

# FORMER YUGOSLAV REPUBLIC OF MACEDONIA

## After the Ara..inovo murders: Torture, ill-treatment and possible extrajudicial execution

### *Introduction*

On the night of 11 January 2000 three police officers were murdered at a checkpoint at Ara..inovo village near Skopje. The officers' killers emerged from cars which were waiting at the checkpoint and shot them with automatic weapons before driving off. The incident caused huge disquiet in the country. In the version of events given to the press by the authorities the perpetrators were alleged to be carrying drugs or more arms in their vehicles. The full facts of the case are not yet known. Ara..inovo village has an ethnic Albanian majority and all those searched or detained in connection with the incident have been ethnic Albanians. Since the victims were non-Albanians -- two of the police officers who were killed were Macedonians and the other an ethnic Turk -- the incident quickly gained political dimensions.

Amnesty International appreciates the need for the authorities to react vigorously in such a case, but emphasizes that all their actions should be carried out strictly in accordance with national law and international human rights standards. The organization is concerned that the police committed numerous human rights violations in their operations which followed the Ara..inovo murders.

Dozens of people appeared to have been tortured or ill-treated, including at least three minors. They were beaten in their own homes, in those of their neighbours or in police stations. Men, women and children were threatened at gunpoint and unlawfully deprived of their liberty for periods of from three hours to 11 days. Detainees were held incommunicado, deliberately disorientated by the use of hoods placed over their heads and their transfer from one police station to another. They were reportedly tortured or ill-treated by police before or during questioning, presumably for the purpose of extracting confessions or information incriminating others. One detainee, Sabri Asani, died in police custody and there is evidence indicating that he may have been extrajudicially executed. More than five months after his death, the judicial authorities have still not released the report of the autopsy carried out on Sabri Asani's body.

It is clear that police officers involved in the actions after the Ara..inovo murders were angered by the murder of their colleagues. Comments by police officers who searched houses, detained people and questioned them confirm this. The murders were a very serious crime, but no criminal act, however heinous, justifies the commission of human rights violations

such as those which appear to have been perpetrated after the Ara..inovo killings. Professional policing requires strict adherence to national law and international human rights standards.

The authorities have acknowledged that there have been some violations and that houses were searched and individuals arrested who had no connection with the murders. Their response, however, has on the whole been totally inadequate. Important recommendations made by the Ombudsman have so far gone unheeded.

Amnesty International takes no position on the guilt or innocence of those who are under investigation for the killings or may be under investigation for other unrelated crimes after their arrest in the Ara..inovo actions. The organization's concern relates particularly to the use of incommunicado detention, torture, ill-treatment and threats to obtain statements by coercion and the violation of detainees' rights.

The organization calls on the authorities to address the human rights concerns described in this report by ensuring that thorough, impartial and independent investigations are carried out and that criminal and disciplinary proceedings are initiated and completed where appropriate. Moreover, Amnesty International believes that strict orders must be given to change police behaviour during arrest and detention and the use of force and firearms, to ensure adherence to international human rights standards. It calls in particular for an end to the practice of placing bags over detainees' heads which it has also recorded in incidents prior to Ara..inovo.

### **Background**

The former Yugoslav Republic of Macedonia was recognized under this temporary name for the purposes of membership of the United Nations (UN) in 1993 and most states have recognized it under this name. Some have done so under the state's constitutional name of the Republic of Macedonia. Opposition to the use of "Republic of Macedonia" or "Macedonia" comes principally from Greece. Amnesty International takes no position on this issue and no significance should be attached to the titles used in this document.

