

## AMNESTY INTERNATIONAL WELCOMES REFORM OF THE OSCE'S HUMAN DIMENSION IMPLEMENTATION REVIEW PROCESS

*In the last edition of **Concerns in Europe: January - June 1997 (AI Index: EUR 01/06/97)**, Amnesty International called on the Organization for Security and Co-operation in Europe (OSCE) to fulfil its potential to become a more effective protector of the human rights of individual citizens throughout the OSCE region. Recent developments within the OSCE suggest that we can expect to see precisely the sort of institutional reform which will better equip the organization to meet that challenge during 1998.*

It is often the case that institutions, like living organisms, must adapt to changed circumstances and develop new capabilities appropriate to their historical moment. To fail to meet this challenge is to risk increasing irrelevance, or even eventual extinction. Amnesty International's experience of the OSCE Human Dimension Implementation Meeting in Warsaw in November 1997 certainly underlined the accuracy of the assessment of such meetings published in a recent status report from the OSCE's Office for Democratic Institutions and Human Rights (ODIHR). In that report, ODIHR suggested that "...if participating States' interest in such an instrument is serious and they wish for the Implementation Meeting to remain a significant and credible monitoring instrument, thought should be given to a different format".

Amnesty International believes that the 1997 Warsaw Meeting made plain the inadequacy of the current biennial cycle as a comprehensive, meaningful exercise in human dimension implementation review. The overcrowded agenda meant that commitments and issues which were of critical importance to the OSCE's comprehensive model of security - such as the prevention of torture and ill-treatment - were given only cursory attention. It is simply not possible to do justice to such complex questions in a meeting lasting only a few hours once every two years. The expertise of NGOs with years of experience working on such issues becomes a squandered resource when their contribution to the debate is limited to a few minutes at the tail-end of such sessions - with no real opportunity for the kind of genuine dialogue with participating states which should inform and animate a meeting of this kind.

Clearly, effective assessment of human dimension implementation requires a format which allows for a much more substantive consideration of individual commitments than has been the case. Such a format must offer ample opportunity to identify failures in this process - and at the same time, encourage the articulation of imaginative, practical measures for improving human rights protection in the OSCE area. Amnesty International also shared the concerns which were noted by ODIHR's Director, Ambassador Gerard Stoudmann, and others at the Warsaw meeting that the downgrading evident among diplomatic delegations participating in the meeting and the growing disaffection of many NGOs with the implementation review process were disturbing signs that the OSCE's credibility as a vital agency for human rights protection was at stake.

Amnesty International welcomes the reforming zeal which Ambassador Stoudmann has brought to the post of Director of ODIHR, and has been much encouraged by the green light which the OSCE Ministerial Council gave to many of his ideas for change at its December 1997 meeting in Copenhagen. The OSCE's Permanent Council has now been given responsibility for articulating - in close cooperation with ODIHR - "a new set of modalities for the OSCE implementation meetings on human dimension issues". This process is to be concluded no later than the end of the second quarter of 1998.

What might that "new set of modalities" look like? A new, revitalized structure for implementation review might, for example, include more frequent, targeted human dimension meetings

several times each year - perhaps with a focus on a specific set of linked commitments that would permit more substantial oral and written interventions from NGOs with expertise in the issue under review. These could supplement and greatly enrich a wider biennial or even annual implementation review meeting such as the one held in Warsaw this past November. The product of such discussions should be made promptly available to all OSCE bodies to enhance the integration of the human dimension into all aspects of the organization's work.

Amnesty International urges the OSCE's Permanent Council and ODIHR to press ahead with the exploration of these and other reform ideas - and to continue do this in close consultation with NGOs. The results of these efforts should bring about a much-needed shift from the rushed and rather inconclusive discussions which characterized the 1997 Warsaw Meeting, to a method of working which ensures more rigorous examination of the full range of human dimension commitments and which can generate creative solutions to the many shortcomings in their implementation.

In its document prepared for the 1997 Warsaw Meeting, Amnesty International reminded participating states of the OSCE High Commissioner on National Minorities' recent description of the OSCE human dimension process as "the heart of the matter". We also reiterated his timely warning that "without a genuine implementation of these human dimension commitments by the participating states they will lose their meaning". Amnesty International believes that the OSCE human dimension process is a vital pillar in the structure of regional human rights protection. But on the evidence of the 1997 Warsaw Meeting, that pillar requires some rather urgent shoring up if it is to bear the weight of responsibility now placed upon it.

Ambassador Stoudmann's concerns expressed at the 1997 Warsaw Meeting, as well as some of the ideas for reform circulating among the delegations, have pointed the way to a renewal of this process which Amnesty International wholeheartedly supports. The peoples of the OSCE region deserve nothing less. We encourage all participating states to embrace this exciting opportunity for change, and to make the legacy of the 1997 Warsaw Meeting a strengthened and more effective commitment to implementation of the human dimension.

# CONCERNS IN EUROPE

## July - December 1997

### FOREWORD

This bulletin contains information about Amnesty International's main concerns in Europe between January and June 1997. Not every country in Europe is reported on: only those where there were significant developments in the period covered by the bulletin.

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

Reflecting the priority Amnesty International is giving to investigating and campaigning against human rights violations against women and children, the bulletin contains special sections *Women in Europe* (pp. 68 - 71) and *Children in Europe* (pp. 72 - 75).

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 01/06/97	Concerns in Europe: January - June 1997
AI Index: EUR 01/01/97	Concerns in Europe: July - December 1996
AI Index: EUR 01/02/96	Concerns in Europe: January - June 1996
AI Index: EUR 01/01/96	Concerns in Europe: July - December 1995
AI Index: EUR 01/02/95	Concerns in Europe: January - June 1995
AI Index: EUR 01/01/95	Concerns in Europe: May - December 1994

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## ARMENIA

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### *Imprisonment of conscientious objectors*

Amnesty International approached various officials about the continued absence in Armenia of any provisions for a civilian alternative to compulsory military service, amid reports that at least five young men were serving prison sentences during the period under review for refusing their call-up papers on grounds of conscience. Amnesty International regarded all five as prisoners of conscience, and called for their immediate and unconditional release.

John Martirosyan, for example, a Jehovah's Witness forbidden by his religious beliefs to bear arms for a secular power, was given an 18-month sentence in September for "evading regular call-up to active military service" (Article 75 of the Criminal Code). When John Martirosyan became 18 in June he knew that like others before him he faced being taken forcibly into military service if he persisted with his conscientious objection. Preferring instead to be tried on criminal charges by a civilian court, he left home having already lodged a statement about his reasons for conscientious objection with the Shahumyan District Military and Registration Enlistment Office (DMREO) in Yerevan, the capital. Two days after his birthday, two men from the DMREO went to his house to find him. His father, Levon Martirosyan, went back with them to the DMREO to hand over a further copy of John's statement, but was then reportedly detained in a solitary confinement cell, as a hostage to persuade John to present himself for military service. When Levon's wife went to the DMREO the next day and expressed her concern over his detention and state of health, she was reportedly told that if he was released then she would be detained instead of her husband. Both parents were allowed to leave later that day. Other sources have reported similar cases of relatives being detained illegally, effectively as hostages.

On 18 August the public prosecutor's office issued a summons for John Martirosyan,

and he was placed under arrest the following day when he went to that office. The trial took place on 21 September, at the People's Court of Shahumyan District. John Martirosyan is serving his term at the Kosh ordinary regime corrective labour colony.

As young men in Armenia are liable for compulsory military service between the ages of 18 and 27, serving a prison sentence imposed at the beginning of this period for refusing call-up papers does not mean that those with a conscientious objection are spared further prosecution. Indeed during the period under review Jehovah's Witness Artashes Aleksanyan was serving his second sentence as a result of his conscientious objection. Like John Martirosyan his first conviction, on 22 September 1994 by Khorhrdayion District Court in Yerevan, had been under Article 75 for refusing call-up papers. Artashes served a one-year prison sentence but was called up again following his release, refused once more and in December 1996 was forcibly conscripted into the army. He was subsequently arrested and charged with evading military service under Article 257 of the military section of the Criminal Code, reportedly after refusing to don military uniform or take the military oath of allegiance. Artashes Aleksanyan was sentenced to four years' imprisonment on 16 May by a court in the city of Vanadzor and, as a second offender, was sent to serve his sentence at a strict-regime corrective labour colony in Yerevan.

Amnesty International urged the authorities to release all young men detained solely for their conscientious objection to military service, and to take all appropriate steps to introduce a civilian alternative service of a non-punitive nature, and a fair procedure in law for applying it, for all those whose beliefs precluded them from carrying out compulsory military service.

### *Allegations of unfair trials of political prisoners*

On 4 July the Supreme Court announced the result of appeals lodged in the so-called Dro case, in which 11 men said to be members of or affiliated to the opposition and suspended Armenian Revolutionary Federation (ARF) had stood trial charged with a variety of offences including murder. In December 1996, amid allegations that the proceedings had been unfair (see AI Index: EUR 54/03/97), all had been convicted and three - Armen Grigorian, Arsen Artsruni and Armenak Mnjoyan - sentenced to death.

The Supreme Court reduced the death sentence passed on Armen Grigorian to 15 years' imprisonment and cut the prison sentences of two other defendants, but left the rest of the sentences without change.

Another major political trial ended on 12 December with the conviction of leading ARF member Vahan Hovanesian and 27 other defendants. As in the Dro case, this trial had also thrown up numerous allegations that defendants and their relatives had been beaten or otherwise placed under physical or mental duress in order to extract testimony; that some defendants had been denied full and prompt access to a defence lawyer of their own choice, especially in pre-trial detention; and that there were numerous other procedural violations in breach of international fair-trial standards (see AI Index: EUR 01/06/97). Such allegations were especially serious because, as with the Dro case, many of the defendants faced charges which carried a possible death sentence.

At the conclusion of the trial one man, Tigran Vardkesi Avetissian, was sentenced to death for the murder of a police officer, Vahan Hovanesian was sentenced to four years' imprisonment, and others received sentences of up to seven years' imprisonment. Eleven of those sentenced did not receive custodial sentences because of a previously-declared amnesty of April 1997, because they had already served the length of the sentence given while held on remand and during the trial, or because their sentences were suspended.

Amnesty International urged the authorities to conduct a full judicial review of all political cases in which it was alleged, for example, that testimony had been extracted under

physical or psychological duress, or that there had been violations of international fair trial standards.

### ***Death in custody of Manvel Virabyan***

Allegations of ill-treatment have been made in purely criminal as well as political cases, and further information emerged during the period under review on allegations that a 17-year old youth, Manvel Virabyan, had died as a result of severe beatings in detention. (For details see *Children in Europe*, pp. 72-75).

### ***Response of the new Procurator General***

In November Amnesty International received a long response from the new Prosecutor General, Henrik Khatchatryan, to many of its concerns, including that of ill-treatment and beatings in detention. The Prosecutor General stated that he was constantly implementing measures to deal with the issue of torture, including by visits to places of detention; by setting up a confidential telephone line at the Armenian procuracy for those wishing to report abuses; and by issuing instructions to procuracy offices throughout the country to raise their level of supervision of cases and to carry out objective, comprehensive criminal investigations of human rights abuses within strict time limits.

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

By the end of the year parliament had not passed in its second reading a new draft criminal code in which there would be no capital crimes. The draft, passed in its first reading in April (see AI Index: EUR 01/06/97), would replace the death penalty by the maximum punishment of life imprisonment. Although there is a *de facto* moratorium on executions, courts have continued to pass death sentences while the new legislation is being reviewed. During the period under review three death sentences were passed: two men named Arakel Gabrielian and Artur Kirakosian were sentenced to death in the middle of October by the Supreme Court after being

convicted of the premeditated murder of two people, and as described above Tigran Avetissian was sentenced to death in December.

No commutations were reported in the period under review, and by the end of the year there were at least 25 men on death row.

Amnesty International continued to urge that all existing death sentences be commuted, and that priority be given in parliament to any further readings necessary of the draft criminal code, in order that complete abolition could be enshrined in law without further delay.

### *Prospects for repeal of legislation on homosexuality*

The new draft criminal code is also said to abolish the criminalization of consenting homosexual acts between adult males. Under legislation inherited from the Soviet era, Article 116 punishes "sodomy", defined as "sexual relations of a man with another man". Part 1 of the article punishes consenting sex between adult males by up to five years' imprisonment. Amnesty International sought further information on the progress of the new legislation. Pending its adoption, the organization urged officials to initiate moves to repeal Article 116 part 1, and not to pursue criminal prosecutions of men for consenting same-sex relations between adults in private.

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## AUSTRIA

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### *The alleged ill-treatment of detainees*

In May 1997 Amnesty International received information from a married couple in Fischamend, Lower Austria, who alleged that they witnessed a police officer ill-treat a detainee in the street. The couple, who wish to remain anonymous, stated to Amnesty International that they were awoken at 9.23pm, on the evening of 3 May 1997 by loud cries for help coming from the street. They

looked out from their balcony and saw a police officer tussling with a man wearing jeans and a T-shirt. According to the couple: "...the officer threw the man onto the ground and began to kick him. The man cried out. Someone called out from another house 'If you don't quieten down, I'll call the police'. One of the officers replied: 'We're already here!'". Two officers then dragged the man to a police vehicle, put him in the back seat and drove off.

In March Kureng Akuei Pac, Secretary of the Sudanese Embassy in Vienna, alleged that he was ill-treated by police officers following an identity check at an underground station in the city. The diplomat stated that he showed the officers an identity card and was then told by one of them in pidgin English: "You must coming with me, dalli, dalli <sup>1</sup>". Kureng Akuei Pac accompanied the officers to Keplergasse police station where, the diplomat states, officers jumped on him, removed his scarf and overcoat, and pulled him by the tie into an interview room, punching him on the chin as they went. Kureng Akuei Pac stated that in the interview room officers proceeded to strip him of his coat, tie, shirt and shoes and asked him to remove his trousers prior to conducting a body search by hand and using an electronic device. He was then asked to dress, but refused, stating that he wished to telephone the Sudanese Ambassador to tell him to come and see him as he was. As he was denied access to the telephone in the station, Kureng Akuei Pac left the station to find a public call box. He alleges that several officers went after him and pulled him back inside the station, hitting him several times in the area of the back and upper arms. (According to a medical examination the following day Kureng Akuei Pac had suffered bruising of the right shoulder and bruising and laceration of the lower lip.)

In July Amnesty International asked the Austrian authorities for information on the steps taken by the judicial and police authorities to

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<sup>1</sup> "Dalli, dalli!" roughly translates as

"Chop, chop!"

investigate the incidents in Fischamend and Vienna. No substantive reply had been received by the end of the year.

In November the Austrian authorities informed Amnesty International that the investigation into the alleged ill-treatment of Ewald Stattmann was continuing (see AI Index: EUR 01/06/97). The authorities added that: "In view of the fact it was totally unclear how Mr Stattmann's injuries had come about, and in particular since there was no substantiated suspicion of police involvement, the Carinthian Public Prosecutor's Office [decided] to entrust the Carinthian Security Directorate with preliminary inquiries." In December Amnesty International informed the authorities that in its view their failure to launch an immediate judicial inquiry into the circumstances surrounding the arrest and detention of Ewald Stattmann - despite very serious allegations about the actions of officers involved - was inconsistent with a decree issued on 15 September 1989 by the Ministry of Justice, requiring allegations of police ill-treatment to be promptly and impartially investigated by a judge, and may amount to an infringement of Article 12 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which requires States Parties to the Convention to conduct "prompt and impartial investigations" into all allegations of torture or ill-treatment.

Amnesty International also wrote to the authorities about the case of Sabine Geisberger. This case is included in the section *Women in Europe*, pp. 68-71, below.

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## AZERBAIJAN

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### *Further allegations of ill-treatment in detention, including a death in custody*

Allegations of ill-treatment in detention continued, including one instance in which a man was said to have died as a result of such treatment. He was Samir Zulfugarov, arrested in July on a charge of possessing drugs. His father was reportedly contacted by the head of the department

### **An update to cases previously documented by Amnesty International**

to combat drugs and drug trafficking at the Yasamalsky District Police Department, who demanded money for the release of Samir Zulfugarov. After seeing his son in a police cell bearing injuries allegedly inflicted after a severe beating by law enforcement officials, the father handed over a considerable sum of money, but Samir Zulfugarov died three days after his arrest at Semashko hospital.

A criminal case was instituted against the police officer concerned but the outcome was not known by the end of the year. In some other cases of alleged ill-treatment unofficial sources reported that such proceedings rarely resulted in prosecution or imprisonment. No developments had been reported by the end of the year, for example, in the criminal case which had been opened into the beating of journalist Taptig Farhadoglu, who reported that a man he subsequently recognized as a senior police officer had been among a group of men who beat him on the street in the capital city, Baku, in November 1996 (see AI Index: EUR 01/06/97). The case had reportedly been closed in January by the Baku city procurator for lack of evidence concerning those responsible, but reopened in April following wide protests.

Two other journalists reportedly beaten by police officers in September also alleged official reluctance to investigate. Zakir Jabbarly and Dilgram Bairamov were said to have been assaulted by the head and three employees of the Passport Department of Narimov District Police Station in Baku after they had gone to the department seeking further information on the alleged illegal registration of citizens at a hostel. Zakir Jabbarly was hospitalized and reported that he lost consciousness and suffered from severe headaches and signs of blood in the urine as a result of the attack. Dilgram Bairamov claimed that the district deputy procurator initially refused to open an investigation into the alleged beating.

In the light of Azerbaijan's commitments under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or

Punishment, Amnesty International has urged the authorities to conduct a prompt, impartial and comprehensive investigation into all allegations of ill-treatment; to make the results public; and to

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

In August the Chairman of the Supreme Court publicly expressed his support for abolition of the death penalty, and in September the Speaker of Parliament announced that a moratorium on executions, in place since 1993, would be given legal force by the end of the year and would continue until the year 2010.

Death sentences continued to be passed, however. By the end of the year at least 20 death sentences had been reported by the media, although official figures were not available. All those sentenced to death had been convicted of premeditated, aggravated murder, in many cases along with other crimes, except for one man named Karen Barashev, who was sentenced to death for sabotage. A Russian citizen with an Armenian mother, Karen Barashev was said to have infiltrated the Azerbaijani army under an assumed name and to have carried out acts of sabotage between 1993 and 1996.

Over 120 men remained on death row in the capital, Baku, at the end of the year, in conditions said to be very difficult owing to severe overcrowding: in some cells prisoners had to take it in turns to sleep.

### ***Lack of a civilian alternative to compulsory military service***

Military service is compulsory for young men aged between 18 and 27, and there are no system or procedures currently established and operative which would provide a civilian alternative for those who cannot perform military service on grounds of conscience. During the period under review Amnesty International continued to urge the authorities to introduce a civilian alternative to military service, together with a fair procedure in law for applying it, for those with such objections.

bring anyone identified as responsible to justice in the courts.

### ***Prospects for repeal of legislation on homosexuality***

Under the Soviet-era criminal code still in force, although with numerous amendments, Article 113 punishes "sodomy", defined as "sexual relations of a man with another man". Part 1 of the article punishes consenting sex between adult males by up to three years' imprisonment. Revision of the criminal code is said to be under discussion, and Amnesty International sought further information on its progress. Pending such a complete review, the organization urged officials to initiate moves to repeal Article 113 part 1, and not to pursue criminal prosecutions of men for consenting same-sex relations between adults in private.

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## ***BELARUS***

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### ***Belarus in front of the UN Human Rights Committee***

On 30 October in Geneva the UN Human Rights Committee reviewed the Fourth Periodic Report of the Belarus Government on the implementation of the International Covenant on Civil and Political Rights (ICCPR). Amnesty International briefed the members in advance about the organization's concerns. Amnesty International also held a meeting with the Belarus Government delegation in Geneva in which measures planned by the authorities were discussed. The findings of the Committee confirmed Amnesty International's concerns about the worsening human rights situation in Belarus. The Committee noted that "the human rights situation in Belarus has significantly deteriorated since the Committee's consideration of the State party's third periodic report in 1992". The Committee also expressed concerns about "the persistence of political attitudes that are intolerant of dissent or criticism and adverse to the promotion and full



protection of human rights, the lack of legislative limits on the powers of the executive, and the growing concentration of powers, including

Amnesty International urged the Government of Belarus to implement without delay the recommendations of the Human Rights Committee. The Committee expressed concern that the number of crimes for which the death penalty is applicable under the Criminal Code is very high, and that decrees defining new crimes punishable by death, such as the Presidential Decree No. 21 of 21 October 1997 on fighting terrorism, have been recently enacted. The Human Rights Committee expressed its serious concern about the very high number of executions in Belarus and about the secrecy surrounding the procedures relating to the death penalty at all stages, and recommended immediate steps to be taken by the authorities to address this situation.

Belarus was also criticized about the numerous allegations of ill-treatment of persons by police and other law enforcement officials during peaceful demonstrations and on arrest and detention, and about the high number of cases where police and other security officials resort to the use of weapons. In view of the fact that investigations of such abuses are not conducted by an independent mechanism and that the number of prosecutions and convictions in these cases is very low, the Committee expressed concern that these phenomena may lead to impunity for members of the police and other security officials. The Committee recommended that, in order to combat impunity, steps be taken by the authorities to ensure that all allegations of ill-treatment and unlawful use of weapons by security and police officials be promptly and impartially investigated by an independent body, that the perpetrators be prosecuted and punished, and that the victims be compensated.

The Committee recommended that the laws and regulations relating to pre-trial detention be reviewed as a matter of priority so as to comply with the requirements of article 9 of the ICCPR. Further, the Committee called on the authorities to abolish the practice of "punishment cells" ("*kartzet*"), in which particularly harsh conditions Amnesty International was appalled to learn about the detention of Tatyana Protko, head of the

legislative powers, in the hands of the executive, without judicial control".

are imposed on prisoners, and the use of "*press kamera*" and "*pressovshchiki*". The Committee urged the Government of Belarus to repeal the old Soviet "*propiska*" system of mandatory resident permits and ensure respect for freedom of movement. With regard to independence of the judiciary, the Committee urged that the Government "take all appropriate measures, including review of the Constitution and the laws, in order to ensure that judges and lawyers are independent of any political or other external pressure".

The Committee recommended that a law on alternative civilian service for conscientious objectors to compulsory military service be adopted without delay. The Committee also expressed its concern about the severe restrictions imposed on the right to freedom of assembly and urged the authorities to repeal or modify the Presidential Decree No.5 of 5 March 1997 in order to be in compliance with the ICCPR. The Committee recommended as well that steps be taken to remove the severe restrictions of the right to freedom of expression. The Committee expressed serious concern about reports of cases of intimidation and harassment of human rights activists by the authorities, including arrest, and the restrictions imposed on the functioning of non-governmental organizations and free trade unions by the authorities, and urged the Government to provide guarantees for the safety and free functioning of Belarusian human rights activists.

Amnesty International strongly supports the recommendations of the Human Rights Committee and calls on the Government and the President of Belarus to adopt a comprehensive action plan for their implementation.

### *Prisoners of conscience*

### *Persecution of human rights defenders*

Belarusian Helsinki Committee, by police in Belarus on 23 October, and called on the

authorities to release her immediately. Tatyana Protko was detained solely for researching a case of an alleged victim of human rights violations. Amnesty International also believed she was detained to prevent her from participating in the Belarusian non-governmental delegation to Geneva the following week. (Tatyana Protko was planning to travel to Geneva together with two other human rights defenders from Belarus to attend the review of the Fourth Periodic Report of the Government of Belarus at the UN Human Rights Committee.) Amnesty International considered her to be a prisoner of conscience and called for her immediate release.

Tatyana Protko was researching a case of a director of a cooperative farm, who had been recently laid off on the orders of President Alyaksandr Lukashenka. Reportedly, on 23 October in the village of Myshkovichy, Mogilyovsk Region, in the home of the director of the collective farm, several law enforcement officials from the Ministry of the Interior appeared who claimed they wanted to carry out some special measurements of the premises. Tatyana Protko asked them to identify themselves and to produce an official order for their activities. After they refused, Tatyana Protko reportedly stated that she would report in Geneva to the Human Rights Committee about this incident. She was then immediately detained and delivered to the local police station. She was detained and charged under Article 166 of the Administrative Code of Belarus for "*obstructing the performance of official duties by law enforcement officials*". Under these charges she faced up to 15 days' imprisonment.

Amnesty International called on the Government of Belarus to allow free and unimpeded travel for the Belarusian non-governmental delegation to Geneva. Members of the Human Rights Committee requested a special meeting with the Belarusian permanent representative to the UN in Geneva and raised their concerns about Tatyana Protko's arrest. They also requested guarantees by the authorities that she would be released and allowed to travel to Geneva. On 24 October 1997 Tatyana Protko stood trial and received a "warning" by the judge. The charges under Article 166 were dropped

during the trial for lack of evidence and she was subsequently released. According to Belarusian law, after three warnings under the Administrative Code, a criminal case could be opened against a suspect.

Later Tatyana Protko travelled to Geneva and briefed the members of the Human Rights Committee about violations of human rights in Belarus. In Geneva she was accompanied by Nadezhda Zhukova, a human rights defender, aged 21, who was assaulted and threatened by unknown persons in Minsk on 13 October. (For more details about her case see *Women in Europe*, pp. 68-71, below).

### ***Further restrictions on freedom of expression***

In July Amnesty International called for the immediate and unconditional release of Russian TV journalists Pavel Sheremet, Dmitry Zavadsky and Yaroslav Ovchinnikov, detained in Belarus for their professional non-violent activities as media workers and therefore considered by the organization as prisoners of conscience. The circumstances of their detention -- together with previous persecution and attempts by the authorities to prevent Pavel Sheremet from reporting on issues relating to Belarus -- suggested that the three men have been targeted solely because of their journalistic activities. Pavel Sheremet, Minsk bureau chief of ORT, Russia's public television station, Dmitry Zavadsky, the cameraman, and Yaroslav Ovchinnikov, the crew's driver were detained in Belarus on 26 July. They were held in a temporary detention centre in the town of Grodno. During a press conference with President Lukashenka in 1996, Pavel Sheremet reportedly asked him, "So, who is going to be [arrested] next?" The President allegedly replied: "It could be you." Pavel Sheremet remained in detention until 8 October. Amnesty International called for the immediate and unconditional release of Pavel Sheremet and his two colleagues, and subsequently, for the charges against them to be dropped. His colleagues were released earlier, but charges were not dropped and

two of them, Sheremet and Zavadsky, were awaiting trial at the end of the year.

In October Vladimir Samusev, head of the clemency department at the presidential administration (his position is wrongly identified in AI Index: EUR 01/06/97), told a representative of Amnesty International during an official visit to Belarus that to date in 1997, 24 petitions for clemency had been turned down by the President and six more people were awaiting the decision of the President on their petitions for clemency. Amnesty International feared that all of the 24 people whose petitions had been turned down might have been executed, but no official information on the number of executions in Belarus became available. Any information regarding executions of death penalty prisoners, including the time and place where the execution took place and the place where the body of the prisoner has been buried, remains a state secret and is not revealed even to the relatives of the executed prisoners.

The Belarusian government delegation to the review of Belarus' Fourth Periodic Report at the Human Rights Committee in October provided the following official statistics on the use of the death penalty: Between 1990 and 1997, 192 people were sentenced to death and 182 prisoners were executed. For the same period five people were granted clemency, four in 1992 and one in 1990. In the first six months of 1997, 17 people were sentenced to death and 12 executions were carried out; in 1996, 29 people were sentenced to death and 38 were executed; in 1995, 37 received the death penalty and 35 were executed; 24 were sentenced to death and 19 were executed in 1994; 20 death penalties were passed and 20 executions were carried out in 1993.

Amnesty International learned that President Lukashenka said in Moscow on 22 An appeal against the acquittal in June of two former paratroopers, who had been charged with the assault and battery, with menaces (*coups et blessures volontaires avec menaces*), of an unidentified Somali boy in 1993, was scheduled to be heard in September. Evidence at the June trial before a military court (*Conseil de guerre*) had included a photograph showing the boy being

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

January 1998 that some 30 people were executed in Belarus in 1997. He reportedly added that since he came to power in 1994, he has pardoned just one person facing the death penalty.

Amnesty International urged the government to abolish the death penalty, and the Clemency Commission and President to grant clemency and to declare a moratorium on executions in view of Belarus' application for membership to the Council of Europe.

### ***Allegations of torture in death penalty cases***

In addition, there were allegations that confessions extracted under duress have been used as evidence in court hearings leading to the death penalty. One recent example is the case of two Moldovan citizens, Igor Ganya and F. Verega, sentenced to death in Belarus, who claimed that their confession was extracted under ill-treatment. They were sentenced on 30 June by the Minsk Regional Court for premeditated, aggravated murder.

