a public-care establishment or to his place of residence.

According to the information received by AI there are 57 sobering centres in Poland. In 1999 people who were detained because of their alleged alcohol intoxication spent 302,000 nights in these centres. This number comprised 15,000 women and 7,000 minors, the youngest of whom was reportedly eight years old. Many of those who had been detained under the 1982 Law have complained about ill-treatment by police officers involved and the staff of sobering centres.

AI is concerned that a number of reported deaths in suspicious circumstances might have resulted from torture or ill-treatment by police officers or staff of the sobering centres, or from their failure to provide

those detained in their facilities with adequate medical treatment. Such conduct would amount to cruel, inhuman or degrading treatment or punishment and is in violation of Article 7 of the International Covenant on Civil and Political Rights and Article 3 of the European Convention on Human Rights and Fundamental Freedoms.

An article published in the *Gazeta Woborcza* on 24 June 2000 described the following recent cases of deaths in suspicious circumstances:

- " On 30 May 2000, 28-year-old Robert M. was stopped by police officers at a railway station in Warsaw and taken to the sobering centre in Kolska Street. The police officers claimed Robert M. had been too drunk to travel on his own. It was subsequently established that the alcohol content in his blood had been only 0.54 *per mill*. The doctor who examined him on admission to the sobering centre reportedly remembered that Robert was conscious, in a good state, with normal pulse and blood pressure. In the morning he was found unconscious and taken to a hospital, where he died following an operation in which a large haematoma was removed from his brain. The doctor who carried out the operation reportedly stated: "He didn't stand a chance. If he was conscious on entering the sobering centre, his injuries must have occurred there."
- " In late April 2000, a young man whose identity has not been revealed, who was reportedly severely injured as a result of a beating, was brought to the sobering centre in Biaystok. Upon admission he was examined by a doctor who failed to have him transported to a hospital for treatment. The man was placed in a bedroom where he subsequently died.
- " In a similar incident which occurred on 24 April 2000, a 43-year-old man died in the sobering centre in Kraków. Reportedly he had not been intoxicated and had in fact suffered a serious head injury as a result of a beating. An ambulance doctor reportedly referred him to a sobering centre instead of a hospital.

AI asked to receive information on the

investigations into these cases, information on the number of deaths in custody in sobering centres registered in 1998, 1999 and 2000, as well as on the number of such cases which resulted in prosecution of those who were responsible for human rights violations.

The same *Gazeta Włocławska* article described a number of cases of deaths in custody in suspicious circumstances and cases of ill-treatment which appear not to have been investigated promptly and thoroughly, as required by international human rights standards. AI requested, *inter alia*, to receive full investigation reports for the following two incidents:

" On 17 March 1998, Marek, a 52-year-old man from Starachowice, did not return home and his wife subsequently found him in one of the hospitals in Kielce. He was naked, wearing only a nappy, and when she wanted to wash him, he cried with pain. His testicles were very swollen, there was a big scab on his head, his arms up to the elbows and legs up to the knees were bruised and blue. His speech was not clear and he did not recognize his wife. He died five days later. An investigation reportedly established that on the night of 17 March 1998 Marek was drunk and soiled the staircase of a house in Majówka Street. The residents of the house called the police and he was apprehended at around 6.30am and taken to the sobering centre in Ostrowiec *Świętokrzyski*. He entered the centre unaided, took his clothes off and was examined by a doctor who reportedly noted: "Behaviour: conscious and peaceful. Mood: average. Walk: unbalanced. Speech: unclear. Pulse: tense, regular. Heart: regular, clear tone. Skin: normal. Injuries: none". It was also established that he had 1,27 *per mill* of alcohol in his blood. The following day, unable to walk, he was carried out of the sobering centre on a stretcher and taken in an ambulance to a hospital in Ostrowiec. At midday he was transferred by ambulance to Starachowice hospital, as Ostrowiec was not the region of his residence. In Starachowice the doctors suspected a large brain injury, but as they did not have the necessary diagnostic equipment, they sent him to the regional hospital in Kielce, where he later died. The medical experts from the Department for Forensic Medicine of the Medical Faculty of the

Jagiellonian University described a number of injuries in the post-mortem report, including bruises on the head, chest, arms, legs, abrasions of skin, fracture of the skull, bruising of the brain and haemorrhage in the skull and brain. The injury to the brain, which was the reason for Marek's death, was caused by blows with hard and blunt objects. The prosecutor in Starachowice who conducted the initial investigation and all subsequent investigations into the case was unable to establish that a criminal offence had been committed while Marek was in custody. Apparently charges have only been brought against two doctors from the hospital in Ostrowiec who were suspected of not providing Marek with the medical treatment he required.

" In 1996, Jerzy, a 56-year-old man from Warsaw, observed four police officers who apprehended a young man at a tram stop and then punched and kicked him. Jerzy was later interviewed on a local TV program about the incident. He was subsequently invited to a meeting at the municipal police station which he described as "not very pleasant". On 17 August 1997 he was mugged after leaving a bar. When he called for help, the municipal police officers apparently recognized him. They reportedly put handcuffs on him, punched and kicked him, pushed him onto the floor of their van and one of the officers put his foot on his head. At the Grenadierow Street police station the officers sprayed gas into his eyes and then took him to a sobering centre. On his admission he was not allowed to phone his wife so that she could bring him medication for his heart condition. The three men who took him to his bedroom reportedly kicked and pushed him to the floor. He banged on the door and after an hour a nurse gave him a heart pill which she reportedly stated might have been out of date and therefore did not produce the desired effect. When he was released in the morning his blood pressure was reportedly extremely high. Jerzy's complaint to the public prosecutor about the ill-treatment and arbitrary detention in the sobering centre was rejected and he has subsequently petitioned the European Court of Human Rights.

AI asked the Minister of Justice for information

about the number of ill-treatment complaints in sobering centres in 1998, 1999 and 2000 and the number of such complaints which resulted in the prosecution of those responsible for human rights violations. The organization also requested information on steps which the government is taking to revise the 1982 Law and bring it into line with international human rights standards.

## PORTUGAL

### ***Death in custody: prosecutor appeals***

(Update to AI Index: EUR 38/01/00)

**Álvaro Rosa Cardoso** a Rom, died of a ruptured spleen after allegedly being severely beaten by police officers in January. The decision to arrest and detain two police officers of the Public Security Police (PSP), under investigation for homicide, led to angry police protests on the streets. Many officers surrendered their weapons and some were reported to have threatened a prosecuting magistrate after a judge's decision not to release the officers.

In July a decision extended the provisional detention of the officers at the prison of Paços de Ferreira. In October, however, the criminal investigation was closed by the *Tribunal de Instrução Criminal* (TIC) of Oporto, the court which decides whether an investigation should continue. The court apparently decided that there was insufficient evidence to pursue the homicide charge after hearing the testimony of nine witnesses called by the defence, many of whom were police officers who had previously been suspects in connection with the death. Another witness, a forensic doctor attached to the *Instituto de Medicina Legal*, had reportedly testified to the court that the spleen was not a vital organ. The court reportedly interpreted this evidence as implying that the officers had not intended to kill Álvaro Cardoso.

The court's decision left only one person still involved in the judicial proceedings. Franquelim Romão, a young relative of Álvaro Cardoso, who had been arrested with him, still faced a charge of

assaulting police officers.

The prosecutor announced that an appeal would be made against the TIC's decision to the appeal court (*Tribunal da Relação*). The prosecutor was reported to have questioned, among other things, the nature of the testimony, given the identity of many of the witnesses, and the interpretation placed on apparently contradictory evidence supplied by the forensic doctor.

The police have claimed throughout the proceedings that Álvaro Cardoso died as a result of involvement in a fight between Roma in the Aldoar area of Oporto.

Judicial and disciplinary inquiries that had opened into the death of **Paulo Silva** (see AI Index: EUR 38/01/00) were still continuing at the end of the year, as were judicial and disciplinary inquiries into the death of **António Mendes dos Santos**, who died about 10 days after being held at a police station in Coimbra in June. He too was reported to have died from injuries to the spleen.

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

There were reports that on 3 August four people were injured, one seriously, in an incident at a restaurant on the island of Tavira, involving 11 PSP officers. Six complaints were registered at the PSP station of Tavira, including one by the proprietor of the restaurant, who was reportedly beaten with truncheons and head-butted and required treatment at Faro Hospital. According to the report the violence took place after officers, who were dining in civilian clothes, had been "provoked" by remarks from other customers. The Inspector General of the Interior Ministry's General Inspectorate (IGAI) confirmed in October that an internal PSP inquiry had been opened and that IGAI was following the case.

On 27 December, at about 1am, **Cândido Ventura Coelho** and 17-year-old José Carlos Coelho, both Mozambican nationals resident in Portugal, were stopped by two plainclothes PSP officers while they were crossing a bridge over a railway line by the station of Damaia, in the Lisbon area.

According to a report, the officers asked them for identification, which the brothers produced. The officers then searched their bags, apparently for syringes. The brothers said they did not possess any syringes and that the officers should not search them without having some motive for suspecting them. They were taken to the PSP station at Damaia, and were again subjected to an identity check and questioned. During the questioning, Cândido Coelho, who suffers from a mental disability, replied in a muddled way, notably with respect to his age. The younger brother informed the officers of Cândido's mental disability. He also asked if they could make a telephone call to their family, but this was refused.

After they had waited for a while, Cândido Coelho was reportedly taken into a bathroom within the police station where an officer subjected him to physical ill-treatment. The officer allegedly pushed him hard against a wall, against which Cândido Coelho banged his head. He was then kicked. He was also punched repeatedly in the face and head until a second officer approached the room and told his colleagues to stop. As a result of the alleged beating Cândido's face was seriously bruised. There were discharges from two black eyes and marks on the neck and he complained of aches and pains in his chest. A photograph taken three days afterwards shows injuries to the face and notably to one eye.

After leaving the police station Cândido Coelho was taken by another brother to the Amadora-Sintra hospital for observation. Hospital records noted the brothers' claim that the bruising was a result of a beating by a police officer. A formal complaint was registered at the police station and the Judicial Police (PJ) opened an inquiry into the allegations.

### **Linhó prison, Sintra**

AI received reports about ill-treatment by prison guards. Many of these, mainly about beatings, allegedly took place at Linhó prison, Sintra (see also AI Index: EUR 01/02/99). AI was investigating a number of these reports. Prisoners suffering from illnesses, often with HIV/AIDS, alleged inadequate access to medical treatment, medical neglect and

disregard of dietary needs and complained of filthy and inadequate surroundings.

## **ROMANIA**

### ***New reports of police ill-treatment and unlawful use of firearms***

According to a report received from *Asociația Pentru Apărarea Drepturilor Omului - Comitetul Helsinki* (Association for the Defence of Human Rights - Helsinki Committee, APADOR-CH), on 6 July, at around 6pm, Marian Ionel Pavel went to the police station to which he had been summoned for questioning about a theft of a horse. He refused to sign a "confession" and two police officers reportedly punched, kicked and hit him with their truncheons. Alarmed by his failure to return home, Marian Ionel Pavel's wife Luciana went to the police station with their six-year-old daughter. Although she was not allowed to see her husband, Luciana could hear him scream and when she managed to enter the office she saw officer C. C. hit him. Another officer then reportedly violently pushed Luciana, who was holding her daughter in her arms, out of the office.

At around midnight Marian Ionel Pavel returned home and the injuries suffered as a result of the beating were visible all over his body: on the palms of his hands, on his arms, back and legs. The following day he went to the Forensic Medical Laboratory in Slobozia but was told that an examination could not take place because the doctors were absent. He was instructed to return after the week-end. Similarly, at the County Police Inspectorate, they were told that they should return on Monday to lodge a complaint about the ill-treatment. Marian Ionel Pavel then went to *Stirea* (News), the local newspaper, where he was interviewed about the incident and photographed. On Monday, 10 July, Marian Ionel Pavel was examined by a forensic doctor only after the arrival at the laboratory of a major from the County Police Inspectorate whose presence, as well as the time since the date of the incident, appear to have influenced the findings noted in a medical certificate issued to Marian Ionel Pavel which described only



two bruises and two lesions on his back and right arm. Several provisions of the Romanian Penal Code, concerning assault and bodily injuries, base the severity of the offence on the severity of the injury, which in turn is defined by the number of days of medical treatment required for recovery. Forensic medical certificates appear to be the sole grounds on which prosecutors base their decisions concerning complaints involving injuries.

Another ill-treatment incident reported by APADOR-CH took place on 12 October, in Bucharest, on Boulevard I. C. Brătianu, in front of the "Buchuresti" store. Teodor-Cicerone Năritea was waiting for a friend who had gone into the store to buy some food. Without any apparent motive he was reportedly assaulted by two men in plain clothes who punched him on the chest and face and kicked him, causing him to fall to the ground semi-conscious. The men then put handcuffs on his hands, saying that they were police officers, and took him in a car to the Bucharest Police Section Number 10. On the way to the section he was again beaten and threatened with electric shocks should he refuse to confess to some thefts from cars. Nine hours later, he was taken to the hospital of the Ministry of the Interior to receive treatment for injuries he had suffered as a result of the beating at the time of his arrest. According to Teodor-Cicerone Năritea, an x-ray established that he had suffered a broken rib and a fissure of another on the front right-hand side of the chest. He was also treated for a cut and bruise in the area of the left cheek bone and bruising on the right cheek bone affecting the nasal passage. When he asked to receive a medical certificate he was told that the documentation of the hospital was a sufficient record of his injuries. APADOR-CH representatives inspected the hospital files and noted that only a fissure of the ninth front right-hand-side rib had been recorded.

According to a report by Mediafax, a national news agency, on 2 November 2000, three students of the Ovidius University were reportedly assaulted in Tîrgusor, in the Constanța county, while putting up posters for the *Convenția Democrată din România* (Democratic Convention of Romania), in preparation

for the presidential and parliamentary elections. Iulian Drăgoi, Dragos Vilcu and Marius Vileanu were pasting posters onto a billboard in the yard of the Mayor's office, when the mayor who was elected on the list of *Partidul Democrat Social din România* (Party of Social Democracy of Romania), intervened and took the brush. He then reportedly brushed with glue one of the young men and said: "This is how the posters should be posted". After the students protested the mayor reportedly punched one of them in the abdomen. The students then drove away in a car but were stopped in the village of Ovidiu by a police officer who took away the driver's license and then reportedly attempted to run over them in the police car. The students immediately complained to the Constanța County Prefect Dan Chirondojan.

On the evening of 4 December, in the field adjacent to "Arpechim" oil-refinery in Pitesti, Mihai-Matei Dumitru was looking for some scrap pipe which he intended to use as a curtain railing. He remained in the area longer than expected because he was asked by some children to assist them in a search for cows which they had brought to pasture close to the refinery. All of a sudden he heard a shot and then realized that he had been hit in the left-hand side of his jaw. He fainted and regained consciousness in the intensive care unit of a Bucharest hospital, after he had been operated upon. He subsequently learned from the journalists who came to visit him that he had been shot by a group of gendarmes guarding the refinery who were reportedly attempting to apprehend five men stealing petrol.

In December AI urged Romanian authorities to promptly and impartially investigate the reported incidents and to bring to justice those responsible for human rights violations.

#### ***Persecution of conscientious objectors to military service***

Over the years AI has expressed its concern to the Romanian authorities that certain provisions of Law number 46/96 Concerning the Preparation of the Population for Defence, promulgated in June 1996, and of the Governmental Decision number 618 of 6

October 1997 regarding alternative service, are at variance with internationally recognized principles on conscientious objection to military service. These provisions concern the grounds for applying for alternative service, its punitive length and restrictions on when applications for alternative service may be submitted.

In September AI wrote to President Emil Constantinescu about the prosecution of 29 Jehovah's Witnesses whose religious convictions forbid them to carry arms and perform military service (see *Romania: Conscientious objectors face imprisonment* AI Index EUR 39/06/00). They refused to carry out alternative service because they had reservations about its length and nature, and on the grounds that the law exempts from military service ordained ministers of recognized churches. In separate trials before military tribunals all but three of the conscientious objectors had been acquitted of failing to report for military service under Article 354 of the Penal Code, on the grounds that the failure to carry out alternative service was not proscribed by any law in force. Ruling on appeal, the Bucharest Military Tribunal overturned the acquittals and sentenced them to different periods of imprisonment. In July the Military Court of Appeal reviewed the cases of 13 men and sentenced them each to 18 months' imprisonment, suspended for a period of three years and six months. In December the same court acquitted three conscientious objectors and convicted one objector to a suspended sentence of a year and six months' imprisonment.

***The parliament fails to complete the reform of the Penal Code***

In September AI appealed to the members of the Romanian Senate to adopt the Law Concerning the Revision of the Penal Code and the Code of Penal Procedure which had been adopted by the Chamber of Deputies of the Romanian Parliament on 28 June. These revisions included the abrogation of Article 200. Paragraph 1 of this law penalizes homosexual relations between consenting adults "if the act was committed in public or has produced public scandal". Paragraph 5 makes it an offence, punishable by a

sentence of one to five years' imprisonment "to entice or seduce a person to practise same-sex acts, as well as to form propaganda associations, or to engage in other forms of proselytizing with the same aim".

Since 1993 AI has urged the Romanian authorities to revise these and similar provisions in force prior to the last revision of the Penal Code in November 1996. The organization is concerned that these provisions can lead not only to the imprisonment of adults solely for engaging in consensual homosexual relations in private, but that they could also lead to the imprisonment of individuals solely for having exercised their rights to freedom of expression and to freedom of assembly and association.

The proposed amendments to the Penal Code also abrogate Article 238 and paragraph 1 of Article 239 which criminalize defamation of public officials and lead to infringements of the right to freedom of expression. In the past these provisions have particularly affected the right of journalists in Romania to impart information and ideas without interference by public authority, as well as the right of other Romanians to receive such information and ideas. AI believes that a public official who considers her/himself defamed can resort to civil actions which anyone, regardless of status or function, can resort to in order to protect her or his reputation. Such actions, however, should not be used to stifle criticism of state authorities or to intimidate those who voice legitimate concerns about the actions or practices of state authorities.

When Romania became a member of the Council of Europe in October 1993 the Council's Parliamentary Assembly adopted Opinion number 178 (1993) listing areas for improvement and noting, *inter alia*, that "the Penal Code should be amended so that homosexual acts in private between consenting adults were no longer penalized". On 24 April 1997 the Parliamentary Assembly remarked on a number of still outstanding concerns in Romania and made specific requests to the Romanian authorities. In its Resolution 1123 (1997) the Parliamentary Assembly noted "that certain provisions of the Penal Code now

in force are unacceptable and seriously imperil the exercise of fundamental freedoms, especially Article 200 on homosexual acts and Articles 205, 206, 238 and 239 relating to insult and defamation, which interfere with the freedom of the press".

In its last sitting before parliamentary elections which took place on 26 November the Romanian Parliament failed to comply with the requirement to bring its penal code into line with the European Convention for the Protection of Human Rights and Fundamental Freedoms.