Since declaring independence in 1991, the state has suffered enormous economic difficulties as a result of the economic dislocation arising from the disintegration of the old Yugoslavia and the economic sanctions which were imposed on its main trading partners in Serbia and Montenegro. There is also widespread concern about the high level of crime in recent years, much of it linked to organized gangs operating across state borders. Macedonia avoided being drawn into the war in the former Yugoslavia which was fought in Croatia and Bosnia-Herzegovina between 1991 and 1995. However, Macedonia lies next to the southern Serbian province of Kosovo and has a complex ethnic mix, including a significant number of ethnic Albanians, whose social, economic, political and sometimes family life has always been

linked to Kosovo and its ethnic Albanian majority. It was thus inevitable that Macedonia would be deeply affected by the crisis which emerged in Kosovo from 1998 onwards.<sup>1</sup>

According to official figures 67 per cent of the population are Macedonians and 23 per cent are ethnic Albanians. However, ethnic Albanian leaders dispute this and claim that the ethnic Albanian population, which is concentrated in the west and north, is larger. The rest of the population is made up of ethnic Turks, Roma, Serbs, Vlachs, Muslim Slavs and other minorities. However, since independence, the issue of the status and rights of the ethnic Albanian population has been one of the key political issues in the republic. It is in the context of the political confrontations between ethnic Albanians and the government that ethnic Albanian demonstrators, some of whom became violent, have been subject to human rights abuses similar to those described in this report. For example, in the town of Gostivar in July 1997, police clashed with demonstrators during a political dispute over the use of national flags. Hundreds of demonstrators, including those who had not used or initiated violence, were beaten by police.

There are also reports of incidents of ill-treatment by police involving Macedonians and Roma as well as ethnic Albanians. However, anecdotal evidence indicates that over roughly the past two years, a period including a change of government at the end of 1998, there have been efforts by the police to improve standards and reduce the incidence of ill-treatment. Whatever progress has been made, the findings in this report highlight the fact that serious problems remain.

### ***Human rights in law and ratifications***

Macedonia is a party to many human rights treaties including the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) and the Convention on the Rights of the Child (CRC).

Since independence, a new Criminal Law and Code of Criminal Procedure, as well as other laws on policing and law and order, have been enacted replacing the old Yugoslav laws. Although some efforts have been made to ensure legislation is in conformity with international standards, questions remain about the compatibility of legislation. For example, in 1999 in its

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<sup>1</sup> See Federal Republic of Yugoslavia: *Kosovo a decade of unheeded warnings, volumes one and two* (AI Index: EUR 70/39/99 and EUR 70/40/99, April 1999) and Former Yugoslav Republic of Macedonia: *The protection of Kosovo Albanian refugees* (AI Index: EUR 65/03/99, May 1999) and *Humanitarian Evacuation and the international response to refugees from Kosovo* (AI Index: EUR 65/05/99, June 1999)

conclusions and recommendations on the consideration of a government report the United Nations Committee against Torture expressed its concern at the “absence of a specific crime of torture as defined in the [CAT] Convention.”<sup>2</sup> However, on the other hand the United Nations Commission on Human Rights takes the view that Article 118 of the Constitution, which states that “international agreements ratified in accordance with the Constitution are part of the internal legal order”, makes the ICCPR self-executing in national law and can thus be invoked before the courts.

### ***The killing of the police officers in Ara..inovo***

At about 10.30pm on 11 January 2000 three police officers, Kiril Petruševski, Aco Angelovski, both Macedonians, and Erol Gotak, an ethnic Turk, were shot dead at a police checkpoint on the edge of the village of Ara..inovo on the old road linking Skopje with Kumanovo. The officers had been stopping traffic at the checkpoint, consisting of two police vehicles parked by the road close to the village football stadium, reportedly as part of a police operation to detect stolen vehicles.

Two passenger cars were reportedly stopped at the checkpoint at the time of the incident. While the officers were checking the documentation of the first vehicle, gunmen carrying automatic weapons emerged from the car behind and quickly shot the three officers. A fourth police officer survived uninjured. Police officers were quoted as saying that one of the dead officers had about 30 bullets in his body and the others some 20 bullets each.

### ***The police response***

The Ministry of Internal Affairs (commonly known by its Macedonian acronym - MVR) launched large-scale operations to find the police officers’ murderers. Restrictions were immediately placed on entry to Ara..inovo village and a series of house searches and arrests followed in houses in the village, in Skopje and at the weekend house of an Ara..inovo resident in the mountains at Mavrovo, western Macedonia.