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## **BELGIUM**

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***Alleged human rights violations committed in 1993 by soldiers participating in the UN multinational peace-keeping operation in Somalia*** (Update to information given in AI Index: EUR 01/06/97)

swung over an open fire by the accused. Also scheduled for September were the trials of two other paratroopers: a sergeant accused of force-feeding a Somali child, a Muslim, with pork and salted water until he vomited; and a sergeant major photographed urinating on the apparently dead body of a young Somali man. However, by September further information had come to light

about these and other alleged violations carried out in 1993 by Belgian soldiers participating in the UN-authorized multinational peace-keeping operation under way in Somalia at that time. All the above court hearings were immediately adjourned in order to allow the military prosecutor's office an opportunity to assess the possible relevance to the cases of the new information, which had been collected by a Somali human rights organization. The information reportedly included a list of children allegedly ill-treated by Belgian troops in Somalia. The sergeant and sergeant-major due to stand trial in September were suspended from the army on reduced pay for three months, pending trial. In December a military court (*Cour militaire*) confirmed the acquittal of the two former paratroopers accused of the assault and battery with menaces of the unidentified Somali boy. It endorsed the finding of the first instance court that there was no conclusive evidence that the boy had suffered actual bodily harm or had feared that his life was in danger.

Other alleged abuses by Belgian soldiers which were under investigation by the military judicial authorities at the end of 1997 included the rape of a teenage Somali girl and the death of a child after 48 hours spent locked in a metal container in intense heat, without food or water.

At the request of the Minister of Defence, an internal administrative investigation into alleged abuses by Belgian troops in Somalia was carried out during 1997 by the general commanding the Belgian ground forces (see AI Index: EUR 01/06/97). In statements made in July and August the Minister and the General indicated that the inquiry had found that isolated, individual instances of human rights violations by soldiers had occurred. They expressed concern about the presence within the army of "a small group of soldiers belonging to a political party holding extreme views" ("*la présence d'un petit groupe de militaires appartenant à un parti politique avec des idées extrêmes*") and the Minister advocated an independent inquiry on racism within the army. The statements also highlighted the need to improve army training - including the provision of more information on humanitarian law - and recruitment and selection procedures; to address

excessive delays in disciplinary proceedings; and to tackle alcohol abuse. In a report submitted to the Minister of Defence in September the General proposed specific reforms in some of these areas, recommending a number for immediate implementation.

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## BOSNIA-HERZEGOVINA

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### *More minority returnees harassed and expelled*

The authorities in various areas continued to prevent refugees or displaced persons from returning to their homes, either by their own actions or by encouraging civilians to attack or harass minorities. Incidents were particularly serious when a considerable number of people returned to their homes in a given community. Although civilians, often displaced people, rather than the authorities were responsible for most violent attacks on members of minorities attempting to return to their homes, such attacks were often carried out with impunity. For example, in August Bosnian Croats attacked Bosniacs (Bosnian Muslims) who had returned to villages near Jajce in the Bosniac-Croat Federation of Bosnia-Herzegovina. Hundreds were forced again to flee and many of their homes were burned. During the attacks one Bosniac man, Hazim Šahman, was shot dead in his house. Some Bosniacs who fled but later returned to Jajce found that fresh mines had been placed around their homes in their absence. Although the chief and deputy chief of police were dismissed for their inadequate and at times deliberately negligent response to the violence which led to the expulsions, no one has been brought to justice for the murder of Hazim Šahman.

In another case, little progress was made in the trial of 15 people accused of carrying out an attack which resulted in the death of an 80-year-old Bosnian Serb. The man and his wife had attempted to visit a Serbian Orthodox cemetery near Visoko (Federation) in March 1997 when they were dragged out of the car by a group of displaced people from Srebrenica (Republika

Srpska -- RS). The couple were beaten with sticks and stones, and the elderly man died in hospital five days later as a result of the injuries he had sustained. Although hearings have been

In early October, approximately 50-60 Bosnian Croat men moved into Martin-Brod village, near Drvar (Federation) shortly before 15 Bosnian Serb families were due to return to their homes there. Some of them had been given temporary residency permits which were dated 6 October, the day before the scheduled return of the Bosnian Serbs. Approximately 27 Bosnian Serbs returned to the village on 7 October, but with a local official present, the Bosnian Croats began to ransack the Bosnian Serbs' houses, throwing their belongings into the streets. An 80-year-old woman was threatened with rape by one of the men. To prevent violence against the Bosnian Serbs, NATO-led Stabilization Force (SFOR) sealed off the village and representatives of international organizations intervened with local authorities; the situation was eventually resolved when Bosnian police from the neighbouring Canton began patrols in the town and most of the Bosnian Croats left the village.

### ***Forced repatriation from Germany***

Authorities in Germany forcibly repatriated 689 refugees from Bosnia-Herzegovina, bringing the total number of Bosnian refugees forcibly repatriated from Germany in 1997 to 929. Some of them originate from areas where it is unsafe for them to return because they are in a minority as compared to the authorities who now control the area. Some still had valid leave to remain in Germany at the time of their forcible repatriation and were not given the option of repatriating to Bosnia-Herzegovina voluntarily. For example, Osman and Emina Lizalo and their adult son Mehmet, Bosniacs originally from Dubrave village near Bosanska Gradiška (RS) were forcibly deported from Kleve, Germany, on 15 September, although their "toleration" to stay ("*duldung*") did not expire until 2 October 1997. According to Osman Lizalo, "[The police] came to our house at 5.30 in the morning, and told us to pack our belongings and that we had to leave in 20 minutes. We showed them our documents and

scheduled numerous times, stalling has put into doubt the commitment of the authorities to bring those responsible to justice.

told them that we would go voluntarily in two days." It made no difference: the family was taken to the airport and Mehmet Lizalo, who had been legally employed, was made to pay 1,700 Deutschmarks for the travel expenses for himself and his parents. The Lizalo family is now living with another son, his wife and that couple's infant son in two small rooms in Bosanski Petrovac (Federation). Although Emina Lizalo is terrified by the thought of returning to Dubrave village, their current living arrangements cannot be permanent and Osman Lizalo returned to his home on a visit to investigate whether return to their pre-war home was even practically possible. He visited his pre-war house which, in 1993 when his family was forced to flee, he had left to the caretaking of a Bosnian Serb neighbour on the understanding that the family would return when it was safe. When Osman Lizalo visited in October 1997, the neighbour, who is now living in the house, said that under no circumstances could the Lizalo family come back now. Other refugees who had been forcibly repatriated from Germany were also threatened in their pre-war communities when they attempted to return; most such people opted instead to live in areas where their nationality is the same as that which controls the area, often in houses whose pre-war inhabitants themselves are now refugees or displaced people. Whether because of manipulation by the local authorities or genuine infrastructure deficiencies, by living in someone else's house, they then obstruct the return of that communities' minority residents.

### ***Detention of war crimes suspects***

In Prijedor (RS) in July soldiers of the NATO-led Stabilization Force (SFOR) detained Milan Kova\_evi\_, who had been secretly indicted by the International Criminal Tribunal for the former Yugoslavia (Tribunal). The soldiers also attempted to detain Simo Drlja\_a, who had also been secretly indicted, but shot him dead in an exchange of fire. Both were Bosnian Serbs. In

December two Bosnian Croats were apprehended by SFOR in Vitez (Federation); one had been secretly indicted. However, despite these developments SFOR continued to defend its refusal to live up to its international obligations to seek out and arrest all those indicted by the

In October, following considerable international pressure on the Croatian authorities (and in effect the Bosnian Croat authorities), nine Bosnian Croats who had been publicly indicted by the Tribunal surrendered themselves to the Tribunal. A tenth man who had been detained in Croatia in August was also transferred to the Tribunal. He and two of the other Bosnian Croats were released in December on the grounds that there was insufficient evidence on which to try them. Charges against another Bosnian Croat were also withdrawn when it was confirmed that he had died in October 1995.

Amnesty International remained concerned that at the end of the year, 54 of 73 men who are known to be indicted by the Tribunal were still at large. In October it issued a document, *Bosnia-Herzegovina: How can they sleep at night? Arrest Now!* (AI Index: EUR 63/22/97) in which it restated the obligations of SFOR troops to search for and detain war crimes suspects.

### ***Human Rights Chamber decisions***

Despite human rights commitments under the Peace Agreement, legislation permitting the death penalty remains in effect in both entities. One prisoner on "death row", Bosnian Serb Sretko Damjanovi\_, was convicted in 1993 in the Sarajevo Military Court in an unfair trial on charges of genocide and nationally-defined war crimes. The evidence against him consisted almost entirely of statements by himself and his co-accused which he claimed were obtained by torture or ill-treatment while he was in police custody. In his statement to the police Sretko Damjanovi\_ admitted to having killed two men who were subsequently found to be alive. In addition, at the time Sarajevo was under siege and all possible witnesses were outside the territory under the control of the authorities trying Sretko Damjanovi\_. In June 1997 a request for a retrial on the basis of new evidence was refused by the

Tribunal. According to press reports, SFOR issued orders following the July arrest operations *not* to arrest a Bosnian Croat who had already made known to SFOR his willingness to voluntarily surrender, and refused to escort a Tribunal official who wanted to make the arrest. Sarajevo Cantonal Court; the Supreme Court of Bosnia-Herzegovina remitted the case back to the Cantonal Court for further consideration.

In September, the Human Rights Chamber, a national human rights institution founded under the Peace Agreement, found that carrying out the death sentence on Sretko Damjanovi\_ would violate the European Convention on Human Rights. Although in its opinions on the case the Human Rights Chamber questioned whether any application of the death penalty in peacetime would be consistent with international human rights standards, it also noted that there are grave doubts whether the procedural guarantees for the trial and appeals were sufficiently independent and impartial. The Chamber ordered the Federation authorities to ensure that the death sentence against Sretko Damjanovi\_ was lifted without delay, and noted that a retrial would constitute an appropriate remedy to the case.

Authorities failed to respond to the Human Rights Chamber's orders concerning other cases, including the "disappearance" of Roman Catholic priest Father Tomislav Matanovi\_ and his parents from Prijedor (Republika Srpska) in September 1995. They have also failed to respond to interventions made by the Human Rights Ombudsperson for Bosnia and Herzegovina, for example, that the "Zvornik 7", three of whom were sentenced to 20-years' imprisonment in April 1997 following a grossly unfair trial in Republika Srpska, be granted a retrial. Authorities also failed to reopen the judicial investigation into the death of Šefik Sulejmanovi\_ and the injuring of 20 other Bosniacs by Bosnian Croat police officers in February (see AI Index: EUR 01/01/97).

See also *Children in Europe*, pp. 72-75, below.

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## **BULGARIA**

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### ***Prosecution of journalists for defaming public officials***

Amnesty International continued to receive reports of journalists who were prosecuted for defaming public officials in the press, in violation of their right to freedom of expression. On 19 November 1997 Karolina Kraeva was indicted under Article 148, paragraph 1, points 2 and 3 of the Penal Code, for defaming in the press the local police chief (see also *Women in Europe*, pp. 68-71, below). This law punishes by up to two years of imprisonment acts of defamation which are: "1. committed in public; 2. disseminated in the press or by other means; 3. of public officials or representatives of the community concerning their office or performance of public functions; 4. perpetrated by public officials or state representatives in the course of their service". Amnesty International is concerned that in providing special protection from defamation to public officials and representatives of the authorities Article 148 is in violation of the right to freedom of expression set out in Article 19 of the International Covenant on Civil and Political Rights and Article 10 of the European Convention on Human Rights, both of which Bulgaria has ratified. Amnesty International believes that public officials or authorities who consider themselves defamed can resort to other legal actions, which anyone regardless of status or function can resort to in order to protect his or her reputation. Criminal legislation, according to the organization's belief, should not be used in such a way as to stifle criticism of state authorities or to intimidate those who voice legitimate concerns about the actions or practices of state authorities.

In March 1996 Amnesty International wrote to then president Zhelyu Zhelev expressing concern about the detention of Valentin Hadzhiev and Mitko Shtirkov, journalists from Smolyan who were detained on 22 February 1996 under Article 148, paragraph 1, point 3 of the Penal Code and considered by the organization to be prisoners of conscience. Throughout 1997 the prosecution of the two journalists on the same charge continued. In December 1997 Amnesty International urged President Petar Stoyanov to

initiate proceedings to stop all prosecutions under the provisions of this law. The organization also urged the President to exercise his authority under Article 150 of the Constitution of the Republic of Bulgaria and to initiate a judicial review of Article 148, paragraph 1, points 2 and 3, before the Constitutional Court.

### ***New cases of shootings, deaths in custody, torture and ill-treatment***

In October Amnesty International published a report *Bulgaria: Growing incidence of unlawful use of firearms by law enforcement officials* (AI Index: EUR 15/12/97). It documents 10 incidents of police shootings selected from many reports that were received over the period from May 1996 to September 1997. The organization urged the Bulgarian authorities to ensure that impartial and thorough investigations are conducted immediately into all shootings by law enforcement officials, to provide all law enforcement officials with clear regulations, and to initiate effective training programs on the use of firearms which would ensure observance of and adherence to the relevant international standards. In addition Amnesty International urged the Bulgarian authorities to bring their legislation on the use of firearms by police officers into line with relevant international standards and to publicize regular statistics on police shootings.

In January 1998 Amnesty International expressed concern to Bogomil Bonev, the Minister of the Interior, about new reports of police shootings in disputed circumstances. In one such incident on 10 December 1997 at around 7.45pm in Sofia a police officer shot in the head Angel Bozhov. Four days earlier Angel Bozhov reported to the police that his car had been stolen. On the day of the shooting incident, having just recovered the car and while driving along Boulevard Slivnitsa, Angel Bozhov and his 22-year-old son Lazar Bozhov were stopped by a police patrol comprising five or six officers. One

officer opened the door on the driver's side and allegedly shouted: "Get out!" The officer then shot Angel Bozhov in the head at very close range. Another officer took Lazar Bozhov out of the car, kicked him several times and handcuffed him

Amnesty International also received reports of police torture and ill-treatment. On 30 June Zlatko Gulekov, a theatre director and organizer of a theatre festival, was allegedly beaten by police officers in Sliven. After two police officers intervened at a celebration marking the end of the festival and arrested an actor for allegedly disturbing the peace, Zlatko Gulekov voluntarily accompanied the officers to the station. As he got out of the police car he was reportedly pushed to the ground and the two police officers and the driver of the car hit and kicked him all over his body. Later inside the station Zlatko Gulekov was placed in a chair and the two police officers, in the presence of two other officers, allegedly punched him in the face and hit him on the chest with a sack. Although he was bleeding from injuries to his head and nose, which had been broken, the officers allegedly refused to call a doctor. He was released several hours later following the intervention of the local member of parliament. An investigation into his complaint of ill-treatment was initiated but its results were not made public at the time of writing of this report.

On 6 July 1997 at around 3am in Dupnitsa, 20-year-old Angel Krashevski was reportedly attacked in the toilet of the local discotheque. A police patrol which was called to intervene reportedly arrested Angel Krashevski who tried to explain how the incident occurred. One officer then allegedly hit him on the head with his gun. At the police station Angel Krashevski lost consciousness and was taken to hospital where he was treated for a fractured skull, concussion, and contusions on the face. He later filed a complaint about his alleged ill-treatment with the military prosecutor. However, no information was available to Amnesty International as to whether an investigation was completed.

while he attempted to explain to him his identity. Angel Bozhov died in hospital the following morning from head injuries suffered in the shooting. (See also *Children in Europe*, pp. 72-75, below).

Mincho Simeonov Sartmachev, who was detain on 13 November 1997 in Dobrich, apparently died from injuries which he suffered as a result of torture. According to police reports, on 14 November Mincho Sartmachev and Stanimir Georgiev<sup>2</sup> tried to escape while being escorted from their cell to an office in the police station. They were pursued by an officer, who resorted to force in order to apprehend and restrain Mincho Sartmachev. Later the same day Mincho Sartmachev was taken to the investigation service lock-up whose director initially refused to accept him suspecting that he had suffered a serious head injury. The police then took Mincho Sartmachev to the emergency medical service which issued a certificate stating that he was fit to be kept in detention. On the evening of 21 November he was admitted to a hospital intensive care unit where he died on 26 November. A detailed account of this case was published in January in a report, *Bulgaria: Death in Suspicious Circumstances of Mincho Sartmachev and Reported Torture of Stanimir Georgiev* (AI Index: EUR 15/01/98).

In another incident, 34-year-old Valentin Nedev apparently died from lack of medical care in detention. He was arrested on 11 November in Durankulak and held for 10 days in police lock-ups in Shabla, Balchik and Kavarna. Valentin Nedev later reportedly stated that he was forced to sleep on bare concrete floors with his hands in handcuffs. His repeated requests for medical assistance were reportedly rejected. On 21 November 1997 he was released and immediately admitted to Varna University Hospital where he died four days later. According to the physician who carried out the autopsy Valentin Nedev died from complications resulting from tuberculosis and pneumonia. A second forensic medical examination was reportedly ordered to establish whether the 10-day detention and the lack of medical assistance during that time contributed to

police beating of Mincho Sartmachev.

<sup>2</sup> He was detained as a suspect of the same offence and later filed a complaint about police torture in which he also claimed to have witnessed



his death. In January 1998 Amnesty International wrote to the Bulgarian authorities asking for the results of this investigation.

In August the public prosecutor submitted motions for the opening of investigations which might lead to the prosecution on charges of "spreading false information" of Ivan Zvonimir i\_ak, President of the Croatian Helsinki Committee, and Dobroslav Paraga, President of the Croatian Party of Rights 1861. Both men had made public statements about Croatia's involvement in the armed conflict in Bosnia-Herzegovina and raised allegations of war crimes or human rights abuses perpetrated by Croatian or Bosnian Croat forces in Croatia and Bosnia-Herzegovina.

Amnesty International considers the use of the law on "spreading false information" in such cases to be a restriction on freedom of expression in contravention of Croatia's obligations under international instruments such as the International Covenant on Civil and Political Rights, and may consider the men to be prisoners of conscience if imprisoned as a result of these motions and any prosecutions which may follow.

Victor Ivan i\_, editor-in-chief, and Marinko uli\_, a journalist for the independent weekly *Feral Tribune* returned to the municipal court in Zagreb in December on charges of "slandering" or "insulting" President Franjo Tudjman in 1996. The trial was adjourned so that information could be compiled on the political doctrine of the late Spanish dictator Francisco Franco, with whom President Tudjman had been compared. The defendants could be imprisoned for up to three years if found guilty. A successful appeal by the prosecutor had overturned a previous acquittal in September 1996 (see AI Index: EUR 01/06/97).

In September 1997 changes were made to the Criminal Code including to the articles which relate to "spreading false information". Human rights defenders and other advocates have expressed concern that the new legislation may be used to further restrict freedom of expression in Croatia once the revised code goes into effect in 1998.

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## CROATIA

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### *Restrictions on freedom of expression*

#### *Continuing harassment of Croatian Serbs*

Police protection for Croatian Serbs living in the Krajina failed to adequately protect them from violence, intimidation and theft. While Croatian Government officials have repeatedly stated in public that those Croatian Serbs who wish to stay in Croatia are welcome to do so, and will be entitled to the same rights as other Croatian citizens, Amnesty International will not be convinced of the Croatian authorities' real commitment to protecting all its citizens regardless of their nationality until, for example, investigations into violent attacks result in fair and adequate prosecutions. For example Croatian Serbs in villages in Glina municipality near the border with Bosnia-Herzegovina told a journalist from *Feral Tribune* that the police response to looting and harassment of Croatian Serbs has been to ask them why they don't leave, and some Croatian Serbs have left the country because of the continued harassment. One elderly married couple in the area, Dmtar and Milka Baljak, Croatian Serbs from Velike Obljaj, have been the victims of numerous thefts and attacks, which usually occur during the night. On one occasion, Milka Baljak reported that the robbers said they would kill her and slit the throat and gouge out the eyes of her husband. They shot several times above her head, but she reports that at the end the attackers "only" looted her house and stole her cattle. According to the Croatian Helsinki Committee for Human Rights, following the publication of the article in *Feral Tribune* police refused to hear the complaints of Croatian Serbs although thefts and violent attacks continued. For example, on the afternoon of 29 December, a Croatian Serb woman from Bojna village was beaten in her home by three men in civilian clothes. Later the same day, an explosive device was thrown into the yard of a Croatian Serb man in the same village.

Croatian authorities have not reopened investigations into the criminal responsibility for the death of one Croatian Serb man and the beatings of others following mob attacks in

Harassment also grew in Eastern Slavonia as the transition to full Croatian authority and administration increased and as the end of the mandate of the United Nations Transitional Administration for Eastern Slavonia in January 1998 loomed. Leaflets calling for Croatian Serbs to leave were distributed in Vukovar in November 1997, stating "we will kill in silence, slowly but not gently". Also in November explosive devices were thrown at houses owned by Croatian Serbs, and in December a hand grenade was thrown at the house of a Serbian Orthodox priest. Investigations have begun into these and other violent attacks. However, in one case, where a Croatian Serb died from injuries sustained after a grenade had been thrown into a cafe in December, the lead suspect was released after being charged with the relatively minor offence of "endangering public safety with fatal consequences", although it was clear that the grenade had been thrown intentionally. The same man is now facing charges for the murder of a Croatian Serb shot dead in January 1998.

### *Release of Bosnian Serb prisoners*

In August, nine Bosnian Serbs who had been detained in connection with the armed conflict in Bosnia-Herzegovina and were effectively hostages were released in exchange for nine Bosnian Croats convicted of common crimes in the Republika Srpska, the Bosnian Serb entity of Bosnia-Herzegovina. Nine other Bosnian Serbs who had remained imprisoned after the cessation of hostilities in Bosnia-Herzegovina had been released earlier in the year; all had been detained since at least 1995 and at least one had been imprisoned since 1994.

### *Arrest of suspects follow confessions to war crimes*

In September, a former member of a Croatian paramilitary group published a confession that he

villages near Hrvatska Kostajnica in May 1997 (see AI Index: EUR 01/01/97). Reports of the incidents indicate that witnesses would be able to identify those responsible for specific assaults.

personally killed or tortured scores of people in 1991 and 1992, primarily Croatian Serbs. He also claimed that the paramilitary group was responsible for the deaths and torture of many more. He and three other men named in his confession were arrested in September on the suspicion of committing an imprisonable offence.

## DENMARK

### *Alleged ill-treatment*

#### Veronica Ngozi Ugwuoha

In October, the Regional State Prosecutor for Copenhagen decided not to bring charges against the officers involved in the arrest and restraint of Veronica Ngozi Ugwuoha (see AI Index: EUR 01/ 01/97 and 01/06/97). Although he concluded that Veronica Ngozi Ugwuoha's leg must have been broken during her arrest, he found that it could not be proved with certainty whether her injuries were sustained in the course of her interaction with a police officer when they both fell, or when another officer unsuccessfully tried to grab her leg, or when a third officer put her in a

Amnesty International has expressed concern about the Regional State Prosecutor's decisions in this case. Such concerns include the reported absence from the Regional State Prosecutor's decision of an examination of the appropriateness of the types and extent of force used in restraining and arresting Veronica Ngozi Ugwuoha and of the manner in which she was transported to the police station. Based on information received the organization also expressed concern that the Regional State Prosecutor's decision does not explain why he found no grounds to criticize the officers who failed to ensure that Veronica Ngozi Ugwuoha received immediate medical attention, notwithstanding the fact that the officers present at her arrest reportedly have admitted that they noticed that she was unable to stand on one of her legs prior to bringing her to the police station. Similarly, the organization expressed concern about information received which indicates that the Regional State Prosecutor's decision does not address allegations that the police at the police station failed to act on Veronica Ngozi Ugwuoha's repeated requests to see a doctor during the period of her detention in the police station.

The Ministry of Justice has informed Amnesty International that appeals of the Regional State Prosecutor's decisions in this case,

manual leg-lock (i.e. lying her on her stomach, placing one of her feet at the back of her opposite knee and bending the other leg at the knee and pressing the leg up towards her head).

The Regional State Prosecutor also decided not to criticize any officers for the delay of about six hours in calling a doctor to attend to Veronica Ngozi Ugwuoha. Once seen by a doctor, she was admitted to hospital for 10 days and underwent surgery; her leg had been broken and her knee cap had been split. The Regional State Prosecutor reportedly did, however, impress upon the police the necessity of immediately calling a doctor if police observe that a person cannot stand on either or both of their legs.

In addition, with respect to allegations that police made racist remarks during the arrest, as none of the officers admitted to making or hearing racist remarks, the Regional State Prosecutor found no grounds for criticism, including by the Regional Police Complaints Board, were pending with the Director of Public Prosecution at year's end.

#### Babading Fatty

In December the Ministry of Justice agreed to pay the sum of 360,000 Danish Kroner (approximately £32,700) to Gambian national Babading Fatty as full and final settlement of his claim arising from his detention and ill-treatment in Denmark, where he had travelled as a tourist in 1990. Babading Fatty suffered psychological and physical injuries as a result of his treatment and has been unable to resume his work. The settlement includes the sum of 60,000 Danish Kroner which the government had paid in June 1995 as initial compensation (see AI Index: EUR 01/02/95 and EUR 18/01/95).

#### *UN Human Rights Committee*

In December the Ministry of Justice informed Amnesty International of measures it was undertaking in view of recommendations made by the UN Human Rights Committee, following its examination, in 1996, of Denmark's third periodic report of measures taken to implement the provisions of the International Covenant on Civil

and Political Rights. Among other things, the police issued a written Code of Practice on the use of dogs by police. The Ministry also informed Amnesty International that its expert commission, the Criminal Justice Commission, was reviewing rules governing solitary confinement, and that the Director of Public Prosecutions had instituted a process to ensure reporting of cases in which a person had been remanded in custody for a period of three months or more, including information about whether the detainee had been held in solitary confinement. The organization has requested to be kept informed of developments on these matters and on measures the government is taking to implement the recommendations of the European Committee for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the (UN) Committee against Torture (see AI Index: EUR 01/06/97).

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## FRANCE

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In its letter to the Interior Minister Amnesty International stated that it understood the practice of *assignation à résidence* to be a form of administrative detention. This the organization defines as detention without charge or trial, and by order of the executive branch of government of, *inter alia*, political detainees held for a lengthy period pending deportation for political or national security reasons. Amnesty International believes all political detainees, including those held in administrative detention, should be released if they are not to be charged with a recognizably criminal offence and promptly tried in a court of law. The organization was concerned that the decisions until then taken in respect of the appeals against expulsion and *assignation* that had been made by Salah Karker had not been open to scrutiny in a court of law, and that therefore Salah Karker had not so far been given any effective opportunity to be heard by a judicial or other authority. According to the Convention for the Protection of Human Rights and Fundamental Freedoms, Article 5 (4): "Everyone who is deprived of his liberty by arrest or detention shall

### **Administrative detention**

Amnesty International wrote in December to Interior Minister Jean-Pierre Chevènement about a political refugee and former leader of an illegal opposition party in Tunisia who was in his fourth year of administrative detention (*assignation à résidence*). Salah Ben Hédi Ben Hassen Karker, a leading member of the Tunisian Islamist party *Ennahda* (Renaissance) had, in his absence, been sentenced to death in Tunisia and was recognized by the French authorities as a political refugee in 1988. However, after the former Interior Minister, in October 1993, decided to issue an expulsion order against him but could not find a country that would accept him, an order of *assignation à résidence* was issued against Salah Karker. Since then he has been moved from Brest in Brittany to Saint-Julien-Chapteuil (Haute-Loire) to Digne (Alpes-de-Haute-Provence), where he has been forced to remain ever since. Salah Karker has unsuccessfully appealed against the detention and expulsion orders to a number of administrative bodies. At no time has any criminal charge been brought against him by the French authorities. be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful."

Amnesty International urged the Interior Minister to give prompt and thorough consideration to lifting the order of *assignation à résidence* against Salah Karker, and to quashing the order of expulsion, if no charges were to be brought promptly against him.

### **Cases of alleged ill-treatment by law enforcement officers**

Cases of alleged ill-treatment received by Amnesty International in the period under review include that of an Egyptian citizen who was reportedly assaulted and his leg broken by four plain clothes police officers of the Anti-Crime Brigade (*Brigade anticriminalité - BAC*) attached to Puteaux police station. In October Ahmed Hamed, a 41-year-old architect and member of a prominent family from Cairo, was in France with

his parents, who had travelled there so that his mother could receive medical treatment at the American Hospital in Neuilly, a north western suburb of Paris. Between 9 and 10am on the morning of 16 October Ahmed Hamed was in a launderette in the Parisian suburb of Puteaux when he was approached by the four men, surrounded and forcibly taken to a waiting car. Resisting what he believed to be a kidnapping, he was beaten and kicked violently on the right leg. The blow fractured the tibia. He was taken to Puteaux police station and detained for questioning. He alleges that he was not allowed to contact a lawyer and despite his protests and obvious pain, was only examined by a doctor some 10 hours after arrest. It appears that the police officers believed Ahmed Hamed to be a thief who had been evading the authorities for several months.