## R U S S I A N F E D E R A T I O N

### ***Prisoners of conscience***

*The case of Aleksandr Nikitin*  
(update to information given in  
AI Index: EUR 01/03/00)

On 13 September the Presidium of Russia's Supreme Court dismissed the Prosecutor General's appeal against the earlier acquittal of Aleksandr Nikitin. The appeal was the last throw in a five-year-long Federal Security Service (FSB)-led campaign of judicial persecution of Aleksandr Nikitin. On 17 April the Supreme Court of the Russian Federation upheld the 29 December 1999 decision of the St Petersburg City Court to acquit human rights defender Aleksandr Nikitin. Aleksandr Nikitin, a former prisoner of conscience, 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.

### *The case of Grigory Pasko*

On 21 November the Military Collegium of Russia's

Supreme Court ordered the Military Court of the Pacific Fleet to reconsider the case of former prisoner of conscience Grigory Pasko, a journalist and Russian naval captain. The Military Collegium took its decision after the military procurator of the Pacific Fleet appealed against the dismissal by the court of the more serious treason charge against Grigory Pasko, who was convicted on a lesser charge of abuse of office. The appeal was accepted on the basis that the details of the case had not been examined carefully enough. This latest court ruling was a sign of increasing pressure on environmental activists in the Russian Federation. Grigory Pasko was arrested in 1997 for treason and espionage, after exposing the Russian navy's illegal dumping of nuclear waste. After a six-month closed military trial in Vladivostok, he was sentenced to three years' imprisonment by the military court in July 1999 on a lesser charge of abuse of office, but was then released under an amnesty. Charges of treason and espionage, for which the prosecution demanded a prison sentence of 12 years with hard labour, were dismissed by the court. He had already spent 20 months in pretrial detention, 10 months of which was in solitary confinement.

Grigory Pasko appealed against the conviction and sentence, arguing that the prosecution had failed to demonstrate that he had committed any crime. For their part, military prosecutors appealed against the dismissal of the treason charges. The military procurator of the Pacific Fleet submitted a supplementary appeal on 29 August 2000 protesting "the unfair leniency of the sentence", calling for it to be annulled and for the case to be tried anew at the Vladivostok military court.

### ***Conscientious objectors***

There was still no civilian alternative to military service. Young men who claimed conscientious objection to military service based on their religious beliefs and membership of banned organizations, such as the Jehovah's Witnesses, were often not considered to be legitimate conscientious objectors by the courts. Conscientious objectors continued to face

imprisonment.

In September the Dzerzhinsky City Court in Nizhny Novgorod Region sentenced conscientious objector and member of the local non-governmental organization "Nizhny Novgorod Peacemaking Group", Vladimir Komolov, to the suspended sentence of one year's imprisonment with a trial period of six months for refusing to perform the mandatory military service and requesting to perform a civilian service due to his pacifist beliefs.

However, individual judges decided in some instances to recognize the constitutional right to conscientious objection and released some objectors from detention pending the introduction of a civilian alternative to military service. In April the Moscow City Court recognized the right of conscientious objector Vasily Bazhenov to do alternative civilian service and dropped the criminal charges against him. Also in April the Kalinin District Court of Cheboksary granted Jehovah's Witness Oleg Lipatov's appeal against the conscription commission of the Kalinin District Military Enlistment Office. In May the Judicial Chamber for Criminal Cases in Krasnodar reversed the conviction of Jehovah's Witness Aleksey Miroschnichenko, who had requested a civilian alternative service on grounds of his religious beliefs. Also in May the Gorno-Altaysk City Court in Siberia ruled that Aleksandr Kalistratov, a Jehovah's Witness, had the right to choose alternative civilian service.

In some cases judges who ruled in favour of the conscientious objectors risked government pressure and retaliation by the authorities, including losing their jobs. Prominent reformist judge, Sergey Pashin, was stripped of his post in the Moscow City Court in October because of a scholarly paper in which he criticized another judge by questioning the legality of a conviction for draft evasion handed down to conscientious objector Dmitry Neverovsky. Apparently Judge Pashin was also dismissed for giving out his office telephone number on a radio show: the Qualifications Collegium of Judges deemed his behavior as "not fitting for a judge".

In November 1999 the Obninsk City Court sentenced Dmitry Neverovsky - a student from Kaluga Region and a conscientious objector who

refused to serve in the army during the war in Chechnya because of his pacifist beliefs - to two years' imprisonment for draft evasion. Dmitry Neverovsky claimed that while in pre-trial detention he was systematically ill-treated by the guards. In April 2000 he was released from prison after the Kaluga Regional Court decided on appeal to overturn his conviction. However, the Kaluga Regional Court did not revoke a previous court order to subject Dmitry Neverovsky to a psychiatric examination, while the local office of the procurator threatened to reopen the criminal case against him in the light of new evidence.

### ***Alleged politically motivated killings***

#### *The case of Larisa Yudina*

The names of those who ordered the killing of Kalmyk opposition journalist Larisa Yudina remained unknown. Despite the fact that three men were convicted in the Republic of Kalmykia in November 1999 in connection with the murder in June 1998 of Larisa Yudina, human rights groups in the republic continued to maintain that the journalist was killed on orders by Kalmykian President Kirsan Ilyumzhinov. According to Russian press reports, criminal investigators have in secret indicated that President Ilyumzhinov's brother Viatcheslav ordered the killing. In September Russian President Vladimir Putin posthumously awarded Larisa Yudina with a medal for "courage and bravery in carrying out her professional duty".

### ***Alleged ill-treatment of human rights defenders***

Masked law enforcement officers reportedly ill-treated staff and visitors of the human rights organization Glasnost Foundation in a raid conducted on the foundation's office in Moscow on the evening of 29 August 2000.

Allegedly, the officers ordered at gunpoint everyone present in the foundation's office, numbering about 12 people and including a 10-year-

old girl, to lie face down on the floor with their hands behind their heads. The officers are reported to have sworn at the human rights activists and to have kicked some of them. An officer allegedly kicked Sergey Grigoryants in the head and back for not lying down quickly enough. The activists were kept lying on the floor for about 30 minutes before they were allowed to stand up again.

#### ***Alleged torture and ill-treatment in the armed forces***

Widespread torture and ill-treatment in the armed forces resulted in a number of deaths of soldiers and officers.

In August four discharged soldiers who had served during the war in Chechnya - Vladimir Murashkin, Igor Koshelev, Larisa Klimova and Victor Khmyrov - reported the systematic torture and ill-treatment in the 72 regiment of 42 army division stationed around Stanitsa Kalinovskaya. According to their reports, conscripts are systematically beaten by fellow officers and senior soldiers from the intelligence unit. Soldiers are kept for days in special zoo-like cages in front of the barracks. The four soldiers reported that private Vladimir Demakov was forced to spend 15 days in the cage after writing a complaint to the unit commander about ill-treatment of fellow soldiers. Vladimir Demakov was also beaten with belts and hit with a crow-bar. It was reported that on 30 July a conscript soldier was severely beaten by officers of the intelligence unit. When the army doctor asked for a helicopter to urgently transport the soldier to an army hospital in the city of Mozdok because his health deteriorated, the commander of the regiment refused to allow this, claiming that the soldier was healthy enough. Despite the order, the medical doctor sent the soldier away and his further fate was unknown. One of the most outspoken officers, Captain Andrey Katradzhiev, died on 29 July after being taken away from his barrack the previous night by officers of the intelligence unit. In the morning he was delivered to the medical doctor in critical condition and died a few hours later. Seven newly arrived conscript soldiers deserted the regiment

after the whole group of new conscripts was allegedly subjected to systematic torture and ill-treatment as an initiation ritual.

No criminal investigation into these allegations is known to have taken place.

#### ***Conditions of detention***

Conditions in penitentiaries and pre-trial detention centres, which held up to a million people, did not improve and continued to amount to cruel, inhuman or degrading treatment. Hundreds of thousands of people awaiting trial continued to be held in grossly overcrowded conditions. It was reported that nearly five million people enter and leave the prison system annually. Over 10,000 inmates die annually and over 100,000 people have tuberculosis.

In May a new law designed to grant amnesty to detainees and prisoners sentenced for minor crimes was adopted by the State Duma lower house, in a goodwill gesture to mark the 55th anniversary of the end of World War Two in Europe. It was not clear how many people were freed under the amnesty, although the authorities reported in November that over 168,000 people were released.

#### ***The Chechen conflict: impunity and continuing crimes against civilians***

Both parties to the conflict in Chechnya continued to commit serious abuses of human rights and breaches of international humanitarian law. Russian forces were responsible for the overwhelming majority of physical harm and material damage suffered by civilians. AI and other international and Russian human rights organizations active in the region continued to document violations by Russian forces, including: arbitrary detention, torture and ill-treatment, "disappearance", and indiscriminate or direct attacks on civilians during military operations. These practices have not lessened since the early months of the war, but rather have become a routine part of Russian operations. Chechen fighters violated humanitarian law by failing to protect civilian immunity during attacks on Russian positions, by

attacking civilians who work in the local administration in Chechnya, and by ill-treating and extrajudicially executing Russian soldiers they have captured.

Russian forces on "cleansing operations" (in Russian, *zachistka*) in towns and villages continued to arbitrarily arrest and use disproportionate force against civilians. According to the Ministry of Internal Affairs, by the end of the summer 15,000 people in Chechnya had been detained in relation to the conflict. Most are reportedly beaten or subjected to torture while held in incommunicado detention; bribes are almost always extorted from relatives in exchange for their release. Hundreds of others simply "disappear" in custody.

Non-governmental organizations and independent journalists continued to face significant obstacles to gaining access to Chechnya and to carrying out their work there. An estimated 300,000 civilians remained displaced by the conflict, both inside Chechnya and in neighbouring republics. About 150,000 of them were in Ingushetia, spending their second winter in very poor conditions, many lacking adequate shelter and hygiene. The displaced civilians refused to return to their homes, many of which have been destroyed, because they feared that their safety and physical security would be at risk. Civilians continued to fear passing through the many Russian military checkpoints within Chechnya and border posts with Ingushetia, which prevented some people from seeking medical treatment in neighbouring Ingushetia.

*The case of Andrey Babitsky*  
(update to information given in  
AI Index: EUR 01/03/00)

On 6 July, the Russian Interior Ministry announced that, following an investigation, Andrey Babitsky, a Russian war correspondent working for Radio Liberty, had been formally charged with knowingly using false identity papers. He later stood trial in October. A Dagestani court convicted him on 6 October and the judge ruled that he should pay a fine of 10,000 Rubles (\$350) for using a false passport. However, the crime of which Andrey Babitsky was

convicted fell under a recently introduced amnesty and he was released from the obligation to pay the fine. In December the Supreme Court of Dagestan reviewed the case on appeal and ruled to uphold the earlier verdict of the Makhachkala Regional Court which found Andrey Babitsky guilty. However, AI was not aware of any investigation by the Russian authorities into allegations of ill-treatment of Andrey Babitsky while held in Chernokozovo detention center.

Andrey Babitsky went missing in Chechnya while trying to leave the capital Grozny. 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, reportedly in exchange for Russian soldiers held by Chechen forces. On 25 February Andrey Babitsky was found in detention in the Dagestan capital, Makhachkala, from where he was released and flown to Moscow following the intervention of Vladimir Putin.

Andrey Babitsky stated that he had been detained in the Chernokozovo "filtration camp" where he had been beaten with truncheons by Russian guards and heard the screams of other detainees, including a woman, being tortured. He also said that the Russian authorities had handed him over to unidentified Chechens, whom he believed were working together with the Russian forces, against his will.

**Arbitrary detention**

*The case of 16-year-old Adam Abubakarov* (update  
to information given in  
AI Index: EUR 01/03/00)

At a meeting in Moscow on 2 June AI requested the help of the office of the Special Representative of the President on Human Rights and Freedoms in the Chechen Republic in discovering the whereabouts of Adam Abubakarov. In July the Russian authorities stated to AI that: "No Adam Abubakarov has ever been arrested or detained or put into any detention institutions of the Russian Federation. No criminal

case has ever been instituted against such a person.” In August a representative of the Russian authorities wrote to an AI member: “Yes, ‘Adam Abubakarov’s case’ is fabricated, and you personally help to use this fabrication against my country.” The same official commented that Adam Abubakarov was a figment of “virtual reality”.

Adam Abubakarov was arrested at a Russian army checkpoint in Urus-Martan in February, while travelling to rejoin his family in Ingushetia, to which they had fled. He was reportedly detained at the “Internat” detention centre. The family later received reports that Adam had been transferred to a detention facility in Mozdok, and from there possibly to the prison hospital in Pyatigorsk, in Russia’s Stavropol Territory. Adam Abubakarov’s father Hamzat visited the Memorial (a Russian Human Rights organization) field office in Nazran at the end of August, and said that he has no fresh news of his son. According to a report, in early October he had information that his son was now being detained in Rostov-on-Don, and, helped by the sale of his tractor, he was gathering money to meet a new ransom demand equivalent to \$7,000.

### ***Possible ‘Disappearances’***

#### *The case of Chechen member of parliament Ruslan Alikhadzhiyev*

Ruslan Alikhadzhiyev was a Chechen field commander in the 1994-1996 Chechen conflict. In 1997 he was elected as a member of the Chechen parliament, and was chosen as the parliament’s chairman. He took no part in fighting during the current conflict in Chechnya. Throughout the current conflict until his arrest in May he remained at his family home in the Chechen town of Shali. In the early months of 2000 he spoke out in favour of political negotiations and compromise to end the war, and proposed himself as a possible mediator between the Russian and the Chechen authorities.

Ruslan Alikhadzhiyev was taken from his home in the town of Shali on 17 May by Russian forces that included several armoured vehicles and two

helicopters. He was reportedly taken with six other detainees, who were later released, to a Russian military intelligence facility in the Chechen town of Argun. At a 25 May press briefing the deputy chief of the Russian army general staff, General Valery Manilov, confirmed that Russian forces had captured Ruslan Alikhadzhiyev.

However, the further fate of Ruslan Alikhadzhiyev remained unknown. Chechen sources claimed on 2 September that he died of a heart attack on 31 August, after being tortured in the Lefortovo pre-trial detention centre (SIZO), in Moscow. The Federal Security Services (FSB) denied that Ruslan Alikhadzhiyev had ever been held in the SIZO, in a 7 September public statement, and said they could not confirm the claim about his death. The previous day they had confirmed to Associated Press that Ruslan Alikhadzhiyev had been arrested. The Prosecutor General’s office had earlier told Ruslan Alikhadzhiyev’s Moscow lawyer that no criminal charges had been filed against him, and the Ministry of Internal Affairs reportedly said that his name was not on its computerized register of all people officially detained in the Russian Federation. Ruslan Alikhadzhiyev’s lawyer told AI that the Russian Prosecutor’s Office in the Chechen Republic informed him on 3 August that the Shali District Prosecutor had begun a criminal investigation into the kidnapping of Ruslan Alikhadzhiyev by Russian forces.

### ***Lack of accountability for crimes against civilians in Chechnya***

The Russian government failed to show that it is committed to accountability for crimes committed in Chechnya. The procuracy is the only agency in Russia authorized to investigate crimes committed by federal forces in Chechnya and to prosecute those responsible. It has launched 47 investigations into crimes against civilians, including 38 against servicemen and nine against Ministry of Internal Affairs personnel. Of these, according to information available at the end of December, 12 were for murder, six for deaths resulting from bombardment

or artillery fire, and six for theft; the remaining investigations related to crimes that were either non-intentional or minor. It has launched fewer than 150 investigations into "disappearances".

These efforts remained inadequate given the magnitude of the crimes that have been perpetrated, including three well-known massacres that took place earlier in the conflict. In addition, the procuracy has not, to the best of AI's knowledge, acted on the European Committee for the Prevention of Torture's recommendation to investigate allegations of torture at the Chernokozovo detention facility. In fact, according to information available, not a single investigation has been opened against Ministry of Internal Affairs or army servicemen for torture. The procuracy's efforts are inadequate also with regard to the volume of civilian complaints filed. The Office of the Special Representative of the President of the Russian Federation for Human Rights in the Chechen Republic, Vladimir Kalamanov, has received 12,000 complaints filed by civilians, 1,200 of which concern arbitrary arrest and "disappearances".

The Russian government has not established any other agency with prosecutorial authority to investigate crimes against civilians committed in Chechnya. Vladimir Kalamanov's Office does not have such a mandate, and even with the participation of Council of Europe experts, it has not facilitated accountability or human rights protection in a meaningful way. The State Duma commission on Chechnya held its first hearing fully one year after the conflict started, and while it remained entirely unclear what results might come of its work, it was clear that it did not have investigatory powers. The "independent national commission" led by Pavel Krashennnikov, which had no authority or mandate to conduct investigations appeared to be defunct.

***Persecution of Chechens  
by the police outside Chechnya***

Chechens and other people from the Caucasus reported that they continued to be arbitrarily detained, ill-treated and tortured in Moscow and other parts of the Russian Federation. AI has documented the

persecution of Chechens in Moscow by the police, and the unconstitutional measures, including the practice of resident permits (*propiska*) instituted by the Mayor Yury Luzhkov to expel thousands of Chechens from Moscow, and to deny registration to internally displaced Chechens who had fled the conflict zone. Reports continued to be received that in some cases police fabricated criminal charges against Chechens and planted drugs or weapons on them. In over 50 such cases Chechens stood trials in Moscow and the courts found most of them guilty and the majority received prison terms, despite compelling evidence that the charges were fabricated. The Moscow police anti-terrorist operation entitled "Whirlwind", which was initiated in September 1999, continued during 2000. Similar anti-terrorist operations were reported in other large Russian cities. In August the newspaper *Noviye Izvestiya* revealed, and a Moscow police spokesman confirmed, that at the end of every shift police officers have to fill in a table to document how many Chechens, Georgians or Azeris they have detained and the alleged intended purposes of the money which they have confiscated from the detainees.

Russian authorities have repeatedly hastened to place the blame for "terrorist" bombings upon Chechens, without awaiting the results of investigations, such as attributing the September 1999 apartment block bombings in Moscow and Volgodonsk, in which nearly 300 people died, to Chechen terrorists. Yet again, Moscow Mayor Luzhkov implied that the Chechens should be blamed following another bombing in Moscow in August.

## SLOVAK REPUBLIC

***Alleged ill-treatment of Roma***

AI is concerned that a recently reported police operation in Plavecký Štvrtok conforms to an apparent pattern of punitive police actions against Romani communities, organized in response to suspected crimes committed by individual Roma. Previous incidents include police operations



conducted in the Romani settlements in Hermanovce on 27 October 1998 (see: AI Index: EUR 01/02/99) and in Ďehra on 2 December 1999 (see: AI Index: EUR 01/01/00).