The first police raids occurred on 12 and 13 January in Ara..inovo village itself when police raided several houses and arrested several men, but the main action in the village itself came on Friday 14 January. At about 11.30am that day special police, backed up by regular police officers carried out raids on about eight houses in the northwestern end of the village. Special police wearing masks and military-style uniforms entered the houses first and threw teargas and/or percussion grenades (the witnesses’ descriptions indicate that both types of

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<sup>2</sup> *Conclusions and recommendations of the Committee against Torture : The Former Yugoslav Republic of Macedonia. (Concluding Observations/Comments)*, UN DOC: A/54/44, para 112 , (5 May 1999)

weapon may have been used although it is difficult to be precise). Witnesses told Amnesty International that the police did not present court orders for entry and search or arrest to them during the raids.

The following sections, based upon interviews with the victims and witnesses by Amnesty International and the Helsinki Committee for Human Rights in the Republic of Macedonia<sup>3</sup> describe events in several of the houses on 14 January and the subsequent detention and ill-treatment of men in police stations.

### ***The house of Tasim Nebija***

Tasim Nebija was leaving his house to go to the mosque when police vehicles arrived at the gate of the house. He stated that he was hit five or six times by police before they handcuffed him and put him in the back of a police van. There he was kept with his hands handcuffed behind his back for more than four hours, with only a short break when his hands were released and handcuffed in front of him. The reasons for his arrest were not explained to him as he waited in the van. Eventually he was taken to the Avtokomanda police station. From there he was taken with a large black plastic bag (such as are used for the disposal of refuse) placed over his head to an unknown police station and then later to Bit Pazar station where he was released that night together with his son Jakup, whose arrest and ill-treatment is described below. Tasim Nebija described being beaten with the sack over his head and questioned at the times it was removed. During questioning he was asked what they knew of the killings of the police officers and asked about his sons' alleged "drug addiction". Returning home he found doors and windows of his house broken and considerable damage as a result of the police search.

One of Tasim Nebija's sons, Jakup, was inside the house when the police arrived. Despite some difficulty in speaking with wired up jaws he related that three masked police officers entered their house, kicked him, punched him and hit him about the head with a rifle butt. One blow with a rifle-butt broke his jaw. The police officers then pulled a jacket over his head so that he could not see. He was then handcuffed, put in a police van and taken away. At some point a black plastic bag was put over his head so as to blindfold him more effectively and he was taken to one unknown location, presumably a police station, then another and then a third. He had the bag over his head each time he was moved and was only able to identify the last station as the Bit Pazar station in central Skopje when he was released from it that night.

According to Jakup Nebija's statement, at the first two locations he was beaten again about his body, with the bag over his head, He was questioned twice, the bag over his head being

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<sup>3</sup> Izveštaj po policijskata intervencija vo seloto Ara...inovo, Skopje (Report on the police intervention in Ara...inovo village, Skopje), Helsinki Committee, 22 January 2000.

removed for this purpose, by two officers in plain clothes who wanted to find out whether he knew anything about the killing of the police officers. His hands were handcuffed together in front of his body the whole time, except during questioning, when he says that he was handcuffed to a table.

The next day Jakup Nebija was treated in hospital where he remained for several days. A medical certificate issued by the hospital confirmed that his jaw had been broken on the left hand side. The doctor characterized his condition as “serious bodily injuries with consequences possibly lasting for six months after the completion of the treatment”.

### ***The Jahija house***

Eighteen-year-old Ibrahim Jahija was with his mother and younger brother when police arrived at the family house and threw teargas or percussion bombs. The police officers asked if there were arms in the house, Ibrahim said that there were none, but he states that they kicked and hit him with rifle butts. He was quickly taken to a police van and then to a police station where a sack was placed over his head before they beat him further. Following a transfer to another station, which he later discovered to be Bit Pazar, he was beaten again as he was brought into the station. Questioning followed by two plain clothes officers about his alleged involvement in the killing of the police officers in Ara...inovo and unrelated matters such as the war in Kosovo and the refugee crisis. Ibrahim was released later that evening with apologies that they had “arrested the wrong man”.

A medical certificate issued to Ibrahim Jahija confirmed bruises to the ribs, lower back and lumbar regions.