No charges were brought against Ahmed Hamed, who was immediately upon release admitted to the Foch Hospital and underwent. In December Fabrice Fernandez was shot dead while handcuffed and under interrogation at a Lyons police station. There are conflicting reports as to the circumstances leading up to the arrest, which took place in the district of La Duchère. However, the uncle of Fabrice Fernandez stated in a press interview that on the evening of 18 December his nephew was visiting him and his wife. At about 9pm they overheard a disturbance in the street immediately below their apartment and saw Fabrice Fernandez' step-brothers embroiled in an argument with a group of local youths. Shortly afterwards a gun was fired, apparently into the air. A pump-action shotgun was reported to be in the possession of the step-brother. A BAC patrol was alerted and reinforcements called.

According to a statement issued on 19 December by the public prosecutor, Fabrice Fernandez had been drinking and had attempted, unsuccessfully, to resist his and his step-brothers' arrest. All three brothers were taken to the police station of Berjon. While interrogating Fabrice Fernandez, an officer of the national police, who was handling the confiscated shotgun, reportedly shot him in the jaw, killing him instantly. The officer was immediately suspended from duty, detained at Villefranche-sur-Saône, outside Lyon,

surgery on his leg. He has undergone several operations. Medical certificates issued by the hospital also referred to a bruise to his left eye. The Egyptian ambassador in Paris wrote a letter of complaint to the Interior Minister expressing concern about the treatment of Ahmed Hamed, and a more detailed letter was written by his father. The Interior Minister is reported to have opened an administrative inquiry into the case. It is not yet known whether a judicial inquiry has also been opened.

During the period under review Amnesty International received information about the case of a woman who was allegedly raped by police officers in Bordeaux. See *Women in Europe*, pp. 68-71, for details.

### ***Fatal shooting by law enforcement officers***

and initially charged with manslaughter (*coups et blessures volontaires ayant entraîné la mort sans intention de la donner*). The charge was almost immediately increased to murder (*homicide volontaire*) by the investigating judge. The police officer, who was reported to have already been disciplined once for assault, was expelled from the police force. The Minister of the Interior stated that the officer had been "insufficiently punished" for his previous failings.

Only days earlier police had shot dead 16-year-old Abdelkader Bouziane in a suburb of Paris, after he had reportedly tried to drive through a road block. The circumstances of the shooting are disputed. See *Children in Europe*, pp. 72-75, for details.

The two deaths were accompanied by violent disturbances which took place over several consecutive nights in the Lyons and Paris areas. At Lyons about 30 vehicles were torched and in the Paris suburb there were a number of clashes between police and youths. The Interior Minister was said to have stressed the importance of a "basic code of ethics" governing police use of firearms. A month earlier he had announced the creation of a *Conseil supérieur de la déontologie et de la sécurité* (CSDS), to inquire into allegations of human rights violations such as fatal

shootings by police officers, but it is not yet clear what progress has been made in setting up this body.

### ***Developments in, and outcome of, trials in cases of ill-treatment and fatal shootings***

A number of police officers and *gendarmes* were brought to trial in connection with cases of ill-treatment or fatal shootings. In October, after continual delays and procedural irregularities, Rhône Court of Assizes sentenced a police officer to a five-year suspended prison term for the fatal shooting of Mourad Tchier, a youth of Algerian origin, in 1993. In November a *gendarme*, who shot and killed Franck Moret in 1993, was discharged (*relaxé*) by the correctional court of Valence. The prosecution and relatives of Franck Moret have appealed against the judgement. Similarly, the family of Ibrahim Sy, who was shot dead by a *gendarme* in 1994, has appealed to the Court of Cassation after the Rouen Court of Appeal confirmed, in November, the decision of the investigating judge that there were no grounds for prosecution (*non-lieu*).

An appeal against a similar decision in the case of the eight-year-old Romani refugee Todor Bogdanovi\_, shot dead by border police at Sospel in 1995, was upheld by an appeal court of Aix-en-Provence in December when the court overturned the *non-lieu* decision on the basis that the police officer's plea that he had acted in legitimate defence was not proven. The case was referred to the Court of Assizes on a charge of manslaughter (*pour avoir volontairement exercé des violences ayant entraîné la mort sans intention de la donner*). In July experts at the UN-based Human Rights Committee had specifically referred to the death of the Romani child when expressing concern not only at the treatment and expulsion of refugees but at what appeared in this case to be an arbitrary and reckless use of firearms. The case was featured in the Amnesty International Week campaign to raise awareness about refugees and the specific needs of child refugees. For full details *Children in Europe*, pp. 72-75, below.

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## **GEORGIA**

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

On 11 November the Georgian parliament overwhelmingly approved the abolition of capital punishment, voting 148-1 in favour of a motion proposed by Georgian President Eduard Shevardnadze. Earlier, on 25 July, President Shevardnadze had commuted to 20 years' imprisonment the sentences of all 54 men awaiting execution at that time. The one man remaining on death row following abolition in November also had his sentence commuted.

Amnesty International warmly welcomed this move, in line with worldwide trends towards abolition, and expressed the hope that it would prove an example to other states of the former USSR which retained this punishment.

### ***Appointment of a human rights ombudsman***

On 29 October the Georgian parliament finally appointed a human rights ombudsman to the post of Public Defender first introduced under the new Constitution adopted in 1995. Under a bill passed the following year the Public Defender is charged with supervising the observance of human rights in Georgia, making violations of these rights known, and furthering the restoration of rights that have been violated (see AI Index: EUR 01/02/96 and EUR 56/05/96). Amnesty International had repeatedly urged moves to place someone in the post, so that the constitutional provisions for supervising the protection of human rights could be implemented without delay. Filling the post was also one of the recommendations made by the UN Human Rights Committee, when it reviewed Georgia's first periodic report under the International Covenant on Civil and Political Rights (ICCPR) in April 1997.

Amnesty International wrote to the new Public Defender, David Salaridze, setting out its concerns in Georgia and seeking ways of cooperating in the promotion and protection of human rights.

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

By the end of the year parliament had still not considered a draft new bill on a civilian alternative to compulsory military service, to replace a 1991 law which was not put into practice, and young men objecting to such service on grounds of conscience continued to face imprisonment for refusing their call-up papers. Officials reported that one man, Kakhaber Galashvili, a Jehovah's Witness, had been released from an 18-month sentence imposed in July 1996 for refusing conscription on religious grounds. Other such prosecutions were believed to have taken place during the year, but details on concrete cases were difficult to obtain.

Further allegations of ill-treatment were made during the period under review (in April the UN Human Rights Committee had expressed deep concern about reports of torture, and set out several recommendations to address this issue, see AI Index: EUR 01/06/97). In August, for example, two young journalists named Nika Svanadze and Georgi Khonelidze, together with a former worker at the "Dzveli Kalaki" radio station named Seva Gotsiridze, were said to have been beaten by police in the city of Kutaisi. According to this report police officers from the Second Police Department in Kutaisi, who were under pressure to solve a robbery at the radio station, beat the men, who claim they were innocent, in order to force them to confess.

Revaz Gogeshvili reported that he had been beaten more than once to the point of unconsciousness by officers from the Sixth Police Department in Kutaisi, who were seeking a confession after they had detained him on 17 August in connection with a murder. Revaz Gogeshvili claimed he had been punched and struck with truncheons around his head and on the soles of his feet.

Amnesty International urged a prompt, comprehensive and impartial investigation into all

### ***Death in custody of David Amashukeli***

Further information became available on the death of David Amashukeli, who died of head injuries in December 1996 (see AI Index: EUR 01/06/97). Responding to Amnesty International in October, the Tbilisi City Procuracy reported that an Interior Ministry official had been sentenced to four years' imprisonment in connection with the death. P. Bezhanishvili was found guilty of striking David Amashukeli several times around the head with a truncheon after an altercation in the street, and was convicted of deliberately inflicting serious bodily injuries and of exceeding his authority (Articles 110 and 187 of the Georgian Criminal Code).

### ***Allegation of ill-treatment in detention***

such allegations, with the findings made public and anyone found responsible brought to justice.

See also *Women in Europe*, pp. 68-71.

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

In September Amnesty International delegates travelled to the disputed region of Abkhazia, and held talks with officials on the human rights situation. Speaking about the various allegations of alleged arbitrary detentions and deliberate and arbitrary killings of Georgian civilians (see AI Index: EUR 01/06/97), the Minister of Internal Affairs said that criminal proceedings were instituted in all such cases but that it was often difficult to identify the perpetrators owing to the security situation. On the death penalty, the Minister reported that there were currently 14 men on death row at that time, mostly convicted of premeditated, aggravated murder, but that there had been a *de facto* moratorium on executions since 1993.

### ***The death penalty in South Ossetia***

Like Abkhazia, South Ossetia is also a region currently outside the *de facto* control of the Georgian authorities and which has held its own elections to executive structures. At a meeting with Amnesty International representatives in London in November, the Chairman of the South Ossetian parliament reported that although capital punishment had not been abolished, there was a *de facto* moratorium on passing death sentences and that no executions had taken place in recent years.

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## GERMANY

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### *The alleged ill-treatment of detainees*

#### The report of the Committee for the Prevention of Torture

In July the German Government published the report of the Committee for the Prevention of Torture (CPT) on its visit to Germany in April 1996, together with the interim report drawn up by the German authorities in response to the Committee's report. The CPT - a body of experts set up under the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment - reported the following:

**Fresh allegations received by Amnesty International**

In January an Israeli national alleged that he was ill-treated by police officers at Frankfurt railway station. According to a statement he made to Amnesty International, the Israeli was walking across the station concourse when he heard someone behind him shout at him to stop. Looking around he saw a well-built man in civilian clothes. The man shouted again, even louder, and accelerated towards him. Fearing that he was in danger of being mugged or assaulted by "neo-Nazis", the Israeli began to run. When he slipped over, several men caught up with him, snatched his bag and allegedly started to beat and kick him in the stomach and back. When the Israeli cried out to bystanders: "This is a group of Nazis, fetch the police!", he was allegedly hit

Treatment or Punishment - reported hearing during its visit "...a certain number of allegations ...of the use of excessive force by police officers at the time of apprehension. The most common forms of ill-treatment alleged by detained persons were blows and kicks received after they had been restrained and placed on the ground at the time of their apprehension". The CPT stressed that "...no more force than is reasonably necessary should be used when effecting an arrest..." and that "...once arrested persons have been brought under control, there can be no justification for them being struck by police officers..." and recommended that "police officers be reminded of these precepts". The CPT also expressed concern that the right of detainees to inform a family member or a third party of their detention, or to have this information transmitted by a police officer, appeared to be routinely ignored in practice, and that persons suspected of having committed a criminal offence did not have the right of access to a lawyer from the very outset of police custody. The German authorities largely rejected the need for action in the areas outlined above, just as they had dismissed similar recommendations first made by Amnesty International in May 1995 in its report *Federal Republic of Germany: Failed by the system - police ill-treatment of foreigners* (AI Index: EUR 23/06/95).

again, then handcuffed, put into a car and taken to a nearby police station. The detainee states that it was only at this point that he was told by the men that they were police officers. At the station he was searched and his identity papers checked. The detainee states that at no time was he informed of the reason for the police action and that he was told he could not issue a complaint about his ill-treatment at the station. (He later lodged one with the Marburg prosecuting authorities.) A medical examination recorded that he had suffered multiple bruising. The Israeli was later informed by the Frankfurt prosecuting authorities that an investigation was under way into allegations that he had violently resisted police attempts to check his identity, had attacked the officers involved and insulted them by calling them "Nazis". A police spokesman was reported as saying that the officers involved had clearly identified themselves to the Israeli and had to use "basic force" when he tried



to flee. In July Amnesty International called upon the Hesse authorities to conduct prompt and impartial criminal and disciplinary investigations into the allegations made by the Israeli. In August the Hesse authorities confirmed to Amnesty International that investigations had been launched into the allegations made both by

Nasr B. alleged that he was ill-treated by Berlin police officers in March. According to statements he made to the non-governmental organization *Internationale Liga für Menschenrechte* and to Amnesty International, Nasr B., an Algerian asylum-seeker, was stopped in the street in the early hours of the morning by two uniformed police officers who told him to raise his hands. When he asked why, he was allegedly told to shut his mouth. More officers arrived on the scene and Nasr B. was eventually informed that a crime had been committed and that he was to accompany them to see if the victims recognized him as the perpetrator. After initially protesting, Nasr B. was placed in a car and taken to a place where a group of people was standing, including some more police officers. When it became apparent that he was not the culprit, the officers reportedly told Nasr B. to go away. Angry at the way he had been treated, Nasr B. accused the officers of picking on him just because he was a foreigner, and announced that he was going to issue a formal complaint. According to the Algerian, one of the officers then suddenly jumped on him and violently twisted his right arm behind his back while the officer's colleagues pushed him to the ground. There, according to the detainee, he was held down while one or more other officers kicked him on the head and body. Nasr B. screamed out "My arm, my arm" but his cries were reportedly ignored by the officers who proceeded to handcuff him behind his back, causing him even more pain. The detainee was then taken to a police station. On the way officers allegedly subjected him to racist insults, calling him a "shitty foreigner" and asking him "Why have you come to Germany?". At the station a doctor diagnosed that Nasr B.'s arm was broken and that the detainee required immediate hospital attention. According to medical certificates Nasr B. had also suffered extensive bruising of the left arm, swelling and abrasions to the right side of his

the Israeli and by the police officers involved. Amnesty International subsequently learned that both investigations were discontinued in October. In their rejection of the Israeli's complaint, the authorities argued that there were "no grounds for attaching more credibility to the complainant's version of events than to that of the officers". face and bruising of the jaw. A police spokesman later reportedly stated that after the officers involved had confirmed that Nasr B. was not the person they were looking for, they asked him to leave the scene, but he refused. Investigations were later opened into Nasr B.'s allegations that he was ill-treated and the officers' allegations that he had resisted them and had used insulting behaviour. In July Amnesty International called upon the Berlin authorities to conduct prompt and impartial criminal and disciplinary investigations into the alleged ill-treatment of Nasr B.. In August the Berlin Ministry of Justice confirmed that a criminal investigation was in progress. In December Nasr B. was informed by the prosecuting authorities that his complaint of ill-treatment had been rejected.

In May it was reported that an Algerian national was deported from Berlin Tempelhof airport under conditions which may have represented a threat to his physical safety and which appeared to contravene official guidelines on the use of physical restraints. In a letter to Amnesty International, a woman - whose name is known to the organization - reported that on 6 May 1997 she was waiting to be taken by bus to Prague airport terminal in the Czech Republic, having just landed on the 0955 hours flight (number OK 4515) from Berlin Tempelhof airport, when she saw a man descend the aeroplane steps carrying a 'parcel' on his shoulders, and accompanied by several other men. It transpired that the parcel in question was, in fact, a young man who, according to the witness, was heavily restrained with brown tape which covered the lower part of his face, including his mouth, and also extended from his knees to his ankles. His hands were also secured behind his back. In September Amnesty International expressed concern to the Federal Minister of the Interior that the placing of a restraint over the detainee's mouth appeared to contradict assurances given to the organization by

the Ministry following the death in police custody of rejected asylum-seeker Kola Bankole<sup>3</sup> that Federal Border Police officers were prohibited from using any means of force or restraint which involved blocking or closing a deportee's mouth. In October the Ministry of the Interior informed Amnesty International that the deportee in question had had to be restrained because he had violently resisted previous attempts to deport him to Algeria. The Ministry confirmed that the use of gags, including tape, was forbidden and that an investigation into the methods of restraint used in the case in question was continuing.

In July Iranian student Bahram Javadi Moghaddam alleged that a police officer ill-treated him in the centre of Brunswick after they had caught two friends he was with urinating in the street. The Iranian stated that, after he had shown his identification papers, one of the officers, without reason, pushed him on the back of the head, causing his face to bang with full force against a shop window. The same officer then kicked him on the body. The Iranian, who suffered a broken nose and bruising of the face, left thigh, **Update to cases previously documented by Amnesty International** (in AI Index: EUR 23/06/95, EUR 23/04/97, EUR 01/01/97 and EUR 01/06/97).

In May Amnesty International expressed concern to the Brandenburg authorities about the length of time it was taking for Frankfurt an der Oder Regional Court to examine allegations against eight Bernau police officers accused of ill-treating detainees in their custody. The officers were charged in February 1995 with 23 separate counts of ill-treatment involving a total of 15 Vietnamese and one Polish detainee. The incidents were alleged to have occurred between February 1993 and June 1994 (see *Federal Republic of Germany: Failed by the system - police ill-treatment of foreigners*, AI Index: EUR 23/06/95). The trial against them was opened in January 1996. In its letter to the Brandenburg authorities, Amnesty International expressed concern that as the trial continued, the likelihood of bringing to justice

right knee and finger, issued a complaint against the officer later the same day. According to the student, the following day the officer appeared at the college he attends, together with his superior who informed the student that a complaint had been made against him accusing him of resisting officers in the performance of their duty. Bahram Javadi Moghaddam was told that if he dropped his complaint, the officer would do the same. A police spokesman was reported as saying that the injury to the student's nose was probably caused by him stumbling against the shop window. In August Amnesty International called upon the Lower Saxony authorities to conduct prompt and impartial criminal and disciplinary investigations into the alleged ill-treatment of Bahram Javadi Moghaddam. By the end of December no substantive reply had been received.

officers accused of offences which went back several years receded. In July the Brandenburg Justice Minister informed Amnesty International that a number of factors had contributed to the delay in proceedings, including the fact that some witnesses had since left the country and had to be summoned to appear in court, the need to interpret proceedings, and the strategy pursued by lawyers representing the accused officers.

Also in May the Berlin authorities responded to Amnesty International's call the previous month for prompt and impartial criminal and disciplinary investigations into allegations that Sakhaydar and Hatice Yildiz were assaulted by Berlin officers who burst into their bedroom in the early hours of the morning of 24 October 1996. In their letter in May the Berlin authorities informed Amnesty International that police officers had had a warrant to search the Yildiz family flat for illegal weapons and had found two handguns with ammunition. When Sakhaydar Yildiz resisted the officers' attempts to arrest him

<sup>3</sup> See *Federal Republic of Germany: Continuing pattern of police ill-treatment* (AI Index:

EUR 23/04/97).

by kicking out at them, they had to use “basic force”, injuring his nose in the process. (Medical certificates show that Sahhaydar Yildiz suffered a fracture of the nose, bruising to the head and ribs and an injury to the thumb.) The authorities also stated that no mention of any injuries had been made in a letter written on behalf of Sahhaydar Yildiz by the Turkish General

In June the Brunswick prosecuting authorities responded in detail to Amnesty International’s criticisms of their investigation into the alleged ill-treatment of Ugandan asylum-seeker M.. M. had alleged that officers had ill-treated him during a police raid in March 1996 on the asylum-hostel where he lives. In rejecting his complaint, the prosecuting authorities stated that, according to the officers involved, the detainee had no injuries. Furthermore, none of the photographs taken by police after his arrest revealed any signs of injury and there were no traces of blood on the detainee’s clothes. In a letter to the Lower Saxony authorities in April 1997, Amnesty International had asked how the prosecuting authorities explained the apparent contradiction between the evidence given by the officers that the detainee was not injured and medical certificates which showed that he had suffered multiple bruising to the shoulder, nose, skull and ribs, abrasions to the right knee and right shoulder and an injury to his left ankle. In particular Amnesty International asked the prosecuting authorities for details of the photographs taken of the detainee, and whether his clothes were subjected to a forensic examination. In their reply to the organization in June, the authorities stated that the photographs taken of the detainee showed him fully clothed; none had been taken of particular parts of his body and no forensic tests had been carried out on any of his clothes. The authorities conceded that the lack of photographic evidence of injuries did not mean that the detainee was not injured and confirmed the existence of medical evidence. This in itself, however, did not provide sufficient evidence that individual officers were guilty of criminal acts. Moreover, the authorities said, it was not possible

Consul in Berlin to the Ministry on 7 November 1996. (Hatice Yildiz was examined by a doctor the day after the police operation and was found to have suffered multiple bruising. She was also experiencing pain in her nose and was in a state of shock. In January 1997 an x-ray examination revealed that the bone in her nose was fractured.)

to clarify “whether the injuries sustained by the complainant possibly occurred at a later point in time, in some way or other”.<sup>4</sup> No further clarification was provided on this point.

In November the Hesse Ministry of Justice informed Amnesty International that a Frankfurt police officer had been given a nine-month suspended sentence for subjecting detainee Renata K. to serious physical assault and that two officers had been charged with ill-treating Moroccan Mohamed Z..

In June the Ministry of Justice of North-Rhine/Westphalia responded to Amnesty International’s criticisms about the delay in investigating allegations that Turkish national Ziya Y. was ill-treated by police officers in a Mülheim an der Ruhr café in February 1995. The authorities informed the organization that the investigation had been held up because an important witness had left the country since the alleged incident. He had, however, since returned and had been personally questioned by the public prosecutor heading the investigation.

In August the Berlin Interior Ministry informed Amnesty International that charges had been brought against law enforcement officials alleged to have assaulted Turk Nadir Gül in a Berlin police station in August 1996.

In September the Bremen prosecuting authorities rejected two separate complaints of police ill-treatment made by Sierra Leonean Aliu B.. The complaints related to assaults by Bremen police officers alleged to have occurred in April and October 1996. Aliu B. appealed against the prosecuting authorities’ decisions in November. In October and November final appeals by João S., an Angolan national, George B., a Liberian national, and Guinean Yasin D. against the

<sup>4</sup> The police raid began at approximately 6.25pm on the evening of 13 March. M. was first

examined by a doctor at 2am the following morning.

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prosecuting authorities' rejection of their complaints of ill-treatment were turned down. All three men had alleged that Bremen police officers had forcibly administered emetics to them following their arrests in separate incidents in 1994.

**Authorities' responses to Amnesty International's report *Federal Republic of Germany: Continuing pattern of police ill-treatment* (AI Index: EUR 23/04/97).**

In the period under review Amnesty International received a number of responses from federal and state authorities to the organization's report *Federal Republic of Germany: Continuing pattern of police ill-treatment*, published in July. Most In October it was reported that a new draft law on Universal Defence would be presented to parliament before the end of the year making it compulsory for all women aged between 18 and 50, and for all men aged between 18 and 65 not currently serving in the armed forces or in the National Guard, to complete a period of training in universal defence units. The exact duration of the training was unclear. Certain groups of women, such as those who are pregnant or who have children under the age of 12, were to be exempt. It was reported that the units would come under the administration of the General Staff of the Ministry of Defence, and that members of units would perform a range of functions, such as responding to natural disasters, guarding vital installations and providing first aid. It was also reported that members of the units, particularly those based in border areas, would be given training in the use of arms. Failure to report for service, according to the draft law, would be punishable by a period of imprisonment of between six and 12 months, increasing to a maximum of three years in prison in periods of general mobilization, such as has existed in Greece since 1974. The new draft legislation, which reportedly contained no provisions for allowing those people who object to military service on grounds of conscience to register their objection, was not in fact presented to parliament by the end of the year.

rejected Amnesty International's findings and repeated their view that ill-treatment of detainees by police officers occurred only in isolated cases which were dealt with appropriately by the relevant authorities. Only four of the 16 state governments replied to Amnesty International's call for the establishment of permanent, independent oversight bodies; all rejected it. The federal government made no substantive comment on the organization's report.

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## GREECE

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### *Conscientious objection to military service*

In a letter to the Prime Minister Kostas Simitis in October, Amnesty International urged the Greek authorities to review the provisions of the draft law on Universal Defence with a view to bringing it into line with international standards and recommendations on the right to conscientious objection. The organization stated in its letter that should any person be detained or imprisoned under the new legislation solely because they were refused their right to register an objection or to perform a genuinely alternative service, Amnesty International would adopt that person as a prisoner of conscience.

In its letter to the Greek authorities Amnesty International also expressed concern about Law 2510/97 on conscription, adopted by the Greek Parliament in June (see AI Index: EUR 01/06/97). Although the law includes, for the first time, a provision for alternative civilian service available to conscripts declaring themselves opposed to the personal use of arms for fundamental reasons of conscience based on religious, philosophical, ideological or moral convictions, the length of the alternative civilian service remains punitive. The provisions for alternative service can be suspended by a decision of the Ministry of Defence in case of war and conscientious objectors performing alternative civilian service will be incorporated into the compulsory unarmed military service. The law does not recognize that conscientious objectors have the right to develop conscientious objection

during military service, and conscientious objectors who carry out trade unionist activities or participate in a strike during the period of their alternative service will have their right to alternative civilian service revoked and have to serve the remaining part of their service in the army. The provisions of Law 2510/97 relating to alternative civilian service did not come into force until January 1998 and conscientious objectors who refused to perform military service in the meantime still faced prison sentences of up to four years.

In December Amnesty International was informed by the Office of Prime Minister Kostas Simitis that in the opinion of the Greek Government, Law 2510/97 was “sufficient in itself to guarantee the right [to conscientious In October Vasilis Romas, Costas Tasopoulos, Petros Vasiliadis and Pavlos Voskopoulos, members of the ethnic Macedonian minority party *Ouranio Toxo* (“Rainbow”), faced trial in Florina on charges of violating Article 192 of the Greek Penal Code. They were accused of “causing and inciting mutual hatred among the citizens” by hanging up a sign, containing the words “*Lerinski Komitet*” (“Florina Committee”) in both Greek and Macedonian, outside the Florina office of the Rainbow Party in September 1995. The indictment against them stated that the use of the Macedonian words *Lerinski Komitet* “provoked and incited discord among the area’s citizens [who] justifiably...identify these words with an old terrorist organization of Slavic-speaking alien nationals which was active in the area”. In a letter to the Greek authorities in October, Amnesty International stated that in its view the prosecution of the four men represented a violation of Article 10 (1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms and that if any of them was imprisoned, the organization would adopt them as prisoners of conscience and would call for their immediate and unconditional release. In the same month the organization was informed by the Greek Ministry of Justice that the trial of the men had been postponed until September 1998.

objection]. [However] the experience which practical application of the law provides may lead to possible improvements in the legislation”. At the end of 1997 there were approximately 220 conscientious objectors imprisoned in Greece. All had been sentenced to between two and four years imprisonment, and were likely to serve between 18 and 24 months of their sentences. They were being held in military and agricultural prisons across Greece. In their letter to Amnesty International in December, the authorities did not respond to the organization’s concern about the draft law on Universal Defence.

### *Freedom of expression*

#### *Allegations of torture, ill-treatment and excessive use of force by law enforcement officials*

In July Amnesty International received information from the Greek authorities about a number of cases it had previously raised. According to this information, which was supplied by the Ministry of Public Order, police officers who were alleged to have kicked and beaten Roma during a raid on their camp in Aspropyrgos, western Attica, in February 1996 had been disciplined (see AI Index: EUR 01/02/96). An administrative inquiry had established that the officers had displayed “excessive zeal [and had] maltreated some of the gypsies”. The authorities also confirmed that an administrative investigation had been conducted into allegations that Mohamed Farhank Amin had been beaten by police officers in October 1996, as a result of which he suffered a broken kneecap (see AI Index: EUR 01/01/97). According to the Ministry: “It is thought that the injury... was not the result of his ill-treatment by police officers, it was caused instead when he fell during his pursuit. There were no disciplinary responsibilities established on the part of any police officers, and the case was placed in the files.”

In a letter to the authorities in December, Amnesty International asked for the reasoning behind the investigators’ conclusion that

Mohamed Farhank Amin's injury was not the result of ill-treatment. The organization also asked for further information about the investigation into the death in custody of Lütfi Osmance (see AI Index: EUR 01/02/96). Lütfi Osmance had been detained at Vyrona police station, Athens, at about 1am on 14 January 1996. At 8am the same day he was taken to hospital, but was discharged by the doctor who examined him. At midday he was taken before the prosecutor of Athens Criminal Court who ordered that he should be remanded in custody. The same evening he was found dead in his cell. According to an autopsy report, Lütfi Osmance's head and face bore marks of beating - injuries not observed by the doctor who had examined him during his visit to the hospital in the morning. In January 1997 Amnesty International had been informed by the Greek authorities that the detainee's death was due to "pathological reasons". The authorities stated that an administrative investigation had revealed as "groundless" allegations that the detainee had been ill-treated. In its letter to the authorities in December, Amnesty International asked how they explained the apparent contradictions in the information received by Amnesty International, on 2 July in the ninth district of Budapest, two police officers stopped L. M. for an identity check. Although he did not have his identity card with him he asked the officers to release him. The police officers then reportedly pushed L. M. against their car, twisted his arms behind his back, handcuffed him, and pushed him to the ground. They then repeatedly beat and kicked him. When M. V., who is a friend of L. M., arrived at the scene of the incident and asked the police officers to stop the beating and to release him, they handcuffed her as well. The officers then took them to the Ninth District Police Station. L. M. was reportedly beaten in the police car by an officer who sat next to him, and who also allegedly held him by the neck and choked him. At the police station L. M., whose hands were still handcuffed behind his back, was reportedly kicked and punched in the face causing him to lose consciousness for a short period.

After his release L. M. was taken to a hospital where he spent three days for treatment of injuries allegedly suffered as a result of ill-

medical evidence surrounding the death of Lütfi Osmance. The organization also expressed concern that it had still not received any information on many other cases of alleged torture, ill-treatment and excessive use of force by law enforcement and prison officials which it had raised over the preceding two years.