The police operation in the Romani settlement in Plavecký Štvrtok took place on 19 September, at around 5am. According to information received from the League of Human Rights Advocates and the International Club for Peace Research, a local non-governmental human rights organization, a group of around 20 masked officers of the Rapid Response Unit and six members of the Slovak Police Force violently entered the houses and reportedly indiscriminately beat and kicked women, children and men. The police action was allegedly organized to apprehend Juraj K<sup>18</sup>, who had been sentenced to one year's imprisonment in April, and two other Roma who had reportedly obstructed the police in an attempt to arrest Juraj K. four days earlier. Nadeřda B., one of the 700 Romani residents of this isolated settlement, described to the local human rights activists how she was awoken by seven masked officers who kicked open the door of her house. They reportedly kicked everything in their way and shouted racist abuse. One of her daughters, who is 10 years old, suffered an epileptic fit as a result of the shock after being pushed out of her bed along with two other children. When the police broke into the home of Zdena H., another resident of this settlement who was reportedly ill-treated, she was hit on the chest making her fall to the ground. Later a doctor came to examine her and treat her for the shock she had suffered as a result of the assault. In another incident Joseph M., one of the Roma wanted by the police, was pushed to the floor and beaten with truncheons in front of his wife and two small children. He was then taken outside into a police van where the beating continued. In the police cell he was reportedly beaten with what appeared to be a leg of a broken table before being released at around 7pm on

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<sup>18</sup>The real identity of all people mentioned in the report of this incident has been changed in the interest of confidentiality.

the same day. Earlier, at around 1pm, he was taken to a hospital in Malacky where a doctor reportedly only superficially examined him after the police refused to take off the handcuffs. Joseph M. has been charged with assaulting a police officer and has reportedly been threatened by the police not to complain about the ill-treatment.

In March 2000 Ladislav Pittner, the Minister of the Interior provided information to AI about the investigations into the police operations on Romani settlements in Hermanovce and Ďehra as well as into the shooting of Ľubomír Šarišský during his interrogation in the Poprad police station (see AI Index: EUR 01/01/00). According to Minister Pittner, the police action in Ďehra had been planned in coordination with the District Prosecutor who had issued search warrants for seven houses. The entire action had been monitored and "no inappropriate infringements of civic rights and liberties were discovered". With regard to the shooting of 15-year-old Jaroslav Miňgár "an evaluation carried out following the completion of the action at 9am recorded that the use of the duty weapon was appropriate and justified". The minister also noted that "in the course of the police action no complaints or appeals were registered on the part of the citizens at whom the action was directed". With regard to the police operation in Hermanovce an investigation by the Košice inspectorate of the Office of Inspectorate Services and Control "did not uncover any facts indicating any illegal act. The use of restraining measures was found to be appropriate". Regarding the killing of Ľubomír Šarišský, who was being interrogated in Poprad Police station on suspicion of stealing a bicycle, the Minister replied that the detainee had attacked the officer "pulling a gun from the holster on the officer's belt, and shooting himself in the stomach", and that an investigation was in progress. It has recently been reported that the police officer responsible for the shooting of Ľubomír Šarišský was sentenced on 18 October 2000 to one year's imprisonment suspended for the period of two and a half years.

AI is concerned that the investigations into the reported police operations on Romani settlements

appear not to have been carried out thoroughly and impartially as required by Article 12 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture). As a state party the Slovak Republic is bound to initiate a prompt and impartial investigation whenever an individual has alleged that torture or other ill-treatment has occurred or, **even if no complaint has been made** (AI's emphasis), there are reasonable grounds to believe that such ill-treatment has occurred.

***Apparent police failure to effectively investigate an incident of racist violence***

The apparent impunity granted to police officers who participate in operations in Romani settlements leads to further human rights violations, as in the case of the recently reported action in Plavecký Štvrtok. Furthermore, AI is concerned that the government's failure to publicly condemn such police conduct fosters an atmosphere which condones racist violence, a severe human rights problem which affects the Roma and some foreign nationals in Slovakia.

On 7 April at around 2.40pm in Zvolen, on the pedestrian passage between the parking lot of the Technical University and the bus station, Ahmed B<sup>19</sup>, a national of an Asian country who is a local resident, was severely assaulted by four skinheads. The incident was observed by a large number of people who took the injured Ahmed B. into the university reception room. He lay on the floor with blood profusely streaming from his broken nose when a police officer arrived and asked him for his identity card and inquired about his wife's nationality. The officer apparently failed to question any of the witnesses or to note their identity. In the hospital, while waiting to be operated upon for internal bleeding, Ahmed B. was again approached by a police officer who showed him a photo-album. Because of

the state of shock he was in at the time, he was unable to identify the men who assaulted him. Multiple injuries which he suffered in the incident required 73 days of sick leave.

When he went to the police station on 17 April to inquire about the investigation into the incident he was informed that no report had been filed about it. The officer who intervened at the time then submitted a report which claimed that only two men were involved in the attack. His report also failed to classify this offence as a racially motivated assault. When Ahmed B. refused to sign the report he was informed that he did not have a choice in the matter. He then complained to the Minister of the Interior and was again summoned to the police station on 3 May to file the complaint anew. The report again failed to note the racist motive of the assault or the exact number of perpetrators. Ahmed B. was summoned to a further three or four interviews at the police station. On one occasion he was engaged for more than an hour in a discussion in which he was asked to explain how he knew that his attackers were skinheads. Then, at an interview which took place on 26 June, a two-page statement was written in his presence in which he was required to describe how he came to recognize that the attackers were skinheads. At no point was he shown again the photo album, which presumably contains photographs of suspects involved in similar offences, nor did the police appear to act on his information that he had been insulted and spat upon on a number of previous occasions by skinheads who attended the school where he worked. In fact Ahmed B. experienced his meetings with the police as degrading, intimidating and inherently racist. On 7 September he was visited by an officer who showed him for confirmation a photograph of the site where the assault took place and the following day he received a statement informing him that the investigation into his complaint had been closed. This statement even insinuated that his sick leave had been unnecessarily lengthy.

AI is concerned that the investigation into the assault on Ahmed B. was not prompt and impartial, as required by international standards. The organization urged Pál Csáky, the Deputy Prime Minister

<sup>19</sup>The real identity of Ahmed B. has been changed in the interest of confidentiality.

responsible for Human and Minority Rights, to initiate a thorough and impartial investigation into the reported attack and the motivations of all its perpetrators as well as of the reported subsequent harassment and intimidation of the victim.

## SPAIN

### *AI response to growing toll of ETA abuses*

The campaign of killings by the armed Basque group *Euskadi Ta Askatasuna* (ETA) intensified. A total of 18 people were killed in the last half of 2000, compared to five in the first half. The majority of victims were civilian.

In July a councillor belonging to the ruling Popular Party (PP), **José María Martín Carpena**, was shot dead in Málaga for “strictly political” reasons, according to an ETA statement. Later in July **Juan María Jáuregui**, a Socialist and former governor of the Basque province of Guipúzcoa, was shot dead, also for “strictly political” reasons, in Tolosa. In August **José María Korta Uranga**, the President of Adegí, an employer’s organization in Guipúzcoa, was killed in a car bomb explosion at Zumaia (Guipúzcoa). He had reportedly asked the members of Adegí not to pay the “revolutionary tax” demanded by ETA. At the end of August PP councillor **Manuel Indiano Azaustre** was shot at Zumárraga (Guipúzcoa) in the shop where he sold bread, newspapers and confectionery. In September **José Luis Ruiz Casado**, also a PP councillor, was shot dead in Sant Adrià de Besòs (Barcelona). In October **Luis Portero**, chief prosecutor of the Supreme Court of Andalucía was shot dead in Granada. **António E. Muñoz Cariñanos**, a doctor who worked in the civilian as well as the military sphere - and was a well-known nose, throat and ears specialist, with flamenco singers among his patients - was shot dead at his surgery in Seville. His death was followed shortly afterwards by that of prison officer **Máximo Casado Carrera** in Vitoria (Álava) and **José María Querol Lombardero**, a magistrate of the Supreme Court. A bus driver, **Jesús Sánchez**

**Martínez**, was killed by the same car bomb explosion. In November a former Socialist health minister, **Ernest Lluch**, was shot in Barcelona, and in December PP councillor **Francisco Cano Consuegra** was killed at Terrassa (Barcelona). Military personnel, Civil Guards and police officers, including bodyguards or drivers, were also killed. These were **Federico Casanova Vicente**, **Irene Fernández Pereda**, **José A. de Jesús Encinas** (August); **Jesús Escudero García** and **Armando Medina** (October); **Miguel Angel Gervilla Valladolid** (December).

Several other killings have been attempted and many people, including some children, have been injured.

AI has continued to issue press statements repeatedly and unreservedly condemning human rights abuses committed by ETA or other armed groups. In October, in view of the escalation in killings, a six-month campaign was launched in which AI groups made a direct approach to three of ETA’s designated representatives to urge them to convey more directly to the armed group AI’s concerns about human rights abuses. ETA was again urged to bring an immediate and unconditional end to the intentional killings of civilians - political representatives, journalists, judges and others. AI also urged an end to the “street violence” (“*kale borroka*”) by some radical Basque nationalist groups, which included death threats and life-threatening attacks with petrol bombs and other incendiary devices on homes, buses and other property. AI called on ETA, as it has called on armed political groups elsewhere, to respect fundamental standards of human rights and international humanitarian law. AI referred to the UN Declaration of Human Rights and International Covenant on Civil and Political Rights, both of which set out as a basic principle the right to life, liberty and security of person, and to the Geneva Conventions of 12 August 1949. AI stressed that by doing this it was not making any statement or value judgment as to whether an armed conflict existed in Spain.

No reply from any of the three ETA-designated

representatives has yet been recorded.

### ***New anti-terrorist legislation and arrests of Basques***

The escalation in human rights abuses by ETA, and the corresponding surge in “*kale borroka*”, led to calls for further measures against politically-motivated violence. The Spanish government proposed new penal measures against terrorism. They included a law penalising those who “exalt terrorism”, those who “justify crimes of terrorism by whatever method of public expression or distribution”, or those who carry out acts “bringing into discredit [or] showing contempt for or humiliating the victims of terrorist crimes or their families”. Another law, due to come into force in January 2001, strengthened penalties against minors accused and convicted of politically-motivated acts of violence and established a special central court for minors attached to the National Court in Madrid (*Juzgado Central de Menores de la Audiencia Nacional*).<sup>20</sup>

In November an AI delegation visited Spain both to present the organization’s concerns about ETA’s human rights abuses and to ask the Secretary of State for Justice for clarification about the proposed new law on minors. AI expressed concern about the possibility that minors accused of terrorist acts could be subjected to incommunicado detention under the new law and urged the Spanish government to ensure that the new provisions did not violate the rights set out, in particular, by Article 37 of the UN Convention on the Rights of the Child (CRC).<sup>21</sup>

<sup>20</sup>“*Ley Orgánica 5/2000, de 12 de enero, reguladora de la Responsabilidad Penal de los Menores, en relación con los delitos de terrorismo*”.

<sup>21</sup>Article 37 of the CRC, which Spain has ratified, affirms the right of the child not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment: not to be deprived unlawfully or arbitrarily of his or her liberty and, if deprived of liberty, to be treated humanely and with respect, and separated from adult prisoners (qualified by the notion of the child’s best

In October and November 10 people who belonged to a variety of Basque social, cultural and political organizations were arrested and imprisoned on the grounds of illicit activities connected with ETA. AI was concerned about the possibility that those arrested included individuals whose commitment to the concept of Basque sovereignty, and whose activism within radical Basque groups, had been falsely interpreted as support for, or membership of, ETA. One of those arrested, **Sabino Ormazabal Elola**, is a well-known writer, journalist, ecologist and promoter of non-violent civil disobedience. He and **Patxi Joseba Azparren Olaizola**, who was also arrested but later released from prison, were among the signatories of the five-point Document of Zaramago, drawn up in Bilbao in September. The Document of Zaramago urges, among other things, that ETA declare a lasting truce as a “way towards a solution of the political conflict”. Sabino Ormazabal and fellow prisoners have denied being members of, or collaborators with, ETA<sup>22</sup>.

### ***Fatal shootings by Civil Guards***

In December the Algeciras court opened a judicial inquiry, and the Director General of the Civil Guard opened disciplinary proceedings, into the conduct of an officer who fired on and killed **Abdelhadi Lamhamdi**, an undocumented Moroccan national, in Tarifa (Cádiz). Abdelhadi Lamhamdi, from the south of Morocco, had just disembarked on the beach. He was seen and pursued by the officer, who faced

interests). Article 37(c) gives the child the explicit right to maintain contact with his or her family, except in exceptional circumstances.

<sup>22</sup>According to the court order (*Auto de Entrada y Registro*), justifying the arrests, Sabino Ormazabal and others took part in the “Piztu project”, a project setting out a strategy of civil disobedience, which was allegedly a “key document” initiated by ETA-KAS. A copy of the document was found in the possession of a suspected ETA leader, José Javier Arizcuren Ruiz (“Kantauri”) when he was arrested in Paris in March 1999.

possible disciplinary measures for using a weapon in contravention of firearms regulations, and was meanwhile suspended. According to the reported official version the Moroccan had been shot accidentally after he tried to push the officer in order to get away from him. The officer was running with a lamp in one hand and his gun in the other after firing a warning into the air. Regulations for law enforcement officers state that firearms should only be used when there is a serious risk to the life or physical integrity of an officer or third person.

In December a Civil Guard was sentenced to one year's imprisonment after being found guilty of "homicide as a result of serious imprudence" ("*homicidio por imprudencia grave*") for the fatal shooting of **Miriam Gómez** in Seville in 1999. The officer had fired at a car in which the young woman had been a passenger. The driver had been fleeing a breathalyser test. The officer had reportedly argued that he was under an obligation to fire his weapon to prevent loss of life to others. The driver of the car had earlier also been sentenced to one year's imprisonment for reckless driving and disobedience ("*conducción temeraria y desobediencia grave*").

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

Reports were received about new cases of alleged ill-treatment of persons - including minors - of North African nationality or origin by members of the municipal police force. In October **Benaissa Belaoui**, a Moroccan national, filed a judicial complaint against six officers of Madrid's municipal police. After being discovered selling pirate CDs he was reportedly pursued into a dark alley. Up to six officers, some of whom had been called as reinforcements, allegedly took it in turns to beat him with truncheons, kick and punch him. They reportedly continued to beat him after he had been taken in handcuffs to the Chamberí station and until the arrival of a National Police officer, who told them to leave the room. His injuries temporarily prevented him from being able to walk. A medical report referred to marks of beatings on the chest, left leg, kidney area and elbow. The *Cuerpo de Policía*

*Municipal* reported that two officers had also been injured in the course of arrest. Inquiries into the incident were opened by the city council of Madrid as well as by municipal police.

In October a judicial inquiry was opened into allegations that two Algerians, one a minor, were severely ill-treated by municipal police officers in the Spanish North African enclave of Ceuta. The Algerians claimed they were beaten with truncheons both before and after being transferred to a police station. **Said. M.**, who was 17, allegedly lost consciousness during the beating and was revived with water from a rubber hose, with which he was also beaten. While lying on the ground he was also allegedly kicked and insulted. Both Algerians were then reportedly taken to a police vehicle, again beaten, and left in the area of Calamocarro, where they had first been detained.

#### ***Alleged inhuman and degrading treatment of immigrants***

There were claims that the Spanish authorities were failing to provide basic humanitarian care for hundreds of undocumented African nationals, many from Nigeria, Senegal and Sierra Leone, who disembarked on the beaches of the Campo de Gibraltar and Canary Islands during the year. A number of those disembarking and waiting on the beaches for the arrival of the Civil Guards were suffering from malnutrition, hypothermia and physical injuries, including burns and fractures. Non-governmental organizations expressed concern that most of the immigrants were held in overcrowded, inappropriate and insanitary conditions in Civil Guard barrack cells and a municipal sports centre, before being served with expulsion orders and released onto the streets or at bus stations. Concern was also expressed about delays in recovering bodies from beaches.

In October hundreds of undocumented Moroccans were deported from the Spanish mainland to Ceuta and from there to Morocco, allegedly in conditions that fell short of international standards, including the International Convention for the Safety

of Life at Sea (SOLAS). The Moroccans were reportedly held, sometimes handcuffed, within the overcrowded cells of police vans or buses, in the holds of ferries. They were reportedly subject to injury from the movement of other vehicles in heavy seas, as well as to great heat and engine noise, and without access to means of securing their safety in times of danger. Some ferry captains alleged that police officers had pressed them to accept the Moroccans as cargo rather than as passengers.

***Death in custody update:  
António Fonseca Mendes***

As stated in AI Index: EUR 01/03/00 two autopsy reports were conducted on the body of **António Augusto Fonseca Mendes**, a native of Guinea-Bissau who died in police custody in Lanzarote (Canarias) in May. The first report found no sign of external injury. The second concluded unequivocally that António Fonseca had died as the result of a "blow caused with a blunt instrument" to a muscle on the right side of the neck. A toxicological report did not find any trace of drugs in the body, contrary to initial police reports that he had died after ingesting drugs.

In August, a day after the results of the second autopsy appeared in the press, the *Dirección General de la Policía Nacional* implied, for the first time, that the fatal injury was caused by António Fonseca hitting himself on the mirror of a parked car as he ran from officers prior to arrest. Independent eye-witnesses disputed the claim. Members of the Fonseca family were suddenly accused by police of "manipulating" the body after the first autopsy. Further confusion followed an examination by a third forensic expert, ordered by the judicial investigation, to resolve the apparently serious contradiction between the two autopsy reports. The doctor was said to have initially concluded that the exact cause of death had not been established by either autopsy report, but subsequently to have inclined towards the view that death had been natural. The reason for this was not clear.

In the following months contradictory evidence emerged regarding crucial evidence, such as time of

death, time of entry into the police station of an alleged key witness and possible tampering with police station records. In September the Interior Minister told Congress that an internal Ministry inquiry had found no evidence of police ill-treatment and that no disciplinary action would be taken against the officers. AI expressed concern that such a statement should be made while the judicial investigation continued, while many serious and fundamental questions about the death had yet to be explained and when eye-witnesses - including one who claimed to have seen António Fonseca being savagely beaten in the police station - had not yet been heard by the examining judge.

## SWEDEN

***Death in police custody: Osmo Vallo***

In December, the Minister of Justice announced that it would establish a commission of inquiry into the case of Osmo Vallo, who died in disputed circumstances in police custody on 30 May 1995 (see AI Index: EUR 01/03/00), and into other deaths in custody. County governor Mats Svegfors was appointed to lead the inquiry, which should report its findings by the end of 2001.

AI had been concerned by the failure of the different authorities within the criminal justice system, including the police, forensic pathologists, and prosecution authorities to ensure that the full circumstances of Osmo Vallo's death should be investigated thoroughly and impartially, and those allegedly responsible for his death brought to justice. AI was also concerned that Osmo Vallo's death was not an isolated incident, but part of a pattern of similar deaths in custody in which the manner of restraint and/or excessive use of force by law enforcement officials might have caused asphyxia. Given the inadequacy of many of the investigations to date, AI had strongly urged the government in May to establish an investigation which would be carried out by a totally independent body. This could take the form of a commission of inquiry, including experts

from other countries.