### ***The house of Rafiz Emini***

A group of family members and guests were at the house of Rafiz Emini when the police arrived. Those in the house saw the police approaching at about 11.30am, but remained calm, expecting some form of identity checks, or at worst that they would have to stand aside while the house was searched. Instead, the six men (Rafiz, Sadik and Nehat Emini and Avdulla, Zejnulla and Emrush Jaja) and two 15-year-old boys in the house were immediately ordered outside at gunpoint and made to lie face down on the concrete with their hands stretched forward. Most, if not all, were kicked and struck with rifle butts while they lay prone. Amnesty International spoke with several of the men, some of whom had medical statements and photographs which reinforced their testimony. The ill-treatment was reportedly accompanied by threats and references to their Albanian ethnicity.

Seventy-year-old Avdulla Jaja was one of the men. He stated that a police officer used the words “Lie down or I will kill you” and that he was hit on the forehead and about the body.

He complained to the police that he was unable to lie in such a position because he had undergone stomach operations about a year before. Because of his bleeding forehead, he was allowed by the police to get up and sit on the concrete steps while the others remained lying.

Searching the house, the police found a fragment of an Albanian flag which they then reportedly forced into the mouth of 65-year-old Rafiz Emini using the barrel of an automatic weapon. This ill-treatment was accompanied by kicks to his chest and shouts of "Eat it, Albanian mother, this is not Albania, this is Macedonia". The cloth was pulled from his mouth and set alight burning the hand of the 15-year-old boy who was lying close by.

Meanwhile, the women, two of whom were pregnant, and children remained in the house. Police officers also reportedly pointed automatic weapons at them as they were ordered into one room and guarded. The occupants were further distressed by the police's use of small bombs, apparently percussion grenades, but possibly also teargas grenades, several of which they let off around the premises. After the incident the family found two unexploded grenades in the house and another two in the garden. The unexploded grenades were seen by independent observers. Rather than being used for a legitimate law enforcement purpose it appears that the grenades were in some cases used to cause deliberate damage. One, for example, was reportedly thrown into a refrigerator in the Emini house. Windows were broken and other apparently unnecessary damage was caused during the search. Amnesty International heard accounts and saw evidence of the similar use of percussion or teargas grenades and deliberate damage caused during the searches of other houses in the village.

At about 3pm the police left the Emini house. The men, who had been lying on the concrete in indoor clothes, were allowed to get up. No one was arrested and no illegal goods were found during the search. Upon leaving, the police reportedly apologized for having targeted the house and occupants.

Since the incident the Emini family have received some financial compensation for the damage caused in the house during the police search. However, they have not received any compensation for their reported physical suffering or injuries, nor have they been made aware of any actions by the authorities to investigate their claims.

### ***Arrests in Skopje***

At least two men were arrested by police officers in Skopje and detained for some days. One of these was Qenan Rexha. He says that on the morning of 16 January police officers in civilian clothes, but wearing masks, came to his house in the Butel district of Skopje. Qenan Rexha claimed that the police officers did not present any sort of warrant for his arrest - something which they are required to do so by the Code of Criminal Procedure in all but exceptional cases.

A bag was placed over his head and he was taken to the police station in Gjor..e Petrov where he stated that he was held handcuffed to a radiator squatting on the floor for a day, before being taken to another police station in the village of Mirkovci to the north of Skopje. After five days' detention at Mirkovci he was released without charge.

Qenan Rexha claims that he was kicked, punched and beaten with truncheons at both police stations. Police officers questioned him repeatedly, accused him of involvement in the Ara...inovo killings and made him sign statements to this effect. He also stated that in the early hours of one morning, when he was in Mirkovci, two masked officers came to him in his cell and told him that his pregnant wife had given birth to a son, but he would only be able to see his son if he signed the statement. Upon his release, he discovered that this threat had been based on a lie as his wife had still not given birth.

Photographs of Qenan Rexha taken after his release showed injuries consistent with him having been beaten and struck on the buttocks with a truncheon or similar object. A medical certificate confirmed this.

Another man, Faredin Mustafa, also claimed that he had been arrested in Skopje and held for five days in Gjor..e Petrov and then Mirkovci police stations. He similarly claimed that he had been beaten with a sack placed over his head and repeatedly questioned.

