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FRANCE: THE FATAL SHOOTING OF RIAD HAMLAOUI BY A LILLE POLICE OFFICER

Amnesty International is concerned about the fatal shooting of Riad Hamlaoui by a police officer in Lille (Nord) on the night of 15-16 April 2000. The 25-year-old of Algerian descent, and a Lille resident who was not known to the police, had been out drinking with friends that night, celebrating a new contract of employment. Riad Hamlaoui died instantaneously as a result of a bullet wound to the nape of the neck. The bullet was fired at close range by the police officer who had been called to investigate reports of an attempted car robbery involving the victim and a friend, identified only as Farid in the press. Both young men were unarmed. Amnesty International is concerned about the way the police officer was reported to have used his service weapon which, on the basis of what is currently known, would appear to be in contravention of international and national law.

Amnesty International welcomes the prompt opening of judicial and administrative inquiries. It is seeking confirmation from the French authorities that thorough and impartial investigations are being conducted and is urging that the findings are made public, in the manner required by international standards. The organization is also requesting the French authorities to inform it about the progress and eventual outcome of the investigations, and of any further judicial or administrative proceedings arising from them. The organization notes the reported reactions of the Minister of the Interior and the Director General of the National Police¹ immediately following the shooting regarding the use of force and firearms and the control of suspects. Amnesty International reiterates its longstanding appeal for improved training programs on this issue and is seeking information from the Minister regarding any possible reviews of training courses in order to improve the competence of law enforcement officers in the use of minimum force in approaching or arresting suspects.

The following account is based on a number of press reports published in French newspapers.

At approximately 12.30am on the night of 15-16 April 2000 a police canine unit (*brigade canine*) carrying two police officers was called to rue Balzac in the Lille district of Lille-Sud. A caller had complained to Lille police station that a car was being broken into by two young men. The two men, both unarmed, were in the car, which was stationary, when the police unit arrived at the scene. The two officers positioned themselves at either side of the car. The driver, Riad Hamlaoui's friend, obeyed police orders to get out of the car and was handcuffed by an officer. Riad Hamlaoui remained in the front passenger seat.

According to press statements attributed to Lille prosecuting authorities -- made in the days immediately after the event -- the second officer is said to have felt that his life was in danger after he saw Riad Hamlaoui make a sudden movement inside the car. He took out his service weapon, a Manurhin revolver, and, at a reported distance of 50 centimetres, fired one shot which hit Riad Hamlaoui in the nape of the neck. Death was instantaneous. An autopsy report was said to have confirmed that the young man had been bending forward at the moment the bullet penetrated the back of the neck. Following a reconstruction of the events held on 28 June 2000 -- involving the police officer -- it was reported that 19 seconds transpired between the police officer getting out of his vehicle and firing his weapon. Press reports indicated that the police officer's colleague, who said he was in the process of handcuffing the driver, did not witness the shooting of Riad Hamlaoui. However, he

¹*Directeur général de la police nationale.*

commented to colleagues that it was a dark night and that there was thick condensation on the car windows.

An administrative inquiry was promptly opened by the General Inspectorate of the National Police². On 16 April 2000 the police officer was placed under formal investigation on a charge of "voluntary homicide" (« *homicide volontaire* ») and was committed to Osny prison³. In a public statement made to the press on 17 April 2000 Lille Public Prosecutor reportedly noted that the initial findings indicated that this charge was the most appropriate to the circumstances. However, following the reconstruction of events in June it was reported that the judicial authorities were considering reducing the charge either to "involuntary homicide" (« *homicide involontaire* ») or "fatal shot leading to unintentional death" (« *coup mortel ayant entraîné la mort sans intention de la donner* »). The officer was immediately suspended from the police force pending the outcome of the inquiries. Amnesty International does not know whether Riad Hamlaoui's family has lodged its own formal complaint, as a civil party, with the Lille judicial authorities.

On 17 April 2000 the Director General of the National Police issued a circular to the departmental heads responsible for public security in France reminding them of the existing regulations relating to the use of weapons. He insisted on the necessity for every public official to abide by the regulations with the utmost rigour as regards use of weapons, which was strictly regulated by the rules on legitimate defence. The circular also requested police chiefs to ensure that all officers were aware of these rules. In the course of a public meeting on 18 April 2000, during which the Minister of the Interior described the fatal shooting as a "disturbing" and "awful tragedy"⁴, the Minister noted that it was the responsibility of the police hierarchy to remind each officer of "the need for proportionality in reaction"⁵. He further commented that "the use of force must be graduated"⁶. In June 2000 the French press reported an announcement by the Minister that he had ordered the General Inspectorate of the National Police to carry out a study into the regulation weapons issued to French police officers. An apparent aim of the study was to attempt to establish whether the type of regulation weapons used by officers facilitated incidents similar to that of Riad Hamlaoui. Amnesty International is seeking further information from the Minister about this study.