In November AI wrote again to the Minister of Justice expressing concern about the considerable delay in appointing a commission of inquiry into deaths in custody. AI urged that the inquiry examine the full circumstances of Osmo Vallo's death, and the failure by the various authorities to ensure that a prompt, independent and impartial investigation took place into the full circumstances of his death and the consequent failure to bring prosecutions for ill-treatment and for causing his death. The inquiry should also examine fully any other deaths in custody which have occurred since 1992 and how the investigations into their deaths had been carried out. The findings of such an inquiry should be made public and the commission of inquiry should formulate recommendations to ensure that what happened in the cases of Osmo Vallo and others could never happen again.

In December the government appointed Mats Svegfors, a former newspaper editor and currently a county governor, to lead a commission of inquiry; the Secretary of the commission is Judge Katarina Persson. The commission is required to complete its inquiry by December 2001.

#### ***Deaths in custody: Police shootings***

AI continued to monitor the cases of two people who were killed, while unarmed, by police shootings.

Magnus Carlsson, aged 19, had been shot dead in Kalmar on 13 May after a car chase and a struggle with police officers. A police officer was accused of causing the death of another person or alternatively, of breach of duty, on 6 July. In October, the police officer was acquitted of the charges after the court accepted that the officer had acted in self-defence. In October a police officer was convicted of breach of duty, aggravated assault and causing the death of another person through grave carelessness, in connection with the killing of Mikael Pettersson in March (see AI Index: EUR 01/03/00). He was sentenced to 18 months' imprisonment and has appealed his conviction.

#### ***Deaths in prison and police custody***

A prison officer was charged in October in relation to the death in prison custody of Bruce Joel Jason Hulthén in June (see AI Index: EUR 01/03/00). He was charged with causing the death of another person through carelessness.

On 3 November Peter Andersson, a 35-year-old suspected burglar, died after being arrested and restrained by four police officers in Örebro. The preliminary report of a post-mortem examination indicated signs of violence on his face, arms, legs and body as well as symptoms of death from asphyxia. It was reported that after arrest, he lay face downwards on the ground with his hands cuffed behind his back; that one police officer sat on the back of his head/neck and another sat on his back, while two security guards held his legs. His brother stated that he noticed his brother becoming unconscious and alerted the police officers; at that stage Peter Andersson apparently regained consciousness. However, he died shortly afterwards in hospital, reportedly as he lay on his stomach fastened by straps to a bed and handcuffed.

#### ***Refugees***

The UN Committee against Torture concluded, on 24 November, for the eighth time that the decisions of Swedish immigration authorities had constituted a violation of Sweden's obligations under the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The case was that of an Iranian woman who feared being sentenced, for adultery, to death by stoning in Iran.

## **SWITZERLAND**

#### ***Death during deportation: the case of Khaled Abuzarifa***

(update to AI Index: EUR 01/03/00)

Progress was made in a criminal investigation into the death of Khaled Abuzarifa, a Palestinian, during

deportation from Zurich-Kloten airport in March 1999. In January 2000, following an initial investigation by the Bülach Public Prosecutor's office (Zurich Canton), three police officers and a doctor employed by the Canton of Bern, where the deportation operation began, had been put under formal investigation in connection with possible charges of causing death through negligence. The investigation was opened in view of the findings of a post-mortem examination carried out at the Prosecutor's request.

Khaled Abuzarifa was given a sedative tablet, had his mouth sealed with adhesive tape, was bound hand and foot and strapped into a wheelchair in preparation for deportation. The post-mortem report concluded that he died of suffocation as a result of the restraining measures to which he was subjected. It criticized the escorting police officers for losing valuable time in removing the adhesive tape after observing that he was unwell and noted that they had not received relevant training. The doctor, who assisted in the taping of the mouth and certified it as safe, even though the deportee was only able to breathe through one nostril, was criticized for failing to provide them with relevant instructions. In September the Zurich Justice Department informed AI that the inquiry was also taking into account a supplementary forensic report drawn up at the request of the accused.

In January 2001 the three Bern police officers and the doctor were charged with causing death through negligence. It was reported that sentences of five months' suspended imprisonment were being sought for all four accused.

***Alleged ill-treatment during forcible deportation***

(update to AI Index: EUR 01/03/00)

There were allegations that police officers subjected some foreign nationals resisting deportation to physical assault and racial abuse during and immediately prior to forcible deportation operations via Zurich-Kloten and Geneva-Cointrin airports. There were also unconfirmed reports that on occasions recalcitrant deportees were given sedatives in order to

subdue them, rather than for purely medical reasons. Some deportees claimed that they were deprived of food, liquid and access to a lavatory for many hours until they reached their destination.

There were also claims that some form of mouth restraint was used in isolated cases involving deportations from Zurich. AI opposes the use of any materials or methods which could block the airways of a deportee. Such practices are highly dangerous and can result in fatalities. It was unclear whether any explicit instruction banning the use of all forms of mouth restraint during deportations from Zurich was in existence and whether an internal service instruction issued to Zurich Cantonal Police in May 1998, explicitly authorizing gagging as a means of restraint during deportation, had been withdrawn. In August 1999 the Zurich cantonal government had announced that adhesive tape would no longer be used to cover deportees' mouths to prevent them shouting. In September 2000, it stated that a specially modified boxing helmet introduced in July 1999, which had a chin-cup attached forcing the jaws closed and a cover which could be placed across the mouth, had not been used since September 1999. The government said that it was no longer necessary because "foreseeably difficult" deportations now took place via specially-chartered flights rather than on normal passenger flights: open-faced rubber helmets were in use to prevent recalcitrant deportees injuring themselves.

In September, the Zurich cantonal department responsible for police matters responded to questions raised in the Zurich parliament in July about concerns regarding the conduct of forcible deportation operations expressed by AI and about relevant communications with AI. The department confirmed its refusal to supply AI or the parliament with copies of internal service instructions or any written guidelines issued to police officers concerning the treatment of detainees during forcible deportation. The department stated that it could not justify handing internal instructions to third parties and that it could not "be ruled out that people who have to be forcibly deported, would not abuse their knowledge of the police instructions and thus successfully resist the



pending measure. This would lead to harsher measures in future when carrying out deportation - something that should be avoided”.

In November, in response to media inquiries, the department confirmed that officers were authorized to wear masks during deportation operations, for their own protection, and that there were no official guidelines on the use of masks. AI was concerned that, if masked officers did not display some form of identification prominently on their uniforms, this could prevent identification of alleged assailants and thus provide them with complete impunity. There was also concern about the use of anti-terrorist police squads to execute the forcible deportation of rejected asylum-seekers and illegal immigrants, after their involvement in such operations was revealed in November.

Gilbert Kouam Tamo, a Cameroonian, alleged that during a deportation operation from Zurich on 20 April a group of masked police officers entered his cell in Zurich airport prison at around 4am and, in the presence of the prison director, kicked and punched him, beat him with batons, applied such pressure to his neck that he felt he was choking and pressed a pillow over his face. He acknowledged that he physically resisted the officers, but only because he feared for his life. He said that later, after being bound hand and foot, with a boxing helmet strapped tightly around his head, he was repeatedly punched in the face. He was then strapped into a wheelchair and transferred to the flight and said that, still bound hand and foot and attached to an airline seat by several belts, officers twice punched him in the face. He also claimed that there was an unsuccessful attempt to inject him prior to departure and that he was deprived of food and drink during a nine-hour journey. On 22 April a hospital in Cameroon recorded extensive cuts and bruises to his face and body. He lodged a criminal complaint in November.

The head of the airport police confirmed the officers were masked on entering Gilbert Kouam Tamo's prison cell. He stated that Gilbert Kouam Tamo had resisted the officers with extreme violence and had to be subdued. He said that the deportee had tried to bite the officers and indicated that it was

possible that officers had then put a pillow over his face for a few seconds until they had subdued him. He also stated that during the flight Gilbert Kouam Tamo - like a number of other people being forcibly deported and confined to their seats for the duration of the flight - had worn an incontinence pad. However, he indicated that this practice had been abandoned in the course of 2000.

The prison director publicly expressed concern about the use of masks by the police and acknowledged that the manner and timing of the officers' entry into the cell could have given the detainee cause to think his life was in danger.

Two cases of alleged ill-treatment in the context of forcible deportation operations via Geneva-Cointrin airport were brought to AI's attention.

In September criminal and administrative complaints were lodged with the relevant Basel-Land cantonal authorities concerning the treatment of a Lebanese asylum-seeker, during his detention in the canton prior to his forcible deportation on 19 August. He alleged, amongst other things, that on 18 August, while detained in Liestal Prison, cantonal police officers bound him hand and foot, put a hood over his head, beat him with batons and kicked and punched him. He was given a tablet during the ensuing night and told it was a painkiller but he said it made him extremely drowsy the next day and there was speculation that it was a sedative drug. The next day he was escorted to Geneva airport in handcuffs and deported, apparently accompanied during the flight by two Basel-Land police officers and an employee of the canton's justice department.

On arrival in Beirut, he was handed over to the Lebanese authorities who detained him, apparently on the grounds that he had used false documents to leave the country. After visiting him on 22 August his mother said he had visible injuries incurred during the deportation operation. He was released on 31 August when he sought medical treatment from a local doctor who issued a certificate recording extensive bruising to his head, nose, wrists, ankles and thighs and his complaints that he was suffering headaches and pain in various parts of his body as a result of ill-treatment on 18 August.

The Basel-Land cantonal department responsible for justice and police matters issued a press release rejecting all the allegations of ill-treatment as without foundation.

In November a criminal complaint was lodged with the Geneva Attorney General, and a request for an administrative investigation addressed to the Vaud cantonal authorities, concerning the alleged ill-treatment of a Syrian national during an attempt to deport him from Geneva airport on 7 November. Five officers attached to the Vaud cantonal police escorted him from a Geneva prison to the airport for deportation via a regular passenger flight to Syria. The man said that he initially protested verbally against his deportation and then struggled strenuously against attempts to put him on board the plane. The deportation was abandoned after the pilot refused to carry a recalcitrant passenger. The man alleged that officers then dragged him violently down the steps of the plane and proceeded to hit and kick him repeatedly, particularly in the head, until he was bleeding and that he was then forced to lie down on the floor of the police van with an officer sitting on top of him. He claimed the group leader apologized to him on return to the prison. He said that he was by then unable to walk and was taken to the cantonal hospital where a medical report recorded various cuts and grazes. A doctor at the prison apparently found traumatic injuries to his head and thorax.

The officers said that the man had assaulted them, injuring one officer by kicking him, and that it had been necessary to immobilize him. A police spokesman indicated that some bruising could occur when officers had to force a person into a vehicle. The man denied assaulting the officers and said that, as his hands and feet were bound during the deportation operation, he was not in a position to do so.

He was deported to Syria at the end of November, apparently while the incidents were still under investigation by the relevant judicial and administrative authorities.

***Alleged ill-treatment in police custody:  
update on the case of "Didier"***

(see AI Index: EUR 01/03/00)

There was a significant development in the case of "Didier"<sup>23</sup>, a 17-year-old Angolan schoolboy who in January 2000 had lodged a criminal complaint against three Geneva police officers. He accused them of kicking and beating him with truncheons until he lost consciousness and subjecting him to racist abuse after detaining him in November 1999 on suspicion of being involved in a street fight. He was questioned by a police officer without the presence of any adult to represent his interests and held in a police station overnight. The next day he was charged with resisting the police but subsequently acquitted. In April the Geneva Attorney General, who had opened a preliminary inquiry into his allegations, entrusted to the police under his direction, ruled that there were no grounds to justify further investigation and closed the inquiry. The boy had never been questioned about his allegations and lodged an appeal against the decision.

AI urged that a thorough and impartial investigation, to include questioning of "Didier" himself, be carried out into his allegations of ill-treatment and that special attention be paid to the provisions of the UN Convention on the Rights of the Child to which Switzerland is a party.

On 20 August, following an appeal lodged by "Didier", a Geneva court (*chambre d'accusation*) overturned the Geneva Attorney General's April decision to close the dossier and ordered that an investigating magistrate be assigned to the case to carry out a full inquiry, to include - as the appeal requested - the questioning of the boy himself and other relevant witnesses.

***Alleged prison ill-treatment:  
update on case of Felipe Lourenço***

(see AI Index: EUR 01/01/00 and  
AI Index: EUR 01/02/98)

In August the Geneva investigating magistrate conducting the inquiry into the criminal complaint of

<sup>23</sup>Didier is a pseudonym. The real name is known to AI but has been withheld on request.

grievous bodily harm which Felipe Lourenço lodged against a Champ-Dollon prison officer in June 1998, returned the dossier to the Attorney General. She concluded that there was insufficient evidence to charge the officer, in view of the findings of four medical experts appointed by her office who considered that the injuries suffered by Felipe Lourenço while held in the prison, resulting in tetraplegia, were not consistent with his allegations of being thrown against a wall and that it was more probable that he had incurred his injuries by charging head-first into a door, as claimed by the officer.

The Attorney General closed the case but in October Felipe Lourenço appealed to a Geneva court (*chambre d'accusation*), citing statements made by the prison officer and other witnesses requiring further clarification, as well as questioning the findings of the court-appointed medical experts, in view of other expert medical opinion. He asked again for criminal proceedings to be pursued against the officer, for a confrontation with the officer, and for the parties to the proceedings to visit the scene of the incidents.

In December the court partially accepted the appeal: it considered the investigation incomplete and ordered that the requested confrontation and an on-site reconstruction of the incidents take place.

## TAJIKISTAN

### ***The death penalty***

At least 18 new death sentences were reported in the period under review, but the real figure was believed to be much higher. Information on the implementation of the death penalty remained a state secret with no comprehensive statistics published. Reportedly, only one death sentence was commuted. The number of offences that carry a possible death sentence was left unchanged at 15.

### ***New death sentences***

Rustam Baybulatov, for example, was sentenced to

death by Dushanbe City Court in September under charges including "banditry" - referring to his alleged membership in an illegal armed group. He was arrested in February 2000 after he had threatened a former member of staff of the UN Mission of Observers in Tajikistan in order to extort money. The chairman of the court reportedly stated that it had been taken into account that the victim of the mugging belonged to an international organization and was a foreign citizen.

### ***Commutation of a death sentence***

(update to AI Index: EUR 01/03/00)

On 25 July AI learned that Dilfuza Numonova's death sentence had been replaced with 15 years' imprisonment by the Presidium of the Supreme Court. After the commutation of her death sentence she was reportedly transferred to the women's prison in the town of Khodzhand, about 200 kilometres north of the capital, Dushanbe. The 21-year-old woman had been sentenced to death in January 2000, after a reportedly unfair trial, for the November 1999 shooting of her lover. In March 2000 the Supreme Court turned down her appeal. The Organization for Security and Co-operation in Europe and AI had both pressed the Tajik authorities not to execute her. Dilfuza Numonova has consistently maintained that she is innocent and had confessed under duress. She also claimed that she was forced to have an abortion after she had been sentenced to death. Under Tajik law, pregnant women may not be executed.

### ***Refugees fleeing fighting in Northern Afghanistan stranded on Tajik-Afghan border***

Increased fighting between the Taleban and the anti-Taleban alliance in northern Afghanistan forced almost 80,000 people to flee their homes heading for neighbouring Pakistan and Tajikistan.<sup>24</sup> Despite

<sup>24</sup> By the end of December Pakistan had allowed more than 47,000 Afghans to enter its territory. However, the border remained closed particularly for refugees from

Tajikistan's international obligations to keep its borders open and ensure protection of refugees who would face serious human rights violations if returned, the refugees were denied access to Tajik territory. In mid-September the Tajik government reportedly closed its border with Afghanistan. In early November, Russian-led border guards in Tajikistan reportedly turned back over 100 refugees. By the end of December some 10,000 refugees were stranded in very poor conditions on two promontories on the Panj River which marks the Tajik-Afghan border. They were reported to lack adequate shelter, food, and drinking water. Some have been wounded by sporadic shelling during the fighting between Taleban and anti-Taleban forces along one stretch of the river. Aid workers had only limited access to the area.

## TURKEY

Although the conditions set out in December 1999 for accepting Turkey as a candidate for membership of the European Union (EU) included an improvement in the country's human rights record, no substantive reforms or improvements were recorded in 2000. The government committed itself to a schedule for reforms, but major legal changes were only envisaged for 2001 or 2002. The Chairman of the High Coordination Board for Human Rights drafted a proposal for steps to be taken to meet the Copenhagen political criteria, a precondition for the start of accession negotiations with the EU. A revised version of this report was adopted in September. At the occasion of the EU Summit in Nice in December 2000, at which the EU agreed upon a document outlining the steps Turkey should take, AI wrote to the EU heads of governments in order to raise concerns about the human rights situation in Turkey (see AI index EUR 44/68/00).

Human rights defenders continued to face harassment and intimidation; branches of human rights associations were temporarily closed and board

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non-Pashton ethnic communities.

members put on trial. Writers, politicians, religious leaders, human rights defenders and many others in Turkey were tried and imprisoned for exercising their right to freedom of expression, particularly when they expressed opinions on the Kurdish question or the role of Islam. Torture remained widespread and the perpetrators were rarely brought to justice. Some 30 prisoners died in a prison operation in December. Hundreds of prisoners were transferred to new prisons in which a regime of isolation was practised.

### **Torture**

(Update to AI Index: EUR 01/03/00  
and EUR 44/18/00)

On a mission to the southeast of Turkey in November, the AI delegate received numerous reports on torture and ill-treatment, some of them documented. Methods of torture and ill-treatment regularly reported include heavy beating, blindfolding, stripping naked, sexual abuse, rape threats and deprivation of sleep, food, drinking and using the toilet. Some detainees are also exposed to electric shocks, hanging by the arms, and - especially in gendarmerie detention - *falaka* (beating of the soles of the feet). There were also reports of torture and ill-treatment of children, who are mainly detained for criminal offences. But due to fears of reprisals children and their parents tend to avoid publicity.

Rape and sexual assault by members of the security forces continued to be reported. During incommunicado detention in police or gendarmerie custody women and men were routinely stripped naked. Methods of sexual abuse reported included electro-shocks, beating on the genitals and women's breasts and rape.

During the prison operation in Burdur on 5 July Azime Arzu Torun, a woman aged 25 convicted of supporting a leftist organization, was reportedly separated from the other inmates at 10:30pm and brought to the second floor, rolled down the stairs, insulted, threatened with rape and beaten with a truncheon on her genitals while being lifted by her arms and legs. According to her account a chief guard tried to insert a neon tube into her vagina, then gendarmes and prison guards raped her with a

triangulate truncheon. Two days later she was brought to Burdur State Hospital where she reported rape, but rejected a virginity test. A female inspector assigned by the Ministry of Justice heard her testimony, but reportedly asked insensitive and abusive questions. Azime Arzu Torun filed a formal complaint against the suspected torturers.