### ***The death of Sabri Asani***

Apparently considering Sabri Asani to be a suspect for the 11 January murders, the police were reportedly searching for him for some days before they located him at his family weekend house near Mavrovo lake in the mountains of Western Macedonia. Sometime after 3am on the night of 17/18 January a unit of special police burst into the house. Sabri Asani was there together with two other men from Ara...inovo, Bajram Muça and Lirim Dinarica.

The three men were taken to Skopje by the police, but Sabri Asani was reportedly dead on arrival. An autopsy was performed on the body of Sabri Asani. However, despite requests by his wife to the public prosecutor, no copy of the autopsy report has been made available to her. She was also not given an opportunity to have a representative present when the autopsy was carried out.

The certificate issued by the hospital authorizing release of the body for burial states the cause of death to be a heart problem. Press reports at the time of Sabri Asani's death referred to hospital sources which suggested that he had suffered a heart attack because he had been under the influence of cocaine at the time of his arrest and that he had resisted arrest. Amnesty



International is concerned that the full autopsy report has not been made available to the deceased's next of kin or legal representatives. Without access to the autopsy report it is impossible to verify the accuracy of such claims. Moreover, there is serious reason to believe that the real cause of Sabri Asani's death was a gunshot wound to his head which could only have been sustained during the police raid on the Mavrovo house or while he was being taken to Skopje. Lirim Dinarica who was arrested in the house at Mavrovo, and whose questioning by police is described later, is reported to have said that he heard gunshots fired in the house at the time of arrest.

An experienced forensic pathologist consulted by Amnesty International viewed a video tape and still photograph of the body of Sabri Asani taken just before his burial. The pathologist's conclusions were that the deceased had suffered a gunshot wound in front of the left ear which would have been fatal, probably immediately. Moreover, he also concluded that "the position and appearance are strongly suggestive of an 'execution' shot". In his observations he noted that, as far as could be determined in the video recording, discolouration around the entry wound was "suggestive of close or contact discharge".

Furthermore, the pathologist observed that on the right side of the scalp there were at least three or four straight bruised lacerations, characteristic of heavy blows with a blunt instrument such as a rifle-butt, club or heavy baton. Elsewhere on his body, on the arms, shins and back there was bruising consistent with kicks and the impact of hard objects or weapons.

The video indicates that Sabri Asani met a violent death. It emphasizes the need for the release of the autopsy and a proper investigation into Sabri Asani's death. International standards such as the United Nations Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions place emphasis on the need for the representatives of the deceased to have access to information about such deaths, (including their right to have a representative present when autopsies are performed), for impartial investigations to be carried out with the results made public and for any person identified as having participated in an extra-legal, arbitrary or summary execution to be brought to justice. In May Amnesty International wrote to the Minister of Justice expressing its concern that the autopsy report on Sabri Asani has still not been released. The Minister has acknowledged the letter, but a full reply has not yet been received.

### ***Detainees remanded in custody***

At least eight people who were detained in Ara..inovo on 14 January were released by police on 15 January or before the end of 14 January.<sup>4</sup> A number of others, including Qenan Rexha, were detained by police and released without having been remanded in custody by an investigating magistrate, but the total number is not known.

Another eight men arrested in the village or in Mavrovo have been remanded in custody and remain so as at the beginning of June. Those remanded in custody were all placed under investigation, reportedly either directly in connection with the Ara..inovo incident or on other unrelated charges. Since the Code of Criminal Procedure allows for a maximum of 180 days pre-trial detention all those in custody must be brought to trial by July. In addition, at least one other man who was detained during the Ara..inovo police actions has reportedly been and convicted on charges unrelated to the murders of the police officers.

From the accounts given by men who have been released and the information available about those who remain in custody it appears that there was a pattern of torture or ill-treatment by police of the people who were detained by the police in the aftermath of the Ara..inovo murders.

Particular concern arises from the fact that most of the detainees were not brought before an investigating judge until sometime around 24 January. They were kept at various police stations (or were under police guard in hospitals where they received treatment, apparently for injuries resulting from torture or ill-treatment) for up to 11 days apparently without written court decisions on custody in accordance with the law. A court decision on the extension of custody, which was issued in on 23 May records that the original court decision on custody against six of the detainees was issued on 24 January. These include Ramiz and Agim Asani, who according to their family were detained by police on 13 January. They were this held for some 11 days without a court decision.