### *Unfair trials*

In September the appeal hearing of a second subgroup of a group of 126 people arrested at Athens Polytechnic University in November 1995 took place. A total of 23 defendants were found guilty of disrupting public order and sentenced to 12 months' imprisonment, suspended for three years (see AI Index: EUR 01/01/97).

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## HUNGARY

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

treatment. A medical certificate described bruising on the left eye as well as lesions on the right shoulder and the back. M.V., according to a separate medical certificate, suffered a contusion to the right thigh and bruising around the wrists. On 31 July L.M. filed a complaint about police ill-treatment with the Budapest Public Prosecutor.

On 28 October 1997 representatives of the Hungarian Helsinki Committee (HHC), a local human rights organization, including a forensic medical expert, an attorney and a journalist, visited the lock-up of the Budapest Sixth District Police Station. In the course of their visit they heard a loud bang followed by a man crying out from behind a closed metal door. The officer in charge of the lock-up who accompanied them then opened the door and the HHC monitors observed two sergeants taking a handcuffed man, who had head injuries, to a detention cell. The officers repeatedly punched the detainee on the head and after pushing him to the ground they kicked him several times in the abdomen. After the HHC monitors introduced themselves, and the officer who accompanied them refused to admit the

detained man into the lock-up because of his injuries, the sergeants took the detainee, a Ukrainian national, to the officer on duty. In his office on the ground floor the HHC monitors then observed four other officers as they handcuffed another Ukrainian man while pushing him to the ground. A sergeant stepped on the detainee's head with his left foot. The officer on duty was then asked to inform his superior about the ill-treatment incidents and to take steps to provide medical treatment for the detained men. The following day both Ukrainians were released, but the police refused to disclose their identities.

In December Amnesty International urged the Chief Public Prosecutor to ensure that the investigations into the above-described incidents are carried out promptly and impartially, as required by Article 12 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which has been ratified by Hungary. Amnesty International also asked to receive information about the results of the investigations. In addition, concerning the ill-treatment of the two Ukrainian nationals in the Sixth District Police Station, In September, in response to an Amnesty International letter of March (see AI Index: EUR 01/06/97), the Prime Minister forwarded a Ministry of Justice document which supplied information on the status of investigations or trial proceedings in a number of cases of alleged ill-treatment documented in recent Amnesty International reports. However, the information requested in Amnesty International's letter was not provided. The organization had drawn the Prime Minister's attention to successive Amnesty International reports detailing its concerns and conclusions about alleged ill-treatment, sometimes amounting to torture, inflicted by law enforcement and prison officers. The organization also sought information about any steps already taken, or envisaged, to implement the recommendations made to the government by the UN Committee against Torture in 1995, and assurances that it was the government's policy to authorize publication of the reports drawn up by the Council of Europe's Committee for the Prevention of Torture (CPT), following its visits of inspection to Italy. Specifically, Amnesty

International asked to receive information on: whether the detained men were informed upon their arrest about their rights in a language that they could understand; whether before their release they were informed about their right to file a complaint about the ill-treatment; whether the two men were medically examined following their ill-treatment and if so which medical authorities performed this examination, and were any police officers present during the examination; and whether officers of the Sixth District Police Station contacted the two Ukrainian nationals following their release to inform them that representatives of HHC, who witnessed their ill-treatment at the police station, wished to speak to them about the incident.

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## ITALY

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

International asked about the likely date of publication of the CPT's report on its 1995 periodic visit to Italy and of its report on its November 1996 *ad hoc* visit to San Vittore Prison, Milan.

### *Report of the Council of Europe's Committee for the Prevention of Torture*

The government authorized publication, in December, of the findings of the two-week visit of inspection carried out by the CPT in 1995, together with its own interim response. The CPT delegation visited various places of detention in or near Catania, Milan, Naples, Rome and Spoleto between 22 October and 6 November 1995.

The Committee stated that a "considerable number" of detainees in Milan and "a certain number" in Rome had alleged ill-treatment by law enforcement officers, particularly police officers and, to a lesser extent, *carabinieri* officers. Further allegations had been heard in Naples and Catania. The

Committee expressed particular concern about the situation in Milan stating that, in the four weeks preceding its visit, approximately one detainee in 15 admitted to San Vittore central prison had alleged being ill-treated on or shortly after arrest, and that more than half displayed physical injuries or other medical symptoms compatible with their allegations. It called on the government to establish an independent inquiry into the treatment of detainees by Milan police.

In response, the Ministry of the Interior stated that between 30 September and 28 October 1995, 23 detainees admitted to San Vittore prison had alleged police ill-treatment at the time of arrest. The prison medical service had recorded no injuries on 11 but had recorded injuries on the other 12. The Ministry stated that, according to the official records, all the detainees in question had violently resisted arrest, sometimes injuring police officers.

The Committee repeated the conclusion of its 1992 visit of inspection - that people detained by law enforcement officers "and particularly foreigners and/or people arrested in connection with drugs-related offences, run a not inconsiderable risk of being ill-treated". It also reiterated its main recommendations on safeguards against ill-treatment by law enforcement officers. The Committee

The Committee described the so-called "Article 41-bis" prison regime, as observed in Spoleto prison, and applied to certain prisoners held in connection with organized crime, as one of the "toughest" it had ever encountered. It expressed concern that under the regime, the prisoners' extreme degree of isolation from the outside world, combined with frequent transfers, could cause irreversible mental damage and that one of the regime's "undeclared" aims might be to induce collaboration with the judicial authorities through psychological pressure.

***Alleged human rights violations by members of the armed forces in Somalia***  
(update to information given in AI Index: EUR 01/06/97)

expressed particular concern about the persistence of severe prison overcrowding and stated that overcrowding in San Vittore Prison had worsened since 1992, when it had found the overall conditions of detention already amounting to "inhuman and degrading" treatment. It also stated that a "large number" of Poggioreale prison inmates had alleged ill-treatment by prison officers. At Nisidra Penal Institution for Minors, a boy had told the delegation that a few weeks before the visit several prison guards had beaten him, after attaching his hands to metal bars. The CPT also noted "a strange attitude" displayed by the detainees interviewed. They had offered spontaneous, unsolicited, statements that they had no knowledge of any violent incidents between staff and detainees or amongst the detainees themselves, or had deliberately avoided speaking about their relations with the prison staff and co-detainees. Members of the prison personnel informed the CPT that some guards believed in, and administered, slaps to inmates, considering them of "educational" value. In February 1996 the Italian authorities informed the CPT that the relevant judge of surveillance had been asked to carry out an inquiry into the question of possible ill-treatment of minors at Nisidra Penal Institution.

The military and civilian judicial authorities continued to carry out investigations into allegations that members of the armed forces had tortured, ill-treated and unlawfully killed Somalis in 1993 and 1994 while participating in a UN-authorized multinational peace-keeping operation in Somalia.

A Government Commission of Inquiry into the conduct of the Italian armed forces in Somalia issued its findings in August. The 'Gallo' Commission, established in June and composed of both civilian and military members, was so-called because it was led by Ettore Gallo, a former president of the Constitutional Court. The Commission, accompanied by members of the magistracy, gathered information in Italy, Ethiopia and Kenya. It interviewed 141 people, including a small number of Somalis, but did not visit Somalia.



Amnesty International had welcomed the establishment of, and provided information to, the Gallo Commission and sought clarification from the Ministries of Justice and Defence of the precise terms of reference and procedures being followed by the various investigating authorities. In July Amnesty International recommended that members of the judiciary investigating the human rights violations and/or representatives of the Gallo Commission travel to Somalia to carry out on-site investigations as soon as possible.

In its August report the Commission described supporting evidence of general ill-treatment of prisoners at Johar camp. It also examined eight specific episodes of alleged human rights violations. It considered as credible the allegations that soldiers had subjected a Somali man to electric shocks; that four soldiers had gang-raped a Somali woman, after one of them had beaten her semi-conscious, and that a group of soldiers had raped another with a pistol flare. All three episodes were already under judicial investigation, as was the alleged rape and murder of a 13-year-old Somali boy by an army major. However, the Commission did not consider the allegations in the last case and the allegations of ill-treatment and unlawful killing made in three others as credible. The Commission appeared undecided as to the veracity of the eighth episode.

The Commission concluded that the overall conduct of the Italian troops in Somalia had been good; that specific violations had been

In September the Minister of Justice informed Amnesty International that public prosecutors attached to criminal courts in Livorno and Pescara had initiated five proceedings against Italian soldiers in connection with various offences, including sexual assault of Somali women, deliberate infliction of injuries leading unintentionally to the death of Somali citizens and the infliction of ill-treatment and physical injuries.

### ***Fair trial concerns***

In December Ovidio Bompressi, Giorgio Pietrostefani and Adriano Sofri applied, under the provisions of the Code of Penal Procedure, for a

carried out at the level of the ranks; that lower-ranking officers had sometimes participated actively or passively and had failed to exercise proper discipline but that senior, professional, officers were apparently not “directly involved” in the violations and that a “stretched” line of command had made failure to report violations to them inevitable.

The Commission expressed concern about the lack of appropriate training for conscripts and urged the military authorities to upgrade human rights training. It recommended that on future peace-keeping missions troops should be accompanied by magistrates, to gather on-site evidence of violations, and by experts on international and national human rights standards, to guarantee the upholding of such standards and to teach them to local populations. Within days of the report being lodged, new information came to light about further human rights violations by Italian troops in Somalia, accompanied by claims that high-ranking army officers had been aware of them and had not intervened to prevent them. The Minister of Defence asked the Gallo Commission to reopen its inquiry. It reconvened in September but its investigations were reportedly hampered because it did not have access to a substantial part of the new evidence which, being already under investigation by the military prosecutor’s office, was subject to judicial secrecy. The Commission’s inquiries were still under way at the end of December.

judicial review of the legal proceedings which had resulted in their imprisonment in January 1997 to begin 22-year sentences for participation in the killing of Police Commissioner Luigi Calabresi. He had been shot on his own doorstep in Milan in 1972. Milan’s Court of Appeal was expected to decide on the admissibility of their application by the end of March 1998.

In December 1969 Pino Pinelli, an anarchist, was illegally held in Milan police headquarters for three days under questioning about a bomb attack which had just taken place in the city’s Piazza Fontana, injuring over 100 people and killing 16. Pino Pinelli fell to his death from a fourth-floor window at the police station. The precise circumstances of his death remain

unclear. The police issued confusing statements about his death, attributing it first to suicide, then to an accident and there were widespread doubts about the official version of events. The extra-parliamentary left-wing group *Lotta Continua* (Continuous Struggle), disbanded in 1976, conducted an extremely virulent campaign via its newspaper expressing the view that Pino Pinelli had been killed by the police. It held Police Commissioner Luigi Calabresi responsible for his death.

When the commissioner was assassinated in 1972 no group claimed responsibility. *Lotta Continua* stated that it did not consider assassination "an instrument of political struggle" but that the death of Commissioner Calabresi was an act in which "the exploited classes" could "recognize their will to justice". For many years the police searched unsuccessfully for the commissioner's killers amongst groups of both the far Left, including *Lotta Continua*, and the far Right.

The criminal proceedings against Ovidio Bompressi, Giorgio Pietrostefani and Adriano Sofri opened in 1988 after Leonardo Marino, a former member of *Lotta Continua* said that he had

Amnesty International was concerned about the excessively lengthy and complex judicial proceedings and about several other aspects of the proceedings which raised serious doubts about their fairness. These included the extent to which the final verdict relied on the uncorroborated evidence of a *pentito*, whose testimony was revealed during the proceedings to contain contradictions and imprecisions, and also the destruction and disappearance of key material evidence since the killing in 1972. In one instance evidence was destroyed some five months after the opening of the criminal proceedings against the three prisoners.

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## KAZAKHSTAN

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### *Alleged beatings and ill-treatment of members of the political opposition*

driven the get-away car for the commissioner's assassin. He stated that Ovidio Bompressi, a prominent *Lotta Continua* member, had been the assassin and that Adriano Sofri, its leader, and Giorgio Pietrostefani, one of its committee members, had been the instigators (*mandanti*). He also confessed to a series of robberies which he said had been committed both on behalf of *Lotta Continua* and, after its disbandment, for his personal gain.

All four were first sentenced for the killing by an assize court in 1990 but a further six trials followed, three at appeal court level, including one which acquitted them, and three at Supreme Court level, including one which annulled a guilty verdict. The Supreme Court's definitive guilty verdict was issued by its Fifth Criminal Chamber in January 1997. Leonardo Marino was not imprisoned after the verdict. As a *pentito*, a person benefiting from legislation allowing remission of sentence in return for collaboration with the judicial authorities, he had received a reduced sentence of 11 years' imprisonment in 1990 and by 1995 had also benefited from the statute of limitations. He had previously spent some three months in prison.

On 2 June Madel Ismailov, the chairman of the opposition "Workers' Movement" of Kazakhstan was detained at work, taken to court and summarily sentenced to 15 days' administrative arrest for reportedly organizing an unsanctioned meeting in the capital Almaty on 1 May. While in detention a second charge of "organizing mass actions disturbing public order" in relation to a demonstration in front of Almaty City Council on 30 May was brought against him. Madel Ismailov spent three and a half months in pre-trial detention, during which time he claimed to have been subjected to beatings, ill-treatment and humiliations by prison officers and officials conducting the investigation into his criminal case. During his hearing at the Almaliinsky District Court in Almaty on 17 September Madel Ismailov stated that from 3 June onwards he had suffered beatings to his arms and back carried out with rubber truncheons; he had not been allowed to wash for 24 days; he was forced to squat for half an hour or longer on swollen and painful legs and was locked in a so-called "glass", i.e. a one-by-one

meter cell. He also alleged that in order to punish him for going on hunger strike the prison authorities put him in solitary confinement - *kartser* - for four days. While in solitary confinement he was not able to sit or lie down, the bed having been folded up and locked against the wall. It was not even folded down at night to allow him to sleep. The prison guards reportedly forced him to wash the floor of the *kartser* with his bare hands and made him drink water from the toilet bowl.

On 17 September Madel Ismailov was given a non-custodial 12 months' sentence by the Almaliinsky District Court. It was reduced to nine months because of the time he had spent in pre-trial detention. There were serious concerns that the ill-treatment Madel Ismailov suffered in detention may have been an attempt to punish him for his peaceful political opposition to the Kazakhstani regime and to frighten him into stopping his political activities.

On 1 December another senior member of the Kazakhstani opposition, Pyotr Svoik, co-chairman of the "Azamat" movement and

Amnesty International received further allegations of ill-treatment of opposition activists in the city of Uralsk. On 18 September 21-year-old Aynur Kurmanov, a member of the Workers' Movement and leader of the Uralsk Young Communist League, and 27-year-old Sergey Kolokolov, a member of the Uralsk Young Communist League, were arrested on suspicion of having painted anti-presidential slogans on a fence in Uralsk on the night of 25-26 March. They were put in pre-trial detention. They were charged with forming a criminal group, publicly offending the President, involving underage persons in criminal activities and hooliganism. A third defendant, 17-year-old Vasilij Nikolayev, was also charged but remained at liberty. All three denied the charges and claimed that these had merely served as a pretext for detaining them solely for non-violent anti-government views and their opposition political activities. They had been detained previously on 25 May in connection with the anti-government graffiti, but were released for lack of sufficient evidence against them. The charges, however, were not dropped.

chairman of the Socialist Party of Kazakstan, was reportedly severely beaten by four unidentified men. At the time of the assault Pyotr Svoik was in Bishkek, Kyrgyzstan, to attend an international conference on "Democratic Processes in Central Asia: Experience and Perspectives" and to give a presentation on the political opposition movement in Kazakstan. At about 10:30 p.m. four unknown men wearing masks reportedly broke into Pyotr Svoik's hotel room and started beating Pyotr Svoik and his wife Natalya Chumakova - both asleep in bed - with truncheons. After a few minutes and having delivered one sharp blow to Pyotr Svoik's head and striking Natalya Chumakova the four masked men left in silence. The emergency services and the police were called. Pyotr Svoik sustained a concussion. The Kyrgyz authorities opened a criminal investigation into the beating. Pyotr Svoik believed the attack to have been carried out by members of the Kazakhstani security service with the intention of intimidating him into ceasing his political activities.

Sergey Kolokolov alleged that he had been beaten and ill-treated by law enforcement officers when first detained in May in order to make him confess his guilt. His defence lawyer was reportedly physically removed from the interrogation room when she attempted to advise him not to confess. There was also concern at reports that Aynur Kurmanov had been previously subject to apparent threats by law enforcement officials, and in particular that he was singled out while participating in a demonstration on 1 May, when police officers allegedly threatened that they would "get hold of you somehow". Supporters claimed that Aynur Kurmanov had also been ill-treated during questioning in May. The trial started at the end of November.

Amnesty International was concerned that the beatings and ill-treatment of political opposition activists as well as the bringing of criminal charges against them were part of an official clampdown on dissent in Kazakstan.

### *Decriminalization of homosexuality*

In July President Nursultan Nazarbayev signed into law a new Criminal Code to take effect in 1998. The new Criminal Code decriminalized homosexual acts between consenting adult men.

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

The new Criminal Code taking effect in 1998 reduced the death penalty to three peace-time offences: premeditated aggravated murder, genocide and sabotage. Treason is punishable by death only in times of war. Eight military crimes were punishable by death. The code specified that an execution could only be carried out one year after a death sentence was passed and that a death sentence could be commuted to life imprisonment or to 25 years' imprisonment. No official figures on the number of death sentences passed were available, but it was reported that at least 45 people submitted appeals for clemency in the first 10 months of the year, of which seven were granted. However, at least 35 people were executed.

(For further information about prison conditions amounting to ill-treatment see *Children in Europe*, pp. 72-75, below.)

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## **KYRGYZSTAN**

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***Prisoners of conscience*** (update to information given in AI Index: EUR 01/06/97)

### **Political activist Topchubek Turgunaliyev**

In November, after eight months and nine days in the remote Arka penitentiary, Topchubek Turgunaliyev was allowed to return to Bishkek and serve the remainder of his sentence in colony number 35 of Bishkek. He was allowed to live at home and seek the necessary assistance for his various medical conditions. In an interview with Radio Free Europe/Radio Liberty he said that some political observers had speculated that his return to Bishkek was a direct result of the visit of Hillary Clinton, wife of the President of the USA, to Kyrgyzstan in November. Amnesty

### ***Prosecutions of journalists for criminal libel***

At a retrial in a Bishkek district court in September journalist Yrysbek Omurzakov was sentenced to a total of 30 months' imprisonment for criminal libel. A two-year suspended sentence passed on him in July 1996 for slandering the President became active as a result of his latest conviction and formed part of his current 30-month sentence (the latest sentence was for six months). He remained at liberty, however, pending an appeal to Bishkek City Court. His co-defendants, Damira Akmatova and Gulya Ibraimova, were sentenced to six months' imprisonment but were released from the court room under the terms of an amnesty decree of August 1997. In November Yrysbek Omurzakov was amnestied by Bishkek City Court. The court upheld the charge of libel, but applied the terms of the August amnesty decree to his case. Yrysbek Omurzakov lodged an appeal with the Supreme Court to overturn the libel charge. (For a detailed account of the background to this case, see *Kyrgyzstan - Prisoners of conscience back on trial: The cases of Topchubek Turgunaliyev and Yrysbek Omurzakov*, AI Index: EUR 58/08/97.)

Zamira Sydykova, editor-in-chief of the newspaper *Res Publica*, was acquitted by the Supreme Court on 5 August 1997 and released the same day. (For further details see *Women in Europe*, pp. 68-71, below.)

International considered Topchubek Turgunaliyev a prisoner of conscience. (For a detailed account of the background to this case, see *Kyrgyzstan - Prisoners of conscience back on trial: The cases of Topchubek Turgunaliyev and Yrysbek Omurzakov*, AI Index: EUR 58/08/97.)

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

In October President Akayev signed a new Criminal Code into law. It retains the death penalty for six criminal offences. A proposed extension in the scope of the death penalty to cover large-scale drug possession as put forward

by the Supreme Court was not included in the new Criminal Code.

Amnesty International learned that three of 10 men sentenced to death in 1996 were executed in May 1997. The remaining seven were reported to be still alive in August 1997, according to information from the Ministry of Internal Affairs. In the first 10 months of 1997 at least 26 executions were carried out. Full statistics on the application of the death penalty in 1996 became available; 51 death sentences were passed of which two were commuted. Fifteen executions were carried out. In the period under review Amnesty International learned of four new death sentences in Kyrgyzstan, all of them passed in 1997.

### ***Decriminalization of homosexuality***

The new Criminal Code, to take effect in 1998, decriminalized homosexual acts between consenting adult men.

Although many of the demonstrators were violent, using petrol bombs, iron bars and some carrying firearms, the reaction of the police included the beating of demonstrators who did not offer or who had ceased to offer resistance to arrest. Many people who had no connection with the demonstration were also beaten or otherwise ill-treated. Evidence for this included video tapes showing men being kicked and beaten by police as they lay on the ground or in other prone positions, and testimony gathered by Amnesty International. During the police operation they entered homes and businesses in the centre of the town. People were beaten by police with truncheons, kicks and fists in their homes, on the street and in the police station to where at least 300 people were taken. The victims were predominantly male, some as young as 13 years or as old as 72. There were also some women victims; one elderly woman

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## **MACEDONIA, FORMER YUGOSLAV REPUBLIC OF**

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### ***Gostivar and Tetovo: ill-treatment and torture of ethnic Albanians and Turks, causing the death of one man; unfair trials of political prisoners***

The central government was in dispute with the local authorities in the west of the country controlled by the Democratic Party of Albanians (DPSH) over the use of the flags of the national minorities for official purposes. The dispute resulted in the passing by parliament on 8 July of a new law regulating the use of flags, which was followed in the early hours of 9 July by the removal of the flags in Gostivar and the detention of the Mayor, Rufi Osmani, and other ethnic Albanian officials. A large crowd of ethnic Albanians and Turks gathered to demonstrate during the day. A force of several thousand police with riot equipment was already deployed. After some minor clashes in the morning violent disorder erupted in the afternoon.

described being hit on the head while her husband was beaten and taken away.

One man died as a result of being beaten. The authorities appear not to have opened an investigation into the criminal responsibility for his death, nor that of two other ethnic Albanians who died of bullet wounds and who may also have been unlawfully killed. More than 200 people received medical treatment, mostly as a result of having been beaten by police. Nine police officers were also treated in hospital for injuries which they received during the clashes.

A small number of local officials and activists in the DPSH were detained in Gostivar and Tetovo. Three of them stated to Amnesty International that they were taken by police to Skopje or Kumanovo where they were interrogated for hours on end during which they were tortured by systematic beatings.

Four men - the Mayor and Chairmen of the local councils in Gostivar and Tetovo - were convicted of "failing to carry out judicial decisions" and sentenced to up to three years' imprisonment in trials in September and October. Gostivar Mayor Ruzi Osmani was also charged with organizing resistance to the authorities and was sentenced to 13 years and eight months' imprisonment. His trial was unfair: defence lawyers were restricted in their opportunities to prepare the defence, for example, by being denied copies of documents cited by the prosecution. All four men remain free pending appeal.

### ***Restrictions on freedom of expression***

On 20 August I\_o Gavrilov was convicted and sentenced to three years' imprisonment for "Damaging the reputation of the Republic of Macedonia", according to Article 178 of the Criminal Law after he deliberately trod on the national flag at the National Day celebrations near Kruševo on 2 August. Amnesty International considers that the use of Article 178 represents a restriction on freedom of expression which violates Article 19 of the International Covenant on Civil and Political Rights to which Macedonia is a party. Amnesty International will adopt I\_o Gavrilov as a prisoner of conscience if he is sent to serve his sentence. Several other people who were also at the celebrations have been prosecuted for "insulting" President Kiro Gligorov and may also become prisoners of conscience.

Amnesty International was informed during the period under review that on 6 January 1997, a group of seven Roma were walking in the Roma neighbourhood in the town of Soroca, when a police car carrying two police officers allegedly pulled up in front of them and blocked their way. The two police officers, allegedly under the influence of alcohol, jumped out of the car, pulled out their guns and started shooting in the air. The police officers then forced the seven men against a wall, searched them and started beating them in the head with the butts of their guns. The police officers reportedly did not provide any explanation for their behaviour and later released the Roma men.

## **MOLDOVA**

In fulfilment of its commitments on joining the Council of Europe, Moldova ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms in September and Protocol No. 6 of the Convention, relating to the abolition of the death penalty, which came into force on 1 October. The Government of Moldova also ratified the European Convention for the Prevention of Torture in October; this was due to come into force in February 1998. The Moldovan parliament said however, that Moldova is unable to ensure the conventions' implementation in the self-proclaimed Dnestr Moldavian Republic (DMR). The government of Moldova also said that it would need one year in which to amend existing legislation that contradicts the two conventions.

In the DMR reports continued about the use of Presidential decree No. 222 on the Introduction of a State of Emergency. Under the provisions of this decree law enforcement officials could detain suspects for up to 30 days without charge and allegedly without access to a defence lawyer. There were reports that the DMR authorities continued to use the provisions of the decree to detain political opponents.

### ***Ill-treatment of Roma men by police***

It was reported to Amnesty International that as a result of the police ill-treatment, Igor Cerari and Artur Preida suffered serious head injuries and had to undergo medical treatment at the Soroca state hospital. The two men filed a complaint against the police officers at the Soroca District Police Department. According to reports, the chief of the Soroca Police Department, claimed that an investigation into the incident had been carried out by the Office of the Procurator and concluded that the two police officers had acted within legal bounds. However other sources claimed that at the Soroca Office of the Procurator there was no record of the case.

Amnesty International urged the authorities to initiate without delay a prompt, impartial and comprehensive investigation into this and any allegations of ill-treatment of people by police officers, with the results made public and anyone found responsible brought to justice.

***The imprisonment of Ilie Ila\_cu and the case of the "Tiraspol Six"*** (update to information given in AI Index: EUR 01/06/97)

Alexandru Le\_co, Andrei Ivan\_oc and Ilie Ila\_cu were reported to be suffering from serious illnesses and to have not been provided with adequate medical care. The DMR authorities repeatedly refused to allow independent medical examination of the prisoners by outside experts, including representatives of the International Committee of the Red Cross. In an unprecedented move in November, the DMR authorities allowed an independent medical commission access to Ilie Ila\_cu in detention. However the commission was not given access to the appropriate medical equipment in order to carry out an examination of Ilie Ila\_cu's *health condition*.

Amnesty International continued to call for a review of the case, and for the remaining four prisoners to receive all appropriate medical care.

Several of the students who were arrested alleged that police officers beat, kicked and verbally abused them on the square, in the police cars, and while they were walking to the police station. One of them, Krzysztof Kwiatkowski, the deputy chairman of the national committee of NZS, was reportedly beaten with a truncheon and punched on his legs, shoulders and face. He was hospitalized for five days and upon his release issued with a medical certificate which stated that he had suffered a brain concussion, bruising to the head, bruising to the right thigh and the inner knee, and bruising to the left thigh. In addition he claimed that at the station he was not allowed to take medicine which he should swallow daily at a fixed hour. The students also alleged that while in the station they were denied permission to telephone a lawyer or their parents. Krzysztof

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## POLAND

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### *Alleged police ill-treatment*

Amnesty International was concerned about reports that in May 1997 Polish police officers used excessive force during demonstrations which took place in the towns of \_ód\_ and Kraków. Several people were reportedly beaten up, kicked and otherwise ill-treated by police officers.

On 1 May two independent student organizations - *Federacja M\_odzi\_y Walcz\_czej* (Federation of Fighting Youth, FMW) and *Niezale\_ne Zrzeszenie Studentów* (Independent Students' Association, NZS) - had organized a demonstration in \_ód\_ to protest against a Labour Day meeting which was scheduled to take place. Around 50 students, who had gathered at one of the edges of Stary Rynek Square, were denied access to the square by a police force of approximately 200 officers who surrounded them. The police then arrested several of the students, and took them by car to the police station in \_ó\_d-Ba\_uty.

Kwiatkowski's brother, Sebastian, was reportedly also beaten and kicked in the back. The students, 13 in total, were all questioned by the police and then released by midday.

On 3 May 1997 in Kraków police officers reportedly used excessive force while dealing with a protest organized by members and supporters of the Republican League (*Liga Republika\_ska*, LR) and the Movement for Polish Renewal (*Ruch Odbudowy Polski*, ROP) who were opposed to a memorial procession organized by the Democratic Left Alliance (*Sojusz Lewicy Demokratycznej*, SLD). As soon as the SLD procession started clashes broke out between the police officers who formed a cordon, guarding the procession, and members of the opposition groups who were attempting to halt the procession. According to eye-witnesses, the police, while

pushing demonstrators - many of whom were protesting peacefully - and journalists away from the procession, acted extremely violently. The LR chairman, Wojciech Polaczek, was reportedly beaten with a stone by a police officer before being taken to the police station. He alleged that he was further ill-treated in the police car and in the station, and that handcuffs were put across the palms of his hands instead of around his wrists, causing severe pain and swelling. He later had to be taken to a first aid post with a suspected concussion and had to have five stitches. Two other LR members, Rafał A and Marcin K, were thrown onto the ground and kicked in the stomach and in the groin by police officers, and one of them had to be taken to a first aid post afterwards. A female journalist working for the newspaper *Gazeta Krakowska* was reportedly beaten with a metal stick by a police officer.