A delegation of the Peace Mothers Initiative, women aged between 39 and 65, were reportedly tortured and ill-treated after they travelled to neighbouring Iraq to try to mediate between the two sides in the civil conflict in the Kurdish region in North Iraq. They were forced to sign statements, believed to be confessions, without reading them. The five women and their male interpreter were arrested by gendarmes at the Iraqi border on 4 October, at about midday. After having been interrogated in two different places the women were taken to the Gendarmerie Headquarters in Silopi. They said that the gendarmes insulted them, squeezed their throats so they could not breathe, slapped them, strangled them with their headscarves and smacked them on the back of their heads and on their necks. They also reported that they were blindfolded, stripped naked and sexually abused. The torture continued even when they said that some of them had recently undergone surgery and had high blood pressure. On 7 October they were remanded to Mardin prison until their release in early November. They are now prosecuted in a trial in which they are charged with support for the armed opposition group Kurdistan Workers' Party (PKK). The women filed a formal complaint against the suspected torturers and upon this their statements were taken by a prosecutor. There is no decision yet whether or not to prosecute the gendarmes in relation to the torture allegations.

Politicians from the pro-Kurdish People's Democracy Party (HADEP) were threatened and persecuted throughout the year when the party was trying to resume its activities in the southeast after years of enforced inactivity. For example 11 men who were on the board of the HADEP's Sirnak branch were detained at the Düzova village gendarmerie checkpoint on the road between Idil and Cizre in southeast Turkey on 23 September as they

were returning to Sirnak from a party congress in Batman. They were not tortured in custody, which their lawyers believe was due to AI's Urgent Action issued on their behalf. Yet, they were subjected to other forms of ill-treatment by the gendarmes who arrested them, including blindfolding, death threats, sleep deprivation, and threats that they would suffer unless they gave up their work for HADEP. At the first trial hearing on 12 December all 11 defendants were released pending the outcome of the trial in which they are charged with aiding and abetting the PKK.

### ***Impunity for suspected torturers***

The authorities remained reluctant to investigate allegations of torture. Officers accused of torture were rarely suspended from duty, and in some cases received promotions. It was difficult to establish who was responsible as detainees were almost invariably blindfolded during interrogation and custody records were often poorly maintained or non-existent. Medical evidence of torture was frequently suppressed. Medical officers who falsified reports were promoted while doctors who carried out their duties scrupulously were harassed, put on trial or imprisoned. The intimidation of witnesses and a generalized climate of fear also contributed to impunity, as did prosecutors' reluctance to investigate the work of security force officers. Judges often refused to investigate allegations of torture and accepted confessions extracted under torture as evidence, in violation of the UN Convention against Torture. Under the 1999 Law on the Prosecution of Civil Servants the permission of a senior official is required for the prosecution of suspected human rights abusers, but often refused. (See AI Index: EUR 44/38/00)

Ramazan Tekin, Deputy Mayor of Diyarbakir, who had been arrested in January and held for 10 days at Diyarbakir Gendarmerie, was reportedly beaten, suspended by the arms, sexually abused and given electric shocks. 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 suspected of being responsible, but the governor of Diyarbakir did not give permission for the two gendarmes to be prosecuted. The appeal against this decision was rejected in October. (Update to AI Index: EUR 01/03/00)

Fatma Tokmak and her two-year-old son Azat were detained on 9 December 1996 and spent 11 days in detention at the Anti-Terror Department of the Police Headquarters in Istanbul. Fatma Tokmak was sexually abused and threatened with rape. Police officers violently undressed her, forced her to lie naked on the floor and threatened to rape her. She was hung by her arms and was sexually abused. Her naked body was touched and grabbed by police officers. According to reports, police officers also tortured Azat in order to elicit confessions from Fatma Tokmak. Fatma saw police officers burn her infant son's hands with cigarettes and administer electric shocks to his back. In April 2000 the appeal against the decision not to prosecute the suspected torturers was finally rejected. While all attempts to bring the suspected torturers to justice have failed, Fatma Tokmak is still in Gebze prison, charged with PKK membership, in a trial in which the death penalty is sought for her. She has yet to receive a comprehensive medical or psychiatric examination. AI has campaigned for an independent and comprehensive investigation into the torture allegations (See AI Index: EUR 44/61/00)

When trials are opened related to torture allegations they often linger on for years and end with acquittal or the lightest sentence possible. The prominent Manisa trial of police officers charged with having tortured 16 juveniles in December 1995 finally concluded in November 2000. (See AI Index: EUR 44/144/96 and AI Index: EUR 44/24/99, page 23) The police officers were given the lightest possible sentence under the law of 10 months for each tortured child. They were not suspended from duty during the criminal proceedings. While the trial was ongoing one of the accused police officers was reportedly involved in another case of torture which included the rape of Fatma Deniz Polattas and the sexual abuse of the minor N.C.S. He was not,

however, prosecuted in the trial of four police officers charged with having tortured Fatma Deniz Polattas and N.C.S. Psychiatric reports for the two young women certified that they had been exposed to a trauma. Yet there was no progress in the trial of the torturers. (Update to AI Index: EUR 44/04/00 and EUR 44/01/03/00).

### ***Poor medical treatment and regimes of isolation in prisons***

Medical care in Turkish prisons is generally inadequate as prison infirmaries are materially under-resourced and there are not enough qualified medical personnel. For example Filiz Güllökuer is seriously ill in Gebze prison, but reportedly is not receiving adequate medical care. She has been suffering from an inherited disorder of haemoglobin, thalassaemia major, since childhood. She was imprisoned in 1995 and sentenced to 18 years in prison in 1999 after having been convicted of holding a position of leadership within the Union of Revolutionary Communists in Turkey (TIKB), an illegal organization in Turkey. Filiz Güllökuer's hospital visits have been frequently delayed according to AI's information. On occasions when Filiz Güllökuer was taken to hospital, either her handcuffs were not removed during examinations or the gendarmes refused to leave the examination room during the examination. (See AI Index: EUR 44/57/00)

Kadri Gökdere was an active board member of the Turkish teachers' union, Eğitim Sen, and also a member of the Democracy Platform in Diyarbakir. In June 1998 Kadri Gökdere was diagnosed with cirrhosis of the liver in an advanced stage. After an operation his health improved somewhat, but he continued to suffer from a number of symptoms. On 13 June 2000 he was admitted to a hospital in Van in eastern Turkey. Instead of receiving treatment he was taken to the prison in Van. He reportedly was held in isolation in a damp and dirty cell. He had no bed in his cell and water from the toilet was leaking onto the floor of his cell. On 29 June 2000 he was taken from Van back to the prison in Mus without having

received proper medical treatment. AI has been urging the authorities to immediately provide Kadri Gökdere with access to adequate medical treatment in accordance with the UN Standard Minimum Rules for the Treatment of Prisoners. (See AI Index: EUR 44/54/00)

Most prisoners were housed in large dormitories holding 60 or more prisoners, but wings based on a cell system were added to many prisons and 11 new so-called F-Type prisons with small rooms were being built. AI was concerned that regimes of isolation already practised in Kartal and Imrali prison might be extended to the new prisons. Following the start of the process of replacing dormitories with smaller cells there were major protests and clashes in prisons which were ended by force.

From October more than 1000 political prisoners participated in a hunger strike in protest against the F-Type prisons. On 19 December the security forces conducted an operation in 20 prisons during which some 30 prisoners and two soldiers died. Hundreds of prisoners were transferred to three newly opened F-Type prisons. AI received consistent reports that the prisoners were beaten and some of them tortured before, during and after the transfer. In the F-Type prisons, the prisoners were held in small cells either on their own or with up to two other prisoners. In the first weeks, they were not allowed in the small yards. Some of them had no human contact except with guards for days. Visits from relatives and lawyers were limited. AI is concerned that prolonged isolation could amount to cruel, inhuman or degrading treatment and could facilitate torture and ill-treatment. AI has urged the authorities to allow prisoners to associate with each other each day.

#### **Attempts to silence human rights defenders**

(Update to AI Index: EUR 01/03/00)

In relation to the protests against the F-Type prisons, hundreds of demonstrators were arrested, reportedly with excessive force by the security forces. The pressure on civil society increased enormously. Representatives of human rights organizations, political parties or trade unions who criticized the F-

Type prisons were charged with support for illegal organizations.

The branches of the Human Rights Association (IHD) in Gaziantep, Malatya and Van were closed indefinitely and the branch in Konya temporarily. Other branch offices were raided and their members temporarily detained. Several trials were opened in which IHD representatives have been charged in relation to protests against the F-Type prisons.

The Diyarbakir branch of the IHD, which had been closed since May 1997, was finally reopened in October. The Malatya branch of the Islamic-oriented human rights organization *Mazlum Der* remains closed.

#### **Prisoners of conscience**

(Update to AI Index: EUR 01/03/00)

Akin Birdal, President of the IHD until he was forced to resign due to the convictions against him, had been reimprisoned on 28 March. He had to serve the remainder of two one-year sentences for speeches he gave related to the World Peace Day in 1995 and 1996. AI again adopted Akin Birdal as a prisoner of conscience, imprisoned for the peaceful expression of his views. When he was released on 23 September AI welcomed him with a "sea of flowers" arranged near the prison as a gesture of support and a reminder of other prisoners of conscience. In October, a new investigation was opened against him for a presentation he gave in Germany.

AI continued to campaign for the release of the blind lawyer Esber Yagmurdereli (who was awarded the sixth Ludovic-Travieux Human Rights Prize on 29 September 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.

AI closely followed the trial of the journalist and human rights activist Nadire Mater. She was 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 and her publisher were

acquitted from the charges on 29 September.

On 21 December the Turkish Parliament adopted Law 4610 on conditional releases and the postponement of trials and sentences for offences committed before 23 April 1999. Due to the new law, reportedly some 14,000 prisoners were released as of 25 December. AI has no opinion on the release of criminal prisoners, but calls for the immediate and unconditional release of prisoners of conscience who have been sentenced solely for peacefully expressing their views. A provision within the new law resulted in early release for some prisoners of conscience who were excluded from a similar law passed last year, and postponement of sentencing for others - among them Necmettin Erbakan, the former Prime Minister and leader of the banned Welfare Party. Necmettin Erbakan was due to be imprisoned in January 2001. AI is concerned that Erbakan and other possible, past and actual prisoners of conscience such as Akin Birdal and the former Mayor of Istanbul Recep Tayyip Erdogan will continue to be banned from politics. Moreover, the organization demands that outstanding charges and sentences against all those who have peacefully exercised their right to freedom of expression are dropped altogether.

Among the scores of detainees who did not benefit from the new law was Sanar Yurdatapan. A composer, he initiated a freedom of thought campaign by persuading celebrities to publish banned articles in their names and to then file formal complaints against themselves. The campaign highlighted restrictions on freedom of expression. Sanar Yurdatapan was jailed briefly in December. On this occasion AI repeated the call for a thorough reform of law and practice to ensure freedom of expression in Turkey

### **Political killings**

Numerous deliberate and arbitrary killings were attributed to armed opposition groups and a number of possible extrajudicial executions were reported. Three villagers, Mehmet Kurt, Salih Orhan and Cevher Orhan, were killed on 19 October in the southeastern province of Hakkari. A fourth villager, Kemal Tekin, who was wounded and subsequently

taken into gendarmerie custody, gave conflicting statements. The circumstances of the killings were disputed. The government claims that the three villagers were killed by the PKK and that in a subsequent clash the security forces killed six PKK militants. Sources from North Iraq state that the six persons killed were in fact refugees intending to travel to Europe.

## **TURKMENISTAN**

### **Persecution of the political opposition**

*Prisoner of conscience Nurberdi Nurmamedov and his son Murad Nurmamedov*  
(update to AI Index EUR 01/03/00)

Prisoner of conscience Nurberdi Nurmamedov was released on 23 December under a presidential amnesty to mark the Islamic holy night of Kadir and the end of Ramadan. According to unofficial sources, he returned to his home in the capital, Ashgabat, that day, but was reportedly kept under strict police surveillance. His son Murad was believed to remain on probation, having undertaken not to leave Ashgabat.

Earlier in December Nurberdi Nurmamedov reportedly had to repent on state television, swear an oath of loyalty to President Saparmurad Niyazov and promise to "redeem his guilt" by working for his "motherland, the Turkmen people and the President".

According to unofficial sources, Nurberdi Nurmamedov's health suffered badly in prison. Conditions in Turkmenistan's prisons are known to be particularly harsh, and there are allegations that Nurberdi Nurmamedov was ill-treated. When he was transferred from Bezmein prison colony near Ashgabat to the maximum security prison in Turkmenbashi (formerly Krasnovodsk) in August, he was reportedly not able to walk unaided, and was carried out of a prison block on a stretcher. In September Nurberdi Nurmamedov was transferred from Turkmenbashi maximum security prison to a prison near Kyzylkaya in the south of Turkmenistan. Unofficial sources reported that his health had further



deteriorated and that he was reportedly suffering from an acute stomach ulcer.

In February Nurberdi Nurmamedov, co-chair of the opposition movement *Agzybirlik* and one of the few opposition figures to openly criticize President Niyazov's policies, had been sentenced to five years' imprisonment. At the same trial Nurberdi Nurmamedov's 25-year-old son, Murad Nurmamedov, was sentenced to a suspended two-year prison sentence and confined to live in Ashgabat for five years. AI believes that the charges of "hooliganism" brought against Nurberdi Nurmamedov were fabricated, that he was imprisoned for his peaceful opposition activities, and that his son was put on trial in order to put pressure on him.

Appeals against Nurberdi and Murad Nurmamedov's sentences were turned down in March. At the end of March Nurberdi Nurmamedov was reportedly forced to publicly confess his guilt on television.

***Political prisoners Pirimkuli Tangrykulyev and Mukhametkuli Aymuradov***

(update to AI Index: EUR 01/01/00)

Pirimkuli Tangrykulyev, a prominent doctor, was also released under the December presidential amnesty. Like Nurberdi Nurmamedov, he was reported to have been forced to repent on state television and swear an oath of loyalty to President Saparmurad Niyazov. In September unofficial sources had expressed concern that the life of Pirimkuli Tangrykulyev was in danger after reports that his health had sharply deteriorated as a result of poor prison conditions and the absence of medical care. Pirimkuli Tangrykulyev was also reported to have been subjected to repeated beatings while in detention.

Pirimkuli Tangrykulyev was arrested in June 1999 and sentenced to eight years' imprisonment in August 1999 on charges of stealing government property and misusing his government position. The real reasons for his prosecution appeared to be that he wrote a letter in May 1999 criticizing the health care system, and that he had expressed an interest in

participating in the December 1999 parliamentary elections.

AI remained concerned for the safety of Mukhametkuli Aymuradov after it emerged that he did not qualify for the December amnesty. He reportedly continued to be denied adequate medical attention for health concerns which included a gastric ulcer, cholecystitis, a heart attack and recurring inflammations of the kidneys and the bladder. Unofficial sources have also said that Mukhametkuli Aymuradov's eyesight has badly deteriorated and that he has lost a great deal of weight.

He was convicted in 1995 of anti-state crimes, including "attempted terrorism", and sentenced to 12 years' imprisonment. There was compelling evidence that the case against Mukhametkuli Aymuradov and his co-defendant Khoshali Garayev was fabricated solely to punish them for their association with exiled opponents of the government. In December 1998 both men were sentenced to an additional 18 years' imprisonment in connection with an alleged prison escape attempt. Khoshali Garayev died in September 1999 in Turkmenbashi maximum security prison under suspicious circumstances.

***Persecution of religious believers***

*Alleged torture of religious believers*

Batir Nurov, Babamurat Gayebov and Umit Koshkarov, three members of a Protestant house church and their pastor, Shokhrat Piriyeu, were reportedly detained and severely tortured because of their religious beliefs in November.

According to the news agency Compass Direct, they were arrested after the National Security Committee (KNB), found Protestant videos in their car. The car had been written off in a road accident on 21 November, near the capital, Ashgabat. Three of the men were detained when they returned to the car wreck the following morning, and the fourth was detained at his home later that day. The four were released but were reportedly summoned several times to the KNB building in Anau, near the capital, where they were severely beaten and subjected to electric

shocks; at one point a bag was held over Shokhrat Piriyeu's head until he blacked out.

The four men were reportedly told on 24 November that they would not have to serve prison terms. Instead they were forced to state in writing that they "voluntarily donated" everything they owned as a "gift to the President of Turkmenistan". The ownership papers for their homes and cars, and all their identity documentation, were subsequently confiscated. Some of the men also had to sign undertakings to leave Ashgabat and go into internal exile. Six days later they were called to the KNB office again and reportedly subjected to similar ill-treatment.

According to information received by Keston College, three of the men and their families were evicted from their homes in December. The KNB reportedly gave Shokhrat Piriyeu, his wife and two children just one day to vacate their home in Bagyr village, near Ashgabat, and ordered them to move to his home town of Turkmenabad. Batir Nurov, his wife and their four-month-old son were evicted from their Ashgabat home with one hour's notice. Umit Koshkarov, his wife and 15-month-old son were also evicted from their home although officials apparently never obtained his wife's written agreement to surrender the property, which was registered in her name, to the government.

*Possible prisoner of conscience Shagildy Atakov*  
(update to AI Index: EUR 01/03/00)

According to unofficial sources, Shagildy Atakov was



*Shagildy Atakov with his wife and child ©  
Missionwerk Friedensstme*

to have been included in the latest presidential amnesty, issued on 23 December 2000. However, he reportedly refused to swear an oath of loyalty to the President on religious grounds, and so was not released.

AI was very concerned at reports that earlier in December Shagildy Atakov had been moved to the sickbay of the corrective labour camp in the town of Seydi, where he is serving his sentence, with symptoms that suggested he was going to have a heart attack, as a result of harsh conditions of detention and sustained beatings.

Shagildy Atakov, an ethnic Turkmen member of a Baptist congregation in Turkmenbashi, continued to serve a four-year prison sentence in a corrective labour camp 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.

## UKRAINE

### *Possible 'disappearance'*

In September AI initiated urgent membership action on behalf of the independent journalist, Georgiy Gongadze, whose whereabouts became unknown on

16 September. AI initially feared that he may have been secretly detained either by the authorities or by one of the powerful interests he had offended with his journalism, and that he was at risk of torture, ill-treatment or "disappearance". Thirty-one-year-old Georgiy Gongadze is the head of the Internet newspaper *Ukrayinskaya Pravda* (Ukrainian Truth), which is reportedly one of a few media outlets that have been highly critical of the government and its alleged links with corrupt big business. He reportedly left a friend's house on *Lesya Ukrayinka Boulevard*, in the capital, Kiev, at around 10.20pm on 16 September, but failed to return home to his wife and two three-year-old children. His wife and friends reportedly contacted hospitals and emergency centres in the city to try to find him. In the recent past Georgiy Gongadze had complained that police had threatened and intimidated him because of his work as a journalist. In June 2000 he wrote an open letter to the Prosecutor General after he was forced into hiding by police harassment. He also reportedly stated that he and his colleagues at *Ukrayinskaya Pravda* had been harassed repeatedly in the weeks prior to his "disappearance".