The detainees were denied communication with legal counsel and families during this time. Article 185 of the Code of Criminal Procedure specifies custody must be determined by an investigating magistrate and that the written decision on custody must be delivered to the individual to whom it relates at the moment the person is deprived of her or his liberty and at latest within 24 hours of deprivation of liberty. The detainees' right to be informed of their rights, including the right to engage a lawyer of their choice and to appeal against custody commences with the investigating magistrate's decision on custody.

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<sup>4</sup>*MVR in se izvini na osumtemina osomnicheni i gi puóti na sloboda (Ministry of Internal Affairs apologises to eight suspects and releases them), Dnevnik, Skopje 17 January 2000.*

It is well recognized in international human rights law that access to a lawyer by a person deprived of their liberty serves, among other things, as an important safeguard against torture, ill-treatment and other human rights violations. It is particularly distressing that, despite the inclusion of these rights in domestic law, the practice in the arrests in aftermath of the killings of the police officers in Ara..inovo was to ignore the law.

The case of Lirim Dinarica, who was detained in the Asani house in Mavrovo, is illustrative of Amnesty International's concerns about the violation of detainees' rights and the coercion of statements through torture. He was arrested on the night of 17/18 January, but was held in police stations and apparently not brought before the investigating judge until 24 January when the order for his detention in custody was issued.

In his statement taken by a prosecutor and investigating magistrate on 24 January Lirim Dinarica stated that he was present at the killings in Ara..inovo, was carrying a pistol that Sabri Asani gave him and that others who were arrested were also there and carrying weapons. He was recorded as not wanting to engage a lawyer; instead a court-appointed lawyer was present. However, on 13 March, in a new statement taken in the presence of a lawyer he had engaged himself, he withdrew the parts of the earlier statement which referred to him being present at the killings and having carried a gun.

In this second statement, he stated that he had been forced by the police to give those parts of the statement which placed him at the murder scene and in possession of arms. He also stated that he believed that he had been held in police stations and two days in the Military Hospital in Skopje. In the police stations four or five police officers allegedly beat him while two others dictated what he was to write and recount to the investigating judge. Perhaps even more seriously, he alleges that he was threatened with a hot iron, which was held near his genitals during the questioning and that immediately before he was questioned by the judicial staff on 24 January a masked police officer threatened him with words, "Be careful what you do and say, [otherwise] you will be in my hands again".

### ***Detention of the Asani family***

Amnesty International's concerns are further illustrated by the case of the Asani family. Ramiz and Agim Asani were reportedly detained by police on 13 January. The next day, during the main police action in Ara..inovo, their father, Brahim Asani, was also detained. His family allege that during the police search of the house, he was made to break concrete and dig in the yard around the outside toilet.

No information was given to the family about the whereabouts of the men. After several days the family was able to engage a lawyer to represent the detainees. The lawyer visited several police stations, but was reportedly denied information about the men's whereabouts.

On 21 January the family's lawyer wrote to the Minister of Internal Affairs and head of the Directorate for Public Security stating that he had been engaged by the family and expressing his concern that despite his inquiries at the competent court and at various police stations in Skopje he had been unable to locate his clients. He therefore requested a meeting with the Minister or a police officer who would provide information on his clients. According to the lawyer the letters were faxed to the ministry on 21 January. Copies of the letter seen by Amnesty International have a signature, apparently of member of the MVR, and date confirming deliveries of copies by hand on 24 January. No replies were received by the lawyer and he was reportedly not given access to his clients until early February.

Having gained access to his clients the defence counsel heard from them allegations of their ill-treatment by police. He had serious concerns about their health. On 10 February, he wrote to the investigating magistrate responsible for the case asking that his clients be given medical inspections by the appropriate specialists in Skopje. There has so far been no reply to the lawyer's request, despite the inclusion of a request in his letter that he be informed of the decision. The men, at least one of whom is reportedly suffering pains in his kidneys as a result of beatings by the police, have apparently been attended to only by the prison doctor and not the specialists whom their lawyer requested.