Riad Hamlaoui's body was flown to Algeria where, on 20 April 2000, he was buried in his home town of Zighoud Youcef. A series of peaceful marches took place in Lille in the days following the shooting.

In the aftermath of the shooting and killing of Riad Hamlaoui overnight rioting broke out in the surrounding area and resulted in many arrests.

Amnesty International has a longstanding concern about the reckless use of force and firearms by law enforcement officers in France and it has noted with concern that a high proportion of the victims of shootings and killings by law enforcement officers are of non-European ethnic origin, people whose ethnic origin lies often in - *inter alia* - the Maghreb countries.

²*Inspection générale de la police nationale* - IGPN. The IGPN is responsible for carrying out internal inquiries into complaints against the police.

³*La maison d'arrêt d'Osny*. A *maison d'arrêt* is a prison establishment designed mainly for detainees under judicial investigation and awaiting trial, but also for convicted prisoners serving sentences of up to one year.

⁴ « *consternant* » and « *un drame affreux* » - *Le Monde*, 20 April 2000.

⁵ « ...*la nécessité d'une réponse proportionnée.* » *Ibid.*

⁶ « *L'usage de la force doit être gradué* » - *Ibid.*

BACKGROUND INFORMATION

Under international law, governments are obliged to ensure that law enforcement officers use force only when strictly necessary and only to the extent required for the performance of their duty. It emphasizes especially the importance of proportionality in judging whether the use of force is legitimate and further states that intentional lethal use of firearms may only be made when strictly unavoidable, in order to protect life. In all the cases involving the fatal shooting of suspects in France which have been of concern to Amnesty International none of the victims was carrying firearms and most were carrying no weapons of any description.

The UN Code of Conduct for Law Enforcement Officials, adopted by the UN General Assembly in 1979, emphasizes the exceptional nature of the use of force, stating in Article 3 that force may be used "...only when strictly necessary and to the extent required for the performance of their duty". More detailed guidelines are set out in the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials adopted by the Eighth UN Congress on the Prevention of Crime and the Treatment of Offenders on 7 September 1990. Principle 4 states that law enforcement officials "...shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result". Whenever the lawful use of force and firearms is unavoidable officials shall, under Principle 5:

"a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;

b) Minimize damage and injury, and respect and preserve human life;"

Principle 9 states that "...officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury" or to prevent "...a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger" and "only when less extreme means are insufficient to achieve these objectives". The article continues: "In any event, intentional lethal use of firearms may only be made when strictly unavoidable to protect life".

Amnesty International recognizes that in specific circumstances French law allows the use of force. However, it requires that, where force is used, the means should be in proportion to the severity of the threat or attack.

Article 122-5 of the French Penal Code lays down the circumstances in which injuries caused through defence of the person are lawful. This enshrines the jurisprudential principle of *proportionality* between the act of defence and the gravity of the attack. The second paragraph of this article deals with the defence of property; the scope allowed by the French law for the use of force to defend property is more restricted than to defend the person. A major consideration is that no act in defence of property, however serious the attack, can be considered lawful if it consists of the murder of the person responsible for the attack.

Article 122-7 of the French Penal Code refers to the state of necessity. This recognizes and systematizes different judicial decisions made over many years and establishes three criteria which, if met, mean that there is no penal responsibility:

- the existence of an actual or imminent danger threatening a person or property;
- the need to break the law in order to safeguard the person or property;

· that a proportion exists between the means used and the seriousness of the threat.

Finally, Article 9 of the Code of Deontology of the National Police states: "When lawfully authorised to use force and, in particular, to use weapons, the police officer must only do so when strictly necessary and in proportion to the objective to be achieved"⁷.

Anyone wishing further details relating to Amnesty International's concerns in France should consult the following recent publications:

- *Amnesty International Concerns in Europe: January - June 2000* (AI Index: EUR 01/03/00);
- *Amnesty International Concerns in Europe: July - December 1999* (AI Index: EUR 01/01/00);
- *Amnesty International Report 2000*.

⁷ *Code de déontologie de la Police nationale, article 9: «Lorsqu'il est autorisé par la loi à utiliser la force et, en particulier, à se servir de ses armes, le fonctionnaire de police ne peut en faire qu'un usage strictement nécessaire et proportionné au but à atteindre.»*