The "disappearance" of Georgiy Gongadze escalated into a full-blown political scandal when, on 28 November, the leader of the Socialist Party of Ukraine, Olexandr Moroz, accused President Leonid Kuchma of being implicated in the "disappearance". Olexandr Moroz claimed to have an audiotape recording in which President Kuchma can be heard discussing with the Minister of the Interior, Yury Kravchenko and the Chairman of the Presidential Administration, Volodymyr Lytvyn, how to silence Georgiy Gongadze. Olexandr Moroz claimed that a 34-year-old former officer of the Ukrainian State Security Service, Mykola Melnychenko, who had recently gone abroad, had surreptitiously digitally recorded the conversation from under a sofa inside the President's office while working there. Three members of a parliamentary commission, which had been set up to conduct an investigation into the "disappearance", reportedly interviewed Mykola Melnychenko in an undisclosed Western European country on 7 December and reported back to the

Ukrainian parliament, *Verkhova Rada*, on 12 December. During the interview Mykola Melnychenko stated that, after witnessing President Kuchma's abuse of power, he decided to record the President's conversations. President Kuchma has vociferously denied the allegations, denouncing the alleged tape recordings as a "provocation" and has threatened Olexandr Moroz with libel action.

On 3 November a decapitated body believed to be that of missing journalist Georgiy Gongadze was reportedly found in a shallow grave in woodland in the Tarashcha Rayon, not far from the capital, Kiev. The corpse reportedly bore distinguishing marks consistent with injuries previously sustained by Georgiy Gongadze and jewellery thought to belong to him was also reportedly found at the scene. According to the Interfax news agency, the jewellery was positively identified by the journalist's wife, 31-year-old Miroslava Gongadze, on 18 December. However, she was reportedly unable to identify the body due to it being beyond recognition as a result of prolonged decomposition. At the end of the period under review a formal identification of the body had not yet been made and considerable doubt had reportedly been expressed in some quarters about the credibility of the medical examination of the body. On 21 December Ukraine's parliament passed a resolution requesting that the Council of Europe carry out a medical examination of the body believed to be that of Georgiy Gongadze and an independent investigation into the authenticity of the audiotape recordings. AI repeatedly called for an independent and thorough investigation into Georgiy Gongadze's "disappearance", appealing to the Prosecutor General of Ukraine, Mykhaylo Potebenko, to ensure that the ongoing investigation adhered to international principles. At the end of the year no progress had been made to either positively identify the decapitated body or establish the authenticity of the alleged tape recordings.

#### ***Possible prisoner of conscience***

AI learned about the arrest and subsequent detention of the television journalist Ruslan Antonik on the

evening of 19 May in Pechersky Park in Kiev. He had reportedly gone to the park after finishing work at the company People's Television of Ukraine, where he works as an investigative television journalist. Police officers from the Pechersky department of police in Kiev arrested him and charged him with the murder of a businessman. Ruslan Antonik's colleagues at People's Television of Ukraine and his lawyer have reportedly stated that Ruslan Antonik had never met the murdered man. According to the national Ukrainian newspaper, *Sevodnya*, which documented Ruslan Antonik's treatment by the authorities in Kiev, another person was also reportedly being held on suspicion of committing the murder. AI learned that Ruslan Antonik's arrest and treatment by the police may have been related to his activities as an investigative television journalist. The organization was informed that Ruslan Antonik had recently received a series of anonymous threats after making a number of critical documentary films in April and May 2000, reportedly highlighting the alleged indifference of Ukraine's national trade union structures to the plight of ordinary wage-earners and the economic problems in the Ukraine. The anonymous threats reportedly commenced shortly after the critical documentary films were broadcast. AI called on the Prosecutor General's Office to take immediate steps to investigate the allegation, which has been documented in the Ukrainian media, that the arrest of Ruslan Antonik may have been related to his journalistic activities. AI also expressed concern about allegations that Ruslan Antonik was repeatedly severely beaten by fellow inmates while in detention; that police officers made no attempt to intervene; and that he was not given access to a lawyer for five days. At the end of the period under review no reply had been received to AI's original letter from August, calling for an immediate investigation into the aforementioned allegations.

***Alleged torture and ill-treatment  
of detainees by police officers***

A delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading

Treatment or Punishment (CPT) undertook a 16-day visit to Ukraine in September. This visit was the third made by the CPT, which previously visited Ukraine in 1998 and 1999. The reports of these visits have not yet been made public.

AI continued to receive allegations of torture and ill-treatment by police officers in Ukraine. In recent years AI has written to the Ukrainian authorities on a number of occasions, highlighting allegations of police torture and ill-treatment of detainees and calling for prompt and impartial investigations into alleged abuses. To date the organization has received no replies to its letters. The Kharkov Group for Human Rights Protection informed AI that it has written to both the Ukrainian Prosecutor General, Mykhaylo Potebenko, and the Human Rights Ombudsperson, Nina Karpacheva, about a series of cases of torture, allegedly committed in the Donestsk region of Ukraine in the period 1998 to 2000. An Azerbaijani national, Guseynov Sarvar Musa-Ogly, was reportedly tortured by police officers while being held in custody in Artemovsk in February 1999. Guseynov Sarvar Musa-Ogly has alleged that he was beaten by the investigating police officers to the degree that he lost consciousness. In violation of international human rights standards he was also allegedly not given access to a lawyer while in detention. Guseynov Sarvar Musa-Ogly has stated that after regaining consciousness he was then subjected to the "slonik" or "elephant" torture method, whereby a gas mask was placed over his head and the air supply was blocked, causing him to slowly suffocate. Guseynov Sarvar Musa-Ogly has alleged that, after he lost consciousness several times, the police officers placed a written confession before him to sign. AI wrote to the Prosecutor General in August, calling for an investigation into Guseynov Sarvar Musa-Ogly's allegation that he was tortured into signing a confession and requested to be informed of its findings.

A further case of alleged torture, highlighted by the Kharkov Group for Human Rights Protection related to the detainee, Anatoly Voskoboinikov. He has alleged that on 3 November 1998 he was forced to sign a confession at the Ministry of the Interior in

Enakievo that he had stolen a motor vehicle. Anatoly Voskoboinikov has stated that an investigating police officer handcuffed his wrists under his knees. A length of wood was reportedly slotted in between his arms and chest, after which he was lifted up by the length of wood by several police officers and hung between two tables. The police officers allegedly then punched and kicked Anatoly Voskoboinikov while he was painfully suspended in this state. One of the police officers is alleged to have repeatedly punched him using a boxing glove. AI requested to be informed whether an investigation had been initiated into Anatoly Voskoboinikov's alleged torture and forced confession and to be informed of any findings and, in particular, whether any of the accused police officers had been brought to justice.

#### ***Conscientious objection***

In July AI wrote to the Ukrainian authorities expressing concern about the conviction of an 18-year-old conscientious objector, Andriy Tvardijevych, who was given a suspended one-year prison sentence and fined 530 Hrivnas on 12 July for refusing to serve in the Ukrainian army for reasons of conscience. AI was informed that the criminal case against the Kiev resident Andriy Tvardijevych was initiated on the basis of Article 72 of the Ukrainian Criminal Code, which states: "Evasion of conscription to ordinary military service is punishable with up to three years' imprisonment". Andriy Tvardijevych had reportedly objected to performing military service on grounds of conscience but due to the restricted definition of conscientious objection in Ukraine he did not qualify for alternative civilian service. While AI welcomed the decision of the Ukrainian authorities not to imprison Andriy Tvardijevych, the organization expressed concern that Andriy Tvardijevych received a criminal conviction on account of his conscientiously held beliefs. In addition, other conscientious objectors may still face imprisonment as a result of the existing legislation relating to the right to perform a civilian alternative 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 is also concerned that alternative service in Ukraine lasts 36 months and is twice as long as military service. The organization once again urged the Ukrainian authorities to take steps to introduce a genuinely civilian alternative to military service which is not in punitive in length - thereby fulfilling Ukraine's various international obligations.

## UNITED KINGDOM

#### ***Legislation***

The *Human Rights Act* was brought into force in October; the Act incorporated most of the European Convention on the Protection of Human Rights and Fundamental Freedoms (European Convention). At the same time the government did not withdraw its derogation from the provision in the European Convention requiring that detainees be brought promptly before a judicial authority.

The government enacted the previous *Terrorism Act* in July, which makes permanent, temporary or emergency measures. In the past such measures have facilitated serious abuse of human rights. AI expressed concern that some of the Terrorism Act measures either directly contravene international human rights treaties to which the UK is a party or may result in human rights violations. These include powers of arrest, detention measures, and additional emergency powers which apply only in Northern Ireland.

The *Regulation of Investigatory Powers Act*, enacted in July, legalized a variety of intrusive surveillance techniques, covert use of informants and agents, and the interception of communications. AI

criticized the legislation for failing to provide sufficient safeguards, including judicial oversight, to ensure accountability and protection of human rights. AI believes that some provisions could violate the rights to privacy and fair trial, and could have a chilling effect on the rights to freedom of expression and association.

The *Freedom of Information Act* was passed in November and will come into force in 2002. Campaigners who called for stronger legislation noted that the Act provides for a “public interest” test for disclosure of requested information. However, they were also critical of the provisions for exemptions from disclosure in some areas, including the formulation of government policy and all information gathered during an investigation which could have led to a prosecution. Decisions by public authorities are reviewed by the Information Commissioner. If the Information Commissioner orders disclosure in the case of decisions made on the basis of prejudice-tested exemptions, such an order cannot be vetoed by ministers, but where the Commissioner orders disclosure on public interest grounds from government departments, cabinet ministers can veto such an order. Campaigners were critical of the existence of the veto and of the class exemptions, both of which had been rejected in the government’s original white paper. The devolved government in Scotland was preparing its own legislation on freedom of information which would pertain to those issues which are under its devolved responsibility.

In England, Wales and Scotland the *age of consent* for homosexual acts was lowered from 18 to 16, thereby equalizing it with the age of consent for heterosexual practice, by Parliament in November. In Northern Ireland, the age of consent was subsequently equalized at 17.

## **NORTHERN IRELAND**

### ***Policing***

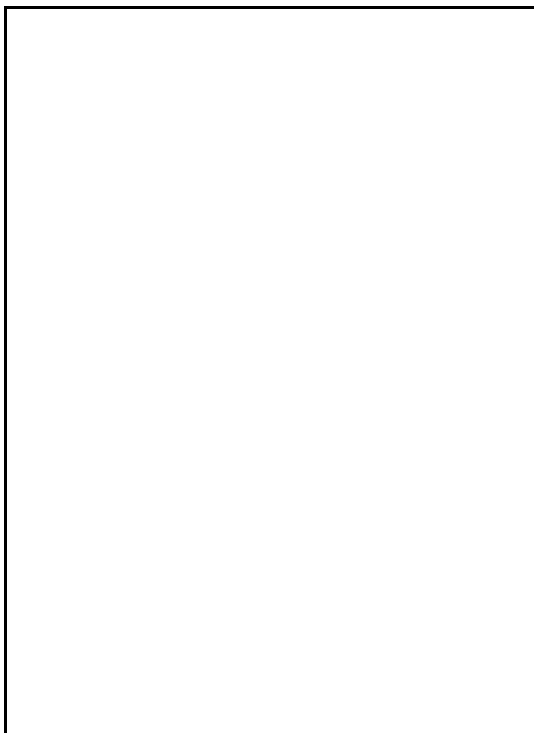
The *Police (Northern Ireland) Act 2000* was passed into law in November. The Royal Ulster Constabulary (RUC) was renamed as the “Police Service of

Northern Ireland (incorporating the RUC)” and measures were put in place to increase the recruitment of Catholics and women to the police service. AI was concerned that the Act failed to include all of the measures for increased police accountability which were recommended in the report produced by the Patten Commission (see AI Index: EUR 45/01/03/00). These included increasing the powers of the civilian oversight body (a Policing Board) and of the Police Ombudsperson to initiate inquiries into police policies and practices. The Act also failed to reflect the Patten Commission’s recommendation that human rights protection be at the heart of policing and that policing be carried out within the framework of international human rights norms and standards. The oath to uphold human rights, which Patten had recommended should be taken by all new and serving officers, will only be taken by new officers. Moreover, the interpretation of the role of the Oversight Commissioner remains unclear as to whether the Oversight Commissioner will oversee all aspects of the implementation of the new policing service and how he will be made publicly accountable for this oversight.

In November, the new Northern Ireland Police Ombudsperson, Nuala O’Loan, and the new team of independent investigators began to function.

### ***Killings:***

#### ***Patrick Finucane and Rosemary Nelson and freedom of expression***



**Rosemary Nelson**

The Stevens police investigation into the killing of Patrick Finucane in February 1989 by Loyalist paramilitaries in collusion with intelligence agents continued (see AI Index: EUR 01/03/00). As of 7 December it was reported that there had been 28 arrests and seven people (Loyalists) charged with various offences including the possession of security materials, although the only person to have been charged in connection with Finucane's murder was William Stobie, whose trial was still pending, despite his arrest in June 1999. In August the charges against him were changed from the murder of Patrick Finucane and Adam Lambert to aiding and abetting the murders.

Charges under the Official Secrets Act against both a former military intelligence officer, using the name of Martin Ingram, and the *Sunday Times* journalist, Liam Clarke, were dropped in November. AI was concerned that the investigations against them as well as the injunctions taken out against newspapers were in order to intimidate and

discourage journalists and former members of intelligence units from revealing misconduct, including possible illegal actions, by the security forces.

They had revealed details of operations carried out by a secret military intelligence unit, the Force Research Unit (FRU), in the late 1980s and 1990 in Northern Ireland (See AI Index EUR 01/03/00).

AI continued to urge the government to establish two separate independent, impartial and thorough inquiries into all the circumstances surrounding the killing of Patrick Finucane and the killing of Rosemary Nelson. Rosemary Nelson, also a lawyer, was killed by a Loyalist car bomb in March 1999. After 20 months of police investigation, no one had to date been charged in connection with her murder.

#### ***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, continued to hear evidence.

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

At the end of 2000, there were at least 15 inquests into disputed killings and deaths in custody outstanding; some of the killings happened ten years ago or more.

In December AI wrote to the Secretary of State for Northern Ireland about Roseanne Mallon, aged 77, who was shot dead in Co. Tyrone, Northern Ireland on 8 May 1994 at the home of her nephew, Christopher Mallon. The Ulster Volunteer Force later claimed the killing. To date, no one had been charged in connection with her murder and no inquest had been held. After a detailed review of the facts established, AI urged the government to undertake an independent inquiry into the killing of Roseanne Mallon. Questions have been raised regarding the role of the security forces in her death. Within months of the killing, military surveillance equipment was discovered within the immediate vicinity of the site of her shooting; it was acknowledged that Special Branch had requested a surveillance operation, which

began in April. This consisted of surveillance cameras and a covert surveillance operation by soldiers. The inquiry should examine the pattern of alleged security force harassment of family members in the months preceding the killing; questions regarding the actions (or inaction) of the surveillance team in the days leading up to and on the night of the killing; and unresolved questions regarding the surveillance equipment and the existence or non-existence of evidence in the form of tapes.

In November a British Army Board decided that the two soldiers, who had been convicted in 1995 of the murder of 18-year-old Peter McBride in 1992 and had been released under the early release scheme in 1998 as part of the Multi-Party Agreement, would remain in the British Army under an "exceptional circumstances" clause.

#### **Robert Hamill**

The coroner leading the inquest into the death of Robert Hamill, who died after being kicked by a Loyalist crowd in Portadown in 1997, decided in June that he was unable to hold an inquest because he was unable to guarantee the safety of a key witness. A RUC investigation into the conduct of the four police officers, who were at the scene when Robert Hamill was beaten and who reportedly failed to take action, was ongoing. In November the Police Ombudsperson's office took over the supervision of the investigation into some aspects of the case.

#### **Abuses by armed political groups**

A feud between different Loyalist armed groups led to the killing of seven people altogether during the year and the rehousing of hundreds of people. During the year, there were 18 killings by members of armed groups: 15 by Loyalists and three by Republicans. This included the killing of dissident Republican Joseph O'Connor in November. "Punishment" shootings and beatings continued by members of armed groups.

### **ENGLAND AND WALES**

#### ***Deaths in custody/disputed killings***

After a period of consultation, the government issued a concrete proposal, again for consultation, in December for a new system of investigating serious police misconduct, involving independent civilian investigators. It proposed that the new independent body, called the Independent Police Complaints Commission (IPCC), would have its own investigation teams, run by civilians and made up of a mix of police and non-police members. The IPCC will have referred to it the most serious cases of alleged police misconduct (including deaths in custody, serious injuries, shootings and racist conduct), whether or not a complaint has been made. In such cases, the IPCC will have the discretion to investigate directly the allegations or to supervise the investigation by police.

#### ***Updates on individual cases of deaths in custody***

- " In July an inquest into the death in custody of Christopher Alder, a black ex-paratrooper who died in April 1998 in Hull police station, finished (see AI Index: EUR 01/03/00). The inquest jury returned a verdict of unlawful killing. The Crown Prosecution Service (CPS) was considering whether to bring prosecutions against five officers.
- " In August an inquest jury returned a verdict of accidental death in the case of Sarah Thomas, who died in August 1999.
- " In November the CPS decided that no criminal charges would be brought against the eight police officers reportedly involved in the restraint of Roger Sylvester, on 11 January 1999, in front of his house in north London. The exact cause of his death remained disputed; an inquest was pending.
- " In December the CPS decided that no criminal charges would be brought against any of the police officers of the armed response unit who shot dead Harry Stanley on 22 September 1999 in east London. Harry Stanley was walking home carrying a table leg, which had just been mended, in a bag. He had



stopped in a pub, where another customer mistook his Scottish accent for Irish and the table leg for a sawn-off shotgun and alerted the police. An armed response unit arrived in the area and approached Harry Stanley from behind. They reportedly shouted "Stop, armed police!". Harry Stanley, who had no reason to imagine that the police wanted him, did not stop. Reportedly, the police officers shouted again. Harry Stanley responded by turning around and was shot dead.

### ***Alleged CID/ill-treatment - prisons***

Reports of ill-treatment, racist abuse and cruel, inhuman or degrading treatment were received from prisoners in different prisons, including Wandsworth, Frankland, Swaleside, Durham. Reports were also received of neckholds being used on teenagers in Medway Secure Training Centre, and of ill-treatment of teenagers in Portland, Dorset and in Lisnevin, Northern Ireland. The government announced in November that Lisnevin Juvenile Justice Centre would be closed down.