Meanwhile, on 24 January Basic Court number 2 in Skopje issued a decision remanding the men in custody. This decision was thus issued 11 days after the detention of Ramiz and Agim Asani and 10 days after the detention of Brahim Asani. This was in clear contravention of the Code of Criminal Procedure which specifies that decisions on custody should be issued within 24 hours of deprivation of liberty *at the very latest*.

On 24 January the men were questioned by an investigating magistrate. The record of the interviews state that the men were informed of their right to engage a defence counsel, but that each chose not to and that a lawyer was appointed by the court to represent them. Amnesty International believes that the poor financial situation of the family influenced the decision of the men in custody. In the absence of contact with the lawyer who had already offered to represent them, the organization believes that they were not able to exercise their right to engage defence counsel of their choice as laid down in national law and international human rights standards.

### ***The official version of the Ara...inovo detentions and releases***

In statements to the press the Ministry of Internal Affairs announced that eight suspects had been released over the weekend of 15/16 January (apparently referring to those arrested the previous days in Ara...inovo) because of lack of evidence and that they had been arrested by mistake. There were also claims published that the Minister herself, Dosta Dimovska, would

replace and punish those responsible.<sup>5</sup> Amnesty International is aware that financial compensation has been paid to some of the householders whose property was damaged during the actions of 14 January, although the householders believe that the amount of compensation is inadequate. The victims have not, however, been questioned by an investigating judge or prosecutor about possible criminal charges against police officers involved in the action.

### ***The Ombudsman's report***

The *Naroden pravobranitelj*, commonly known as the Ombudsman or Ombudsperson, initiated his own investigations into the police action after the Ara..inovo murders. One of the deputy Ombudspersons carried out interviews with the occupants of the houses in Ara..inovo which were raided by the police.<sup>6</sup> In a report of 10 February the Ombudsman concluded that police officers carrying out the raids in Ara..inovo did not respect the laws and regulations governing the work of the police, in particular the Law on Internal Affairs of 1995 and the Rules for the execution of the work of the Ministry of Internal Affairs of 1998, the Decree on the Use of Force and Firearms of 1998 and the Constitution.<sup>7</sup>

The Ombudsman recommended that:

- ! The MVR should initiate disciplinary actions, prosecutions under petty crimes' legislation or bring criminal charges to establish the responsibility of the MVR personnel who had violated the rights of citizens in Ara..inovo on 14 January.

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<sup>5</sup> *MVR im se izvini na osumtemina osomnicheni i gi pušiti na sloboda (Ministry of Internal Affairs apologises to eight suspects and releases them)*, *Dnevnik*, Skopje 17 January 2000.

<sup>6</sup> *Izveštaj vo vrska so intervencijata na Ministerstvo za vnatrešni raboti na Republika Makedonija na 14.01.2000 vo c.Ara..inovo-Skopje (Report on the intervention of the Ministry of Internal Affairs of the Republic of Macedonia on 14 January 2000 in Ara..inovo village, Skopje)*, Ombudsman's office, February 2000.

<sup>7</sup> The Ombudsman does not specify exactly which articles are referred to, but the 1991 Constitution includes a number of guarantees to protect human rights which are relevant to events around Ara..inovo including:

- ! The right to life (including prohibition of the death penalty).
- ! Prohibition of torture, inhuman or humiliating conduct or punishment and forced labour.
- ! The right of an detained person to be brought before a court as soon as possible, but at latest within 24 hours from the moment of detention and to have a decision on the legality of their detention.
- ! The right to the inviolability of the home - which may be restricted only by a court decision in cases of detection or prevention of criminal offences or the protection of people's health.

- ! The MVR should set up a team to establish the extent and nature of damage to property and to pay compensation as soon as possible so as to avoid the need for those who had suffered the damage to incur costs and delays by having to go to court.
- ! The Minister for Internal Affairs should appoint an official to give information from MVR files to citizens who may wish to seek compensation from the MVR for injuries or suffering caused during the police action.