In October Amnesty International asked the Minister of the Interior for information on the results of the investigation initiated by the *óód* Regional Public Prosecutor's office into the reported ill-treatment of Krzysztof Kwiatkowski and others. The organization also asked to receive information about whether the Kraków public prosecutor had carried out an investigation into complaints of police ill-treatment made by representatives of LR and, if so, what was the outcome.

Another report received by Amnesty International concerns police ill-treatment of three students in Wrocław. On 15 June 1997 at about 3am in Reja street number 69, three police officers asked D.S. to come out of the house and explain a matter concerning his car which was parked in the

According to medical certificates issued on 16 June, A.F. suffered bruising on the buttocks, while P.R. suffered bruises on the left upper arm, wrist and first finger of his left hand. The forensic medical expert who examined them concluded that their injuries were consistent with the allegations of ill-treatment. A.F., P.R. and D.S. filed complaints about the ill-treatment with the local prosecutor. In January 1998 Amnesty International asked the Minister of Justice for information about the results of the investigation into the ill-treatment complaints.

street. One officer reportedly beat him with a truncheon on the back and then pushed him, making him fall to the ground, and handcuffed him. At the same time six or seven police cars came to the scene of the incident with over 20 officers who were armed with truncheons and accompanied by several dogs. An officer who took D.S. to a police car reportedly continued to beat him. One woman, who was standing by an open window of the house protesting about the abusive police conduct, was threatened by a police officer who allegedly said that he would shoot her. An officer, who appeared to be in charge of this police action, reportedly hit A.F., another occupant of the house, with a truncheon on the back of her legs. Another officer reportedly crushed P.R.'s first finger of his left hand, by kicking the gate of the fence. He then allegedly hit P.R., also an occupant of the house, several times with a truncheon on his left arm. Although they did not present a warrant, the police entered the house reportedly threatening to use tear-gas. Seven people who were in the house at the time of the incident were then forced to stand for half an hour in the courtyard with their hands held up, while police officers who surrounded and allegedly abusively addressed them threatened to set the dogs on them. Other officers proceeded to search the house. D.S. was taken to the police station for allegedly attempting to assault a police officer and released later that morning. No information was available to Amnesty International that anything had been requisitioned during the search or that anyone who was found in the house, other than D.S., would be charged with any offence.

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## PORTUGAL

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### *Recommendations of the UN Committee against Torture*

In November the UN Committee against Torture considered Portugal's second periodic report on its implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading



Treatment or Punishment. Amnesty International submitted information to the Committee about a number of its concerns, which were reflected in the Committee's Conclusions and Recommendations. In a document entitled *Portugal: A brief summary of Amnesty International's concerns: January - October 1997* (AI Index: EUR 38/09/97) the organization expressed its disappointment with what it considered to be the questionable effectiveness of that section of the revised 1995 Penal Code which, for the first time, introduced specific crimes of torture and ill-treatment and provides for the punishment of superior officers failing to report such crimes. The document also referred to some of the most recent allegations Amnesty International had received of ill-treatment by law enforcement and prison officers and gave an update on cases of deaths in police custody and of police impunity.

During consideration of Portugal's report the Committee welcomed, among other positive aspects, the adoption and implementation by the Portuguese authorities of education programs in the area of human rights, but it also raised specific cases of alleged ill-treatment, including those of concern to Amnesty International, such as Vítor Santos (see below), Belmiro Santana (see AI Index: EUR 01/06/97) and the "street children" of Madeira (see AI Index: EUR 01/01/97), who reported to Amnesty International that they had. The public prosecutor (*Ministério Público*) of Vila Franca de Xira was reported in November to have re-opened the case of Vítor Manuel Soares Santos, who was found shot in the head hours after being taken into and released from police custody (see AI Index: EUR 01/06/97). Before his death, which an autopsy report concluded had been suicide, Vítor Santos claimed to family members and neighbours that he had been ill-treated by the two PSP officers who had detained him. However, a disciplinary inquiry carried out by the General Inspectorate of Internal Administration (*Inspecção-Geral da Administração Interna - IGAI*) found no evidence of assault by the officers and affirmed that, contrary to some press reports, the autopsy had not discovered any external signs of violence. A judicial inquiry continued, but in August was closed. The public prosecutor was

been ill-treated by officers of the Public Security Police (*Policia de Segurança Pública - PSP*). Other questions raised by the Committee included that of effective impunity of law enforcement officers and the nominal sentences given in those exceptional cases in which offenders were held accountable for serious crimes of torture and ill-treatment.

In its Conclusions and Recommendations the Committee expressed grave concern over "recent cases of ill-treatment, torture and even suspicious deaths, in which public security forces were suspected, particularly the police [a specific reference to the PSP] as well as the apparent lack of appropriate reaction on the part of the authorities responsible". The Committee urged the Portuguese authorities to make greater attempts to bridge the gap between the law and its application, to apply appropriate punishment where due and to clarify the laws governing torture or ill-treatment by law enforcement officers in order to ensure that inquiries were "automatically and systematically" opened into all cases where there was reason to believe torture had occurred.

#### ***Update on deaths in or following police custody***

reported to have subsequently decided that certain avenues of inquiry were still to be explored, and ballistics experts were reportedly being consulted as regards the number of bullets that had been fired from the gun found by the body of Vítor Santos.

#### ***Verdict on sergeant of Republican National Guard (GNR) for "crime of Sacavém"***

On 19 December the *Tribunal da Boa Hora* in Lisbon convicted a GNR sergeant for the murder (*homicídio simples*) of Carlos Rosa who, on a night in May 1996, had gone voluntarily to the GNR post of Sacavém to assist with inquiries into drugs-related offences (see AI Index: EUR 01/06/97). The sergeant was sentenced to a total

of 17 years' imprisonment - 12 for the killing itself, the remainder for breach of official duty and for concealing and mutilating the corpse. A second GNR officer was sentenced to six years' imprisonment for breach of official duty and assisting with concealment of the body, and a third to a prison term of two and a half years, suspended for five years. Four other GNR officers were acquitted. The sergeant, who had been in charge of the GNR post on the night of the crime, admitted to the shooting and beheading of Carlos Rosa, but had attempted to argue in court that he had fired the gun accidentally.

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## ROMANIA

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### *Prisoner of conscience*

In December Amnesty International learned about the imprisonment of Mariana Cetiner, who was convicted under Article 200, paragraph 5, of the Romanian Penal Code for attempting to seduce another woman (see *Women in Europe*, pp. 68-71, for further details). Because she was held solely for her homosexuality she was considered to be a prisoner of conscience and the organization urged President Emil Constantinescu to immediately and unconditionally release her. Article 200, paragraph 5, of the Romanian Penal Code came into force in November 1996 (subsuming an offence which was previously proscribed by Article 200, paragraph 4). It punishes by one to In the period under review information came to light about the alleged ill-treatment of dozens of prisoners in the Jilava Penitentiary in Bucharest on the night of 23-24 February 1997. Following a week-long hunger-strike organized by prisoners as a peaceful protest against overcrowding and other poor conditions the penitentiary authorities intervened to re-establish order. Most of the guards who participated in this action wore balaclavas and were armed with truncheons and wooden batons. In at least one instance a tear-gas canister was activated before officers entered a room where they allegedly indiscriminately beat, punched and kicked the prisoners who were inside. Dozens of prisoners subsequently required medical treatment for injuries, some serious,

five years' imprisonment "enticement or seduction of 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". From 1993 Amnesty International had appealed to the Romanian Parliament not to adopt this legal provision, considering that it could lead to imprisonment of individuals solely for having exercised their rights to freedom of expression and to freedom of assembly and association. In November 1996, Amnesty International called on the newly elected Romanian authorities to revise this and a number of other provisions of the Romanian Penal Code which it considered to be in contradiction with international human rights standards ratified by Romania. In August 1997 Amnesty International wrote to the Minister of Justice urging him to propose a revision of Article 200 and asked to receive information on all convictions under this law in 1995 and 1996. In December the Minister replied that he intends to propose the abolition of Article 200, paragraph 1 (which prohibits homosexual relations between consenting adults "if the act was committed in public or has produced public scandal"). However the requested information, which would have indicated the full extent to which this law had been applied in the past, was not sent to the organization.

### *New cases of alleged torture or ill-treatment*

which reportedly was not promptly and adequately administered to them. In December Amnesty International urged Sorin Moisescu, General Prosecutor of Romania, to ensure that the investigation into ill-treatment complaints by detainees is carried out promptly and impartially. The accounts of three prisoners who allegedly suffered severe ill-treatment were published in January 1998 in a report *Romania: Alleged ill-treatment of prisoners in Jilava Penitentiary* (see AI Index: EUR 39/2/98).

On 4 July 1997 Belmondo Cobzaru, a 24-year-old Rom, was reportedly ill-treated by officers at Mangalia police station. He had voluntarily presented himself at the police station in order to explain an earlier incident in which he

had broken into his girlfriend's apartment, in the presence of her neighbours, fearing that she had attempted to commit suicide. He was accompanied to the police station by a friend, who then informed the Cobzaru family of his whereabouts. Belmondo Cobzaru claims that he was severely beaten at the police station by Sergeant Major G and Officer C<sup>5</sup>. Four plainclothes officers observed the beating and took no steps to prevent or halt it. Sergeant Major G and Officer C reportedly punched Belmondo Cobzaru in the head until his nose started to bleed, and he was thrown to the ground and kicked. A newspaper was placed on the back of his neck (apparently to prevent signs of injury) and he was hit with a wooden stick. Before he was released Belmondo Cobzaru was forced to sign a statement stating that he had been beaten by his girlfriend's brother-in-law and some other men. At around 10.30pm he was allowed to leave the station and told to return the next morning with his father, who is the leader of a local Romani organization. Later that evening he was admitted to Mangalia hospital and then transferred to the neurosurgical ward of Constanța County Hospital, where he was treated for head injuries. He was released on 7 July and was examined by a forensic medical expert, who issued a certificate describing bruising around the eyes, on the third and fourth fingers of the right hand, chest, right thigh and leg. On 21 July Belmondo Cobzaru filed a complaint about police ill-treatment with the Constanța Military Prosecutor.

In another incident which occurred on the evening of 20 July Dumitru Aura\_Marcu and his wife Mariana Marcu went to a cafe in their home village of R\_zvad, with their nine-year-old son and two nephews. The police were called to intervene following a dispute with Dumitru's sister and her husband. Two officers from a nearby

### *The case of Viorel Baciu*

In November Amnesty International expressed concern to Valeriu Stoica, the Minister of Justice,

police station came to the cafe and reportedly sprayed Dumitru Aura\_Marcu and Mariana Marcu with tear-gas. One officer allegedly hit Mariana Marcu on the chin, causing her to fall to the ground. Dumitru Aura\_Marcu was handcuffed and then punched all over his body on the way to the police station. In the front yard of the police station Dumitru Aura\_Marcu was handcuffed to a metal signpost and shortly afterward released. Two days later Dumitru Aura\_Marcu was examined by a forensic medical expert, who issued a certificate describing fractures of two left ribs and multiple bruises and lesions on the back, requiring 15-16 days of treatment. The Marcus did not seek an examination or medical certificate for Mariana Marcu's injuries because the cost of such an examination was 67,500 lei (US\$10), a considerable sum of money for a family of modest means. Several days after the incident Dumitru Aura\_Marcu and Mariana Marcu received fines of 500,000 lei (US\$65) each, under Law No. 61/91 for disturbing the peace. They appealed against these fines at the municipal court in Târgoviște and filed a complaint about police ill-treatment with the Ploiești Military Prosecutor. A witness to the incidents in the cafe was later summoned to the police station in R\_zvad and was reportedly threatened by police officers not to testify.

Amnesty International received reports of nine other incidents involving 10 people who were allegedly ill-treated by law-enforcement officials. The reported torture of a 10-year-old boy is described in *Children in Europe*, pp. 72-75, below. In October and November, Amnesty International urged Romanian authorities to promptly investigate these reports, to publish the results and to bring to justice those who are found responsible for human rights violations.

that current detention of Viorel Baciu, a victim of alleged police torture and arbitrary imprisonment whose case was first raised with the Romanian authorities in July 1991, appears to be in violation of Article 13 of the Convention against Torture and Other Cruel, Inhuman and Degrading

known to Amnesty International.

<sup>5</sup>The full names of the police officers are

Treatment or Punishment, which calls on State Parties to ensure that the complainant's case is promptly and impartially examined and that the complainant or witnesses "are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given". The organization was also concerned that, as long as he is detained in Bucharest, Viorel Baciú is denied an effective legal remedy warranted by Article 14 (5) of the International Covenant on Civil and Political Rights.

Viorel Baciú was arrested on 23 October 1988 following a murder in Dumbraveni, in Suceava County. He was apparently falsely charged with this murder because of his father's activities as a member of the Jehovah's Witnesses religious group. The history of harassment of the Baciú family at the time was well documented. Viorel Baciú was reportedly tortured by police officers in order to force him to confess to the murder. He was tried in Suceava County Court on 27 September 1989 and sentenced to 17 years' imprisonment. In July 1991 Amnesty International urged the Romanian authorities to thoroughly and impartially investigate the reported torture of Viorel Baciú and to bring to justice those responsible. On 8 January 1992, considering that the charges against Viorel Baciú were groundless and essentially illegal, the General Prosecutor of Romania filed an extraordinary appeal against his conviction and ordered that Viorel Baciú should be released. However, on 6 April 1992 the Supreme Court of Romania rejected as unfounded the extraordinary appeal and Viorel Baciú was reimprisoned on 8 February 1993 (for more details on this case see *Romania: Continuing violations of human rights*, AI Index: EUR 39/07/93).

In June 1997 Viorel Baciú addressed a complaint to the Minister of Justice about his prolonged detention in Bucharest which prevents his appeal from being promptly heard in Suceava. This letter was withheld by the Jilava penitentiary authorities which claimed that the letter should have been addressed to the Bucharest Military Tribunal as the competent authority for such a complaint. In September the commander of the Jilava penitentiary confirmed this to a representative of Amnesty International, adding

In September 1994, Viorel Baciú was pardoned by a presidential decree and released from prison. At the same time Bac\_u Military Prosecutor indicted two police officers for his illegal arrest and abusive investigation. On 30 March 1995 the Military Tribunal, after a hearing which was closed to observers and held in the police station where Viorel Baciú had been tortured, dismissed the charges against the two police officers on the grounds that the statute of limitation had taken effect. The military prosecutor as well as Viorel Baciú appealed this decision and a retrial began before the Bucharest Military Tribunal.

In the meantime, on 19 September 1996, Viorel Baciú was arrested on charges of theft and trespass of private property. The Suceava County Court sentenced him in December 1996 to five years' imprisonment. Viorel Baciú appealed this decision on the grounds that the court did not examine his alibi and had convicted him solely on the basis of evidence provided by persons who were incited to testify against him by the accused police officers and their colleagues. Before his case could be reviewed by the Appellate Court, Viorel Baciú was transferred on 5 February 1997 to the Jilava penitentiary in Bucharest on the orders of the Bucharest Military Tribunal so that he should testify at the trial of the two police officers. Subsequent summonses for Viorel Baciú to appear before the Appellate Court in Suceava had been deferred by the Bucharest Military Tribunal until the end of the trial of the two police officers. A new hearing in this trial had been set for 3 December but no information about its outcome was available to Amnesty International at the time of publication of this report.

that their aim was to "assist" detainees in addressing their complaints to proper authorities.

Amnesty International urged the Minister of Justice to review the case of Viorel Baciú; to ensure that he is protected from all forms of intimidation and harassment as a consequence of his complaint of torture; and to ensure that he can fully exercise his right to defence and to an effective legal remedy as guaranteed by the Romanian Constitution and international human rights standards.

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## RUSSIAN FEDERATION

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### *Failure to protect asylum-seekers*

Amnesty International has serious concerns about the treatment of asylum-seekers which are set out in detail in the report *Russian Federation: Failure to protect asylum seekers* (AI Index: EUR 46/03/97).

A new law "On amendments and additions to the law of the Russian Federation 'on refugees'", came into force on 3 July 1997. Amnesty International is gravely concerned about certain aspects of the new law, and believes that they fail to live up to Russia's obligations under international law. For example, the law states that asylum-seekers who have passed through a third country where they could have been recognized as a refugee are also to be excluded from substantive consideration - a worrying incorporation of the "safe third country" concept which has become so common in Western Europe. Amnesty International is also concerned that asylum-seekers at the border are not given the right properly to appeal a negative decision. The organization is concerned that asylum-seekers will continue to be rejected summarily at the Russian border without any substantive consideration of their claims.

Amnesty International learned that an African asylum-seeker (the name and the nationality of this man are being kept confidential by Amnesty International because of concerns for his safety) was forcibly returned to his home country on 16 October, without, reportedly, any consideration of his claim by the Russian authorities. According to reports, the man arrived in the Russian Federation with valid documentation on 21 February and lodged a claim

Larisa Kharchenko, from St Petersburg, was reportedly denied essential medical treatment for chronic high blood pressure and heart disease while held incommunicado in pre-trial detention centre No. 6 in Moscow. She had been arrested on 8 July, allegedly on charges of abuse of power, misuse of office and receiving bribes which related to the time when she was employed by the

for asylum with the Federal Migration Service (FMS) on 12 March. Despite having registered his claim for refugee status, he was reportedly arrested in his apartment in Moscow on 24 March for allegedly overstaying his permission to remain in the country, and was subsequently detained in Severny detention centre in the north of Moscow. Russian government officials reportedly contacted the embassy in Moscow of his country of origin on 25 March and informed officials there of the Russian Government's intention to return this man and another asylum-seeker, who was arrested with him, back to their home country. Despite repeated interventions by the United Nations High Commissioner for Refugees (UNHCR), the African asylum-seeker was subjected to *refoulement* on 16 October to his country of origin, where Amnesty International fears he may be subjected to human rights violations.

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

The systematic and widespread torture and ill-treatment of detainees by law enforcement officers continued. (For more details on Amnesty International's concerns see the report, *Torture in Russia: "This Man-Made Hell"*, AI Index: EUR 46/04/97).

In July armed police officers from the South East region of Moscow allegedly beat and otherwise ill-treated several people during a raid on the "Chance" nightclub, frequented by homosexuals. Forty people were reportedly beaten at arrest and forced to sign pre-prepared statements containing falsified drug test results. Amnesty International urged the Moscow City Procurator to launch a thorough and impartial investigation into the allegations of ill-treatment by police officers at the nightclub "Chance".

St Petersburg city administration under former Mayor Anatoly Sobchak. Amnesty International called on the authorities to provide Larissa Kharchenko with access to a lawyer of her choice, as one of the essential safeguards against ill-treatment and torture of detainees, as well as access to necessary medical care and her family. She was later given access to her defence lawyer,

but the organization continued to be concerned about the deterioration of her health in custody and the lack of appropriate medical treatment for her condition.

### ***Prison conditions***

Conditions in penitentiaries and pre-trial detention centres continued to amount to cruel, inhuman or degrading treatment. The Procurator General expressed concern at serious overcrowding and revealed that some 2,000 people had died of tuberculosis in prisons in 1996, a death rate 10 times the rate in the general population. On 20 August 1997 President Boris Yeltsin submitted legislation to parliament proposing an amnesty for nearly half a million prisoners to help alleviate conditions in Russia's overcrowded jails. Amnesty International welcomes any moves to alleviate the difficult conditions in Russian prisons caused partly by overcrowding. In December the State Duma adopted in the first reading a draft law on amnesty, covering 445, 000 people in pre-trial detention and prison colonies.

On 6 October President Yeltsin signed a decree entitled "On reforming the penitentiary system of the Interior Ministry of the Russian Federation". In accordance with recommendations of the Council of Europe and the UN Committee against Torture, the decree envisaged step-by-step reform of the penitentiary system now under the control of the Ministry of the Interior and moving it to the jurisdiction of the Ministry of Justice. President Yeltsin also instructed the government to create within a month a commission for reforming the penitentiary system, which was to draw up proposals before 1 December 1997 for the solution of problems that may occur during the transfer of the penitentiary system to the jurisdiction of the Ministry of Justice. The government was also instructed to submit to the Duma corresponding federal draft laws before the end of 1997. In December the State Duma formed

### ***Freedom of conscience and religion***

President Yeltsin signed at the end of September a law on freedom of conscience and religion, which

a special commission to deal with violations in pre-trial detention centres.

### ***Forcible conscription of conscientious objectors***

Following several failures to enforce the conscription of conscientious objectors through the courts, the Military Conscription Committee appeared to be resorting to removing conscientious objectors forcibly to military camps. Among them was Nikolay Moschukhin, who in June was taken to an army base in the Yaroslavl Region, despite a court judgement in November 1996 upholding his right to alternative service. Nikolay Moschukhin was released from the army in early September.

Amnesty International urged the authorities to enact legislation creating alternative civilian service of non-punitive length, to release all prisoners who were convicted solely for exercising their right to conscientious objection, and release all conscientious objectors, such as Nikolay Moschukhin, from forcible military duties.

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

On 14 October the head of the Russian Interior Ministry's Department on Execution of Punishments (GUIN), General Vyacheslav Ovchinnikov, claimed that no executions have been carried out to date in 1997. He said also that currently 846 people sentenced to death were held in Russian prisons. People continued to be sentenced to death in the Russian Federation. Amnesty International called on the Russian President to grant clemency to all those sentenced to death and to publicly announce the existence of a moratorium on executions.

had been passed by the Duma on 19 September and approved by the Federation Council on 24 September. Although the law enshrines religious freedom, it bans all religions which have not

formally existed in Russia for 15 years from actively seeking converts. Religions that fail to meet the requirement will be banned from opening schools, distributing religious material, and owning printing works or media outlets. Amnesty International is concerned that the restrictions imposed by this law on the practising of certain confessions may lead to persecution of their members by law enforcement officials and possibly to future prisoners of conscience. The organization also fears that under the provisions of this law young men who claim conscientious objection to military service based on their religious beliefs and participation in certain religious confessions whose activities have been restricted, may not be granted alternative service and their right to conscientious objection may not be recognized by the authorities.

### ***Public executions under the Shari'a law in the Chechen Republic***

On 3 September, a man and a woman were publicly executed by firing squad in the Chechen Republic after being found guilty of murder by the Chechen Supreme Shari'a Court. A third woman, Assa Larsanova, also found guilty of murder, had her execution postponed when doctors established at the last moment that she was pregnant. (For more details on her case see *Women in Europe*, pp. 68-71, below.)

Rasul Doshukayev and Said Khasiyev were also publicly executed on 18 September in Grozny, after having been found guilty of murder. According to reports, three of the victim's relatives were among the six executioners. Although filming of these executions had been officially banned, it was reported that journalists present at the executions were allowed to do so.

Amnesty International fears that other people in the Chechen Republic may also face imminent execution, among them up to 30 people believed to be awaiting the Shari'a courts' verdicts

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## **SLOVAKIA**

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on charges of kidnapping, after President Maskhadov issued a decree in June 1997 allowing courts to sentence kidnapers to death.

On 29 October 1997 President Maskhadov issued a decree dismissing the Supreme Court panel of judges responsible for applying Islamic law, reportedly because of the four public executions. The decree also dismissed the head of the Supreme Court who was reported to be a staunch supporter of death sentences and public executions. Regardless of its current legal status, the Chechen Republic still remains bound by the international human rights obligations of the Russian Federation, including the International Covenant on Civil and Political Rights and the Convention against Torture. Amnesty International does not promote or oppose any particular system of justice, urging only that it confirms to internationally accepted standards.

In November a delegation of the Council of Europe visited Chechnya and met with high-ranking government officials. The delegation was told that a new Shari'a Criminal Code is being drafted in Chechnya which will be adapted in line with the Chechen tradition.

Amnesty International called on the Chechen President to grant clemency immediately to all prisoners currently on death row in the Chechen Republic. The organization also called for the revision of the provisions of the Chechen Criminal Code which provide for the death penalty and corporal punishments with a view to abolition of the death penalty and all acts which constitute torture and ill-treatment.

See also *Women in Europe*, pp. 68-71, regarding continuing abductions of journalists and media employees in the Chechen Republic.

### ***Observations of the United Nations Human Rights Committee***

At its meetings on 15 and 16 July the UN Human Rights Committee considered Slovakia's initial report on its compliance with the International Covenant on Civil and Political Rights. In its concluding remarks, commenting on factors and difficulties affecting the implementation of the Covenant, the Committee "noted with concern that the remnants of the former totalitarian rule have not yet been completely overcome and that further steps remain to be undertaken in consolidating and developing democratic institutions and strengthening the implementation of the Covenant". The Committee also noted the persistence of political and social attitudes adverse to the promotion and full protection of human rights. Furthermore, the Committee expressed concern that insufficient steps have been taken to implement various provisions of the Slovak Constitution dealing with fundamental rights and of the Covenant, including Article 18, with respect to the right to conscientious objection to military service without a punitive extension of the period of service; about reports that Roma who were often victims of racist attacks did not receive adequate protection from law enforcement officials; about cases of excessive use of force by law enforcement officials as well as ill-treatment of detainees during police custody; and a number of concerns with respect to the rights to freedom of expression under Article 19 of the Covenant, including the excessive restrictions on this right imposed by Article 98 of the Penal Code which makes it an offence to "disseminate false information abroad which harms the interest" of Slovakia (see *Slovak Republic: Amnesty International urges members of the National Council to reject proposed amendments to the Penal Code*, AI Index: EUR 72/03/96).

### *Conscientious objectors - prisoners of conscience*

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## SPAIN

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On 8 September in Banská Bystrica 19-year-old Miroslav Albert began serving a one-year prison sentence for refusing to perform military service on grounds of conscience. He had been declared fit to perform military service in November 1995. Earlier he had stated in his recruitment papers that his religious convictions did not allow him to carry arms. However, the conscription board wrongly informed him that if he applied for civilian service he would have to carry this service out in the army barracks. In June 1996, when he learnt that this was not necessarily the case, he applied for alternative civilian service but as he had missed the legally prescribed 30-day period running from the day he had been declared fit, his application was turned down. In September 1996 Miroslav Albert was called up to start his military service in Rimavská Sobota on 1 October 1996. He refused to accept the call-up order, reiterating that his religion did not allow him to carry arms.

On 11 April 1997 the Military District Court of Banská Bystrica convicted Miroslav Albert under Article 269, paragraph 1, of the Slovak Penal Code for failing to start military service and sentenced him to one year's imprisonment. On 6 August the Higher Military Court in Trenčín turned down Miroslav Albert's appeal against the conviction and upheld the lower court's decision.

Martin Bednár, another conscientious objector to military service who was imprisoned in February for refusing to do his military service was conditionally released in September after serving half of the sentence.

Amnesty International urged the authorities to immediately release all prisoners of conscience and to stop criminal proceedings against conscientious objectors to military service. The organization also continued to urge the authorities to revise the provisions of the Law on Civilian Service and to bring it into line with internationally recognized principles.

### *UN Committee against Torture examines Spain's third periodic report*



In November the UN Committee against Torture examined Spain's third periodic report. Amnesty International submitted information to the Committee which contained details of continuing allegations of torture and ill-treatment throughout Spain, as well as illegal detention and racial abuse by law enforcement officers.

The Committee welcomed the measures taken by the government to implement the core safeguards of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, including the definitive abolition of the death penalty and the introduction into the new penal code of articles prohibiting torture and ill-treatment. However, its Conclusions and Recommendations reflected many of Amnesty International's persisting concerns. The Committee observed that the long delays in legal proceedings relating to torture, both at the investigation stage and at that of the trial hearing, were "absolutely incompatible" with the promptness required by the Convention, and that court sentences against officials accused of torture were often nominal and seemed to show an "acquiescence which deprives punishment of its intended dissuasive and exemplary effect and conspires against the effective eradication of torture". The Committee expressed doubts about the Spanish Government's claims, in its report, that cases of torture and ill-treatment had been almost eradicated, and affirmed that it had continued to receive frequent allegations of torture and ill-treatment, many of which "appeared to reveal signs of racial discrimination". The Committee also expressed concern at the way in which the continuing practice of extended incommunicado detention facilitated the practice of torture. It urged the authorities to take the necessary steps to curtail the excessive length of investigations into complaints of torture and ill-treatment; to adopt all possible legal measures to ensure that penalties for crimes of torture were effective and exemplary; and to look into ways of bringing an end to incommunicado detention and

Amnesty International is concerned that illegal detention of immigrants may be a practice among some police officers in the area. Among similar cases that have come to the organization's attention, a judge acquitted another *vendedor*

restrictions on the right of access of detainees to a lawyer of their choice. The Committee also urged the authorities to adopt procedures to investigate all cases of torture and ill-treatment that came to their attention, by whatever means, even where the alleged victims had not lodged formal complaints.