The criminal investigations into alleged torture and ill-treatment of prisoners continued at Wormwood Scrubs and Wandsworth Prisons. A report on Wormwood Scrubs by the Chief Inspector of Prisons, published in June, was severely critical of the attitudes of prison officers and widespread practices of racism and bullying.

In November the conviction of Robert Stewart, aged 20, for the murder of his cell mate, Zahid Mubarek, aged 19, on 21 March 2000 at Feltham Young Offender Institution and Remand Centre (YOI/RC) raised serious concerns about the wider context in which the murder took place. According to the evidence at the trial, Zahid Mubarek, of Pakistani origin, was put in the same cell as Robert Stewart even though prison officers were or should have been aware of Robert Stewart's racial prejudices and violent behaviour. An inquiry launched in November by the Commission for Racial Equality, on allegations of racism in three prisons, included Feltham. AI also received allegations that the locking-up time for some wings at Feltham was 23 hours per day, with extremely limited facilities to carry out any mental or

physical activity, and that many detainees lived in an atmosphere of intimidation, bullying and fear. In 1998 the Chief Inspector of Prisons had conducted an inspection at Feltham, and had concluded that the conditions and treatment of the children and young prisoners, were, in many instances, totally unacceptable. AI considers that the detention of young people in the conditions described in his report constitute cruel, inhuman and degrading treatment. In December AI urged the government to establish a wide-ranging, independent and public inquiry into the circumstances of the killing of Zahid Mubarek, and into the failures of Feltham YOI/RC to protect the lives and well-being of prisoners in its care. AI also urged that the inquiry examine how the prison system deals with children and young offenders and the compatibility of its policies and treatment with international standards.

### ***Child Soldiers***

In November 2000 AI called on the UK to stop its policy of deploying under-18s into armed conflict situations, as it launched a new report *United Kingdom: U-18s: Report on the Recruitment and Deployment of Child Soldiers* (AI Index: EUR 45/57/00). (A shorter version of the report is *United Kingdom: U-18s: Child Soldiers at Risk*, AI Index: EUR 45/56/00.) The report gave examples of how recruitment and deployment of under-18-year-olds risked their right to life and their physical and mental integrity. Children can be recruited into the armed forces from the age of 16 and can be deployed into the battlefield from the age of 17. Two 17-year-old soldiers and one 18-year-old on the day of his birthday died in the Falklands war; two 17-year-olds died during the Gulf war. Other risks included injuries and deaths during strenuous training exercises, and being subjected to bullying and ill-treatment by other soldiers and by superiors. In September, the UK signed the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts, and added a declaration which AI believes undermines the spirit of the Optional Protocol. Thus AI urged the UK to ratify the Optional

Protocol promptly without any reservation.

***Fair trial Concerns:***

***the case of Samar Alami and Jawad Botmeh***

AI sent an observer to the appeal hearing held in October in the case of Samar Alami and Jawad Botmeh. They had been sentenced in 1996 to 20 years' imprisonment after being convicted of conspiracy to cause explosions in 1994 at the Israeli Embassy and Balfour House in London. There was no direct evidence connecting them to the attacks and both had alibis. They stated that they were innocent of the charges. The appeal was based on the grounds that the convictions were unsafe in light of the evidence adduced at trial and material that appeared in the public domain since the trial, and of material available at trial which had not been shown to the defence or had been subjected to Public Interest Immunity certificates, thus blocking its disclosure. One of the grounds was based on revelations made by former MI5 agent, David Shayler, that the security services had received a warning before the bombing that an attack on the Israeli embassy was being planned and that this information had not been acted upon. The Court of Appeal judges decided to hold an *ex-parte* (closed to the defence) hearing to examine documents which had not been previously disclosed; after the hearing the judges ordered the disclosure of one piece of evidence. This consisted of a handwritten note outlining information received by the security services and Special Branch before the bombings that a terrorist organization, unconnected to Samar Alami and Jawad Botmeh, was seeking information about the location and defences of the Israeli Embassy in London for a possible bombing attack. The note added that related intelligence after the bombings indicated that this particular organization had not carried out the bombing. The note also explained that this information had not been disclosed to the trial judge by MI5 and Special Branch because of at least six counts of "human error" and "oversight". After four days, the appeal hearing was adjourned until 2001 in order to allow the defence to make further inquiries into the sole piece of evidence disclosed at the appeal hearing as well as other

evidence that had come to light during the time of the hearing.

AI was concerned that the two convicted people had been denied full disclosure, both during and after the trial, not only of the above information, but also of other crucial evidence which had been blocked by Public Interest Immunity certificates. AI believes that failure to disclose crucial evidence violates the appellants' right to a fair trial. AI was also concerned that the appeal court proceeded with an *ex parte* hearing, ie in the absence of the defence team, which was not followed by full disclosure. The case of Samar Alami and Jawad Botmeh also highlights some of the dangers of issuing Public Interest Immunity certificates and raises questions about the accountability of the intelligence services.

***Freedom of expression***

David Shayler returned to the UK in August to face charges under the Official Secrets Act. David Shayler, a former MI5 (intelligence) officer, had made a series of allegations in 1997 and thereafter about the misconduct of security and intelligence agencies (see AI Index: EUR 01/03/00).

Charges under the Official Secrets Act were dropped against journalist Tony Geraghty for his book, "The Irish War". Although charges were not similarly dropped against the former army general, Nigel Wylde, in connection with the book, he was acquitted in November after the prosecution offered no evidence (see AI Index: EUR 01/03/00).

## U Z B E K I S T A N

***Prisoner of conscience Makhbuba Kasymova***

(update to AI Index: EUR 01/03/00)

In August the Independent Human Rights Organization of Uzbekistan (NOPCHU) reported that prisoner of conscience and member of NOPCHU, Makhbuba Kasymova, qualified for release under an amnesty. The amnesty was granted to over 10,000 prisoners by President Karimov on 28 August to mark

the country's ninth anniversary of independence. It was expected that Makhbuba Kasymova would be released at the end of September. On 6 October Makhbuba Kasymova's daughter was told by the director of Tashkent Women's Colony that her mother had committed three offences against prison rules which was enough to disqualify her from the amnesty. Makhbuba Kasymova claimed that the offences had been fabricated in order to prevent her from being released. In April she was reportedly accused of having left her work place for a short period without permission, and in June she was accused of keeping money under her pillow. She was not aware of a third offence. On 22 December Makhbuba Kasymova was unexpectedly released from prison.

Makhbuba Kasymova had been 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 had turned down Makhbuba Kasymova's appeal against her sentence after a hearing lasting 14 minutes, at which she was not present.

#### **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 and EUR 01/03/00)

In April writer Mamadali Makhmudov and Muhammad Bekzhon, a brother of Muhammad Salih, were reported to have been secretly transferred to Yaslik prison, categorized as a general regime prison colony - KIN 64/74. However, reports received by AI indicate that the overwhelming majority of prisoners are reported to be members of independent Islamic congregations convicted for having supported the banned Islamic opposition. Conditions of confinement are alleged to be cruel, inhuman and degrading with prisoners being denied adequate rations of drinking water while doing forced labour. According to

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. At the beginning of July the Ministry of Internal Affairs issued a press release denying that Mamadali Makhmudov had suffered ill-treatment and that his health was deteriorating. However, later that month he was reportedly urgently transferred to the medical wing of Tashkent prison. His relatives were not informed of his whereabouts until September. He was reported to be in a critical condition.

#### **Allegations of torture**

The organization continued to receive reports of ill-treatment and torture by law enforcement officials of members of independent Islamic congregations or followers of independent imams. Hundreds of suspected members of the banned Islamic party *Hizb-ut-Tahrir*, including women, were reportedly arbitrarily arrested and sentenced to long terms of imprisonment after trials that fell far short of international fair trial standards.

In July the presiding judge at Tashkent Regional Court reportedly dismissed allegations of torture by 15 members of *Hizb-ut-Tahrir* charged with distributing leaflets and calling for the overthrow of the constitutional order, even after one of the accused took off his shirt to show the court the injuries and bruises he had suffered. He was also said to have shown a hole in his foot which he had received as a result of being beaten with a nail fixed to a plank of wood. Other co-accused claimed to have been raped, tortured with electric shock, violently beaten and threatened with murder in order to force them to confess by officers of the Ministry of Internal Affairs. After their detention the 15 men were

reportedly held incommunicado for periods of up to two months and were denied their constitutional right to have access to a lawyer of their own choice, their families and medical aid. In September Tashkent Regional Court sentenced the men to prison terms ranging from 12 to 16 years. The convictions were based on their "confessions" made following torture.

### **Possible 'Disappearance'**

(update to AI Index: EUR 01/01/98 and EUR 01/01/99)

The Uzbek authorities have consistently denied any official involvement in the "disappearances" of Abduvali Mirzayev and Ramazan Matkarimov. In December, however, the following new information came to light on the "disappearance" in 1995 of Abduvali Mirzayev, the independent Imam of an Andijan mosque.

Abduvali Mirzayev was reportedly held in an underground cell of the Ministry of Internal Affairs immediately after his arrest by officers of the National Security Service (SNB) at Tashkent International Airport in August 1995. The main directorate for the fight against organized crime, corruption, racketeering and terrorism (GUBKRT) was allegedly in charge of the investigation, under supervision of the National Security Service (SNB). He was later transferred to the special underground isolation tract of Tashkent prison, where he was reportedly detained from September 1995 to April 1996. Around March 1996 he was said to have been sentenced to a long term of imprisonment in a strict regime labour colony by the Supreme Court in a closed trial. Following his secret trial officers of the GUBKRT allegedly planted narcotics on Abduvali Mirzayev in order to secure a further charge against him. Abduvali Mirzayev was reportedly tortured in Tashkent prison to force him to confess to fabricated charges. He was not allowed to read the Koran or to pray and was regularly beaten. He allegedly had his head pushed into the toilet bowl, was threatened with rape and had his genitals burned with cigarettes. He was also said to have been beaten on the soles of his feet with a rope and on other parts of his body with rubber sticks by a group of officers while suspended from the ceiling with his arms and

legs tied. He was reportedly transferred to a strict regime labour colony in April 1996.

No developments were reported in the investigation into the fate and whereabouts of Abduvali Mirzayev's assistant, Ramazan Matkarimov, who "disappeared" in 1995, the 1997 "disappearance" of another assistant, Nematjon Parpiev, or the 1992 "disappearance" of Abdullo Utayev, the leader of the banned Islamic Renaissance Party.

### **Death in custody**

According to reports twenty-eight-year old Numon Amanovich Saidaminov, a member of *Hizb-ut-Tahrir*, was detained in Tashkent on 29 September by officers of the National Security Service (SNB). He was allegedly held incommunicado by the SNB until 4 October, when his mother was told that she should find a lawyer for her son. However, the lawyer was reportedly not given access to Numon Saidaminov. On 8 October the father of Numon Saidaminov was called to the local neighbourhood committee (mahala) and told that his son had died in custody. He was reportedly handed a death certificate which gave the cause of death as heart attack. The SNB allegedly refused to release Numon Saidaminov's body to his family until an hour prior to the funeral. When the body was prepared for burial it was allegedly discovered that Numon Saidaminov's body was covered in bruises and open wounds and showed signs of torture. A medical doctor who was present at the funeral preparations claimed that Numon Saidaminov must have been dead for at least two days and that he probably died as a result of torture. Uzbek law enforcement officers reportedly cordoned off the streets around the family home during the funeral.

### **Forcible deportation**

In August Burkhan Khadjikhodjaev (formerly given as Khadji Khudjaev in AI Index: EUR 46/39/00), an ethnic Uzbek imam (Islamic leader) from the city of Ishim in the Tyumen Region, Russian Federation, was arrested by Russian police in Omsk, Russian

Federation, where he attended a meeting of two of the main Muslim organizations in Russia. He was allegedly detained at the request of the Uzbek authorities, who issued an arrest warrant, accusing him of attempting to overthrow the constitutional order of Uzbekistan under Article 159 of the Uzbek Criminal Code. The charge was reportedly related to his alleged part in the February 1999 bombings in Tashkent. There was concern that he could face imminent, forcible deportation to Uzbekistan, where he risked being tortured or ill-treated in incommunicado detention in order to extract a confession. He could also face an unfair trial and long term imprisonment. AI believed that the forcible return of Burkhan Khadjikhodjaev to Uzbekistan by the Russian authorities would be contrary to the Russian Federation's obligations under international law, in particular Russia's obligation under Article 3 of the United Nation Convention against Torture, which prohibits the return of a person to a country or territory where they may face serious human rights violations. Burkhan Khadjikhodjaev was reportedly returned to Uzbekistan at the end of October.

Burkhan Khadjikhodjaev reportedly had to leave Uzbekistan three years ago because he was harassed by the Uzbek authorities when several murders of law enforcement officials in the Namangan region sparked a wave of mass detentions and arrests of people thought to be members of independent Islamic congregations. Burkhan Khadjikhodjaev fled to the city of Ishim in the Tyumen Region of the Russian Federation, where he settled and worked as an imam, and had reportedly applied for Russian citizenship.

### ***The death penalty***

#### *New death sentences*

In November the Supreme Court sentenced Takhir Yuldash and Juma Namangani, the alleged leaders of the Islamic Movement of Uzbekistan (IMU), to death *in absentia* on charges of terrorism and treason. They were accused of causing the death of 73 people in armed incursions and through the February 1999 bombings in Tashkent. Muhammad Salih, the exiled

leader of *Erk*, was sentenced to 15 years' imprisonment on the same charges, also *in absentia*. Although the Uzbek authorities claimed that the trial had been conducted in line with international fair trial standards, international observers stated that the prosecution failed to provide sufficient evidence that the leaders of the IMU and Muhammad Salih were responsible for terrorist acts in Uzbekistan. It relied instead on confessions and the testimony of convicted prisoners. The accused were not represented by a lawyer of their own choice. According to Human Rights Watch, state-organized "hate rallies" against the three main accused reportedly took place throughout the country during the trial in order to generate popular support for the charges.

In October the Military Collegium of the Supreme Court rejected appeals against their death sentences by Armen Garushyants and Vazgen Arutyunyants. They had been sentenced to death by Tashkent Military Court in May on two counts of premeditated, aggravated murder. Armen Garushyants was also found guilty of deserting from his military unit in August 1998, and Vazgen Arutyunyants of possessing drugs. A co-accused was sentenced to 20 years' imprisonment.

Vazgen Arutyunyants, who maintained his innocence, had reportedly been severely beaten by police in the Yakkasaraysk district, Tashkent, in an apparent attempt to extract a confession following his arrest in July 1999. When Vazgen's father had visited him in pre-trial detention shortly afterwards, he was reportedly severely bruised and was unable to stand up. He was also said to have suffered from headaches and kidney pain, and had blood in his urine. The investigating officer had reportedly told Vazgen's father that his son would be executed.

### ***Executions***

(update to AI Index: EUR 01/03/00)

Twenty-eight-year old Dmitry Chikunov was executed on 10 July. The news was given to his mother two days later, when she came to visit him in Tashkent prison. The previous day the prison guards

had told her that she could not see him and should come back the next day. He had been sentenced to death in November 1999 for the murder of two men. He maintained his innocence throughout and claimed that he had been beaten and tortured to force him to confess to fabricated charges. 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.

Twenty-one-year old Rafael Mubarakshin was executed on 5 July. When his mother tried to visit him in prison later in July, she was refused access. She was only told a month later by Tashkent City Court, which had sentenced her son to death in December 1999, that he had already been executed. She was given the death certificate confirming the execution on the same day.

According to Rafael Mubarakshin's mother, his lawyer was not present when the Supreme Court rejected his appeal against his death sentence in February, because he had not been told when the hearing would take place.

Rafael Mubarakshin, a student at Tashkent Aviation Institute, had been convicted of the premeditated, aggravated murder of another student. He was reportedly ill-treated in detention at Khamzinsky police station in Tashkent. His mother said that he confessed to the murder and told her: "I want to redeem my guilt. I want to serve my sentence, but I want to live."

## YUGOSLAVIA, FEDERAL REPUBLIC (FRY)

### SERBIA AND MONTENEGRO

Within the Federal Republic of Yugoslavia (FRY) - excluding Kosovo - the human rights, security and political situation continued to provide cause for concern right up to, and in the weeks immediately following, the presidential and federal parliamentary

elections on 24 September. During the period before the elections reports of human rights violations, the majority of which were directed towards opposition activists, non-governmental organizations and independent journalists, increased in frequency and severity. They included arbitrary detention, ill-treatment, unfair trials and prosecutions on political grounds.

The confirmation of Dr Vojislav Koštunica as President and the establishment of a new Federal government in November saw a rapid change in the political and security climate and a dramatic decline in the range and incidence of human rights abuses, although some cases of police ill-treatment continued to be reported. On 23 December elections were held for the Serbian parliament, resulting in a substantial majority for the DOS (*Demokratska Opozicija Srbije*) party.

Tensions continued to increase in southern Serbia, and ethnic Albanian prisoners who had been transferred from Kosovo when Serbian and Yugoslav forces withdrew in July 1999 continued to be sentenced to prison terms after unfair trials.

The death penalty remained in force for aggravated murder in both the Serbian and Montenegrin Criminal Codes. At least three men were sentenced to death during 2000. No executions have been carried out since 1992, but more than 20 people remained in jail under sentence of death.

### ***Freedom of expression***

In the period before the elections independent media companies and journalists continued to be fined for libel under the Law on Public Information. On 29 December key articles of the Law on Public Information - judged to contravene the principles of freedom of information set out in the Serbian constitution - were pronounced unconstitutional and annulled.

Imprisoned journalists were pardoned by the new government, or their cases overturned. Zoran Luković, imprisoned on 15 August on charges of disseminating false information, and adopted as a prisoner of conscience, was released after being

pardoned on 21 October.

Journalist Miroslav Filipovič - also adopted by AI as a prisoner of conscience - was released on 10 October, having been sentenced to seven years' imprisonment on 26 July, on charges of espionage and disseminating false information, apparently for publishing articles on the Internet about the conflict in Kosovo, one of which contained eye-witness accounts of human rights violations committed by Serbian and FRY forces. Much of the trial was held behind closed doors, and details of the charges and evidence against Miroslav Filipovič were never made public. In August, he was transferred to a military hospital, suffering from a heart condition, but was returned to jail in September despite the risk to his health. His sentence was overturned by the Supreme Military Court in Belgrade on 10 October, and he was released. The case was returned to the Military Court in Niš for a retrial, and on 14 November proceedings against him were abolished on the order of President Koštunica.

#### **Harassment and ill-treatment of members of opposition movements**

The period leading up to the presidential and federal elections saw an increase in the harassment, arrest and ill-treatment of members of opposition parties and in particular of the "Otpor" ("Resistance") movement, a loosely organized opposition group with a largely student and youth membership. *Otpor* members, including minors, were arrested or detained for questioning on a daily basis - with over 111 arrests during August alone. Most periods of detention lasted only a few hours and seldom resulted in any charges being brought. Some were beaten or otherwise ill-treated during their detention. On 4 September *Otpor* offices in Belgrade were raided by the police, who without a warrant, took away propaganda materials, two computers and other equipment.