The Ombudsman expected to be informed by the MVR about their actions in response to his recommendations.

As stated above, Amnesty International is aware only of financial compensation paid to householders whose property was damaged in Ara...inovo and not of other actions such as criminal investigations such as those recommended by the Ombudsman.

### ***The parliamentary commission***

The Commission for Internal Policies and Defence of the Parliament considered a report provided to it by the government when it met on 3 February. On 4 February a report issued by the Commission acknowledged in its body the need for the MVR to carry out appropriate measures against those involved if it was established that police officers had overstepped their powers. The report's conclusions, however, did not refer specifically to this, but called on the state organs to "speed up its actions for the thorough completion of the affair".

### ***Amnesty International's findings and recommendations to the authorities***

On the basis of the information available to the organization, Amnesty International is concerned that the police used excessive force in the aftermath of the Ara...inovo murders. Men and boys were ill-treated and in some instances the treatment they were subjected to by police amounted to torture. The manner in which men, women and children in the village were reportedly threatened or detained itself amounted to cruel, inhuman or degrading treatment in many cases. Inadequate action has been taken to investigate the death of Sabri Asani, despite obvious concerns about the circumstances of his death and indications that he may have been extrajudicially executed.

The organization calls on the Macedonian authorities to ensure that the human rights violations in each incident described in this report and other similar incidents which occurred in the same context are properly addressed. Each should be thoroughly investigated by a body which is independent and impartial and should issue its findings in a timely manner. Any police officer who is reasonably suspected of having committed an act of torture or ill-treatment should be brought to justice in the course of disciplinary proceedings or criminal proceedings which meet international standards for fairness. In addition the authorities should ensure that the people

whose rights were violated in the course of the police operations in the aftermath of the killings, including those who were subjected to arbitrary arrest or detention and torture or ill-treatment receive reparation, including compensation, without delay. The overall pattern of events indicates that the initiation of a commission of inquiry might be of assistance in determining the lessons learned from the incidents and in making recommendations to avoid repetition. However, Amnesty International believes that individual victims should not have to wait undue periods of time to see their concerns addressed.

These recommendations are consistent with the recommendations of the Ombudsman described above.

Amnesty International is particularly concerned by the reported use of refuse bags, hoods or jackets pulled over detainees heads and the related practice of moving them around to various locations without informing them (or their relatives) where they are being held. The organization has heard testimony from other detainees in the past describing similar practices. For example, from people detained and questioned after an assassination attempt against the President in 1995 or after arms searches. The organization believes that decisive action must be taken to end such practices.

In summary, Amnesty International urges that the Macedonian authorities:

- ! Release the full autopsy report on Sabri Hasani to his family or legal representatives as soon as possible and ensure that the manner of and responsibility for his death is independently, impartially and fully investigated without further delay;
- ! Ensure that all proceedings against any person detained in connection with the deaths of the three police officers be conducted in strict compliance with international standards and national law. Such standards require that all allegations that a person has been subjected to torture or ill-treatment be independently and impartially investigated and that any statements found to have been made as a result of such ill-treatment or duress be excluded from evidence against all but the person suspected of having inflicted such ill-treatment or duress;
- ! Issue strict orders to police to prevent the recurrence of incidents of torture or ill-treatment;
- ! Issue strict orders to police on observance of the Code of Criminal Procedure and Law on Internal Affairs in all areas, but particularly in respect of procedures for arrest and custody so as so ensure that arrests and searches are carried out with appropriate judicial warrants;

- ! Review police procedures and training on the use of firearms and force to ensure compliance with the domestic law and international human rights standards such as the Code of Conduct for Law Enforcement Officials;
- ! Give strict orders to end immediately the practice of placing hoods over detainees' heads during their transport and detention and to ensure that all detainees are made aware of their place of detention and that their detention is in keeping with national law and international standards as outlined in the other recommendations given here;
- ! Review police procedures and training with respect to arrest and detention to ensure that:
  - no one is detained without reasonable suspicion;
  - no one is tortured or ill-treated;
  - detainees are given access to lawyers;
  - families are notified of detention;
  - all detainees are brought before a judge or judicial authority promptly, within 24 hours at the very latest.