### ***New allegations of ill-treatment by law enforcement officers***

In July oral proceedings were opened against four municipal police officers (*Policía Local*) allegedly involved in the illegal detention and ill-treatment, in March, of a resident of Senegalese origin, Mamadou Kane, one of a number of African street sellers (*vendedores ambulantes*) in Vigo (Galicia). The public prosecutor requested that the police officers be sentenced to three years' imprisonment and eight years' disqualification from public employment (*inhabilitación absoluta*). The trial is scheduled to take place before the *Audiencia Provincial de Pontevedra*, a provincial criminal court with powers to judge crimes that carry a sentence of three years' imprisonment and above, but the trial date is not yet known.

Mamadou Kane said that at the time of his arrest he was told he was being taken to the police station for an identity check, but that he was driven instead to an area near the university campus of Marcosende, beaten, racially insulted and threatened variously with death or with expulsion from Spain if he insisted on lodging a judicial complaint against the police. The officers denied the charges and stated that Mamadou Kane had been taken directly to the police station. However, up to 14 Spanish and Senegalese eye-witnesses reportedly came forward to support the version of events put forward by Mamadou Kane, and the threat of an action for defamation that had been made against him by a Vigo city councillor for insulting the police was withdrawn.

*ambulante* who had been arrested by eight municipal police officers in Vigo in August 1996. Although a judicial complaint brought by the seller against the police had been shelved, the judge was severely critical of the conduct of the

police in detaining him, and stated in his sentence that it was legitimate to resist illegal arrest.

Amnesty International is investigating allegations of a racially motivated attack on a Moroccan citizen of Berber origin, legally resident in Las Palmas de Gran Canaria (Canary Islands) in Spain since 1991. The alleged incident occurred in September after Monaim El Baragragui had gone to the Spanish enclave of Melilla to visit his family and make arrangements for his wedding. He told Amnesty International that, having arrived at the frontier in Melilla at about 9pm, he approached two officers of the *Policía Nacional* to ask what he needed to do to obtain a permit to return across the frontier into Spain. One of the officers pushed him and said: "Go back to Morocco!" ("*¡Vuelve a Marruecos!*"). Monaim El Baragragui replied that he could not do this because he was legally resident in Spain. One or both officers then hit him with a truncheon. When he protested that he would make a complaint about them, another five officers reportedly approached and beat him on the head, shoulders and other parts of his body, simultaneously shouting racial insults. He was then handcuffed and taken to the police station, where he was charged with having assaulted a police officer. His repeated requests to be taken to a doctor were ignored and he was forced to remain standing, in much pain, for over an hour while one or more of the officers "began to sing flamenco beside him". Monaim El Baragragui further alleged that after finally being taken to a doctor, who submitted a medical report to the court, he was held in a cell with about 50 other people and remained the night without being given food or water or being allowed to go to the toilet. He maintained that he saw other detainees being "treated like animals", beaten repeatedly with truncheons, some until they bled from their injuries. He claimed he was held for a total of three days, given just one sandwich to eat a day, and threatened with expulsion from Spain before being taken before a judge. He lodged a complaint about his treatment with the judge, giving details of witnesses, and was granted his conditional release.

### ***Shootings by law enforcement officers***

Amnesty International wrote to the Ombudsman (*Defensor del Pueblo*), who in June had opened an

In October four municipal police officers in Santa Cruz de la Palma (Canary Islands) were accused of ill-treating José Amado Capote Martín. The latter stated that the officers had approached him in a cafeteria, asked his name, and ordered him to get into their vehicle, without telling him the reason for his arrest. They then stopped the vehicle in a dark and deserted area, where they forced him to get out, handcuffed him and returned him to the car. "One of the officers immobilized me and the other began to beat me in the stomach with such intensity that even one of the police officers in the front seat told his colleagues that perhaps they were overdoing it." José Amado Capote was subsequently taken to the accident and emergency department of the *Centro de Salud* and then to the station of the national police (*Cuerpo Nacional de Policía*). When he began passing blood in his urine, the national police returned him to the *Centro de Salud*, which transferred him to the *Residencia Sanitaria de Nuestra Señora de las Nieves*, where he stayed in intensive care for 12 hours with injuries to the abdomen. After three days he was discharged, but remained under medical care. José Amado Capote has lodged a judicial complaint against the police.

Complaints about racial discrimination, xenophobia and physical attacks on Africans living in Vizcaya (Basque Country) by the municipal police (*Policía Municipal*) of Bilbao and the Basque police force, the *Ertzaintza*, were made in December by the president of the Afro-Basque *Asociación Afro-Vasca*, Jean Bernabé Moussayou. Present at a press conference given by the association was Kosi Kuebo, who claimed that he had been assaulted with truncheons and his head injured by officers of the municipal police in a dispute over illegal parking outside the club where he worked. Kosi Kuebo maintained that while being held in custody he had to be taken twice by the police for hospital treatment. The officers have denied that the incident was racially motivated, and have accused Kosi Kuebo of resisting arrest with violence.

inquiry into the fatal shooting of a 19-year-old Moroccan student in Madrid and, specifically, into the circumstances in which the Civil Guard reservist had been allowed to keep a weapon for

personal use. Mourad El Abedine had reportedly bent down to tie his shoelace when he was shot in the shoulder by the Civil Guard reservist and died instantly. According to a police statement, the reservist had opened fire with his revolver after he had been drinking. The family of the student, a member of the *Asociación de Fraternidad Hispano-Marroquí*, is reported to believe the attack was racially motivated. The Ombudsman told Amnesty International that he would communicate the results of his inquiry as soon as possible. Administrative and judicial inquiries also continue.

In December a report was received that a young Moroccan had been shot by a member of the *Ertzaintza* and was in a critical condition in hospital, but further details are not known at the time of writing.

### ***Verdict on Civil Guards who tortured Kepa Urra***

In September the trial opened before the First Section of the Provincial Criminal Court of Vizcaya of six officers of the Civil Guard, accused of ill-treating Kepa Urra Guridi, a member of the "Bizkaia" commando of the Basque armed group *Euskadi Ta Askatasuna* (ETA), who was arrested in January 1992 (see AI Index: EUR 01/04/92 and EUR 01/01/93). Kepa Urra had complained that, before being taken to the Civil Guard barracks at La Salve, he had been driven into a deserted area, stripped of most of his lower clothing and his shoes and beaten, and that the beating, by a number of hooded guards, had resumed in the barracks. He alleged that he was again beaten while in hospital and threatened by two Civil Guards who were in the hospital room with him. In November the court found Kepa Urra's allegations to be partially proven. It sentenced three of the Civil Guards to four years' imprisonment each and to six years' disqualification from public office for the illegal detention and torture of Kepa Urra. Three other officers were acquitted. The court found that the convicted officers had taken Kepa Urra to a deserted area, stripped and beaten him with an unidentified object and dragged him along the ground while attempting to extract information from him. The court did not, however, consider that Kepa Urra had been ill-treated at the barracks or in hospital. The prosecuting authorities attached to the court were reported to have immediately appealed to the Supreme Court against the sentence on the grounds that there was a "huge disproportion between the deed and the punishment." The lawyers defending the Civil Guards also appealed to the Supreme Court against the sentence.

The outcome of other judicial inquiries into torture allegations, subject to extremely lengthy delays, are still pending.

The outcome of other judicial inquiries into torture allegations, subject to extremely lengthy delays, are still pending.

### ***Human rights abuses by armed Basque group, ETA***

international humanitarian law. The murder of the young councillor was followed, in December, by that of another local councillor for the PP, José Luis Caso, who had been living under threat of death for some months. In the wake of the killing of a third PP councillor (this and further killings took place beyond the period under review) Amnesty International demanded that ETA cease to attack the representatives of political parties.

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## **SWEDEN**

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

During the course of Amnesty International's investigation of the circumstances of the death in custody of Osmo Vallo, the organization received information about a number of other instances over the past five years in which people had died while in custody of Swedish law enforcement officials in circumstances similar to Osmo Vallo (see AI Index: EUR 01/06/97). In July the Minister of Justice informed the organization of "six or seven other similar cases" of deaths in custody. A report issued in connection with the second post-mortem examination of Osmo Vallo referred to 11 people who died while in police custody or in prison, including four people who died of asphyxiation in circumstances similar to the case of Osmo Vallo. (The National Board of Forensic Medicine informed Amnesty International about 16 cases of similar deaths, although not all of the 16 people concerned had been in the custody of law enforcement officials.)

A common factor in several of these cases was that, like Osmo Vallo, the persons concerned had been restrained lying face down and some form of pressure had been put on their chests. In some cases the causes of death included positional asphyxia (which has been defined as "death as a result of body position that interferes with one's ability to breathe"). In others, contributory factors to the possible cause of death were given as physical exhaustion and stress.

In October, Amnesty International published a document: *Sweden: Osmo Vallo-- Action needed to prevent more deaths in custody* (AI Index: EUR 42/01/97). This document set out Amnesty International's concerns about the circumstances relating to the death of Osmo Vallo, deficiencies in the investigations and prosecution decisions following his death, and, based on other similar cases of deaths in custody in Sweden over the last five years, the emergence of a possible pattern in which the use of similar restraint techniques may have contributed to death.

The organization called on the Swedish Government to re-open the case of Osmo Vallo for Three men -- Augusto Comte Gomez and two others, known as Sammi and Nille -- alleged that they were ill-treated and subjected to racist abuse by police officers following the arrest of one of them for driving offences in Stockholm on 9

further investigation and to initiate a comprehensive review of all recent cases in which people died in the custody of law enforcement officials. The organization recommended that such review include a medical risk assessment of all restraint techniques currently used in Sweden and make recommendations for written guidelines for law enforcement officials on the use of restraint techniques and their conduct when dealing with possible health risks as a result of the use of restraint. The organization also urged the government to ensure that prompt, thorough independent and impartial investigations were carried out on each case of death in custody and reports of torture and ill-treatment, and that a report of the findings of such investigations is made public. In addition, the government was urged to ensure that those law enforcement officials suspected of being responsible for unlawful actions or misconduct are brought to justice.

There have been several significant developments since the publication of Amnesty International's report. The Minister of Justice requested the Chancellor of Justice to examine how the authorities acted in the Osmo Vallo case and other similar cases, with a view to making recommendations for necessary changes. The Prosecutor General announced that he is reviewing the prosecution's decisions in the case of Osmo Vallo and other similar deaths. The Head of the Police Service issued a warning about restraint techniques and announced that if an arrested person is laid face down on the ground to be handcuffed, immediately afterwards the person should be lifted to a sitting or standing position in order not to further impede the person from breathing.

### *Alleged ill-treatment*

November. The three men made formal complaints about their treatment. It was reported that they were subsequently charged with making a false complaint. Amnesty International expressed concern to the government in December

about the allegations, urged the government to ensure that the investigation of the complaints is prompt, impartial and thorough, and sought information concerning the police complaints procedure.

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## SWITZERLAND

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### *UN Committee against Torture examines Switzerland's third periodic report*

In November the United Nations (UN) Committee against Torture meeting in Geneva considered Switzerland's third periodic report on its implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

In a report entitled *Switzerland: Comments relating to the submission of the Third Periodic Report to the UN Committee against Torture* (AI Index: EUR 43/02/97) Amnesty International took the opportunity to comment on, and bring to the attention of the Committee and the Swiss federal authorities, some of its concerns relating to the alleged ill-treatment of detainees, many of them of non-European ethnic origin, by Swiss police officers. It also drew attention to unsatisfactory investigations into a number of such allegations; problems in the implementation of existing safeguards against ill-treatment; official initiatives aimed at strengthening such safeguards and the need for further reforms. Amnesty International described individual cases of alleged police ill-treatment illustrating its concerns, and also summarized the concerns about such ill-treatment which had been expressed by inter-governmental organizations since Switzerland's last examination by the UN

In addition, the Committee recommended that the Swiss authorities pay "the greatest possible attention" to the handling of cases concerning acts of violence attributed to public officials so as to ensure the opening of investigations and, in proven cases, the imposition of adequate sanctions. During the examination of the federal government's report, the Swiss delegation stated that a commission of experts had

been appointed to study the possibility of partial or total unification of criminal procedure and that it would be issuing a report in the near future. The delegation emphasized that the commission was examining rights of defence in police custody, including the possibility of early access to a lawyer.

Committee against Torture in 1994, as well as relevant reforms recommended to the Swiss authorities by these bodies.

Following its examination of Switzerland's periodic report, the UN Committee against Torture expressed concern about "frequent allegations of ill-treatment" inflicted in the course of arrests and police custody, and a lack of independent mechanisms in the Swiss cantons for registering and following up complaints of ill-treatment. The Committee said it was "seriously concerned about the absence of appropriate reaction" to allegations of ill-treatment on the part of the competent authorities and regretted the non-existence in some cantons of certain legal guarantees, such as the possibility, "especially for foreigners", to contact their family or a lawyer in case of arrest, and to be examined by an independent doctor on entering police custody and before being brought before an investigating magistrate.

The Committee found that the absence from Swiss law of a specific definition of torture impeded the full application of the UN Convention against Torture, and recommended that it be included in the Penal Code.

The Committee's recommendations also included the introduction, in all cantons, of mechanisms to receive complaints of ill-treatment against police officers, and the harmonization of the 26 different cantonal codes of penal procedure, "particularly with regard to the granting of fundamental guarantees in the course of police custody". The Committee stressed the need to allow criminal suspects to contact a lawyer or their family and to be examined by an independent doctor - immediately after arrest, after each interrogation and before being presented to an investigating magistrate or being released.

been appointed to study the possibility of partial or total unification of criminal procedure and that it would be issuing a report in the near future. The delegation emphasized that the commission was examining rights of defence in police custody, including the possibility of early access to a lawyer.

***Updates to previously documented cases of alleged ill-treatment by law enforcement officers***

In July Clement Nwankwo, a prominent Nigerian lawyer and human rights activist, lodged a criminal complaint against the Geneva police officers involved in his arrest in April (see AI Index: EUR 01/06/97). The complaint was still under consideration by the Geneva Procurator General at the end of December. Clement Nwankwo alleged that he was subjected to physical ill-treatment and degrading treatment at the time of arrest and during his first hours in police custody. His appeal against a conviction for “opposing” the police (“*opposition aux actes de l’autorité*”) at the time of arrest was examined by a Geneva court in September; an Amnesty International observer attended the hearing. In December the court confirmed the conviction and Clement Nwankwo lodged an appeal with the Federal Tribunal.

The allegations made by Clement Nwankwo illustrated a number of concerns regarding the treatment and rights of detainees in police custody in Switzerland generally and, therefore, frequent reference was made to the case in the report which Amnesty International submitted to the UN Committee against Torture in November (see above). During its examination of Switzerland’s periodic report in November the Committee expressed concern to the Swiss delegation about Clement Nwankwo’s allegations. Notably, the Committee’s co-rapporteur on Switzerland stated that, in her view, the case showed “a discrepancy between the law and its actual practice” (“*un décalage entre la législation et la pratique*”), especially with regard to foreigners. In responding to the Committee’s

In September, in response to an Amnesty International letter of June requesting information about developments in the case of A.S., amongst others (see AI Index: EUR 01/06/97), the Ticino Department of Institutions forwarded a report on the case, drawn up by the Lugano Public Prosecutor’s office in July. This stated that the allegations which A.S., an asylum-seeker from the

concerns, the Geneva Chief of Police, a member of the Swiss delegation, stated that he considered the case to be “illustrative and revealing of the problems existing between legal provisions and concrete reality” (“*exemplaire et révélatrice de la problématique existant entre les normes juridiques et la réalité concrète*”). He acknowledged that irregularities had occurred in the case and that aspects of it had not been in conformity with “the instructions and the ethics of the Geneva police”. Amnesty International understands that one police officer received a reprimand and two others received official warnings following an internal administrative inquiry which found that Clement Nwankwo had been left in his underpants, handcuffed to a table leg in a police interview room, for over an hour (see AI Index: EUR 01/06/97). The inquiry dismissed as unfounded Clement Nwankwo’s allegations that he had been physically ill-treated by police at the time of arrest. The disciplinary sanctions were subsequently the subject of internal police appeals procedures which were reportedly still under way in December.

In July the Federal Tribunal dismissed the appeal which Turkish Kurd refugees Ali Doymaz and Abuzer Tastan had lodged against a Ticino court’s endorsement of the Ticino Prosecutor General’s ruling that there were no grounds to prosecute Chiasso police officers whom they had accused of ill-treating them in April 1995 (see AI Index: EUR 01/06/97). At the same time, the court stated that it was not competent to examine the complaint, contained in their petition, which argued that their rights had been violated because the Ticino Public Prosecutor had never corresponded with them directly and had not questioned them before concluding that the allegations of ill-treatment contained in their formal complaint of June 1995 were unfounded (see AI Index: EUR 43/02/97 for further details). Kosovo Province of Yugoslavia, made in a complaint against Lugano police officers in January 1996 were unfounded. He had claimed that, following his arrest for theft, officers had ill-treated him, causing serious injuries described in medical certificates issued within hours of his release from police custody. He stated that police denied his requests for medical treatment and

coerced him into signing a document written in Italian (a language he did not understand), withdrawing his asylum application. The prosecutor stated that it appeared A.S. had tried to escape during questioning, slightly injuring a policewoman, and had assaulted other police officers who intervened and who were obliged to use "coercive methods proportionate to the situation". The prosecutor did not comment on the apparent failure to provide A.S. with medical treatment during his approximately 30-hour detention, or on the withdrawal of his asylum application, but said that, according to the police officers' statements, A.S. was not pressurized or threatened and made "no requests of any kind during his detention". He also indicated that, on being released, the police informed A.S. that the injured officer reserved the right to lodge a complaint against him for causing bodily harm. In November Amnesty International wrote again to the Ticino authorities, seeking clarification on various aspects of the Prosecutor's report. (See AI Index: EUR 43/02/97 for further details.)

In September 1997, following an investigation by a military judge of instruction, the federal military prosecutor's office ruled that there were no grounds to proceed against officers attached to the federal border guard's post at Chiasso-Brogeda whom E.G., a Turkish Kurd with refugee status in Switzerland, had accused of ill-treating him in June 1996 (see AI Index: EUR

Trevor Kitchen had lodged an appeal against the Prosecutor's decision in September 1994 but it was not examined by the canton's criminal appeal court until January 1997, almost two and a half years later. Amnesty International was concerned that the lapse of time rendered a full investigation into his allegations more difficult. The appeal court stated that the Prosecutor had based his decision to close the case on documentation supplied by the police and concluded that the preliminary information acquired by the Prosecutor was insufficient to consider that the incidents alleged by Trevor Kitchen had been properly investigated. The court noted that the preliminary information had been collected by one of the accused, who was present in the police station at the time the incidents in question were alleged to have taken

01/01/97). A formal complaint of ill-treatment which E.G. had addressed to the Lugano Public Prosecutor's office in August 1996 was apparently referred to the federal military authorities competent to receive complaints against the border guards.

In September, in response to Amnesty International's June letter requesting information about developments in several cases of alleged ill-treatment in the canton (see above), the Ticino cantonal authorities stated that in June the Public Prosecutor had issued a definitive ruling that there were no grounds to proceed against the Chiasso police officers whom Trevor Kitchen, in a formal complaint lodged in July 1994, had accused of ill-treating him in December 1992 (see *Switzerland: Allegations of ill-treatment in police custody* - AI Index: EUR 43/02/94).

The Public Prosecutor had issued a first ruling that there were no grounds to proceed against the officers in September 1994. In correspondence with the cantonal authorities in 1994 Amnesty International expressed concern that official investigations carried out into the allegations made by Trevor Kitchen, a British national, had apparently relied exclusively on information provided by officers attached to, or responsible for, the same Chiasso police station where he had alleged he was subjected to ill-treatment, and that the Public Prosecutor had failed to interview the complainant himself. place and that, therefore, it was obvious that such information was not in any degree usable in the context of the investigation and destroyed its credibility. The court stated that the preliminary information should have been gathered "at least by a superior officer ... or by officers from another police station or even better, directly, by the Public Prosecutor himself". It returned the dossier to the Prosecutor, requesting that he complete the preliminary inquiries into the case and pronounce again on whether to proceed with criminal action against any police officers with regard to a possible offence of abuse of authority.

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## TAJIKISTAN

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***Peace accord*** (Update to information given in AI Index: EUR 01/06/97)

On 15 September the National Reconciliation Commission (NRC) held its first session in Dushanbe following the return to Tajikistan of Sayed Abdullo Nuri, leader of the United Tajik Opposition (UTO) and chairman of the NRC. The NRC, made up of an equal number of government and UTO representatives, formed four sub-committees to deal with legal, political, military and refugee issues.

A general amnesty for people imprisoned for crimes in connection with the civil war was signed into law by President Imomali Rakhmonov in July and approved by parliament in August. It reportedly allowed people convicted of violent crimes such as terrorist acts, premeditated murder, rape, banditry or of drug-related crimes in connection with the civil war to petition for a review of their cases if they believed they had been punished for political actions. In accordance with the amnesty decree President Rakhmonov ordered the release of the first group of jailed. In October the General Procurator's Office announced that the investigation into the assassination attempt on President Rakhmonov in the Leninabad regional capital Khujand in April had been completed. Nineteen men had been charged with the creation of an illegal armed formation in Khujand with the purpose of carrying out armed assaults on state institutions, organizations and representatives between July 1996 and May 1997. Abdulkhafiz Abdullayev, younger brother of Abdumalik Abdullojanov, a former Prime Minister and head of the opposition National Revival Bloc, was named as one of the defendants in the criminal case. Firdavs Dustboyev was charged with having carried out the assassination attempt with intent of killing the President as planned by the defendants. Supporters of Abdulkhafiz Abdullayev continued to claim that the motive for his inclusion in the above criminal case and the charges against him was to intimidate the Khujand-based opposition. The condition of Abdulkhafiz Abdullayev, who had undergone surgery for cancer of the liver in 1994, deteriorated rapidly in detention and in August the Oktyabrsky District Court of

opposition members in October. Fifty-eight Islamic opposition fighters captured during the civil war were reportedly released from a prison located some eight kilometres from the centre of Dushanbe on 20 October. A day earlier an opposition field commander released a group of more than 80 Tajik government troops held captive in Tavail-Dara since 1993. The two sides carried out several prisoner exchanges as part of the peace accord. In November the chairman of the political sub-committee of the NRC announced that under the terms of the amnesty decree approved by parliament in August about 120 soldiers had been released from captivity and more than 300 people - among them more than 100 supporters of the opposition - had been amnestied. To Amnesty International's knowledge no lists of those amnestied or exchanged had been published at the time of writing.

***Political prisoners*** (Update to information given in AI Index: EUR 01/06/07)

Dushanbe reportedly ordered his immediate release on the grounds that he was critically ill and needed urgent specialized medical attention. However, he was not released from detention and according to unofficial sources the judge who ordered his release was dismissed the following day. Medical assessments of his condition confirmed that the cancer had progressed and that he needed urgent hospitalization. Nevertheless there were reports that Abdulkhafiz Abdullayev was forced to attend trial and that towards the end of the year he was being carried into the courtroom because he was too ill to walk. Unconfirmed reports stated that Firdavs Dustboyev and other defendants alleged in court that during the investigation they had been forced under duress to incriminate Abdulkhafiz Abdullayev.

***"Disappearance"*** (Update to information given in AI Index: EUR 01/06/97)

Amnesty International continued to appeal for information about the whereabouts of Rizoali Ojiyev, who "disappeared" in Khujand on 28



February after he had been detained for questioning by police. In September the Tajik authorities informed the organization that a criminal investigation had been opened into his "disappearance" under Article 135 of the Tajik Criminal Code (hostage-taking). No details on the progress of the investigation were given.

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## TURKEY

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State of emergency legislation was lifted from three provinces in October but remained in force in six southeastern provinces. It was introduced in 1987 to replace martial law.

### *UN experts fail to visit Turkey - "disappearances" continue*

In June 1997, following repeated encouragements by Amnesty International, the Turkish Government invited the UN Working Group on Enforced or Involuntary Disappearances to visit the country later in the year. Amnesty International was therefore disappointed to learn that the Working Group failed to make a visit, and hopes that the Turkish Government will keep the invitation open so that the Working Group can visit during the first half of 1998. Fewer "disappearances" occurred in 1997 than in the preceding four years but the police and prosecution service have persisted in their slovenly and obstructive approach to registration of detainees, and this has contributed to further "disappearances".

On 26 December Mehmet Özdemir was arrested by four plainclothes police officers carrying weapons and two-way radios at a coffee-house in the Sebzehal\_ district of Diyarbak\_r. He About 30 villagers were reportedly subjected to brutal treatment after they were detained from the village of Ç\_narönü in Mardin province, following a nearby clash between the security forces and armed members of the illegal PKK (Kurdish Workers' Party). On the morning of 11 November Ç\_narönü was reportedly surrounded by 500 to 600 soldiers. After summoning the

reportedly resisted and was dragged away. Three days later his wife Enzile Özdemir submitted a petition requesting information to the State Security Court prosecutor's office, where it was stamped "detained by police". However, the prosecutor later denied that Mehmet Özdemir had ever been detained, saying that the petition had been stamped "by mistake" and was not valid because it had not been signed. Mehmet Özdemir was the local delegate for the People's Democracy Party (HADEP). Since 1992 more than 150 members and officials of HADEP, a legal party with a special interest in the Kurdish minority, and its predecessor parties DEP and HEP, have been extrajudicially executed, tortured to death or "disappeared".

### *European Court of Human Rights upholds allegation of rape in detention*

In a judgment on 24 September the European Court of Human Rights found that Turkish security forces had raped, sexually humiliated and beaten \_ükran Ayd\_n while she was detained at Derik Gendarmerie Headquarters in Mardin in 1993. She was 17 years old at the time of the rape. The court also found that the Turkish authorities had failed to conduct an adequate investigation into her original complaint. The court ordered the Turkish government to pay compensation to \_ükran Ayd\_n in the sum equivalent to £25,000. Following this judgment, in November the commanding officer of Derik Gendarmerie Headquarters appeared in court charged with the rape and torture of \_ükran Ayd\_n.

### *Village destruction continues*

population to the village square, the commander of the local gendarmerie post at Sürgücü told the villagers that he believed that they were aiding the PKK. A group of about 30 were detained and taken to the Gendarmerie Headquarters in Savur, the nearest large town. There they were reportedly forced to kneel outside for 48 hours, beaten repeatedly and denied food and water. A group of

10 were taken back to the village and told to leave. On 16 November the gendarmerie commander came to the village with five or six soldiers and burned a number of houses, tractors and minibuses. Five of the villagers who had been detained were formally arrested on charges of supporting the PKK and committed to Mardin Prison.

At a press conference in Diyarbakır on 28 July Haım Haımi, a member of the Parliamentary Commission on Migration, had announced that (according to figures supplied by the Emergency Region Governor) 3,185 rural settlements had been completely evacuated since 1990 and that many of these settlements have been "destroyed or burnt".

### ***Still no protection for children detained under Anti-Terror Law***

Children detained under the Anti-Terror Law (which covers many non-violent political offences) may be held incommunicado, while both parents and legal counsel can be denied access for up to four days. Amnesty International has repeatedly appealed to the Turkish Justice Ministry to remedy this situation, which they have so far failed to do. Amnesty International has continued to receive allegations of ill-treatment and torture of children and juveniles in police custody - in some cases supported by medical evidence.

Sixteen-year-old Mahmut Yıldız, detained in Siirt on 22 November and interrogated at Siirt Gendarmerie Headquarters, was three days later taken to Diyarbakır Military Hospital where he died on 5 December as a result of "haematoma resulting from trauma from a blunt object", according to the burial certificate issued by the office of the Diyarbakır Public Prosecutor. Family members said that they had spoken to others detained with Mahmut Yıldız, who said that they had witnessed him being tortured by being suspended by his arms.

Prisoners of conscience Hatip Dicle, Orhan Doğan, Selim Sadak and Leyla Zana, Kurdish former parliamentary deputies for DEP (Democracy Party), continued to serve their 15-

### ***Pressure on HRA continues - arrests in Mardin***

Pressure on the Turkish Human Rights Association (HRA) continues. The branches in Diyarbakır and \_anlı\_ urfa are permanently closed, while a six-month closure order was imposed on the Mardin branch by the local governor following the detention of five branch officials in August. They were held for two days in police custody. Meanwhile scores of trials are proceeding against other officials and branches. In November Ankara State Security Court sentenced the president of the HRA, Akın Birdal, to one year's imprisonment for a speech he made on 1 September 1996, World Peace Day. He is at liberty pending appeal against this and a further one-year sentence against him for an earlier speech he gave in Konya. If the sentences are confirmed and Akın Birdal is imprisoned, Amnesty International will consider him a prisoner of conscience.

The HRA itself is facing two trials for closure. On 25 December an Amnesty International delegate observed a hearing of a trial at Ankara Criminal Court No.1 where the association and members of its executive board were facing charges of "making separatist propaganda" during Human Rights Week 1996. The prosecution is demanding the closure of the association and prison sentences of one to three years for 11 officials. The trial continues.