On 8 September Miloš Kitanovič and five other *Otpor* members who had been called to the police station in the town of Vladim Han for informal questioning were prevented from leaving by three drunken police officers. The six men were beaten on the head, body and soles of the feet, strangled with a

rope, and forced to remain in a squatting position and beaten if they moved. They were released early the following day. A complaint was lodged by the Humanitarian Law Fund (HLC) at the municipal court in Vladim Han on behalf of the six men, seeking 500,000 dinars compensation. In December investigative proceedings began against the three officers concerned - who were reported to have been transferred to other duties - and it was announced early in 2001 that the case against them would be heard in February.

A total of 36 cases - the majority of which have yet to be heard - were filed by the HLC on behalf of 51 *Otpor* activists at 19 municipal courts in Serbia from 25 October, seeking damages in excess of a total of nine million dinars against the state of Serbia. In one case, which opened on 27 November Dalibor Loznica, represented by the Humanitarian Law Fund, sued Serbia for 300,000 dinars compensation alleging unlawful police conduct and violation of his human dignity and personal freedom. Dalibor Loznica was awarded damages of 40,000 dinars on 12 January 2001.

On 19 December the trial of *Otpor* activist Momčilo Vjelkovič - charged with attempted murder following an affray at the Café Pasaž in Požarevac - was postponed *sine die*, in the absence of the alleged victim, Saša Lazvič, a charge which AI believes was politically motivated, (see AI Index: EUR 01/01/00). On 25 December lawyers acting for Momčilo Vjelkovič announced that they would be taking out proceedings against both Saša Lazvič and his brother Milan for attempted murder, and against Marko Milošević - owner of the Café Pasaž - and other members of the Milošević family for complicity in attempted murder.

At the end of the year police powers of arrest - under which many members of *Otpor* and other opposition groups had been detained under the previous government - were ruled unconstitutional by the Federal Constitutional Court. The court decided that the provisions of the Federal Criminal Code under which the police were able to detain suspects for up to for 72 hours without judicial authority, and to deny suspects access to legal counsel during this period

contravened the Federal Constitution, as did provisions enabling them to enter and search homes without judicial authority.

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

On 7 July Bojan Aleksov, a member of the anti-war group *Đene u Crnom* (Women in Black), returned to Belgrade from Budapest, concerned at repeated visits to the group's offices in June by the state security and financial police, when members of the group had been questioned, their accounts examined and office materials and equipment taken away. The private apartment of a member of the group was also raided. Other non-governmental organizations - including the Centre for Antiwar Action, the Helsinki Committee for Human Rights in Serbia, the Forum for Ethnic Relations (all in Belgrade), the Committee for Human Rights in Leskovac and the Civic Initiatives Committee in Niš - also had their offices or premises searched, and in some cases materials confiscated. On 8 July Bojan Aleksov was arrested by State Security Police, and over a 23-hour period was interrogated about his work with the Safe House Project for conscientious objectors in Budapest, the activities of *Đene u Crnom* and their foreign contacts. During the interrogation he was subjected to repeated beatings on the soles of his feet and palms of his hands and to homophobic threats. He was eventually released after being forced to write a confession - also recorded on video; a further statement admitting to previous "crimes", and after agreeing to work in future for the State Security police. Following his release Bojan Aleksov and several other members of *Đene u Crnom* fled from Serbia.

### ***The Albanian minority in southern Serbia***

Towards the end of the year tensions increased in the area of southern Serbia close to the administrative borders with Kosovo (Kosova), as Serbian army units continued to clash with an armed ethnic-Albanian opposition group, the Liberation Army of Preševo, Medvedje and Bujanovac (UÇPMB). Tensions escalated on 20 November when three Serbian police officers were killed and others wounded during an

offensive by UÇPMB, which resulted in their seizure of the five kilometre-wide Ground Safety zone established under the Kumanovo Military-Technical Agreement of June 1999. The FRY authorities reacted within the terms of the agreement - by which only lightly armed police were permitted entrance to the zone - but also moved paramilitary forces, a number of tanks and other equipment up to the edge of the zone. Talks were initiated with representatives of KFOR in an attempt to arrange a cease-fire and the withdrawal of the UÇPMB, while on 28 November the United Nations High Commissioner for Refugees announced that 3,000 ethnic Albanians and an unknown number of Serbs had fled the area. The authorities in Belgrade continued to pressure KFOR for a renegotiation to the Military-Technical Agreement.

Negotiations between KFOR and the Serb authorities continued throughout December, while KFOR troops maintained a presence in the buffer zone, arresting, for example, on 20 December, ethnic Albanians from Kosovo who entered the zone with heavy weapons including rocket-propelled grenades and launchers. Serb policemen and others abducted during this period have since been released, but the whereabouts of a Gorani (Slavic Muslim) couple, kidnapped from the Bujanovac/Kosovo road on 28 December remained unknown at the end of the year. On 29 December the UÇPMB, in an agreement brokered by KFOR, agreed to withdraw armed groups from the Preševo valley, and to enter negotiations with the Serbian authorities.

### ***Conscientious objectors, prisoners and the amnesty law***

Though many conscientious objectors and deserters remained abroad, no prosecutions of conscientious objectors and those who had evaded military service are known to have taken place during the latter part of the year. It was also reported that all those serving sentences for refusing or evading military service had been released, many of them before the change of government.

On 17 November a team of experts consisting of



members of the Yugoslav Committee for Human Rights (YUCOM) - a non-governmental human rights organization - and others was commissioned by President Koštunica to draft a federal law on amnesty. Preliminary statements from members of the drafting team - confirmed by the first draft of the law - indicated that the amnesty was intended to cover those who had refused to perform military service by avoiding call-up or deserting between April 1992 and October 2000, including those who had been sentenced or were facing proceedings. It also included those who had contravened the constitutional order of the FRY, and others who had committed criminal acts against the Yugoslav Army. The draft did not include an amnesty for those convicted for terrorism under Article 125 of the Federal Constitution, thus excluding the majority of ethnic Albanians serving sentences in Serbian jails.

Following the publication of the first draft of the law, a series of violent protests about prison conditions and accusations of ill-treatment by prison staff by prisoners broke out in Sremska Mitrovica, Niš and the Zabela (Poñarevac) prisons, in which the prison authorities appeared to lose control. It is thought that the riots were encouraged by rumours that all the ethnic Albanian prisoners would be released under the proposed amnesty Law, and for several days there were allegations - later proved to be unfounded - of serious attacks on ethnic Albanian prisoners. Following the riots, the Ministry of Justice announced the formation of a commission to investigate prisoners' complaints. The former head of Sremska Mitrovica prison, Trivun Ivkovif, was detained relating to investigations on charges of misuse of an official position and financial crimes. Following the riots, the proposed amnesty law was revised to include an additional clause providing for a reduction by a quarter of the sentences of all prisoners except those convicted of the most serious offences.

At the opening session of the FRY parliament on 4 November, Prime Minister Zoran Đinif stated the government's intention to reduce the period of compulsory military service, but made no reference to any changes affecting the current provision for an

alternative civilian service - which fails to meet international standards.

### ***Impunity for war crimes***

The newly elected President made it clear that cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) was a low priority for the Federal government, and despite the reopening of the Tribunal Office in Belgrade - after a hiatus of several years - no further signs of cooperation with the Tribunal were forthcoming by the end of the year, although it was agreed that the Chief Prosecutor of the Tribunal, Carla del Ponte, would visit the FRY in January 2001. AI remained concerned at the resistance of the authorities to arrest and transfer to the custody of the Tribunal individuals indicted for crimes under international law. These included former Federal President Slobodan Miloševif, as well as four former members of the Federal and Serbian governments. Other suspects indicted by the Tribunal thought to be sometimes resident in the FRY include Radovan Karadñif, Ratko Mladif and the "Vukovar Three" indicted for the massacre of at least 200 civilians in Vukovar, Croatia in 1991. Carla del Ponte repeatedly stated that a war crimes trial of former President Slobodan Miloševif in the FRY - rather than at the Hague - was out of the question.

At the end of December 2000, at Niš Military Court, two army reservists were tried for the murder of two Kosovo Albanian civilians on 28 March 1999, the first trial in Serbia relating to the armed conflict in Kosovo. Nenad Stamenkovif and Tomica Jovif were both found guilty and each sentenced to four and a half years' imprisonment.

### **KOSOVO (KOSOVA)**

The overall human rights situation in Kosovo continued to cause deep concern. The UN Mission in Kosovo (UNMIK) and NATO-led peacekeeping force (KFOR) continued to grapple with enormous problems in fulfilling their missions, and although some progress was made, the international presence failed to ensure that international human rights

standards were consistently respected in the actions of the international police, KFOR soldiers and in the courts. UNMIK continued to be headed by a Special Representative of the UN Secretary-General (SRSG) who had executive authority in Kosovo. On 8 December Secretary-General Kofi Annan announced that Hans Haekkerup, then Defence Minister of Denmark, would replace Dr Bernard Kouchner - who had occupied the post since July 1999.

Violence continued to plague Kosovo; many murders or other violent attacks were carried out within the Albanian community, and the period leading up to the municipal elections held on 28 October was particularly characterized by politically motivated attacks and incidents. On 25 October, for example, Ibrahim Rugova, leader of the Democratic League of Kosovo (LDK), was forced to leave the stage at a pre-election rally after electricity supplies had been cut and guns fired. Other politically motivated attacks included the murder on 23 November of Xhemajl Mustafa, an ethnic Albanian politician close to Ibrahim Rugova, and the wounding of LDK party official Fetah Rudi on 15 December. The perpetrators of killings were rarely apprehended, nor was responsibility for them admitted by any organization.

### **Minorities**

The situation for non-Albanians in Kosovo remained precarious, with continuing inter-community tensions frequently manifested in the form of violent attacks on Serbs, Roma and Muslim Slavs, as well as ethnic Albanians in areas with a sizeable Serb population. Although arrests have been made in relation to some such incidents, problems with the judicial system - notably the absence of an adequate witness protection program - continued to allow impunity for those responsible for attacks on minority communities. Serbs and Roma continued to live within enclaves protected by KFOR troops, relying on them or the police force to guarantee them freedom of movement outside the enclaves.

On 7 November, three men and a 16-year-old boy from the Ashkali community (an Albanian

speaking minority perceived as Roma by ethnic Albanians) who had been displaced within Kosovo returned to their homes in Dašovac (Dashevc) village near Srbica (Skënderaj). They intended to repair their damaged homes to enable their families to return. Both the men and international organizations had negotiated with ethnic Albanian leaders before their return, seeking guarantees for their safety. However, the four were found murdered two days after their return. Offers to provide a KFOR guard had reportedly been refused by the men who feared that it would make them conspicuous. Local people appeared frightened or unwilling to give information about the killings. In response to the murders, at the end of November UNMIK announced the formation of a Joint Committee on Returns for the Ashkalija/Roma people.

Attacks on the Serb minority continued: on the morning of 29 December, an elderly Serb couple from Kolonija village, Obilif/Kopiliq, were found by UN police lying in the street outside their house. Dragan Rapaif was found dead with his throat cut; his wife Vukosava, whose throat had also been cut, was taken to hospital, where she reported that she and her husband had been attacked by four Albanian-speaking men. The couple had until then lived in a property shared with Kosovo Albanian neighbours.

### **The 'disappeared' and missing**

On 12 October UNMIK opened a Centre for Detainees and Missing Persons in Pristina charged with receiving information on missing persons and providing information to prisoners' families. More than 3,000 people from Kosovo remained unaccounted for at the end of 2000. Most were ethnic Albanians who were believed to have "disappeared" after their arrest by Serbian police or paramilitaries between early 1998 and June 1999. Serbs, Roma, people of other nationalities and ethnic Albanians of moderate political views or those regarded as "collaborators" with the Serbian authorities had also gone missing during or after June 1999 in circumstances which in many cases implicated armed ethnic Albanians. New cases during 2000, included the "disappearance" of Marian

Melonasi, a journalist of mixed Albanian and Serbian parentage, who was reportedly abducted in Pristina on 9 September. He had been reporting in the Serbian language for the state media under UNMIK control. No information about his whereabouts emerged before the end of 2000.

Exhumations of grave sites led to the identification of around 260 mortal remains during 2000, though it was anticipated by the Organization for Security and Co-operation in Europe (OSCE) that approximately 600 bodies - exhumed in 1999 by ICTY, and then reburied - would have to be re-exhumed for identification purposes. Some bodies excavated in 2000 also remained unidentified. Not all grave sites had been examined, and responsibility for their excavation had, in November, yet to be established.

#### ***Refugees and displaced persons***

It was estimated at the end of September that some 82,000 ethnic Albanian refugees had returned to Kosovo, of whom some 9,000 had been forcibly returned by foreign governments. On 12 October the SRSG urged foreign governments to halt returns until March 2001, stating that there was no adequate housing in Kosovo. About 222,800 Kosovo Serbs, Roma or members of other minorities remained displaced within Kosovo, Serbia or Montenegro or left their homes during 2000. Return to their own homes was for the most part dangerous and few tried to do so.

#### ***Ethnic Albanian prisoners in Serbian jails***

Trials of ethnic Albanian prisoners transferred from jails in Kosovo when Serb and Yugoslav forces withdrew from the province continued. Many were convicted of "terrorism" although the evidence against them was inadequate and circumstantial, or consisted solely of confessions which they repudiated during trial because they had been extracted by torture. At the end of 2000, according to the International Committee of the Red Cross (ICRC), 693 remained in prison, of whom around 600 -

including prisoners already serving sentences before being transferred to Serbia - had been tried. Other ethnic Albanian prisoners convicted in 1999 and 2000 were released having served their sentences, or following the reduction of sentences to time served, following appeal hearings.

In September 2000, 14 prisoners, including minors and one man aged 75 years, were found to have been held in detention in Sremska Mitrovica prison for up to 15 months without a judicial decision on their detention, in contravention of the Code of Criminal Procedure. According to the Belgrade-based human rights group, the Humanitarian Law Centre, the men were detained during or around May 1999, and were associated only by the unlawfulness of their detention. Ten of the 14 were released on 29 October; of the remaining four, a minor, Xhevdat Podvorica, was apparently released following an intervention by Flora Brovina. The remaining three were transferred from Sremska Mitrovica Prison to Belgrade Central Prison during the prison riots and released shortly thereafter.

Flora Brovina, regarded as a prisoner of conscience, was released from Poñarevac prison on 1 November, apparently after the intervention of President Koštunica. She had been imprisoned - in Kosovo and then Serbia - for almost 18 months, and was then awaiting a new trial, her 12-year sentence for "terrorism" and "association for the purposes of hostile activity" having been quashed by the Supreme Court in June 2000.

#### ***Alleged human rights violations by UNMIK and KFOR***

International officials, international police officers and soldiers operating under UNMIK and KFOR were responsible for violations of the rights of pre-trial detainees, and there were also some allegations of ill-treatment. KFOR allegedly shot and killed men on several occasions, and in at least one case there were questions about the lawfulness of the killing. No results of the investigation announced by UNMIK into the shooting by KFOR of an ethnic Albanian, Avni Hajredini, during the eruption of ethnic violence in the divided northern town of Mitrovica in February had

been made public by the end of the year. At the beginning of December it was reported that court-martial proceedings would be opened against three British paratroopers alleged to have shot and killed Fahri Bici and Avni Dudi - allegedly members of the Kosovo Liberation Army (UÇK), on 3 July 1999. The incident occurred while the soldiers were engaged in the protection of the building occupied by the Serbian Executive Council in Pristina. The British Ministry of Defence denied that indictments had been brought, but indicated that investigations were continuing.

In November the office of the Ombudsperson, an international appointee with deputies from the Albanian and Serb communities, began to receive complaints. The Ombudsperson's mandate includes investigating allegations of human rights violations perpetrated by the international civil administration or new local institutions. However, allegations of human rights violations by KFOR were not included in the initial mandate and no agreement to include KFOR had been reached by the end of 2000.

#### ***The criminal justice system***

In October 2000, the Legal Systems Monitoring Section (LSMS) of the OSCE in Kosovo published a report, *Review of the Criminal Justice System*, based on an examination of the majority of criminal trials completed or under way between 1 February and 31 July. Its findings revealed UNMIK's lack of progress in implementing recommendations on the judicial system made to UNMIK in February, (see AI Index: EUR 70/06/00) and confirmed that many of AI's serious concerns regarding the administration of justice in Kosovo remained unaddressed. Some measures recommended by AI had been implemented - the training of legal professionals had been instigated and international judges and prosecutors have been appointed to the courts in Kosovo. However, serious concerns remained with regard to the application of international human rights standards, the independence of the judiciary, the absence of a

comprehensive victim and witness protection program - most notably in cases of sexual and domestic violence by non-state actors - and the extension of pre-trial detention under Regulation 26/1999, which failed to meet international standards.

UNMIK police and KFOR soldiers frequently ignored the requirements of the applicable law and of international human rights standards to bring detainees promptly before a judicial authority. Some were detained for weeks on the orders of the KFOR Commander or the SRSB. Since the applicable law and international standards permit detention only on the orders of a judicial authority, such detentions were arbitrary and unlawful. One such detainee, Afrim Zeqiri - an ethnic Albanian and former member of the UCK who was named as a suspect in the murder of three Serbs in the village of Cerniac in May - was held from 26 July to 14 September, and from 13 November until the end of the year by order of the SRSB under SC Regulation 1244 (1999). He had not at any time been indicted, and was held on both occasions following the order for his release by an investigating magistrate in July, and in November by the District Court - following an appeal to the Supreme Court.

#### ***Gender-based human rights violations***

As Kosovo increasingly became a destination country for women trafficked for the purposes of prostitution, UNMIK responded on 6 November by establishing a designated police unit charged with the responsibility of combatting trafficking in persons, specifically the trafficking of women for prostitution; the unit was also charged with the provision of protection, medical treatment, counselling and with assisting victims to return to their country of origin. A regulation on trafficking in persons drafted by UNMIK was ratified by the UN by the end of the year and brought into force on 15 January 2001.

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WOMEN IN EUROPE

Human rights violations against women occur regularly in Europe but are only infrequently given the attention they deserve. The following are a selection of the cases and incidents investigated by Amnesty International. They are not intended to be an exhaustive summary of the organization's concerns, but are a

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## CHILDREN IN EUROPE

It is a sad fact that in Europe, as in all parts of the world, being a child is not of itself protection against gross

violations of human rights. Children in Europe regularly face violations including torture and ill-treatment, unlawful detention, and arbitrary killing. Often children and juveniles are especially vulnerable to human rights violations, and at the same time they are heavily dependent on adults to protect them and to enable them to find redress for human rights violations. The following are a selection of the cases and incidents investigated by Amnesty International. They are not intended to be an exhaustive summary of Amnesty International's concerns, but are a reflection of the range of violations suffered by children and juveniles in Europe.

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