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

In June, the writer Ahmet Zeki Okçuoğlu was imprisoned under Article 159 of the Turkish Penal Code for "insulting the institutions of the state", after the Supreme Court upheld a 10-month sentence given to him by Istanbul Heavy Penal Court No.2 for his article published in the newspaper *Azadi* (Freedom) in 1993. He was released in October.

year sentences for alleged membership of the PKK at Ankara Closed Prison. Since, during the course of a blatantly unfair trial, no conclusive evidence was ever presented to support the

charges against them, Amnesty International considers that the parliamentary deputies are held because of their criticism of state policy in the predominantly Kurdish southeast provinces.

In August, a measure suspending sentences on newspaper editors resulted in the release of a small number of prisoners, including I\_ik Yurtçu, former editor of *Özgür Gündem* (Free Agenda).

In Istanbul on 20 October 1997 lawyer E\_ber Ya\_murdereli was arrested by police acting on a court order to begin serving 17 years in prison. In 1991 E\_ber Ya\_murdereli had made a speech criticizing the State's treatment of the Kurdish minority in the southeast provinces. As a consequence E\_ber Ya\_murdereli was sentenced to 10 months' imprisonment under Article 8 of the Anti-Terror Law.

However the Turkish courts have ruled that his speech breached the terms of conditional release from a life sentence he received in 1985 - a sentence imposed as a result of a trial which Amnesty International condemned at the time as being clearly in breach of international standards for a fair trial.

E\_ber Ya\_murdereli was held in Çank\_r Central Closed Prison. Amnesty International adopted him as a prisoner of conscience and appealed for his immediate and unconditional release. After public protests in Turkey and abroad E\_ber Ya\_murdereli's sentence was suspended for 12 months, ostensibly on health grounds, and he was released in November.

In October, conscientious objector Osman Murat Ülke was rearrested at Eski\_ehir Military Court. He had just been convicted and sentenced for "persistent insubordination", for which he received a five-month sentence, and "desertion", for which he received a further five-month sentence, to be served consecutively. Counting remission, he has already served these terms, but was remanded in custody pending trial for having "deserted" a second time after he had been released on 29 May 1997.

According to news reports from Ashgabat, Yovshan Annakurbanov was released from detention on 12 November 1997. His

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## TURKMENISTAN

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### *Fear for the safety of journalist Yovshan Annakurbanov*

Amnesty International was concerned for the safety of independent journalist Yovshan Annakurbanov, who was arrested by police officers at the international airport in Ashgabat, the capital, on 30 October. Yovshan Annakurbanov was due to attend a training seminar with Radio Liberty in Prague, and was reportedly detained as he was about to board the plane. Officers of the Turkmen Committee of National Security (KNB) claimed to have found in the luggage of Yovshan Annakurbanov a computer diskette containing material by the political opposition in Turkmenistan. However, according to information available to Amnesty International, when his bags were first checked at the airport passport and customs control, law enforcement officials did not find anything suspicious. He was detained in the KNB investigation prison. No charges were reportedly brought against him and he was not believed to have been given access to a defence lawyer.

Yovshan Annakurbanov worked as a freelance journalist for Radio Liberty. On 26 June 1997 he reportedly received death threats from officers of the KNB. Two officers reportedly visited his home to warn him that "something could happen" to him or his children if he did not stop contributing to the radio station's "provocations".

Since 1993 Yovshan Annakurbanov has been prevented from publishing his writings in the country. On 25 July 1995 Yovshan Annakurbanov was arrested for participating in a peaceful demonstration in protest at economic hardships and convicted of "malicious hooliganism". He was released on 11 January 1996. He maintained that his work for Radio Liberty has not been of a political nature.

release by the Turkmenistan authorities was reportedly influenced by the appeals of international organizations such as Amnesty

International. His personal documents were, however, reportedly confiscated by the Turkmen authorities and he was therefore unable to travel to Prague as intended. It is not known if any criminal charges were brought against him.

### ***Fear of forcible repatriation***

Amnesty International was concerned that if returned from Russia to Turkmenistan, Nazar Soyunov, a former parliamentarian and government minister of Turkmenistan, would be at risk of grave violation of his human rights, specifically the bringing of fabricated criminal charges to punish him for his opposition to the government and President of Turkmenistan, and torture and ill-treatment. Nazar Soyunov was apparently facing imminent and forcible repatriation to Turkmenistan after having been detained in Russia for questioning.

Nazar Soyunov had worked in Russia, albeit without any formal legal status there, as a gas and oil consultant at the Russian Scientific Research Institute and at the Russian State Duma (parliament) since he left the government of Turkmenistan in 1995. From 1991 to 1995 Nazar Soyunov had held very senior posts in the Turkmen government, serving as Deputy Head of State, Deputy Head of Government and Presidential Adviser.

On 26 November 1997 he was detained in Moscow by officers of the Russian Federal Security Service (FSB) and questioned for four hours about criminal charges brought against him in Turkmenistan. He was released by the FSB reportedly because of insufficient evidence against him. Amnesty International learned that President Niyazov of Turkmenistan personally requested Nazar Soyunov's extradition, claiming that he was facing charges of corruption in Turkmenistan. Nazar Soyunov and his supporters claimed that these charges were fabricated in order to punish him for an interview he gave to Radio Free Europe/Radio Liberty on 24 October 1997 in which he criticized the present policies and practices of the Turkmen government and the Turkmen President. Following the

In the middle of October representatives of the Mary Regional Office of the KNB came to

broadcast of the interview the official press in Turkmenistan reported that a criminal case had been opened against Nazar Soyunov and that a warrant had been issued for his arrest. Sources close to Nazar Soyunov reported on 21 November 1997 that officials of the General Procuracy and the National Security Committee (KNB) of Turkmenistan had arrived in Moscow to search for him.

By the end of the year Nazar Soyunov had not been repatriated.

### ***Death in mysterious circumstances - alleged politically motivated incarceration in psychiatric hospital***

A local human rights activist died at the end of October after having been detained at his home and confined against his will in a psychiatric hospital at the beginning of September.

Meretmukhammet Berdiyev, born in 1961, was a local activist of the banned opposition Democratic Movement of Turkmenistan in the town of Bayram-Ali, Mary Region. He helped to distribute literature and publications by the banned opposition published abroad and clandestinely smuggled into Turkmenistan. He also maintained regular contact with his older brother Mukhamedgeldy Berdiyev, an opposition activist and journalist living in exile in Moscow. Meretmukhammet Berdiyev was said to have been very fit and healthy at the time of his detention - he was an active sportsman and practised martial arts - and had never suffered from any psychiatric problems.

At beginning of September (the exact date is not known) some four police officers and medical personnel from the Mary regional psychiatric hospital came to the Berdiyev family home in Bayram-Ali in order to escort Meretmukhammet to the hospital. No reasons for taking him to a psychiatric hospital were given and no arrest warrant or medical certificate was produced. When he refused to accompany the officials, they took him by force to the hospital and he was detained there without charge.

question Meretmukhammet's grandmother and other members of his family. A few days later,

officers of the national KNB arrived from Ashgabat and reportedly conducted a thorough search of the house without a warrant. They were apparently looking for copies of banned opposition literature but could not find any. They confiscated, however, Meretmukhammet's address book which contained addresses of friends and contacts as well as Mukhammetgeldy Berdiyev's address and contact telephone numbers in Moscow. They in turn questioned members of the family present, in particular, the third of the Berdiyev brothers, Mukhammetnazar, who works as a shepherd in the Karakum desert and only comes home to Bayram-Ali once or twice a month. Sources believed that it was no coincidence that the KNB officers picked that particular day. They reportedly asked few questions about Meretmukhammet's political activities, but instead concentrated on his brother Mukhamedgeldy's whereabouts, his activities in Turkmenistan and Moscow, his friends and associates, their addresses and telephone numbers. The KNB officers took down passport details of all Berdiyev family members, addresses of the schools of the children, even the number of the well in the Karakum desert where Mukhammetnazar grazes his sheep. They threatened the family, saying that "things would get much worse if Mukhamedgeldy did not stop his activities against President Niyazov".

Two weeks after the second KNB visit, the Berdiyev family was informed of the death of Meretmukhammet in the Mary regional psychiatric hospital. On 28 October his body was returned to his family. The exact date of his death was not given, nor any official notification or explanation as to the cause of his death. According to the family there were no visible signs of torture or ill-treatment on Meretmukhammet's body, but there are strong

According to press reports, on 8 October Ukraine's former Minister of Justice, Sergey Holovaty, restated that the Ukrainian authorities secretly executed 13 people in 1997 and accused the government of lying to the Council of Europe. Sergey Holovaty was quoted as saying: "*Even the Justice Minister cannot get all the information [on the use of the death penalty], neither the names nor*

allegations that his death did not result from natural causes.

Mukhamedgeldy Berdiyev believes that his brother was confined to a psychiatric hospital in order to punish him for his opposition political activities and his contacts with Mukhammetgeldy and other exiled opposition activists. He claims that his subsequent death was intended as a warning to opposition activists both abroad and in Turkmenistan.

For latest information on the use of the death penalty in Turkmenistan, see *Women in Europe*, pp. 68-71, below.

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## UKRAINE

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### *The death penalty*

The Ukrainian parliament ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms on 18 July 1997. However, a vote was not taken on the ratification of Protocol 6 of the Convention, which Ukraine had signed in May, and which provides for the abolition of the death penalty in peacetime.

Amnesty International remained concerned at conflicting reports as to whether executions in Ukraine have continued to take place in 1997. During the consideration of the Third Periodic Report of Ukraine by the UN Committee against Torture in April 1997 representatives of the Ministry of Justice reported that no executions had taken place since the beginning of 1997. However, on 28 August the Ukrainian Ministry of Justice confirmed in writing that 13 executions have taken place in Ukraine in 1997. Official sources in the Ministry of Justice also confirmed that 73 people have been sentenced to death so far in 1997.

*the exact dates of the executions. We are the only member of the Council of Europe which still considers such matters as a state secret*". Reportedly, Sergey Holovaty showed a document which stated that five people were shot in Crimea (including one in Sevastopol), two each in Odessa and Luhansk regions, and one each in the Kiev, Mykolayiv, Ivano-Frankivsk and Kherson regions.

In November an official Council of Europe fact-finding mission to Ukraine was told that 13 prisoners had been executed between 1 January and 11 March, after their petitions for clemency were rejected by President Leonid Kuchma on 29 November 1996. No further petitions for clemency were said to have been rejected since 29 November 1996 and no executions were said to have been carried out since 11 March 1997. Other sources, however, maintained that executions continued beyond March. The Supreme Court provided the Council of Europe with information regarding 17 prisoners, who are believed to have been executed between 1994 and 1996.

The mission was informed that 264 prisoners were under sentence of death. Among those on death row having exhausted all legal avenues to avoid execution were believed to be Sergey Romanov and Ruslan Yusev. Sergey Romanov had been sentenced to death in July 1997 for premeditated, aggravated murder. There were allegations of serious irregularities in the conduct of pre-trial investigations in his case and reports of ill-treatment in police custody. No information was available on the case of Ruslan Yusev. Other prisoners under sentence of death, including Vitaly Gumenyuk, were awaiting the outcome of their petitions for clemency.

The Council of Europe delegation visited three pre-trial detention centres where prisoners under sentence of death were held. The mission report of the Rapporteur of the Committee on Legal Affairs and Human Rights of the Council of Europe Renate Wohlwend criticized conditions, citing, in particular, lights being left on day and night, a lack of daylight in prisoners' cells, and prisoners not being able to leave their cells except to have a shower once every five to 10 days. The report of Rapporteur states that the procedure for carrying out executions "is shrouded in secrecy". In particular, "relatives of executed prisoners are not informed where their sons, husbands or fathers are buried, which I consider an affront to human dignity".

Amnesty International was concerned about the conflicting reports on execution statistics, and urged the Ukrainian authorities to provide a complete explanation as to when and

where executions have taken place in 1997. Amnesty International believes that the authorities of Ukraine must immediately take the political decision not to sign any more execution orders, and that this decision must be formalized by the central government issuing an order to all prison governors and relevant officials that no further executions are to be carried out.

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

Ill-treatment and torture in detention continued to be reported. New information became available, during the period under review, regarding the case of Sergey Valkovanysh, who was reportedly tortured by law enforcement officers in the Donetsk region while in police custody in March. He was reportedly beaten, suffering broken ribs, and had a gas mask and a plastic bag filled with gas placed over his head (for more details see AI Index: EUR 01/06/97). Following an official investigation by the authorities, the Procurator General reportedly refused to open criminal proceedings against the police officers, for lack of evidence.

In August there were reports that Aleksandr Barketov, a prisoner in Krivoy Rog, was suffering from a wasting condition and skin ulcers, and was passing blood; his health was said to be prejudiced by poor prison conditions. He was serving a two-year prison sentence for desertion from the army, allegedly following incidents of ill-treatment.

Amnesty International continued to urge the Ukrainian authorities to ensure that a full and comprehensive inquiry was instigated into all allegations of torture and ill-treatment.

See also *Children in Europe*, pp. 72-75, below.

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## UNITED KINGDOM

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### *Human Rights Bill*

In October the government published a white paper, *Human Rights Brought Home*, and the Human Rights Bill, setting out provisions for the incorporation of the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention) into the law of the United Kingdom. Amnesty International welcomed this move to enshrine many human rights into national law as an important first step towards implementing the government's international obligations.

The organization has called on the government to establish safeguards to ensure that human rights protection is effective and extends to include people in some of the most vulnerable situations, including asylum-seekers. To these ends, the organization has urged the government to establish an independent Human Rights Commission to monitor respect for human rights and investigate allegations of human rights violations and to ensure a prompt and effective remedy for violations of the rights which are incorporated into national law.

The organization has welcomed the statement in the white paper of the government's intention to become a party to Protocol 7 of the European Convention in the future, but regrets that the current bill does not incorporate rights safeguarded under Protocols 4 and 7 of the European Convention, which, *inter alia*, contain essential rights for asylum-seekers and fair trial.

The organization is hopeful that the government's decision, in October, to sign the Strasbourg declaration, which calls for a universal ban on the death penalty, will lead swiftly to the introduction of legislation to fully abolish the death penalty in the UK and to the government's

Amnesty International sent representatives to observe proceedings in two inquests: into the deaths of Ibrahima Sey and Alex Patterson. In October an inquest jury ruled that Ibrahima Sey had been unlawfully killed while in police custody in March 1996. Ibrahima Sey had been handcuffed, sprayed with CS gas in the face,

ratification of Protocol 6 of the European Convention and the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), aimed at abolishing the death penalty world-wide.

Amnesty International continued to urge the government to ensure that national laws and practice are consistent with the full range of international and regional human rights law and standards and to ratify other treaties including the Optional Protocol to the ICCPR, and the two Additional Protocols to the 1949 Geneva Conventions, which the previous government promised to ratify by October 1995. The organization also continued to urge the government to make declarations under Articles 21 and 22 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and to withdraw its reservations to human rights and humanitarian law treaties.

### *Deaths in custody/inquests*

Lawyers acting for Shiji Lapite and Richard O'Brien challenged the decisions of the Director of Public Prosecutions (DPP) not to prosecute police officers involved in their deaths in custody in the High Court in July. The DPP admitted flaws in the process of making decisions concerning prosecutions. The DPP agreed to review the decisions in these cases. The Police Complaints Authority also stated that its handling of the Shiji Lapite case was "flawed" and that it would reinvestigate the case. In addition, an independent inquiry was initiated to examine the handling by the Crown Prosecution Service of serious complaints against the police, including cases of death in custody. The inquiry, which is being carried out by a retired judge, will make recommendations for change; its findings will be made public.

and then held face down forcibly for about 15 minutes by several police officers. The Coroner recommended an urgent review of police use of CS gas and warned chief constables of "grave public concerns" about methods of restraint and the dangers of positional asphyxia. The case was referred back to the Crown Prosecution Service for

reconsideration of its decision in July not to bring prosecutions against any of the police involved in restraining Ibrahim Sey.

In December an inquest jury ruled that Dennis Stevens' death in October 1995 had been accidental. He had been restrained by five prison officers, handcuffed and held face down for 15 minutes before being put in a body belt and left in a segregated cell. He was found dead the next morning. The cause of death was kidney failure: apparently the method of restraint led to a lack of oxygen which then broke down his muscle cells and led to the polluting of his blood, which then resulted in kidney failure. The inquest jury was not given the option of returning a verdict of unlawful killing, apparently because there was doubt on when exactly the fatal injury occurred.

An inquest held in Northern Ireland in October into the killing of Alex Patterson by undercover soldiers in 1990 failed to examine the full circumstances of the incident and ended with the coroner discharging the jury without reading out the jury's statement.

### *Ill-treatment and cruel, inhuman or degrading treatment*

The European Committee for the Prevention of Torture sent a delegation to England in September to examine, among other matters, legal remedies in cases involving allegations of ill-treatment by police officers. The Chief Inspector of Prisons published thematic reports which were critical of prison conditions for women and young offenders.

Róisín McAliskey, who was arrested in November 1996 -- while four months' pregnant -- pending her extradition to Germany remained on bail since May in a secure mother-and-baby unit in a London hospital (see AI Index: EUR 01/06/97). Amnesty International urged the government to review the grounds for the extradition warrant, given the apparent lack of substantial evidence against her. The organization was also concerned

Amnesty International wrote to the government on two separate occasions to express concern about the case of Colin Duffy. Colin Duffy claimed that he had been the victim of systematic harassment by the security forces since

that if she were to be extradited in her present medical condition, this could constitute further cruel, inhuman or degrading treatment.

The installation of video-recording cameras in the three special interrogation centres in Northern Ireland, in which suspects arrested under emergency legislation are questioned, began in October. An amended emergency provisions bill, issued in October, proposed that audio-recording should also be installed in the future. The UN Special Rapporteur on the Independence of Judges and Lawyers visited England and Northern Ireland in October to investigate complaints about police intimidation of lawyers acting for suspects held under emergency legislation.

### *Policing in Northern Ireland*

Amnesty International sent an observer to monitor the policing of some of the summer parades in Northern Ireland. During the summer parades in Northern Ireland, the security forces fired a large number of plastic bullets, including about 2,500 bullets within one week, sometimes indiscriminately, at protesters. 14-year-old Gary Lawlor[m] was in a coma for days after being hit by a plastic bullet in West Belfast and 13-year-old Maire Walsh[f], who was standing next to him, was injured in the mouth. It was also reported that the security forces beat and kicked peaceful protesters, resulting in many injuries. 200 civil actions were lodged concerning the security forces' conduct in Garvaghy Road, Portadown.

Large stocks of plastic bullets were twice withdrawn during the year because of faults in the bullets' velocity and weight respectively. The publication in August of guidelines on the use of plastic bullets revealed that the RUC guidelines were less stringent than those of the British Army and of police forces in the rest of the UK. A review of the guidelines was initiated.

his conviction for murder was quashed by the Court of Appeal in September 1996. He was detained in June on another murder charge for more than three months until his release in September, despite the existence of detailed alibi



evidence of his presence elsewhere. In November he was charged with grievous bodily harm of a police officer after an incident in which he and other witnesses stated that he and other people were ill-treated by the police.

### ***Fair trial concerns***

The Criminal Cases Review Commission, an independent body to review alleged miscarriages of justice, began work in March but was reportedly inundated with cases. The case of Danny McNamee was referred to the Court of Appeal by the Criminal Cases Review Commission in August (see AI Index: EUR 01/06/97).

The convictions of the Bridgewater Four were quashed in July; and the murder conviction of Christopher Sheals was quashed in December (see AI Index: EUR 01/06/97).

### ***Northern Ireland***

Multi-party talks aimed at a political settlement began in September in Northern Ireland. The inclusion of Sinn Féin in the talks came after a declaration by the Irish Republican Army (IRA) of a second cessation of military activities in July. The Continuity Army Council claimed responsibility for several bombing attacks. Divisions emerged among the Loyalists, resulting in the disbanding of the Combined Loyalist Military Command, linking the Ulster Defence Association (UDA) and the Ulster Volunteer Force (UVF), and in the creation of the Loyalist Volunteer Force (LVF). The LVF is opposed to the current peace process.

On 21 December Mikhail Ardzinov, the chairman of the Independent Human Rights Organization, was detained by police in Samarkand for 20 hours, severely beaten and forcefully returned to Tashkent. He had travelled to Samarkand with Jomol Mirsaidov, a member of the Independent Human Rights Organization and leader of the Tajik minority in Uzbekistan, to attend a constituent meeting of the National Cultural Centre of ethnic Tajiks in Uzbekistan. They were detained by police in the street on their way to the meeting for a document check and taken

There were several deliberate and arbitrary killings carried out by armed political groups in Northern Ireland. Bernadette Martin, an 18-year-old Catholic, was shot dead by Loyalists at her Protestant boyfriend's house in July. In the same month 16-year-old James Morgan, a Catholic, was found dead, his body mutilated beyond recognition. In July Craig McCann, a Protestant, was injured by a stray shot from Irish National Liberation Army (INLA) paramilitaries who opened fire on police during rioting in West Belfast. In December, the INLA shot dead Billy Wright, a leader of the LVF, in prison. Subsequently the LVF attacked two bars, shooting indiscriminately and killing Seamus Dillon and Eddie Treanor and wounding eight people.

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## **UZBEKISTAN**

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### ***Official attitude to human rights groups***

In August the Independent Human Rights Organization of Uzbekistan submitted a second application for registration with the Ministry of Justice (the organization's first application had been rejected in May, see AI Index: EUR 01/06/97 for details). In December the Ministry of Justice rejected the application once again on the grounds that the organization's address on the application form was incomplete. Prior to this members of the Independent Human Rights Organization had reportedly been summoned to their local justice departments and questioned about their human rights activities.

to the Bogibomolyarsky station of the Samarkand Regional Directorate of Internal Affairs (RUVD). They were asked to sign an official warning for having organized an unsanctioned meeting, which they refused. Mikhail Ardzinov was first beaten by five police officers inside the station and again later outside the station by 10 police officers as they were trying to get him into a police car. The beatings were said to have lasted around 15 minutes; he was thrown to the ground and his clothes were torn. Mikhail Ardzinov was driven to Tashkent, the capital, by plainclothes officers of

the Uzbek Committee for National Security and released with the warning "never to return to Samarkand". Jomol Mirsaidov was sentenced to 10 days' administrative arrest which he reportedly spent in solitary confinement. It was alleged that Mikhail Ardzinov and Jomol Mirsaidov were detained to prevent the constituent meeting of the National Cultural Centre of ethnic Tajiks from taking place.

### *Possible prisoners of conscience*

#### **Mass arrests in Namangan**

More than 100 people were reported to have been arbitrarily detained in Namangan in the far east of Uzbekistan since 3 December following the brutal killing of several police officers and regional officials. According to unofficial sources, special Interior Ministry troops were brought into Namangan following the murder on 2 December of the city traffic police chief. This was the sixth unexplained murder of police officers and regional officials in Uzbekistan since November 1997. A further three officers were killed in Namangan on 16 December. Police reportedly began arbitrarily detaining young men with beards in the streets of Namangan, calling them "Wahhabists" (members of a strict Islamic sect) and threatening to cut off their beards and take their money. All those detained were said to have been verbally abused, threatened, beaten and ill-treated in detention. It was alleged that weapons and narcotics were openly planted on some of those detained by the police in order to fabricate a criminal case against them. This would be consistent with a police practice in evidence particularly during 1993-94, when Amnesty International took up a number of cases in which police apparently fabricated drugs and weapons possession charges against political opponents of the government. Amnesty International called for the disclosure of the

Since the events in Namangan imam Obidkhon Nazarov had reportedly been under close surveillance by the departments of Internal Affairs and National Security, and since the arrest of Abdumalik Nazarov allegedly under virtual house arrest in Tashkent. A student of the Tashkent Islamic Institute, 27-year-old Bakhodir

charges against all those arrested and for a full and comprehensive inquiry into the allegations of beatings and ill-treatment.

#### **Arrests of Abdumalik Nazarov and Bakhodir Nishonov**

Among those detained were 24-year-old Abdumalik and 32-year-old Umarkhon Nazarov, younger brothers of independent Islamic leader Obidkhon Nazarov. The brothers live in Kyrgyzstan and had been in Namangan to attend the funeral of one of their relatives. They were released after questioning. Some 10 days later, on 26 December, the brothers were again detained at the Uzbek-Kyrgyz border point at Vodil in the Fergana district of Fergana region, together with their 64-year-old father, Sobitkhon, and taken to the Department of Internal Affairs of Fergana district where they were put under arrest. Their car was searched in their presence but nothing illegal was found, however, all personal belongings as well as the car keys were confiscated. A second search was carried out later that day and a small quantity of narcotics was reportedly discovered in the car. On 27 December the homes of the Nazarov brothers in Kyrgyzstan and of their parents in Namangan were searched by police officers from Fergana region without search warrants. On 29 December Sobitkhon and Umarkhon Nazarov were released from detention, apparently following public expressions of concern by large numbers of supporters of Obidkhon Nazarov. Abdumalik Nazarov, however, was charged with possession of narcotics. The Nazarovs denied the charge and claimed that the narcotics had been planted by police officers during the second search of the car. There were strong allegations that the charge against Abdumalik Nazarov was fabricated in order to punish him for his relationship with Obidkhon Nazarov.

Turgunovich Nishonov, was allegedly arrested in Tashkent on 18 December by officers of the Ministry of Internal Affairs and charged with distributing tapes of the lectures and speeches on religious themes by Obidkhon Nazarov. During a non-sanctioned search of Bakhodir Nishonov's apartment the officers confiscated video and audio

tapes containing recordings of educational lectures on Islam by Obidkhon Nazarov for the Uzbek Service of Radio Liberty in Prague.

Amnesty International sought further information on the charges against Abdumalik Nazarov and Bakhodir Nishonov. The two men were believed to be victims of an increasing state clampdown against Islamic leaders and congregations not affiliated to the state-regulated Muslim Spiritual Directorate.

### **"Disappearance"**

In September Nematjon Parpiev, an Islamic activist from Andizhan, reportedly "disappeared". He was an assistant to independent Islamic leader Abduvali Mirzoyev, who "disappeared" with his assistant Ramazan Matkarimov in 1995 (for previous updates to this case see AI Index: EUR 01/01/97). Nematjon Parpiev was working at the mosque in Andizhan where Abduvali Mirzoyev was an imam and he had been busy making copies of the preachings and Islamic educational lectures of Abduvali Mirzoyev. It is alleged that at the time of his "disappearance" Nematjon Parpiev was involved in distributing materials related to an independent investigation into the "disappearance" of Abduvali Mirzoyev, including eye witness testimonies that the latter was detained at Tashkent airport by government officials. The authorities consistently denied any official involvement in the "disappearances" of Abduvali Mirzoyev and Ramazan Matkarimov.

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## **FEDERAL REPUBLIC OF YUGOSLAVIA**

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The situation in Kosovo province continued to raise serious concerns for Amnesty International. Daily reports of ill-treatment of ethnic Albanians by police on the street, in their homes or in police stations were received in increasing numbers. The political tensions in the province also heightened as thousands of ethnic Albanians sought by peaceful demonstrations to enforce their demands

On 26 November Ismet Gjocaj died of bullet wounds in the village of Rzni near De\_ani. According to the police he was shot in an exchange

for an end to discrimination against them and secession from the Federal Republic of Yugoslavia (FRY). An armed group the "Kosova Liberation Army" also continued to claim responsibility for armed attacks against police and other targets.

### ***Unfair trials of political prisoners in Kosovo province; deaths in custody; incommunicado detention***

In July a second group of ethnic Albanians were tried on charges related to violent attacks upon Serbian police and civilians (see AI Index: EUR 01/06/97). Besim Rama and 14 other men were convicted, 12 of them *in absentia*, on charges of having formed a terrorist organization, the "Kosova Liberation Army", and having carried out or prepared attacks between 1993 and 1996 on police and civilians resulting in the death of four people. Twelve of the accused including Besim Rama received the maximum sentence of 20 years' imprisonment. The trial was unfair: statements from the three detained defendants were extracted by means of torture and unacknowledged detention. One of the defendants told the court that he was denied access to his defence lawyer for six months and was then only allowed a brief private consultation with his lawyer three days before the trial.

In December a third group comprised of Nait Hasani and 18 other people were sentenced to imprisonment for up to 20 years. Two were convicted *in absentia*. Their trial was unfair for similar reasons to that of Besim Rama. After his arrest in February Nait Hasani was held in incommunicado detention for a month, during which time he was reportedly tortured. Another man, Jonuz Zeneli, who had been indicted in addition to the 18, died in custody in a prison hospital in Belgrade in December. The injuries which resulted in his hospitalization and death allegedly arose from torture and ill-treatment during his interrogation.

of gunfire while participating in an armed attack on the police station in which two policemen were killed and one injured. However, other evidence

pointed to the fact that he had already been taken into custody before the alleged time of his death. Besides four bullet wounds, photographs of his body showed clear evidence that he had been beaten about the body with blunt instruments before his death. Amnesty International is concerned that he had most likely been tortured or ill-treated and then deliberately killed while in police custody.

### ***Beatings of demonstrators demanding access to university facilities***

On 1 October students led other ethnic Albanians in peaceful demonstrations in Priština and other towns in which they demanded access to facilities in the University of Priština. Since 1990, when the Serbian authorities restricted higher education in the Albanian language, ethnic Albanians have studied largely at an unofficial Albanian language university in which lectures are conducted in private buildings. Police broke up the demonstrations using truncheons. Some 350 students and other demonstrators (including elderly people) were reportedly injured. Similar demonstrations on 29 October broke up before police intervened violently, although a small number of people were reportedly beaten in Prizren and Pe\_. At the end of December dozens of students and other demonstrators were beaten by police in further demonstrations in Priština, Pe\_ and Djakovica.

## **RATIFICATIONS**

### **CROATIA**

Croatia ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms and Protocols 1, 4, 6, 7 and 11 on 5 November 1997. It also confirmed recognition of the right of individual petition and the compulsory jurisdiction of the European Court of Human Rights.

### **KYRGYZSTAN**

In September Kyrgyzstan acceded to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

## WOMEN IN EUROPE

### *A selection of Amnesty International's concerns*

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 reflection of the range of violations suffered by women in Europe.

In addition to the cases below, please see the country entries, above, on Denmark, Macedonia and Turkey for further references to human rights violations against women in Europe. Please refer also to the country entries on Belgium and Italy regarding ill-treatment by Belgian and Italian military personnel of women in Somalia.

#### ***Alleged torture by rape***

It is universally accepted that the rape of a woman detainee by a state official is torture. The United Nations (UN) Special Rapporteur on torture, the UN Special Rapporteur on violence against women, the European Commission of Human Rights, and the Inter-American Commission on Human Rights, have reached the same conclusion. Professor Nigel Rodley, UN Special Rapporteur on torture, has concluded that rape is "an especially traumatic form of torture".

In July Amnesty International asked the authorities for details of the reasoning behind their decision not to charge any of the officers alleged to have ill-treated Sabine Geisberger (see AI Index: EUR

#### **FRANCE**

##### **Police officers detained in connection with alleged rape**

During the period under review Amnesty International received reports that four Bordeaux police officers had been detained in June while under investigation for allegedly abusing their authority by rape and complicity in rape. An officer called to the scene of a traffic accident and reportedly finding a woman driver to be drunk, was said to have told her that no charges would be brought if she agreed to sleep with him and his colleagues. Several days after the accident he allegedly called at her home, where she lived with her two young children, hit her with a truncheon and raped her. The woman lodged a complaint with the police complaints authority, the *Inspection générale de la police nationale* (IGPN), in which she claimed that some days later the police officer returned, this time with his colleagues, and that a gang rape took place. The four officers, who were taken into custody at the request of the public prosecutor of Bordeaux, and placed in isolation for protection, denied the charges.

#### **GEORGIA**

01/06/97). In a criminal complaint she lodged with the Vienna prosecuting authorities in November 1995, Sabine Geisberger had alleged that a Vienna police officer had dragged her by the hair

##### **Alleged rape of a young woman by police officers**

Among allegations of torture in Georgia was that of the rape of a young woman by police officers. On 7 September a young woman (one source puts her age at 16 years) was reportedly raped by several police officers after she went to Marnueli police station in order to take a meal to her husband, who was being held there on a charge of murder. The woman concerned has not wished her name to be made public. Amnesty International understands that the prosecutor's office has instituted criminal proceedings in connection with the attack, but the police officers were subsequently reported to be in hiding. The organization has urged a full and impartial investigation, and requested further details on any charge or charges already laid and the progress of any prosecutions.

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

#### **AUSTRIA**

##### **The alleged ill-treatment of Sabine Geisberger**

into the bedroom of her apartment and had thrown her into the corner of the room where he repeatedly kicked her in the genitals. An examination by a doctor from the gynaecological department of

Klagenfurt Hospital the next day revealed that Sabine Geisberger had suffered bruising to the rim of her pelvis, left thigh, and to her genitals. The authorities informed Amnesty International in February that the investigation into Sabine Geisberger's complaint had been discontinued because of the absence of "any objective evidence of criminal behaviour" by the officers involved. In its letter in July, Amnesty International stated that it was particularly interested in learning how the medical evidence in this case was interpreted by the investigating authorities. The organization also asked the authorities why neither Sabine Geisberger nor her legal representative had been informed of the outcome of her complaint of ill-treatment. By the end of the year Amnesty International had received no response from the authorities to its letter. Almost a year after Amnesty International had been informed that her complaint had been rejected, Sabine Geisberger and her lawyer had still received no confirmation from the authorities.

In July the Vienna Higher Regional Court overturned Violetta Jevremovi\_'s conviction for assaulting a police officer in April 1996 and referred the case back to the lower court. Violetta Jevremovi\_ had been found guilty in January 1997 of attempting to resist state authority and of causing serious bodily harm to an officer involved in the arrest of her husband (see AI Index: EUR 01/06/97). She was sentenced to two months' imprisonment, suspended for three years. By the end of the year Violetta Jevremovi\_ had still not been informed by the authorities of the outcome of her own complaint that she had been ill-treated by police officers.

## ***BELARUS***

### **Ill-treatment of human rights defender**

Nadezhda Zhukova, a human rights defender, aged 21, was assaulted and threatened by unknown persons in Minsk on 13 October 1997. Amnesty International fears for her safety. Nadezhda Zhukova works as an observer for the human rights organization, the Belarusian Helsinki Committee (BHC). She was assaulted as she left the building of the Leninsky District Court where she had attempted to obtain information about the trial of Pavel Sivirinets and Yevgeny Skochka - two demonstrators arrested during a peaceful protest "against hunger and cold" held on 12 October in Minsk (see below). Nadezhda Zhukova was reportedly approached by two men in plain clothes, who told her that the two arrested demonstrators were in police cars in a nearby street. Two white Opel cars, one bearing police number plates, were parked in Lenin street. According to reports, two men got out of one of the cars, grabbed Nadezhda Zhukova, hit her in the stomach, held a knife at her throat and took her to a nearby courtyard.

Once there, they reportedly searched her bag, took her BHC identity card and threatened to come after her if she continued dealing in "unwomanly affairs". They also allegedly told her, in reference to the other people working for the BHC that "everyone in your office has got it coming to them". They also reportedly told her that her face was on all the militia videotapes of demonstrations and that they could easily track her down in the future. (Officials of the Ministry of Internal Affairs told a representative of Amnesty International in October 1997 that all demonstrations were

recorded on video by law enforcement officers.)

Nadezhda Zhukova's attackers introduced themselves as "young Belarusian patriots" and it is believed by some unofficial sources that they may be members of the organization "Belarus Patriotic Youth Union". This organization claims to be independent, although there are allegations that it was established and is financed by President Lukashenka. It is also alleged that members of the Belarus Patriotic Youth Union participate in demonstrations by groups opposing President Lukashenka, and act violently or provocatively.

Pavel Sivirinets and Yevgeny Skochka are leading members of the youth organization of the Belarus Popular Front (BNF), known as the "Young Front". They were among 20 people reportedly arrested during the authorized demonstration on 12 October, which was held to protest about economic difficulties in Belarus. Most were released after a short time, but Pavel Sivirinets and Yevgeny Skochka were fined for breaking sanitation and fire rules. A third leader of the movement, Vadim Kabanchyuk, is also believed to have been detained, but his present whereabouts are not known.

During the review of Belarus' Fourth Periodic Report at the UN Human Rights Committee on 30 October 1997, the government delegation of Belarus claimed that a criminal investigation has been opened into the case of ill-treatment of Nadezhda Zhukova. In a meeting with Amnesty International's representative, members of the delegation from the Ministry of Foreign Affairs of Belarus pledged their commitment to follow-up this case and to make sure that anyone found guilty of ill-treatment is brought to justice.

### Women prisoners of conscience

On 20 May 1997 in Vratsa, Karolina Kraeva, a journalist on the local newspaper *Istina* (Truth), published an article alleging that the chief of the local police supported a man who had been ordered by the court to vacate a property. In her article Karolina Kraeva wrote the following: "Is he protecting an 'important personage' or a friend? Has someone tampered with his pocket? I don't know." On 19 November 1997 Karolina Kraeva was issued with an indictment under Article 148, paragraph 1, points 2 and 3 of the Penal Code, for defaming in the press a public official.

In December Amnesty international expressed concern to President Petar Stoyanov that Karolina Kraeva would be considered a prisoner of conscience should she be convicted and imprisoned under Article 148, paragraph 1, points 2 and 3.

### KYRGYZSTAN

#### Zamira Sydykova

Zamira Sydykova, editor-in-chief of the newspaper *Res Publika*, was acquitted by the Supreme Court on 5 August 1997 and released the same day. The Supreme Court confirmed the earlier verdict of the Bishkek City Court only on one point: Zamira Sydykova was found guilty of libelling the president of the state-owned gold company Kyrgyzaltyn when he was governor of Talas region in an article written in 1993. The Supreme Court decided, however, that Zamira Sydykova had already served an 18-month suspended sentence she had been given in 1995 and should

### BULGARIA

therefore be released. Amnesty International had considered her a prisoner of conscience and had called for her immediate and unconditional release.

#### Damira Akmatova and Gulya Ibraimova

At a re-trial at Bishkek City Court in September, Damira Akmatova and Gulya Ibraimova, co-defendants in the case of Yrysbek Omurzakov, were sentenced to six months' imprisonment but were released from the court room under the terms of an amnesty decree of August 1997. Amnesty International had called for the dropping of charges against Damira Akmatova and Gulya Ibraimova, who, if convicted and imprisoned, would have been regarded as prisoners of conscience.

### ROMANIA

#### Mariana Cetiner

According to information from Human Rights Watch (HRW) and the International Gay and Lesbian Human rights Commission (IGLHRC), Mariana Cetiner, a 40-year-old woman, was arrested on 6 October 1995 in Alba Iulia and held in pre-trial detention for reportedly attempting to seduce another woman. In May 1996 she was indicted under Article 200, paragraph 4, of the Penal Code then in force, which made it an offence punishable by one to five years' imprisonment to entice or seduce another person of the same sex, and under Article 192, paragraph 1, for trespassing on private property. On 17 June 1996 Alba Iulia court found

#### Journalist threatened with imprisonment

Mariana Cetiner guilty of both charges and sentenced her to three years' imprisonment. In January 1997, ruling on her appeal, Alba court acquitted Mariana Cetiner of all charges. She was released on 15 January 1997 from prison, where she had been held since her arrest. However, on 6 May 1997, following an appeal by the public prosecutor, Alba Iulia Appellate Court reversed the decision of Alba court and ordered Mariana Cetiner to serve the remainder of the three-year prison sentence. In convicting her under what had latterly become paragraph 5 of Article 200, the court concluded that: "The submitted evidence confirms without doubt that the accused committed an offence provided for in the final paragraph of Article 200, by attempting to seduce X, the victim, to practice sexual acts between persons of the same sex, and this fact became known to other people, who were indignant at the attitude of the accused, provoking sentiments of repulsion". Ten days later Mariana Cetiner was re-arrested and began serving the remainder of the sentence.

In August and September 1995 Mariana Cetiner had been sharing an apartment in Alba Iulia with X and another women. She had reportedly loaned a large sum of money to X, with whom she shared a room and who subsequently filed a criminal complaint against her. X claimed that Mariana Cetiner had on several occasions expressed affections for her and that a number of people found out about Mariana's alleged homosexual orientation and her approaches. In October 1995 Mariana Cetiner, accompanied by a man, reportedly returned to the

apartment to seek the return of her money. She left the apartment after its owner went to call the police,

Amnesty International considers individuals imprisoned solely because of their homosexuality, including the practice of consensual homosexual acts between adults in private, to be prisoners of conscience. The provisions of Article 200, paragraph 1, of the Penal Code, which was amended in October 1996, prohibit homosexual relations between consenting adults "if the act was committed in public or has produced public scandal". Paragraph 5 of the same law makes it an offence, punishable by 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". In December Amnesty International urged President Emil Constantinescu to immediately and unconditionally release Mariana Cetiner.

### *Women and the death penalty*

#### *RUSSIAN FEDERATION - CHECHEN REPUBLIC*

##### *A pregnant woman sentenced to death faced public execution*

Amnesty International was concerned at the end of the year that Assa Larsanova, mother of three and six months pregnant, was scheduled to be shot after she had given birth in the Chechen Republic. She was held in a prison in the Chechen capital, Grozny. Assa Larsanova, her sister Mariam, and a man whose name is not known, were sentenced to death by the Chechen Supreme Shari'a Court earlier in 1997 for the murder of

who on the following day arrested Mariana Cetiner.

Assa's husband. Her two co-defendants were publicly executed by firing squad on 3 September. Mariam's husband reportedly said that Mariam's three children watched their mother's execution on television.

Assa Larsanova's execution was postponed due to her pregnancy. According to Chechen Shari'a law, she would be killed as soon as she stopped breast-feeding her new baby. Amnesty International feared that she could be executed as soon as she gives birth if, for example, she was unable to breast-feed. If the parents of her husband forgave her, the Shari'a court might reconsider its verdict and substitute her death sentence with life imprisonment. She could also be granted clemency if 100 cows or the equivalent amount in money were given to the victim's family as a compensation. Assa Larsanova reportedly did not have the means to pay this amount.

Assa Larsanova, who maintains her innocence, was allegedly not given access to a defence lawyer before or during the trial. According to her relatives, she was repeatedly beaten and otherwise ill-treated by her husband during their marriage. She reportedly left home several times in order to escape this treatment and hid in relatives' homes.

In January 1998 Amnesty International received information from several different unofficial sources indicating that Assa Larsanova is no longer under threat of execution in the Chechen Republic. It is believed, however, that Assa Larsanova has not been officially granted clemency by President Maskhadov, but that her name has been removed from the list of those condemned to death. According to reports, the case of

Assa Larsanova may now be reopened.

#### *TURKMENISTAN*

##### *Women reportedly held on death row*

Six women were believed to be on death row in the investigation-isolation prison of the capital Ashgabat. Unconfirmed reports suggested that they were sentenced to death in the second half of 1997 for drug-related offences and that their appeals against their death sentences had been turned down. Their only hope of avoiding execution was a petition for clemency to the President of Turkmenistan. There were very few details available on the six women. One of them, Nurbibi Bayramova, was said to have six children.

### *Fear for safety*

#### *RUSSIAN FEDERATION - CHECHEN REPUBLIC*

##### *Abductions of journalists*

(update to information given in AI Index: EUR 01/06/97)

Continuing abductions of journalists and media employees in the Chechen Republic called into question the ability of both the Russian and Chechen authorities to guarantee the safety of journalists in this region. Among those taken hostages in the Republic were prominent Russian television journalist Yelena Masyuk of the Independent TV (NTV), her cameraman and sound technician, who were ambushed by gunmen in



May. Amnesty International called on the Russian and Chechen authorities to condemn the abductions of journalists, to undertake all necessary measures to locate them and bring them to safety, and to undertake immediate steps to ensure the safety of all journalists working in the Chechen Republic.

The organization learned that Yelena Masyuk and her crew were released in August. It was not disclosed who had held them.

## CHILDREN IN EUROPE

### *A selection of Amnesty International's concerns*

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.

In addition to the cases below, please see the country entry on Portugal, above, and the Georgia entry in the section *Women in Europe: Alleged torture by rape*, above, for further references to human right violations against children and juveniles in Europe. Please refer also to the country entries on Belgium and Italy regarding ill-treatment by Belgian and Italian military personnel of children in Somalia.

#### *Shootings of children and juveniles in disputed circumstances*

#### **BULGARIA**

#### **Angelina Krainova**

On 20 November at around 2pm in Sliven a police officer shot Angelina Krainova, a 15-year-old Romani girl. An article published in *Trud* (Labour) on 22 November described how Angelina Krainova had been observed in a group which allegedly assaulted a 71-year-old man and stole his wallet. When a police patrol tried to apprehend this group of youths they reportedly ran. An officer who pursued Angelina Krainova shot her, bringing her to the ground. The injuries she suffered as a result of the shooting were not specified.

In January Amnesty International urged Bulgarian authorities to promptly and impartially investigate this incident, to make public the results of the investigations and to bring to justice those responsible for human rights violations.

#### **FRANCE**

#### **A question of "legitimate defence"**

In December the Court of Appeal (*chambre d'accusation du cour d'appel*) of Aix-en-Provence quashed the decision of an investigating judge that there were no grounds for prosecuting a police officer who shot dead an eight-year-old Romani child in 1995. Todor Bogdanovi\_ was a member of a convoy of Roma fleeing from Novi Pazar in the Federal Republic of Yugoslavia. The refugees had travelled through Albania and Italy, and were hoping to obtain asylum in France or Germany. As the four-car

convoy approached a border roadblock on a dark mountain road near Sospel (Alpes-Maritimes), manned by two police officers from the *Direction centrale du contrôle de l'immigration et de la lutte contre l'emploi des clandestins* (DICCILEC) it was reportedly ordered to stop, but after slowing down the first two cars accelerated and continued towards Sospel. As they passed him, one of the officers, having fired a rubber bullet with his pump-action shotgun, then loaded and fired what the court described as two "particularly dangerous" 12-calibre Brenneke bullets into the left side of the second car. The fatal bullet, fired at a distance of approximately one metre from Todor Bogdanovi\_, killed the child, who was sleeping in the back.

In December 1996 the judge conducting the investigation into the death ruled that there were no grounds for prosecution (*non-lieu*), and that the officer could legitimately have believed that his life was in danger from the cars as they accelerated through the roadblock. Amnesty International stated that it believed that this ruling not only contradicted the findings of the initial police inquiry - which had commented that it appeared that the two shots fired at the second car had been "untimely" (*coups de feu intempestifs*) - but also the police rules regarding use of firearms and the Penal Code provisions on the limits of legitimate self-defence. (Articles 122-5 of the Penal Code state that it is legitimate to act to defend oneself or others against an unjustified attack if the action is both necessary for legitimate defence and simultaneous with the attack, and as long as there is no

disproportion between the means of defence used and the gravity of the attack.)

In his decision of 18 December 1997 the president of the 16th Court of Appeal of Aix-en-Provence did not dispute the police officers' assertion that they had been clearly identifiable as police, and accepted that, in their fear of *refoulement*, the members of the convoy had deliberately accelerated through the roadblock. However, the court argued that, to have used his weapon in legitimate self-defence, the police officer would have needed to fire in such a way as to stop the vehicle, and this he had not done. Instead, he had fired laterally, from the hip and from behind, as the car was already passing. The court also stated that the police officer would have needed to manipulate the mechanism of the gun and press the trigger each time he fired. Although the time needed to fire each shot was brief, it should have been sufficient to have allowed him not to fire once any danger to him was past.

In quashing the *non-lieu* decision, the Court of Appeal referred the case back to the Court of Assizes on a manslaughter charge (*pour avoir volontairement exercé des violences ayant entraîné la mort sans intention de la donner*).

#### Fatal shooting of Abdelkader Bouziane

Abdelkader Bouziane, a 16-year-old boy, was shot dead by police officers at a roadblock near Fontainebleau on the night of 17 December. Abdelkader Bouziane, who lived in Dammarie-les-Lys (Seine-et-Marne), was driving a Volkswagen Golf GTI without a driving licence. His 19-year-old friend, Djamel Bouchareb, was a passenger. The two were reportedly

spotted by officers of the *Brigade Anticriminalité* (BAC), who pursued the Golf in their patrol car from Dammarie in the direction of Chailly and Fontainebleau, and were joined en route by a second police car. At the Libération crossroads at the entrance to Fontainebleau a police roadblock had been set up, with a red light, bringing to a halt a number of vehicles. According to one version of events, two police officers ran towards the car as it tried to force through a first barrage. They found themselves facing the car at a distance of within six or seven metres. Fearing it would run them down, they fired their weapons four times in "legitimate defence". One officer fired a bullet into the windscreen and a second into the left side of the Golf. The other officer fired another two bullets. One of the bullets ricocheted against the side of the driver's window and entered Abdelkader Bouziane through the nape of the neck. The Golf collided with an obstacle - a lamp post or section of the barrage - swung round and stopped.

This version of events is contested by Djamel Bouchareb, who was taken to hospital with injuries. According to Djamel Bouchareb, who filed a judicial complaint against the police for attempted murder and illegal acts of violence, he and Abdelkader Bouziane had begun to panic when they realized that they were being followed by police cars. His friend drove at increasing speed and with lights extinguished towards Fontainebleau to try to escape them. Abdelkader Bouziane tried to get through the block by mounting the grassy bank on the right, but braked to avoid a stationary lorry, swung round and stopped before any shots

were fired. Police officers dragged Djamel Bouchareb from the car, after which he heard a shot. He was hit and kicked and his head beaten against the pavement. He was handcuffed and taken away in one of the police patrol cars, but a doctor who was at the scene intervened and he was taken by ambulance to hospital.

In the aftermath of the killing there were violent scenes at Dammarie-les-Lys between police and youths, many of immigrant origin. Members of the family of Abdelkader Bouziane, which has also lodged a judicial complaint for murder (*homicide volontaire*) against the police, appealed for calm. In an interview with a French daily newspaper, Laurent Davenas, public prosecutor attached to the court of Evry (Essonne), criticized the conduct of some BAC officers as constituting a "permanent provocation" to young people.

In its 1994 report: "*France: Shootings, killings and alleged ill-treatment by law enforcement officers*" Amnesty International drew attention to "a disturbing pattern ...whereby excessive force leading to ill-treatment, shootings and killings has been used against people who are largely young and often of non-European ethnic origin".

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### *Deaths in custody*

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#### ARMENIA

##### Manvel Virabyan

In Armenia Manvel Virabyan, aged 17, was detained in April at his home in Yerevan by police investigating a robbery. His brother Mamikon Virabyan and two

other men were also held. Several days later Manvel Virabyan died in

Manvel Virabyan's family reported that his face was so disfigured that they did not recognize him, and that his body also bore signs of other serious wounds. His mother also alleged that she dropped her initial protests over Manvel's death as a result of intimidation by officials who issued threats against her other son Mamikon.

Official sources denied reports of beatings, stating that Manvel's death certificate ruled that he had died of cardiac and pulmonary insufficiency with generalized infection. Such a diagnosis, however, does not in itself rule out the possibility that the fatal illness could have resulted from a beating. Amnesty International sought further information on the case, for example what medical assistance Manvel Virabyan was afforded while in detention and the results of any investigation conducted into the alleged beatings, as well as for a copy of the autopsy report and the results of any inquest.

Amnesty International also urged that all necessary steps be taken to ensure prompt and impartial investigations of all complaints of torture or ill-treatment of detainees, with the results made public and those responsible brought to justice in the courts.

On 25 June 1997 at around 10pm in Basarabi, 14 kilometres from Constan\_a, 10-year-old Costic\_ was apprehended by two policemen in a kiosk which he had entered through a hole in the roof. The owner of the kiosk, who arrived shortly before the police and established that two ice-creams

custody, allegedly as a result of severe beatings and ill-treatment

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

#### **BULGARIA**

##### **The reported ill-treatment of Yanko and Elian Angelov**

On 8 September 1997, at around 9pm in Plovdiv four police officers apprehended Yanko and Elian Angelov, 16-year-old twin brothers, on suspicion of stealing two car tyres. They drove them to a field outside the city and reportedly kicked and beat them with truncheons and a baton. The beating stopped after Elian Angelov suffered an epileptic fit. A forensic medical certificate issued by the military hospital established that both boys had suffered multiple bruising on the head, back, chest and legs. Yanko Angelov also suffered a ruptured left ear-drum and a broken jaw. An investigation into their complaint of ill-treatment was reportedly initiated.

In January Amnesty International urged Bulgarian authorities to promptly and impartially investigate allegations that Yanko and Elian Angelov had been ill-treated, to make public the results of the investigations and to bring to justice those responsible for human rights violations.

were missing, allegedly pulled the boy by the ears, reprimanding him for the break-in. The police patrol took Costic\_, on suspicion that he was also implicated in a number of other burglaries in the neighbourhood, to five or six addresses, asking people if they recognized the boy. When he was

real identity.

meted out to all four men in order to force them to confess.

#### **KAZAKSTAN**

##### **Alleged torture and ill-treatment in pre-trial detention and penitentiaries - conditions in juvenile penitentiary LA-155/6**

The Kazakstani authorities informed Amnesty International that following numerous appeals from abroad about the conditions of detention in LA-155/6, a Special Working Group was set up to assess the conditions in the juvenile penitentiary. A copy of the findings by the Working Group was made available to the organization. The findings provided details on the deaths in custody at LA-155/6 of four juveniles. The authorities also outlined the establishment of a governmental programme to provide material, technical, social and legal support to the Kazakstan penitentiary system and the introduction of new measures to tackle the problem of tuberculosis in juvenile detention centres.

#### **ROMANIA**

##### **The reported torture of 10-year-old Costic\_<sup>6</sup>**

asked for his home address, Costic\_ gave the name of the street but omitted to say that he lived in Constan\_a. He was then taken to a street with the same name in Basarabi. After Costic\_ failed to recognize his home the officers became angry. They questioned him about other people who were

<sup>6</sup>Amnesty International is protecting the confidentiality of the boy's

involved in the break-in and stopped the car at a bridge and held him by his head and legs suspended over the railing, threatening to drop him. Costic\_ was then taken to the police station where in the course of an interrogation he was told to take off his underpants and bend over with his head reaching his knees. He was beaten with a truncheon and punched and kicked. Later a sheet of paper was put on the palms of both hands which were then repeatedly struck with a truncheon. Costic\_ claims that the three officers who took part in the beating were Sergeant R<sup>7</sup>, an officer who drove the police vehicle, and a public guard. Two women who wore gendarme or guard uniforms were present during a part of the beating. Sergeant R reportedly threatened Costic\_ with his gun and also threatened to subject him to *rotisor* (a well-known torture method where the detainee, whose hands and feet are tied, is suspended on a pole between two chairs and then beaten, causing the body to swing). After the beating he was asked for his home telephone number and he was taken into a bare room with a concrete bed.

Costic\_'s mother spent the afternoon and evening searching for her son. She had checked the hospitals and the municipal police before giving his photograph to the local newspaper to be published on the following day with an article on his disappearance. At 3.30am she received a telephone call informing her that her son was at Basarabi police station. When she arrived at the station an hour later and saw that her son's hands were swollen and that there was an injury on the top of his head, Costic\_'s mother asked for an explanation and to speak to the commander. However, she was

not allowed to wait in the station for the commander to arrive later that morning.

The full extent of Costic\_'s injuries became apparent only after he arrived home and was undressed, revealing countless weals on his buttocks and thighs. At 7am he was taken to a forensic medical expert who issued a certificate describing in detail injuries that the boy had suffered all over his body.

He was also photographed the same morning before his mother took him to Basarabi Police Station where he told Commander Mitocaru Vasile how he had been beaten.

On 27 June Costic\_ was admitted to the Constan\_a County Hospital where he was treated for three days. A neurologist advised a full examination of the boy's head injuries. This only took place on 20 August when it was established that he had suffered "a generalized swelling of the brain". The same month a psychiatric examination was also carried out after the boy started suffering from facial tics, vertigo attacks and manifestations of personality disorders.

On 4 July Costic\_'s mother filed a complaint with the Constan\_a Military Prosecutor about the torture of her son. An investigation is in progress. She had not been aware of any criminal proceedings against her son until in September she received a document from the public prosecutor informing her that an investigation for theft had been suspended because Costic\_ is a minor below the age of 14 and not criminally liable under Romanian law.

In October Amnesty International urged Romanian authorities to promptly and impartially investigate the reported

torture of 10-year-old Costic\_, to make public the results and to bring to justice those responsible for human rights violations.

## UKRAINE

### Ill-treatment of an adolescent in detention

Maksim Pyatigorsky, a 14-year-old boy, was reportedly denied adequate medical care and refused access to his parents while held in pre-trial detention in Lukyanovska prison from October 1996 to June 1997. The parents of two other boys reportedly lodged complaints that police officers beat their sons until they agreed to testify against Maksim Pyatigorsky.

## Hostage-taking

### BOSNIA-HERZEGOVINA

#### Juveniles as hostages

In August, two young Bosnian Serb men were released from a Federation juvenile detention centre in exchange for a 22-year-old Bosniac from Sarajevo who had been detained on war crimes charges in Republika Srpska since March 1996. The Bosnian Serb minors had been detained in Sarajevo since April 1997 and had been convicted of criminal offenses. Although prisoner exchanges should have ended with the cessation of hostilities and the formal release of prisoners of war in 1996, Amnesty International has been concerned that the wartime practice has continued into

<sup>7</sup> The full names of the police officers are known to Amnesty

International

peacetime, and that some people may have been arrested simply in order to be later offered for exchange, thus effectively making them hostages. Although the practice has somewhat abated over the past six months, this is the first time, to Amnesty International's knowledge, that the exchanged prisoners were youths.